United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

SEP 1 0 2010

Richard Hodges
The Williams Director
University of Pennsylvania Museum of Archaeology and Anthropology
3260 South Street
Philadelphia, PA 19104-6324

Dear Director Hodges:

I am writing to you in my capacity as the Designated Federal Official to the Native American Graves Protection and Repatriation Review Committee (Review Committee), which is the Federal advisory committee created by the Native American Graves Protection and Repatriation Act (NAGPRA; 25 U.S.C. 3006). On July 20, 2010, Hoonah Indian Association (HIA) and Huna Totem Corporation (HTC) sent me a request asking that, pursuant to NAGPRA, the Review Committee review and make findings of fact, and facilitate a dispute between HIA and HTC, on the one hand, and the University of Pennsylvania Museum of Archaeology and Anthropology (UPenn Museum) related to the request by HIA and HTC for the repatriation of 39 catalogued items in the possession of UPenn Museum. The items in question are as follows:

Object List
Tsalxáan Hit (Mt. Fairweather House) (aka Táx' Hit, Snail House) Collection

	Field #	Catalog #	Object Name
1.	51	6828	Shaman's Drum, "Old-Man-of-War" Box Drum
2.	52	6829	Tlto-Aw (Lituya Bay) Robe
3.	53	6830	Ceremonial Mask, "Sun Mask"
4.	54	6831	Shaman's Mask, "Owl Mask"
5.	55	6832	Ceremonial Mask, "Commander of the Tide"
6.	56	6833	Ceremonial Mask, "Gunakadeit"
7.	57	6834	Shakee.át (Frontlet), "Thunderbird at the Hunt"
8.	58	6835	Shakee.át (Frontlet), Géelák'w ("Ravine Frontlet")
9.	59	6836	Shaman's Headdress, Yeatl-Shada ("Raven Head Cover")
10.	60	6837	Gongoosh (Abalone Bear's Ears Headdress)
11.	61	6838	Ceremonial Headdress, "Head Top-Stock of the Raven" or "Octopus Hat"
12.	62	6839	Ceremonial Headdress, Human Hair
13.	63	6840	Gongoosh (Bear's Ears),
14.	64	6841	Shakee.át (Frontlet), "Beaver"
15.	65	6842A-B	Dance Ornaments, Bear Forearms (2)
16.	66	6843	Staff Head, "Raven"

17.	67	6844	Ceremonial Rattle, "Raven"
18.	68	6845	Ceremonial Rattle, "Loon"
19.	69	6846	Ceremonial Rattle, Plain
20.	70	6847	Shaman's Hat, "Loon Spirit" Hat
21.	71	6848	Dance Blanket, "Diving Whale"
22.	72	6849	Dance Blanket, with Strips of Chilkat blanket
23.	73	6850A-F	Ceremonial Neck Rings (cedar bark) (6)
24.	74	6851	Ceremonial Neck Ring (cedar bark)
25.	75	6852	Ceremonial Neck Ring (cedar bark)
26.	76	6853	Ceremonial Head-Band (cedar bark)
27.	77	6854A-B	Ceremonial Rings (cedar bark) (2)
28.	78	6855	Dance Collar, "Whale"
29.	79	6856	Ceremonial Horn
30.	80	6857	Ceremonial Horn
31.	81	6858	Ceremonial Horn
32.	82	6859	Ceremonial Horn
33.	83	6860	Ceremonial Whistle
34.	84	6861	Ceremonial Whistle
35.	85	6862	Pipe
36.	86	6863	Feast Spoon, "Skeleton of Raven"
37.	88	6865	Dance Ornaments, Eagle Tail Feathers (2 pairs)
38.	89	6866	Ceremonial Headdress (cedar bark)
Eagle's Nest House			
39.	HD4	8498	Shakee.át (Frontlet), "Marmot with Bat"

Upon the request of any affected party, the Review Committee is responsible for reviewing and making findings of fact related to the identity of cultural items and the return of cultural items (25 U.S.C. 3006 (c)(3)). In addition, the Review Committee is responsible for facilitating disputes among Indian tribes and museums relating to the return of NAGPRA items, including convening the parties to the dispute (25 U.S.C. 3006 (c)(4)).

There are issues of material fact between HIA and HTC, on the one hand, and UPenn Museum as to (1) the identity of some of the items in question, and (2) whether UPenn Museum has proved its representation and assertion to HIA and HTC that it has a right of possession to all of the items.[1] Between 1995 and 2006, HIA and HTC provided written information to UPenn Museum that, together, constituted a request for the repatriation of the above items. HIA and HTC identified each item as both a "sacred object" (25 U.S.C. 3001 (3)(C)) and an object of "cultural patrimony" (25 U.S.C. 3001 (3)(D)). In response, during the period between 1995 and June 19,

[1] The term *possession* means that a museum has physical custody of a cultural item with a sufficient legal interest to lawfully treat the object as part of its collection for purposes of NAGPRA. Generally, a museum would not be considered to have possession of a cultural item on loan from another individual (*see* 43 C.F.R. 10.2 (a)(3)(i)). The term *right of possession* means possession obtained with the voluntary consent of an individual or group that had authority of alienation (*see* 43 C.F.R. 10.10 (a)(2)).

2009, UPenn Museum repeatedly represented to HIA and HTC that UPenn Museum had a right of possession to all the above items.

On June 19, 2009, the University of Pennsylvania, of which UPenn Museum is a constituent, admitted that eight of the above items "meet the NAGPRA definitions of cultural patrimony and/or sacred objects," and subsequently, UPenn Museum determined that catalog number 6828 is an object of cultural patrimony, catalog number 6829 is both an object of cultural patrimony and a sacred object, and catalog numbers 6831, 6832, 6835, 6836, 6845, and 6862 are sacred objects. UPenn Museum continued to represent to HIA and HTC that it had a right of possession to the eight items, but not for the purpose of denying the repatriation request. In the words of UPenn Museum:

> [O]fficials of the University of Pennsylvania Museum of Archaeology and Anthropology have concluded that, pursuant to 25 U.S.C. 3001 (13), the University of Pennsylvania Museum of Archaeology and Anthropology has right of possession of the eight cultural items . . . but in recognition of each object's religious and/or cultural significance for the Tlingit people, out of respect for the tribe and its culture, in consort with its continuing interest in supporting Native American religious and cultural integrity, and consistent with the intent of NAGPRA, the University of Pennsylvania Museum of Archaeology and Anthropology wishes to voluntarily return the eight cultural items . . . .

To date, UPenn Museum has not repatriated the eight items in question. HIA and HTC believed, and continue to believe, that the eight items in question are both sacred objects and objects of cultural patrimony, and that the information provided by UPenn Museum is insufficient to show that UPenn Museum has a right of possession to the eight cultural items.

Also on June 19, 2009, the University of Pennsylvania, of which UPenn Museum is a constituent, determined that the other 31 catalogued items "do not meet the specific NAGPRA definitions for cultural patrimony or sacred objects." HIA and HTC believed, and continue to believe, that the 31 catalogued items in question are both sacred objects and objects of cultural patrimony, and that the information provided by UPenn Museum during the period between 1995 and June 19, 2009, is insufficient to show that UPenn Museum has a right of possession to the 31 catalogued items.

Based on the existing written record, the Review Committee has determined that a dispute exists, and has decided to convene the University of Pennsylvania Museum of Archaeology and Anthropology, the Hoonah Indian Association, and the Huna Totem Corporation in order to make findings of fact and facilitate the resolution of the dispute. Consequently, the Review Committee will hear the dispute on Thursday, November 18, 2010, in Washington, DC.

The dispute will be divided into two parts. The first part will address the issues of material fact between the Hoonah Indian Association and the Huna Totem Corporation, on the one hand, and the University of Pennsylvania Museum of Archaeology and Anthropology regarding the identity of 38 of the 39 catalogued items. The second part will address issues of material fact between the Hoonah Indian Association and the Huna Totem Corporation, on the one hand, and

the University of Pennsylvania Museum of Archaeology and Anthropology regarding UPenn Museum's right of possession to the eight cultural items in the as-yet unpublished Notice of Intent to Repatriate Cultural Items (i.e., catalog numbers 6828, 6829, 6831, 6832, 6835, 6836, 6845, and 6862) and to any of the other 31 catalogued items found by the Review Committee to be NAGPRA cultural items.

PART I: ISSUES OF FACT REGARDING THE IDENTITY OF ITEMS

QUESTION #1

In their written request to the University of Pennsylvania Museum of Archaeology and Anthropology for the repatriation of a "Shaman's Drum, 'Old-Man-of-War' Box Drum" identified by the Museum as catalog number 6828, did the Hoonah Indian Association and the Huna Totem Corporation show that, more likely than not, the item in question was a "sacred object", as this term is defined at 25 U.S.C. 3001 (3)(C) and 43 C.F.R. 10.2 (d)(3)?

QUESTION #2

In their written request to the University of Pennsylvania Museum of Archaeology and Anthropology for the repatriation of 37 catalogued items, did the Hoonah Indian Association and the Huna Totem Corporation show that, more likely than not, some or all of the items in question were objects of "cultural patrimony", as this term is defined at 25 U.S.C. 3001 (3)(D) and 43 C.F.R. 10.2 (d)(4)?

a. If yes, which items were shown to be objects of cultural patrimony?

The 37 catalogued items are:

	Field #	Catalog #	Object Name
3.	53	6830	Ceremonial Mask, "Sun Mask"
4.	54	6831	Shaman's Mask, "Owl Mask"
5.	55	6832	Ceremonial Mask, "Commander of the Tide"
6.	56	6833	Ceremonial Mask, "Gunakadeit"
7.	57	6834	Shakee.át (Frontlet), "Thunderbird at the Hunt"
8.	58	6835	Shakee.át (Frontlet), Géelák'w ("Ravine Frontlet")
9.	59	6836	Shaman's Headdress, Yeatl-Shada ("Raven Head Cover")
10.	60	6837	Gongoosh (Abalone Bear's Ears Headdress)
11.	61	6838	Ceremonial Headdress, "Head Top-Stock of the Raven" or "Octopus Hat"
12.	62	6839	Ceremonial Headdress, Human Hair
13.	63	6840	Gongoosh (Bear's Ears),
14.	64	6841	Shakee.át (Frontlet), "Beaver"
15.	65	6842A-B	Dance Ornaments, Bear Forearms (2)
16.	66	6843	Staff Head, "Raven"
17.	67	6844	Ceremonial Rattle, "Raven"
18.	68	6845	Ceremonial Rattle, "Loon"
19.	69	6846	Ceremonial Rattle, Plain
20.	70	6847	Shaman's Hat, "Loon Spirit" Hat

21.	71	6848	Dance Blanket, "Diving Whale"
22.	72	6849	Dance Blanket, with Strips of Chilkat blanket
23.	73	6850A-F	Ceremonial Neck Rings (cedar bark) (6)
24.	74	6851	Ceremonial Neck Ring (cedar bark)
25.	75	6852	Ceremonial Neck Ring (cedar bark)
26.	76	6853	Ceremonial Head-Band (cedar bark)
27.	77	6854A-B	Ceremonial Rings (cedar bark) (2)
28.	78	6855	Dance Collar, "Whale"
29.	79	6856	Ceremonial Horn
30.	80	6857	Ceremonial Horn
31.	81	6858	Ceremonial Horn
32.	82	6859	Ceremonial Horn
33.	83	6860	Ceremonial Whistle
34.	84	6861	Ceremonial Whistle
35.	85	6862	Pipe
36.	86	6863	Feast Spoon, "Skeleton of Raven"
37.	88	6865	Dance Ornaments, Eagle Tail Feathers (2 pairs)
38.	89	6866	Ceremonial Headdress (cedar bark)
39.	HD4	8498	Shakee.át (Frontlet), "Marmot with Bat"

QUESTION #3

In their written request to the University of Pennsylvania Museum of Archaeology and Anthropology for the repatriation of 31 catalogued items, did the Hoonah Indian Association and the Huna Totem Corporation show that, more likely than not, some or all of the items in question were sacred objects, as the term "sacred object" is defined at 25 U.S.C. 3001 (3)(C) and 43 C.F.R. 10.2 (d)(3)?

a. If yes, which items were shown to be sacred objects?

The 31 catalogued items are:

	Field #	Catalog #	Object Name
3.	53	6830	Ceremonial Mask, "Sun Mask"
6.	56	6833	Ceremonial Mask, "Gunakadeit"
7.	57	6834	Shakee.át (Frontlet), "Thunderbird at the Hunt"
10.	60	6837	Gongoosh (Abalone Bear's Ears Headdress)
11.	61	6838	Ceremonial Headdress, "Head Top-Stock of the Raven" or "Octopus Hat"
12.	62	6839	Ceremonial Headdress, Human Hair
13.	63	6840	Gongoosh (Bear's Ears),
14.	64	6841	Shakee.át (Frontlet), "Beaver"
15.	65	6842A-B	Dance Ornaments, Bear Forearms (2)
16.	66	6843	Staff Head, "Raven"
17.	67	6844	Ceremonial Rattle, "Raven"
19.	69	6846	Ceremonial Rattle, Plain

20.	70	6847	Shaman's Hat, "Loon Spirit" Hat
21.	71	6848	Dance Blanket, "Diving Whale"
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27.	77	6854A-B	Ceremonial Rings (cedar bark) (2)
28.	78	6855	Dance Collar, "Whale"
29.	79	6856	Ceremonial Horn
30.	80	6857	Ceremonial Horn
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32.	82	6859	Ceremonial Horn
33.	83	6860	Ceremonial Whistle
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36.	86	6863	Feast Spoon, "Skeleton of Raven"
37.	88	6865	Dance Ornaments, Eagle Tail Feathers (2 pairs)
38.	89	6866	Ceremonial Headdress (cedar bark)
39.	HD4	8498	Shakee.át (Frontlet), "Marmot with Bat"

PART II: ISSUES OF FACT REGARDING A RIGHT OF POSSESSION TO NAGPRA CULTURAL ITEMS

QUESTION #1

With respect to a "Shaman's Drum, 'Old-Man-of-War' Box Drum" identified by the University of Pennsylvania Museum of Archaeology and Anthropology as catalog number 6828 and an object of cultural patrimony, a "Tlto-Aw (Lituya Bay) Robe" identified by the Museum as catalog number 6829 and both a sacred object and an object of cultural patrimony, and any item identified as an object of cultural patrimony in answer to QUESTION #2 of PART I (above), has the University of Pennsylvania proved that, more likely than not, the Indian tribe culturally affiliated with these objects of cultural patrimony explicitly authorized the conveyor of these cultural items, Archie White (Dimitri Tukk'axaaw), to separate the objects of cultural patrimony from the tribe? (The term *cultural patrimony* means an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization, and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.)

QUESTION #2

If the answer to Question #1 is no, has the University of Pennsylvania Museum of Archaeology and Anthropology proved that, more likely than not, the Indian tribe culturally affiliated with these objects of cultural patrimony intended to give the conveyor

of these cultural items, Archie White (Dimitri Tukk'axaaw), the authority to separate the objects of cultural patrimony from the tribe?

QUESTION #3
If the answer to Question #1 or Question #2 is yes, has the University of Pennsylvania Museum of Archaeology and Anthropology proved that, more likely than not, the Indian tribe culturally affiliated with these objects of cultural patrimony voluntarily gave the conveyor of these cultural items, Archie White (Dimitri Tukk'axaaw), the authority to separate the objects of cultural patrimony from the tribe?

QUESTION #4
With respect to any item not identified as an object of cultural patrimony in answer to QUESTION #2 of PART I (above), but identified as a sacred object either in answer to QUESTION #3 of PART I (above) or by the University of Pennsylvania Museum of Archaeology and Anthropology (catalog numbers 6828, 6829, 6831, 6832, 6835, 6836, 6845, and 6862), has the University of Pennsylvania Museum of Archaeology and Anthropology proved that, more likely than not, the owner voluntarily consented to transfer all interest in these cultural items?

I am enclosing with this letter a copy of the materials submitted to me by Hoonah Indian Association and Huna Totem Corporation in support of their request to the Review Committee. If the University of Pennsylvania Museum of Archaeology and Anthropology wishes to provide the Review Committee with information relevant for answering the questions presented, please do so on or before October 12 (electronic format appreciated). If you have any questions about this matter, please contact me (202/354-2108; david_tarler@nps.gov).

Sincerely,

David Tarler

David Tarler
Designated Federal Official
Native American Graves Protection and Repatriation Review Committee

cc: Kathryn Hurtley, Executive Director, Huna Heritage Foundation
Rosita Worl, Chair, Native American Graves Protection and Repatriation Review Committee
Lawrence Gaffeney, President and CEO, Huna Totem Corporation
Robert Starbard, Tribal Administrator, Hoonah Indian Association
Wendy S. White, Senior Vice President and General Counsel, University of Pennsylvania

enclosure: Hoonah Indian Association and Huna Totem Corporation request for the NAGPRA Review Committee to consider a dispute, and appended exhibits

Huna Heritage Foundation
<heritage@hunatotem.com>
10/15/2010 07:44 PM

To "David_Tarler@nps.gov" <David_Tarler@nps.gov>
cc
bcc
Subject Huna/UPENN Object count

Hello David,
I have attached a note that helps to outline the count of the objects. Stacey E. from UPENN and I went through the catalog numbers and agreed on a count. This count is what was written in the Federal Register Notice for the 8 items of the Mt. Fairweather collection that are in the process of repatriation now.

This should help with the total number of items that we will all be referring to.

Kathryn Hurtley
Executive Director
Huna Heritage Foundation
907.523.3682

_____ Information from ESET NOD32 Antivirus, version of virus signature database 5535 (20101015) _____

The message was checked by ESET NOD32 Antivirus.

http://www.eset.com Object count agreement with UPENN.pdf

9/29/2010

Stacey Espenlaub of UPENN and Kathryn Hurtley discussed via telephone the total number of objects for the repatriation from UPENN.

The number decided on was 50 total objects for the repatriation claim with 49 of the objects as part of the Louis Shotridge Collection which was collected from the Mt. Fairweather Snail House. The Catalog #8498 Marmot with Bat Frontlet was collected at a later time while it is part of the repatriation claim – it is not referenced as part of the Snail House Collection.

There are 39 catalog items and several of the items have additional parts:

#6835	(2)	Frontlet has two pieces-- the frontlet and the "tails" -- labeled Part A & B
#6842	(2)	Two Ceremonial Dance objects Bear Forearms [Part A & B]
#6850	(6)	Six ceremonial rings [Part A&B]
#6854	(2)	Two ceremonial rings [Part A&B]
#6865	(4)	Four eagle feathers [Part A,B,C,D]

Catalog #8494 Mt Fairweather Peace Hat and #10513 Octopus Tentacle Staff were both removed from the repatriation claim on July 10, 2008. [Item #12 in the Repatriation Binder]

Hoonah Indian Association
PO Box 602
Hoonah, AK 99829

AND

Huna Totem Corporation
9301 Glacier Highway
Juneau, AK 99801

July 20, 2010

David Tarler, DFO
National NAGPRA Program
National Park Service
1201 Eye Street, NW (8th Floor)
Washington, D.C. 2005

Re: Dispute Between Huna Totem Corporation/Hoonah Indian Association and the University of Pennsylvania Museum relative to the "Snail House Collection"

Dear Mr. Tarler,

Pursuant to 25 U.S.C. 3006 (c), Huna Totem Corporation (HTC) and Hoonah Indian Association (HIA), both federally-recognized tribes for the purposes of Native American Graves Protection and Repatriation Act, jointly and respectfully request the NAGPRA Review Committee to facilitate the resolution of a dispute between them and the University of Pennsylvania Museum (UPM).

Since initially making the request for repatriation for items in the "Snail House Collection" in 1995, the HTC or its non-profit arm, the Huna Heritage Foundation (HHF), and the HIA have submitted information and documentation in support of its claim on seven occasions, most recently on Dec. 15, 2006. Until June of 2009, the UPM continually found that NAGPRA standards of proof were unmet with regard to the definitions of repatriatable items (objects of cultural patrimony and sacred objects) and right of possession. In early 2009, since the claim was entering its 14th year, HTC and HIA wrote the DFO and requested that the NAGPRA Review Committee hear this dispute. Although HHF was notified that the dispute was to be heard by the Review Committee on May 24, HHF requested a deferral of the hearing after a conference call in which UPM suggested it would be in the interests of all parties if further action was delayed until the UPM Trustees made a decision in June.

On June 19, HHF and HIA were informed that UPM would repatriate eight objects and proposed to "share" the remaining 37 items under a joint curatorial agreement

because they do not meet the NAGPRA definitions of sacred or patrimonial objects. Also, UPM believes it holds right of possession to all 45 objects. In July of 2009, the HHF and HIA jointly decided that they would not accept these terms and, believing that a dispute continues to exist, are renewing their request that the dispute be heard by the NAGPRA Review Committee. The HIA/HHF believe that all objects are eligible for repatriation because they fit the definitions of sacred and patrimonial objects, and the UPM does not have right of possession.

The following is a brief summary of the major issues of this case. In addition to the information provided below, we are submitting a summary discussion of facts for each requested item, a more detailed discussion of interpretation of the facts of the case as a whole, and a discussion of traditional legal practices relating to the ownership and custodianship of clan possessions that continue to be in evidence today.

A. The proposed questions for the Review Committee to consider.

1. Are the requested objects sacred objects under the NAGPRA definition?

The dispute concerns all but the following items, which the UPM considers to be sacred: the Lituya Bay Robe, the Owl of Heavens Mask, the Commander of Tides Mask, the Ravine Frontlet Headdress, the Raven Head-cover, The Loon Spirit Rattle, and the Pipe.

2. Are the requested objects objects of cultural patrimony under the NAGPRA definition?

The dispute concerns all but the following items, which the UPM considers to be Objects of cultural patrimony: the Box Drum and the Lituya Bay Robe.

3. Do the Indian Tribes (HIA/HTC) have right of possession to the requested objects?

B. Statement of Relevant Facts

The Snail House (*Tax̲' Hít*) is another name for the Mt. Fairweather House (*Tsalx̲áan Hít*) of the T'ak̲deintaan Clan of Tlingit Indians from Hoonah, Alaska. The house was the principal house of the T'ak̲deintaan Clan and its master, Archie White, was the *Shaadeihani* (Clan Leader) at the time the "Snail House Collection" was acquired. The items in the "Snail House Collection" were in the possession of the 'Snail House Family' at the time they were acquired by Louis Shotridge, a Tlingit Indian from Klukwan, AK, in the employ of the museum. In notes and published articles, the collector described such items as "heirloom possessions," "old relics," "original things that had been in the possession of the chief's ancestors," and "ancestral objects handed down within the house group."

Huna Totem Corporation (HTC) and Hoonah Indian Association (HIA) are Indian tribes with standing to bring claims for the repatriation of objects under NAGPRA (43 CFR Part 10, Sec. 10.2(b)(2)). The Huna Heritage Foundation (HHF), a non-profit arm of HTC, often served as representative of HTC during the conduct of this claim and continues to do so. The term 'HHF' shall be used to signify both HTC and HHF in the following discussion.

HHF initiated a repatriation claim for 34 items in the UPM "Snail House Collection" as objects of cultural patrimony in 1995 under 25 U.S.C. 3001 Section 2(3)(D). This claim was later (1998) expanded to all 44 items in the Snail House Collection and one additional item, the Marmot Frontlet, after receipt of additional information from UPM. This claim was denied on May 18, 1998, because the tribes' information was inadequate to support a finding that the items fit NAGPRA definitions of objects of cultural patrimony, and because there were competing claims between the two tribes. On Feb. 28, 2000, the tribes informed UPM that from this date forward they will be acting jointly in the request, and requested that UPM act on the claim.

On May 10, 2000, UPM denied the claim because the UPM has right of possession and the items are not objects of cultural patrimony under the NAGPRA definition. The UPM invited the tribes to answer a set of questions which they would take into consideration in further evaluation of the claim. On May 2, 2001, the tribes submitted a response to the list of issues and a detailed and extensive item by item claim, including additional information about right of possession. This claim was denied on May 21, 2002.

A consultation meeting was held at the museum in April, 2005, at which the requested objects were viewed by clan members and elders from Hoonah. Acting upon the suggestion of UPM staff, an extensive compilation of addition information in a report dated Dec. 1, 2006, was submitted on Dec. 15, 2006, in support of a claim for the items as sacred objects under 25 U.S.C. 3001 Section 2 (3) (C). It is this claim which remains unresolved.

The items in the "Snail House Collection" are *at.óowu* (clan possessions, the material and immaterial possessions of the deceased ancestors of the house or clan now in the possession of their living descendants). Such items are passed down to the house leader from his clan ancestors, represent individually and in total the unique history and identity of the clan and house group, and are used in Tlingit mortuary ceremonies and other celebrations. Such highly valued items are conserved under the custodianship of the house leader for ceremonial use by present and future generations of the clan, and would not be sold under customary and traditional practices. The custodian did not have the right to sell or give away such items except under certain special circumstances, and in no case would the transfer of an entire collection of *at.óowu* ever occur.

The sale of clan-owned items to a museum collector by an individual, even if that individual was the keeper of the clan's ceremonial property as the UPM claims occurred in this case, is outside of customary and traditional Tlingit practices and law. Just as clan custodians cannot acquire clan-owned property as individuals, they do not sell or otherwise "alienate" such property as individuals. They are only entitled to conduct such transfers as a representative of the clan, and with transparency, on behalf of the entire clan. Legitimate transfers are extremely rare and unusual. In this case, there is no evidence that the sale was done transparently, with the knowledge and consensus of clan members. The preponderance of the evidence indicates that it was done in secret, without the knowledge of the clan, and resulted in shame for which the seller's son was reported to have made a very large contribution years later in a traditional ceremony.

Throughout this claim, UPM has maintained that the evidence submitted by the tribes is inadequate to support a claim for repatriation under NAGPRA, specifically that the UPM has right of possession and all the items are not of such central significance that they fit the definition of cultural patrimony under NAGPRA (even though they were held through generations in the clan's possession). The UPM has set an extremely high standard of proof, and has requested responses to a detailed list of issues and questions based mainly on their reading of the anthropological literature. The tribes have attempted to comply with these demands, but at the same time we are moving forward with this request for consideration of the dispute because the longevity of this claim (now in the 15th year) is indicative of an unsatisfactory resolution. During this time one clan leader has died (Richard Dalton, Sr., former member of the Smithsonian Institution Repatriation Review Committee), and knowledgeable elders are much older and growing more infirm as time passes. This is an intolerable situation to us.

To summarize, the tribes have submitted written information on the following dates:

Dec. 15, 1995
Feb. 12, 1998
March 25, 1998
Feb. 28, 2000
May 2, 2001
Nov. 27, 2001
Dec. 15, 2006

These submissions provide, in great detail, the available information about the history, significance and ceremonial use of these items in the context of Tlingit culture and traditions. This information is derived from oral history, traditional knowledge, museum records and the anthropological literature, and it is provided in support of this request. This material, in its totality, provides a preponderance of evidence that the requested items are objects of cultural patrimony and sacred objects, and that the right of possession belongs with the tribes.

C. Copies of Relevant Documents

The materials submitted to the UPM in support this claim are provided in the accompanying notebooks. We are also submitting additional information summarizing this material, and a paper documenting traditional Tlingit property law, as attachments to this letter. Copies of historical documents, interview transcripts and notes, legal proceedings, excerpts from published historical and anthropological sources, and other source documents referenced in the accompanying material can be provided upon request.

D. Statement of the requesting party's position and reasoning for their position.

All of the items in the Snail House Collection are important *at.óowu* of the T'akdeintaan clan that were owned and inherited as a single collection of clan possessions. They relate to specific historical events or spiritual encounters in the history of the clan, as described in HIA/HHF materials submitted on May 2, 2001 and Dec. 15, 2006. All crests, crest objects, and other items in a clan's collection have ongoing significance to a clan. Any heirloom will, through display at potlatches, become a valuable clan possession. All of the requested items are associated with clan ancestors, and all of them have been inherited through clan ancestors. All of them are associated with the clan's history and identity, and were preserved for use in Tlingit funerals, memorial potlatches and other ceremonies. While every clan object and prerogative is unique depending upon the history of its acquisition, its continued importance to the clan is signified by the stewardship that has preserved it through generations and fact that it has been preserved for ceremonial use by subsequent generations. Each of the requested items is of such central importance that they were passed down to the head of the Snail House/Mt. Fairweather House (and the T'akdeintaan Clan) as their custodian on behalf of all clan and house members.

All of these items are associated with the spirits of the clan ancestors who have acquired, used, preserved and passed them on to their descendants. These spiritual associations are evoked when objects are brought out (displayed or presented) at specific stages of funerals and memorial potlatches. The presence of spirits associated with clan *at.óowu* is a fundamental characteristic of Tlingit ceremonials, for it is believed that their presence "give weight" to the words of grief, or of condolence and comfort, expressed to the opposite side. Indeed, the ceremonial use of canes and staffs is explained as an aid to hold up the orator, who is weighed down by the presence of these entities, when delivering his or her words to the guests. When the spirits have been evoked, they are able to receive the spiritual essence of the food and material goods that are distributed by the bereaved clan to members of the opposite side who have assisted them in their time of mourning.

The requested items were used by members of the house and clan in religious ceremonies and were preserved for that purpose for their descendants. They are needed by T'akdeintaan religious leaders for their continued use in funerals and memorial potlatches

to display their unique identity and history, and to evoke the spirits of clan ancestors who were involved in the acquisition of the item (and its crest, if applicable), of those who commissioned the item (or otherwise acquired it) as a memorial to these ancestors, and of those who preserved and used it in subsequent generations. The ceremonial use of these objects calls forth the spirits of these ancestors so they can be present and receive the spiritual counterpart of the food and material goods that are distributed to the guests. They are needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when clan members are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. They are needed so that they can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. These items were specifically devoted to traditional Tlingit funerary ceremonies and which have religious significance or function in the continued observance of these ceremonies. They are needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Right of Possession

The items in the "Snail House Collection" were in the possession of the 'Snail House Family' at the time they were acquired by the museum's collector. In Tlingit culture and traditions, both in the past and continuing in the present, clan possessions (*at.óowu*) are highly valued items used to represent the unique history and identity of the clan and house group during funerals, memorial potlatches and other ceremonies. These items are under the care and protection of the clan or house leader, and they are not transferred out of the clan's possession except under certain exceptional circumstances. These included both involuntary and voluntary situations: 1) as booty taken in war, 2) as indemnity for injuries or as part of a peace settlement, and 3) as a gift. These transfers were very rare and most often occurred as transactions between clans, as for example in response to causing injuries to a member of another clan for which the entire clan is held responsible.

The collector, Louis Shotridge, kept records of his expenditures related to the acquisition of the Snail House Collection, but there is no bill of sale and the identity of the buyer cannot be clearly established with the museum's documentation as claimed by UPM. Although Shotridge recorded details about the ownership and origin of some items, and a story associated with the crest of a blanket which he attributes to the house leader, much of this information is superficial or inaccurate. The available evidence indicates that Archie White was a strong advocate for retaining Tlingit traditional customs and practices for much of his life. Some individuals have suggested that either he or his wife may have sold the collection, but no one knows; this understanding is based mainly on the fact that Archie's son Joe contributed very lavishly to a memorial (or peace) celebration at a later date, which they believe was a public act made in response to his father's (or his mother's) sale of T'akdeintaan and/or Shangukeidí items. Whatever occurred, it was done in secret by an individual without the knowledge or participation of the clan, which is outside of Tlingit customary law and practice. This is the extent of the available evidence that exists with regard to the loss of these items.

It is well-known that Louis Shotridge went to great lengths to acquire objects for the UPM. He believed that the old ways were past, and felt justified in acquiring clan heirlooms and treasures for the museum against tribal norms. In an article he wrote for the Museum Journal, he relates going into one of his own clan's houses in his native village, Klukwan, to remove a shark helmet. The only witnesses were aged women who wept while he removed the object. He admits that the removal would never have been possible if one of the true warriors of the clan were alive. The wife of Archie White, who some believe was responsible for selling these items, was a Shangukeidí from Klukwan, and it is possible that it was through this connection that the transaction took place. According to oral history, Archie White was a strong traditionalist who rebuilt the Snail House/Mt. Fairweather House in Hoonah. He also painted the house panels that stand today in the Shangukeidí Clan House in Klukwan, and when the time came for the clan to pay him, he refused it out of love and respect for his wife's people. It is difficult to conclude that he sold the clan's possessions based on the available evidence.

E. Interested Parties

Huna Totem Corporation
Huna Heritage Foundation (representative of HTC)
Hoonah Indian Association
University of Pennsylvania Trustees
University of Pennsylvania Museum

F. Summary of the Consultation Record

Please see the attached.

G. The Findings of Fact and Recommendations sought from the Review Committee.

1. Based on extensive information submitted to the UPM and summarized in "D" above about the nature of these objects as clan "heirloom" possessions handed down through generations in the Snail House/Mt. Fairweather House of the T'akdeintaan Clan of Hoonah, HIA/HHF seek a finding of fact that each of the requested objects fits the NAGPRA definitions of sacred object and object of cultural patrimony; and

2. The Tribes have right of possession because it is established by a preponderance of the evidence that the Seller did not have the authority of the Clan to transfer the items to Louis Shotridge, because the sale of these items by an individual was illegitimate under the customs of traditional Tlingit property law that were practiced at the time the items were acquired, and there is no evidence there was a public meeting of the Clan (Clan Council) at which agreement was reached to dispose of the items.

H. Statement of Efforts to Resolve Dispute

UPM acknowledges that certain objects hold particular historical significance and is willing to return some of the items, while making the remainder accessible to the clan through shared custody, while believing it holds right of possession to all the items. This is not acceptable to the tribes. UPM has made it a practice to lend clan possessions to clans for their use in mortuary ceremonies, and then take them back to the museum in Philadelphia. The tribes do not agree with this activity.

I. Statement of Requesting Party's Understanding of the Other Party's Interpretation of Facts

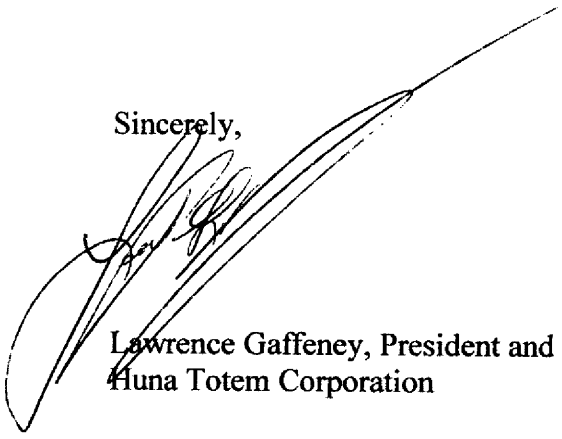
UPM has stated that 43 of the requested items are not objects of cultural patrimony because they do not rise to the level of centrality as Zuni War Gods or Iroquois wampum belts. According to UPM, only certain crest objects might rise to this level of importance. According to their reading of the anthropological literature, objects differ in rank and the issue of crest rank is of considerable significance. They will bring up distinctions such as "primary' and "secondary" crests, "recognized crests," issues of "centrality," and the fact that some of the claimed objects are not crest objects at all. They have written, "we do not consider these secondary crest objects, or the non-crest objects, to be objects of cultural patrimony."

The UPM has stated that while seven objects were devoted to the Tlingit potlatch through their documented associations with leading clan members, there was insufficient evidence that the remaining items were devoted to a particular ceremony or ritual, and are needed today to continue or renew that particular ceremony. Their position is that 38 items are not found to be sacred objects because they are not specific ceremonial objects that were devoted to, and are needed for, the practice of a present day Tlingit religious ceremony.

Key to this case is the right of possession, which the UPM claims. The museum will argue that their agent, Louis Shotridge, "apparently" purchased the items from the house leader. The museum will argue that at the time the items were acquired, normative and traditionally sanctioned codes of behavior no longer operated through a combination of factors including the influence of the Russian Orthodox Church, of which Archie White was a leader in Hoonah, and the Alaska Native Brotherhood, which advocated for discarding old ways. These forces were associated with a weakening of the traditional culture and growing differences between older and younger generations with regard to fulfilling ceremonial obligations, and the belief among some traditionalists that it was better to sell ceremonial items than have them deteriorate unused.

Repatriate requested items.

Sincerely,



Lawrence Gaffeney, President and CEO
Huna Totem Corporation

Robert Starbard, Tribal Administrator
Hoonah Indian Association

Object List

Tsalxáan Hit (Mt. Fairweather House) (aka Táx' Hit, Snail House) Collection

	Field No.	Catalog No.	No. of Items	Object Name
1.	51	6828	1	Shaman's Drum, "Old-Man-of-War" Box Drum
2.	52	6829	1	**Tlto-Aw** (Lituya Bay) Robe
3.	53	6830	1	Ceremonial Mask, "Sun Mask"
4.	54	6831	1	Shaman's Mask, "Owl Mask"
5.	55	6832	1	Ceremonial Mask, "Commander of the Tide"
6.	56	6833	1	Ceremonial Mask, **"Gunakadeit"**
7.	57	6834	1	Shakee.át (Frontlet), "Thunderbird at the Hunt"
8.	58	6835	1	Shakee.át (Frontlet), Géelák'w ("Ravine Frontlet")
9.	59	6836	1	Shaman's Headdress, **Yeatl-Shada** ("Raven Head Cover")
10.	60	6837	1	**Gongoosh** (Abalone Bear's Ears Headdress)
11.	61	6838	1	Ceremonial Headdress, "Head Top-Stock of the Raven" or "Octopus Hat"
12.	62	6839	1	Ceremonial Headdress, Human Hair
13.	63	6840	1	**Gongoosh (**Bear's Ears**),**
14.	64	6841	1	Shakee.át (Frontlet), "Beaver"
15.	65	6842A-B	2	Dance Ornaments, Bear Forearms
16.	66	6843	1	Staff Head, "Raven"
17.	67	6844	1	Ceremonial Rattle, "Raven"
18.	68	6845	1	Ceremonial Rattle, "Loon"
19.	69	6846	1	Ceremonial Rattle, Plain
20.	70	6847	1	Shaman's Hat, "Loon Spirit" Hat
21.	71	6848	1	Dance Blanket, "Diving Whale"
22.	72	6849	1	Dance Blanket, with Strips of Chilkat blanket
23.	73	6850A-F	6	Ceremonial Neck Rings (cedar bark)
24.	74	6851	1	Ceremonial Neck Ring (cedar bark)
25.	75	6852	1	Ceremonial Neck Ring (cedar bark)
26.	76	6853	1	Ceremonial Head-Band (cedar bark)
27.	77	6854A-B	2	Ceremonial Rings (cedar bark)
28.	78	6855	1	Dance Collar, "Whale"
29.	79	6856	1	Ceremonial Horn
30.	80	6857	1	Ceremonial Horn
31.	81	6858	1	Ceremonial Horn

32.	82	6859	1	Ceremonial Horn
33.	83	6860	1	Ceremonial Whistle
34.	84	6861	1	Ceremonial Whistle
35.	85	6862	1	Pipe
36.	86	6863	1	Feast Spoon, "Skeleton of Raven"
37.	88	6865	4	Dance Ornaments, Eagle Tail Feathers (2 pairs)
38.	89	6866	1	Ceremonial Headdress (cedar bark)

Eagle's Nest House

39.	HD4	8498	1	Shakee.át (Frontlet), "Marmot with Bat"

Summary of Claim for the Repatriation of 46 Items in the Mt. Fairweather/Snail House Collection and One Item in the Eagle's Nest House Collection belonging to the T'akdeintaan Clan of Hoonah.

This statement of facts is a summary of information previously submitted to UPM. The first sections describe general considerations that apply equally to all the requested items. Specific information for each item is presented in the summary statement that follows.

Introduction

1. The requested objects are a collection of 45 items that were in the possession of the Mt. Fairweather/Snail House of the T'akdeintaan Clan of Hoonah, Alaska, in 1924, at the time they were acquired, and one item from the Eagle's Nest House Collection that was collected in Sitka in 1918.

2. This case began in September, 1995, at which time a UPM representative attended a clan meeting in Juneau and showed a video showing 116 objects in the museum's collections from Hoonah. On the following day, the Huna Totem Corporation submitted a repatriation claim for the "T'akdeintaan Clan Snail House Collection."

3. Since that time, the Huna Totem Corporation and the Hoonah Indian Association have submitted 11 additional requests providing a significant amount of information and responses to queries posed by the UPM. To date, the UPM has responded that it has the right of possession and that the items do not meet the definitional requirements for objects of cultural patrimony and sacred objects under NAGPRA.

4. The Huna Totem Corporation and the Hoonah Indian Association believe that the UPM has not made a determination of the issues based on a preponderance of the evidence, which is the standard of proof under NAGPRA, and they have brought this dispute to the NAGPRA Review Committee for their consideration.

5. In 1924, the Mt. Fairweather House was the leading house of the T'akdeintaan Clan of Hoonah. It had a second name, the Snail House, which was a popular nickname for the house that came into use when the clan moved to Hoonah at the founding of the community.

6. The largest portion of T'akdeintaan territory begins in Dundas Bay, just outside of Glacier Bay, and extends westward and north up the coast beyond Lituya Bay as far as Mt. Fairweather. This area was rich in sea otter, which became a source of great wealth to the clan after the arrival of the Russians.

7. The items in the collection represent the history and identity of the clan and house group. They are clan possessions preserved by and inherited through past generations for the benefit of present and future generations, and they were under the care of the clan custodian who did not have the authority to sell them to the collector at the time they were acquired.

8. The collector (Louis Shotridge, a Tlingit Indian from Klukwan) took pride in seeking "that which is most important, and that is objects which represent the honorable history of the people" (letter to Gordon, Jan. 7, 1924). He frequently described the objects he acquired as a family's heirloom possessions.

9. Collection records (cards) for 15 of the items identify by name certain house members as "owners" and members of the next generation as "heirs," further indicating a chain of collective, ancestral ownership within the Mt. Fairweather/Snail House of the T'akdeintaan Clan.

10. The items in the collection are ceremonial items that were acquired and preserved by the clan and house members for their use in religious ceremonies, although some may also have been used in other special rituals. The objects were presented and used by members of the house and clan in Tlingit mortuary ceremonies, the fundamental religious expression of the Tlingit people, and are needed by contemporary religious leaders and living and future members of the T'akdeintaan Clan for the practice of their religion. It was for these reasons that the items were preserved in a collection that was passed down from previous generations.

11. The Mt. Fairweather/Snail House Collection includes the following items:

3 Ceremonial Robes and Blankets
5 Shamanic Items (a drum, mask, head cover, rattle and hat)
3 Ceremonial Masks
3 Shakee.át (Frontlets)
2 Bear's Ears Headresses
2 Ceremonial Headdresses
1 Staff (head only)
2 Rattles
1 Pipe
1 Feast Spoon
7 Dance Ornaments (a dance collar, 2 bear's forearms and 4 eagle tail fans)
18 Tsimshian-style Secret Society Dance Ornaments

12. The Eagle's Nest House Collection includes one item --- the "Marmot and Bat" Frontlet.

13. These items are both objects of cultural patrimony and sacred objects. A summary of key information for each object is attached. This information has been provided in more detailed form to UPM in previous submissions, which has also been shared with the Review Committee. New information is provided here concerning the special relationship between the T'akdeintaan Clan and the Tsimshian.

14. In order to understand the cultural and religious significance of this collection, it is necessary to introduce certain Tlingit concepts.

At.óow and Haa Shagóon

15. At.óow are the sacred material and immaterial possessions of a clan that are used in Tlingit mortuary rituals to represent the collective identity and history of the clan and to evoke the spirits of clan ancestors who are believed to be present in the ceremony. The ceremonial use of at.óow and the evocation of spirits associated with them are fundamental to traditional Tlingit religious practices.

16. At.óow are the most valued possessions of a clan. The term at.óow encompasses material objects (such as those claimed here), the events giving rise to them, the animals, beings and places involved in the events, the artistic designs and emblems (crests) representing them, and other associated prerogatives such as stories and legends, names and titles, songs, dance movements and other tangible and intangible things.

17. At.óow were the basis for defining rights to land and resources prior to the arrival of Europeans.

18. At.óow represent spiritual encounters experienced by a clan ancestor, important events often involving the loss of an ancestor's life, and other significant occurrences in the clan's history.

19. The at.óow in this collection represent events from the very distant past, before there were humans in the world, occurrences from the earliest history of the clan as a distinct group, and events from later periods as recently as 200 years ago.

20. At.óow embody all of the ancestors who have owned, cared for and used them from the time of their creation until the present, and whose spirits are believed to take part in mortuary ceremonies.

21. An at.óow represents the original acquisition of the object by a clan ancestor, whose deeds brought the item into the possession of the clan and from which it has collective value to the clan. At.óow memorialize the experience, and they are fundamental in defining the personal character and group identity of clan members that originated in the past and continues in the present and into the future.

22. Collectively, a clan's at.óow are its shagóon, which can be translated as both its "origin" or "heritage" and its "destiny" or "fate." Haa shagóon has been described by a clan elder as "what we are now, what we have been since the beginning, and everything that our children must become." It refers to the ancestors and those who come after, who are shaped and given character through the collective experiences memorialized in at.óow. It also refers to the at.óow themselves, which are regarded as ancestors.

Requested Items are Objects of Cultural Patrimony

23. The requested items were acquired as a single collection of objects collectively owned by members of the Mt. Fairweather/Snail House and the T'akdeintaan Clan of Hoonah, Alaska.

24. Nearly all items represent significant events and occurrences in the history of the clan or with which the clan has a special relationship due, for example, to its position within the Raven moiety.

25. They were inherited from clan members of earlier generations.

26. They were preserved by clan ancestors for ongoing ceremonial uses by the clan.

27. The objects have ongoing historical, traditional, cultural and religious importance central to the Mt. Fairweather/Snail House and the T'akdeintaan Clan.

28. They were under the stewardship of Archie White, the house leader (*hít s'aatí*) of the Mt. Fairweather/Snail House, which was the highest ranking house of the T'akdeintaan Clan. This means he was the clan leader (*sháadei háni*).

29. At the time the objects were separated from the group, they were considered by the clan to be highly valued possessions owned by the clan as a whole, rather than individual property, and could not be alienated, appropriated or conveyed by an individual without the consent of the clan.

30. The collection of clan possessions, as a whole, was considered by clan members to be inalienable when the objects were separated from the group.

31. Under certain special and highly unusual circumstances, a single object may have been transferable to another clan as a spoil of war, an indemnification to another clan for a harmful deed committed by a clan member, a gift, or sale. The first two instances were considered temporary transactions and were carried out with the expectation that compensation would be paid and the object would be redeemed at a future time.

32. These four types of transfer were considered to be sanctioned transactions between clans, that is, transfers carried out in public and with the knowledge and approval of clan members for the benefit of the clan as a whole, rather than an individual.

33. A transfer in which an individual benefitted was not considered to be a sanctioned transfer of clan property.

Requested Items are Sacred Objects

34. The primary use of a clan's at.óow is in the series of Tlingit funeral and mortuary ceremonies that occur following the death of a clan member. This applies to the requested items which are at.óow.

35. The formal presentation and display of at.óow, particularly those associated with clan crests, occur in funerals when they are placed near the deceased, and during the koo.éex' when they are placed on tables at the front of the room. The requested items are needed by the T'akdeintaan Clan to carry out this element of traditional Tlingit religious practice.

36. Presentations and displays of specific at.óow occur when associated stories and songs are performed for the guests during the memorial phase and in later portions of the ceremony, and when a close relative of the deceased is honored by having an item placed on her or him in front of the assembly. The requested items are needed by the T'akdeintaan Clan to carry out this element of traditional Tlingit religious practice.

37. At.óow with shamanic associations are specifically used in the performance of spirit songs, the dance behind the blanket, and sometimes in the song for the killing of money near the end of the koo.éex'. Certain of the requested items are needed by the T'akdeintaan Clan to carry out these elements of traditional Tlingit religious practice.

38. The presentation and display of at.óow is an essential component of speeches of condolence and comfort offered by the "opposite" clans in attendance at the k̲oo.éex'. The presence of at.óow "give weight" to their words and provide spiritual balance to the displays of the grieving clan. Shamanic ite are needed to balance displays of shamanic items by the grieving clan. The requested items are needed by the T'ak̲deintaan Clan to carry out these elements of traditional Tlingit religious practice, when clan members are invited guests at a k̲oo.éex' and seek to offer condolence to the grieving clan.

39. The ceremonial use of at.óow in Tlingit mortuary rites evokes the spirits of clan ancestors who were involved in the encounter or historical event represented by the object, the spirit of the animal or being that was encountered, the spirits of clan ancestors who were later involved in the creation or acquisition of the material object representing the event, and the ancestral spirits of those who used and preserved the item in subsequent generations.

40. The spirits of these ancestors and beings are believed to receive the spiritual essence of food and gifts distributed during the memorial potlatch (k̲oo.éex'). The requested items are needed by the T'ak̲deintaan Clan to ensure that the spirits of ancestors are present in mortuary ceremonies, as occurs in traditional Tlingit religious practices.

41. The evocation of ancestral spirits also occurs near the end of the k̲oo.éex', in the act of calling out clan names and titles in preparation for the "killing of money," which is believed to summon the spirits of those clan ancestors who bore each name to receive the essence of the money that is distributed.

42. The ceremonial use of at.óow and the evocation of spirits associated with them must be balanced with a reciprocal presentation of at.óow by the guests (members of "opposite" clans), lest the spiritual imbalance bring misfortune to all those attending the ceremony. Thus, invited guests must possess the own at.óow in order to participate appropriately in such ceremonies. The requested items are needed by the T'ak̲deintaan Clan to carry out this element of traditional Tlingit religious practice.

43. These at.óow are specific ceremonial objects which are needed by T'ak̲deintaan Clan leaders for the practice of traditional Tlingit religious ceremonies, and they have religious uses and functions in the continued observance and renewal of Tlingit mortuary ceremonies.

44. In summary, these at.óow are sacred objects because 1) they represent events of high importance in the history and identity of the clan, 2) evoke the spirits of clan ancestors who were involved in their acquisition, and who used and took care of them in succeeding generations in such ceremonies, 3) evoke the spirits of clan ancestors which are believed to receive the spiritual essence of food and gifts distributed to members of the opposite clans during clan ceremonies, 4) provide spiritual balance when displayed in response to the presentation of similar items from an "opposite" clan, 5) show special honor and respect to individuals of an opposite clan when ceremonially placed on them during religious ceremonies, 6) are displayed or worn during specific rituals performed as part of funerals and memorial k̲oo.éex', and 7) are needed by T'ak̲deintaan religious leaders to carry out traditional Tlingit religious practices involving present day adherents in their clan and in other Tlingit clans.

Right of Possession

This section will summarize the evidence that the T. clan/house has the right of possession to the items.

45. At the time they were acquired, the objects were clan possessions owned and used by the Mt. Fairweather House and T'akdeintaan clan for ceremonial purposes. They were inherited from prior generations and were property that could not have been alienated or sold by an individual without the consent of the clan under Tlingit customary law. The Marmot Frontlet was acquired separately from the Mt. Fairweather/ Snail House collection.

46. House and clan possessions were highly valued and were rarely transferred to other clans or nations. When such transfers occurred, they were carried out in public, and the clan leader or custodian of clan property acted with the knowledge and approval of clan members. Such transfers were done to benefit the clan as a whole, rather than an individual.

47. The size and scope of the transaction is absolutely huge and is completely beyond anything known in Tlingit history. Transfers of items to other clans or nations uniformly involved a single crest item, and possibly associated names, songs and stories, but would never approach such a large number of items constituting the complete cultural matrimony of a group as occurred in this transaction.

48. This transaction entailed a very large and complex collection of objects that had foundational historical, cultural and spiritual significance to the clan, and it makes no cultural sense that a clan would voluntarily give up their cultural matrimony on this scale.

49. It should be emphasized that such a transaction, if honorable and conducted in accord with Tlingit law, would have been remembered by the clan since it would be a part of their history of the type memorialized in clan at.oowu, that is, an event which is important in their history and identity. The only reason for it to be forgotten is if it was a wrong and shameful act.

50. The available evidence indicates that the purchase (transfer) was covert and was not carried out in public or with the knowledge of the clan. There is no bill of sale or any other document that would establish the identity of the seller, and there was no publicity about the purchase.

51. Oral history supports the notion that the purchase was covert, not public. A clan member recalled visiting the Mt. Fairweather House and seeing the chest containing the clan's at.oow at one time, but when he returned in about 1925 it was not there any longer and nothing was ever said about it. Today, clan members and other Hoonah elders uniformly say they don't really know what happened to the items and how they ended up in the possession of the museum.

52. The absence of oral history within the clan is to be expected in circumstances in which a clan was involved in the violation of Tlingit customs regarding the preservation and inheritance of highly valued clan possessions. This type of behavior would not be talked about within the clan or by anyone in public, for fear of bringing greater shame on members of the clan. Over time, the event would be effectively "erased" from collective memory.

53. The absence of objections to the sale by clan members is evidence that it was carried out in secrecy without the knowledge of clan members, or that knowledge of it was suppressed and kept secret out of shame, or both. It cannot be judged by European standards of behavior as evidence of the clan's acceptance and approval.

54. The fact that the purchase was covert indicates that it was an individual who benefitted from the sale. It is reasonable to conclude that had the items been purchased in public and on behalf of the clan as a whole, there would be a memory of the transaction and the benefits that accrued to the group.

55. At the time the items were acquired, Archie White was the custodian of the Mt. Fairweather House. He was known to be a strong supporter and proponent of traditional Tlingit ceremonial practices. He is remembered for the following actions:

1) He was *hít s'aatí* of the Mt. Fairweather/Snail House House, the highest ranking house of the T'akdeintaan Clan, and sháadei háni (clan leader) of the T'akdeintaan Clan;
2) He was responsible for renovating the Mt. Fairweather House when it fell into disrepair, and afterwards resided there until his death in 1939;
3) He carved the Thunderbid figure and xxxxx, highly important crest objects erected in the "House Lowered from the Sun" of the Shangukeidee (Thunderbird) Clan in Klukwan and now in the Thnunderbird House, Klukwan. He did this and then declined the customary payment for his services by the clan, in honor of his wife who was from this clan;
4) He was a major supporter of the Russian Orthodox Church, the practices of which were not in conflict with traditional Tlingit memorial ceremonies. He was known as Dimitrii Tukk'axaaw; and
5) He was opposed to the sale of clan objects and tried to influence people to preserve clan objects later in his life.

56. It is extremely unlikely that Archie White would violate Tlingit law by selling clan atoowu for personal gain.

57. There is evidence from oral history that the wife of Archie White may have sold the items without his knowledge. The information was passed down to the previous Sháadei Háni, Richard Dalton, Sr. (now deceased). Since the individual was from the same village as the collector, it is likely that they had a connection which may have led to the loss of the items. Oral history in two clans, T'akdeintaan and Shangukeidee, provides additional evidence that at a later date, Archie's son Joe White acknowledged the wrongdoing in Tlingit fashion by giving away very valuable possessions during a ceremony.

58. The collector, Louis Shotridge, is known to have acquired items unethically. He once stole items from his own clan house in Klukwan. He sought to acquire items on the basis of European (patrilineal) inheritance, as opposed to the traditional Tlingit code of matrilineal succession. On one occasion, when he attempted to bring public pressure to bear in such an acquisition (in the case the Whale House artifacts), he ran into stiff opposition which eventually led him to abandon his pursuit of these items.

Summary of Consultation Record

For purposes of this summary, HHF refers to the following organizations: HTC, HTHF, HHF. HHF (formerly HTHF) represents HTC in this claim.

Date	Format	From	To	Summary
1995				
26 Sept. 1995	UPM Consultation Meeting			Clan Meeting to view video of Tlingit collections from University of Pennsylvania Museum, Juneau ANB Hall; 116 objects seen
26 Sept. 1995	Letter	HHF	UPM	Repatriation claim for "Hoonah, AK: T'akdeintaan Clan, Snail House Collection" as objects of cultural patrimony; includes list of 34 objects.
26 Oct. 1995	Letter	UPM	HHF	Advised that UPM's Repatriation Committee will require information to substantiate claim
21 Nov. 1995	Letter	HHF	UPM	Asked for complete list of items in the Shotridge Collection
11 Dec. 1995	Letter	UPM	HHF	Advised it will take several months to prepare the list and this request will be treated separately from repatriation claim
15 Dec. 1995	Letter	HHF	UPM	Advised that HTC is a tribe under NAGPRA and items are claimed as objects of cultural patrimony
1996				
21 Feb. 1996	Letter	UPM	HHF	Requested additional information to substantiate claim in the form of a list of questions about origin and use of objects
18 April 1996	Letter	UPM	HHF	Second request for additional information, informed HHF that tapes or transcriptions of elder's oral testimony can be used
6 May 1996	Letter	HHF	UPM	Second request for list of Shotridge collection, requested UPM's records regarding the acquisition and accession of the Snail House collection.
21 June 1996	Letter	UPM	HHF	Provided list of all items collected from Hoonah and copies of all collection records so far determined to be relevant to the Snail House collection

1997				
16 June 1997	Letter	HHF	UPM	Requested museum documentation on additional T'akdeintaan Snail House objects at UPM reported in material sent June 21, 1996
12 Aug 1997	Letter	UPM	HHF	Provided information and copies of museum records for additional 11 items
1998				
16 Jan 1998	Letter	Adam Greenwald	UPM	Mr. Greenwald, the recognized leader of the "Snail House," endorses the repatriation claim submitted by HHF
12 Feb 1998	Letter	HHF	UPM	Submitted revised repatriation claim for 45 items in UPM "Snail House Collection" (21 pages), resolutions from Snail House leaders authorizing HHF to represent them
11 Mar 1998	Letter	UPM	HHF	Acknowledged receipt of revised claim and stated their Repatriation Committee has begun to review it
23 Mar 1998	Letters (2)	HIA	UPM	Submitted repatriation claim for Snail House items, resolutions that HIA is formally authorized to act on behalf of the T'akdeintaan Clan and Snail House
25 Mar 1998	Letter	HHF	UPM	Submitted further revised repatriation claim for the 45 objects in UPM "Snail House Collection" (22 pages), superseding that of Feb. 12
18 May 1998	Letter	UPM	HIA, Richard Dalton and Patrick Mills cc: HHF	Denied claim --- evidence submitted is inadequate to support a determination that NAGPRA applies in this case, UPM is preparing a set of questions requesting additional information to substantiate claim, asked questions relating to issue of competing claim from HHF and which entity is the more appropriate claimant
1 July 1998	Letter	HHF	UPM	Responded to question #1 in UPM letter of 18 May that HHF has not withdrawn their request, states that the March 25, 1998, repatriation petition remains in effect, re-enclosed copies of resolutions from Snail House leaders authorizing HHF to represent them
1999				
2 Feb 1999	Letter	UPM	HIA	Provided copies of all documentation in museum records about the "Snail House Collection"
18 Aug	Letter	HHF, Adam	UPM	Stated that documentation provided in letter of March 25, 1998, is adequate to

1999		Greenwald		allow UPM to make a determination of the applicability of NAGPRA and that the evidence meets NAGPRA standards in four areas (Indian tribe, cultural affiliation, objects of cultural patrimony, and right of possession), explained that HHF is a more appropriate claimant than HIA
15 Sept 1999	Letter	UPM	HHF	Stated NAGPRA requirements that UPM must 1) attempt to determine which claimant is most appropriate, 2) attempt to determine if the claimed objects meet the NAGPRA definitions of sacred objects and/or objects of cultural patrimony, and determine if HIA, HHF or UPM has right of possession.
2000				
26 Jan 2000	Letter	UPM	HIA, Richard Dalton, Patrick Mills, HHF, Adam Greenwald	Re-requested information about which entity is the more appropriate claimant, requested detailed information about each individual object as object of cultural patrimony and/or sacred object, and asked series of questions relating to "the relevant anthropological literature" regarding the relative importance and significance of objects, crests, replicas, and the alienation or sale of objects
28 Feb 2000	Letter	HIA AND HHF	UPM	Notified UPM that HIA and HHF have consolidated their claims and will act jointly from now on, provided additional information in response to UPM questions drawing mainly on oral traditions and traditional knowledge, expressed their 'extreme anxiety' to conclude the claim
1 Mar 2000	Letter	UPM	HIA	Provided pictures of Tax̲' Hit [Snail House, or Mt. Fairweather House] items, 62 pages
22 Mar 2000	Letter	HIA/HHF	UPM	Requested acknowledgement of receipt of Feb. 21 [28] letter (attached), requested opportunity for elders to visit museum to view objects
2-4 April 2000	NAGPRA RC Meeting Minutes, Juneau, AK			NAGPRA Review Committee Meeting in Juneau, Alaska public testimony. Ron Williams, Snail House, expressed concern about the UPM claim filed in 1995 with 4-5 addendums since then, and said that the parties needed assistance from the Review Committee to resolve this case; Kenneth Grant, HIA, addressed the Committee and informed them that the competing claim between HIA and HHF had been resolved and the two are now working together
3 April 2000	Letter	UPM	HIA/HHF	Acknowledged receipt of letters dated Feb 28 and March 22, 2000, notified them that UPM is preparing a detailed response to the joint claim; and invited them to visit the museum this summer

20 April 2000	Letter [certified]	HIA/HHF	UPM	Re-stated their extreme anxiety to conclude the repatriation, reminded UPM of their legal responsibility to act expeditiously on claims that meet NAGPRA requirements, and reaffirmed that their claim meets all NAGPRA requirements
10 May 2000	Letter	UPM	HIA/HHF	Denied claim --- HIA/HHF have not submitted evidence establishing that the requested items are objects of cultural patrimony or sacred objects, enclosed a 6 page analysis of issues based on "apparent discrepancies" between the information presented in HIA/HHF letters of Feb. 28, 2000, and March 25, 1998, and between these and the anthropological literature
29 June 2000	Letter	HIA/HHF	UPM	Acknowledged receipt of 10 May letter; stated that HIA/HHF feels they have met NAGPRA requirements and are working on detailed response.
2001				
2 May 2001	Letter	HIA/HHF	UPM	Detailed response to issues raised in UPM letter of May 10, 2000, and an item by item discussion that requested objects are objects of cultural patrimony and right of possession is with the T'akdeintaan Clan, drawing on information from the collector's notes, oral history and anthropological literature, for "Snail House Collection" plus Marmot Frontlet, 45 objects (66 pages)
30 May 2001	Letter	UPM	HIA/HHF	Acknowledged receipt of additional evidence, have started evaluation
19 Oct 2001	Letter	HIA/HHF	John Robbins, Officer for NAGPRA Review Committee	Asking for technical support on UPM claim, giving history of claim process including that museum has not responded for 6 months, and asking for this issue to be discussed at Nov. Review Committee meeting.
22 Oct 2001	Letter	HIA/HHF	UPM	Copy of 19 Oct letter to John Robbins for NAGPRA Review Committee
25 Oct 2001	Letter	UPM	HIA/HHF	Requested additional information about evidence mentioned in May 2, 2000, report (copies of letters about Archie White's sale of items and how information provided by clan leader sheds light on who sold items)
27 Nov 2001	Letter	HIA/HHF	UPM	Response to UPM request of 25 Oct (offended by suggestion that clan leader is not to be trusted, copies of letters are not available), requested UPM's evidence

				to support their claim that the sale of the objects had the consent of the clan
2002				
8 Jan 2002	Letter	UPM	HIA/HHF	UPM Repatriation Committee will proceed shortly to evaluate new evidence
11 Jan 2002	Letter	NPS, John Robbins	HIA/HHF	Acknowledged receipt of 19 Oct 2001 letter to National NAGPRA which was forwarded to new National NAGPRA program Officer Robert Stearns
21 Mar 2002	Letter	UPM	HIA/HHF	UPM's Repatriation Committee has 'acted on' claim and this has been forwarded to UPM's University Trustees for review and final decision
13 May 2002	email	HIA/HHF	Trustees HHF	UPM Trustees have come to a decision and HHF will be informed soon
21 May 2002	Letter	UPM	HIA/HHF	Denied claim --- UPM has right of possession and none of the objects fit the definition of object of cultural patrimony. Museum acknowledges that certain objects hold particular historical significance and is willing to consider the returning some of the items outside of NAGPRA and make the remainder accessible to the clan
6 Dec 2002	Letter	HIA/HHF	UPM	Stated disagreement with finding, requested copy of museum documentation validating UPM claim of sale of items by Archie White
18 Dec 2002	Letter	UPM	HIA/HHF	Informed HHF that UPM has provide most of this before, but they will look to make sure
2003				
30 Jan	Letter	UPM	HIA/HHF	Provided full set of all previously copied museum records, enclosed copy of UPM Board of Trustees Resolution passed May 9, 2002
2004				
25 Feb 2004	Letter	HIA/HHF	UPM	Requested reconsideration of claim
30 June 2004	Letter	HHF	UPM	Requested a response to letter of Feb 25 to UPM, and informed UPM that HHF received a NAGPRA grant to consult with UPM further on Snail House claim.
13 Aug, 2004	Letter	UPM	HHF	Acknowledged grant award and looks forward to visit, did not feel 25 Feb letter warranted any response as it presented no new evidence.
2005				

1 March 2005	Letter	HHF	UPM	Acknowledged receipt of 13 Aug letter, requested start of travel plans for an April or May museum visit
26-28 April 2005	Consultation Meeting at UPM			Viewed all items in the "Snail House Collection" and the Marmot Frontlet, and 2 items collected at Sitka not previous reported (Mt. Fairweather Headress and Octopus Tentacle Staff)
19 May 2005	Letter	UPM	HHF	Thanked Hoonah representatives for their visit and information volunteered at that time, suggested HHF revise claim of May 2, 2001, and resubmit
5 July 2005	email	HHF	UPM	Requested names of anthropologists employed by UPM in evaluating this claim, requested copies of their reports, asked if UPM museum has human remains from Hoonah
13 Dec 2005	Letter	UPM	HHF	Reported that Judith Berman, Ph.D., was their consultant; gives details on human remains from southeast Alaska (none from Hoonah)
2006				
15 Dec 2006	Letter	HIA/HHF	UPM	Submitted revised claim for each item in the "Snail House Collection" plus three items (Marmot Frontlet, Mt. Fairweather Headdress and Octopus Tentacle Staff) as sacred objects (64 pages)
2007				
3 Jan	Letter	UPM	HIA/HHF	Acknowledged receipt of 15 Dec revised claim for 47 items total, claim forwarded to UPM's Repatriation Committee
30 March	Letter	UPM	HIA/HHF	UPM's Repatriation Committee has begun to review the new claim, and hopes to have recommendations to University's Trustees by Fall
2008				
10 July 2008	Letter	HIA/HHF	UPM	Requested that museum remove Mount Fairweather Hat and Octopus Tentacle Staff from this claim
5 Sept 2008	Letter	UPM	HIA/HHF	Agreed to HHF request to remove 2 items from current claim, evaluation of claim by UPM's Repatriation Committee is underway, recommendations to the University's Trustees expected in early winter
8 Dec 2008	Letter	HIA/HHF	UPM	Requested a formal response to claim around the new year
11 Dec	email	HHF	UPM	Sent copy of 8 Dec letter as requested response is time sensitive

2008				
2009				
16 Jan 2009	Letter	UPM	HIA/HHF	UPM's Repatriation Committee has finished review and is preparing its recommendation to the University's Trustees, to be completed in a few weeks
26 Jan 2009	email	HHF	UPM	Requested response to claim before end of February, as Snail House/Mt. Fairweather House members are planning a meeting to discuss next actions
4 Feb 2009	email	UPM	HIA/HHF	UPM Board of Trustees decision is not expected until June
22 Feb	Email	UPM	HIA/HHF	UPM Board of Trustees decision is not expected until June
2 April	Letter	US Dept of Interior	UPENN	Notice to UPENN (Richard Hodges that NAGPRA Review is scheduled for May 23, 2009
23 April	Letter	UPM	David Tarler/NAGPRA DFO	Response to their actions regarding this claim.
27 April 2009	Conference Call	UPM	HIA/HHF	UPM requested HIA and HHF to postpone the dispute hearing before the NAGPRA Review Committee until after the June meeting of the University's Trustees
30 April 2009	Letter	HIA/HHF	David Tarler/UPENN	HIA/HHF informed UPM that further action on this case will be delayed until after the June meeting of the Trustees and request to defer hearing will be sent
19 June 2009	Letter/Resolution	UPM	HIA/HHF	HIA/HHF informed the University's Trustees determined that eight objects are eligible for repatriation but the remaining 37 objects are not, but in recognition of their historical significance to the clan the University will consider entering into a joint curatorial and custodial structure that allows the items to be resituated in Alaska and made available for use by the Clan; received fax of Resolution
24 June 2009	Letter	HIA/HHF	UPM	Accepted repatriation of eight objects, requested written decision regarding the denial of the remaining 37 items, requested information about pesticide treatments and the postponement of press releases and proposed conference call until Clan has completed internal discussions

14 July 2009	email	UPM	HIA/HHF	Received pdf of Resolution to Repatriate Clan Objects and Establish Partnership Between the Clan and the UPM passed by the University's Trustees on June 19, 2009; notified that NIR is being drafted
20 July 2009	Letter	UPM	HIA/HHF	Received response to questions about pesticide use, press releases and reasons why 37 objects did not meet NAGPRA definitions; received draft NIR
5 Oct. 2009	Letter	UPM	HIA/HHF	Received letter informing HIA/HHF of first set of results regarding pesticide analyses
7 Oct. 2009	Email	UPM	HIA/HHF	Received pdf of letter of Oct. 5 and cost figures for NAGPRA grant application related to shipping items to be repatriated
12 Oct. 2009	Letter	HIA/HHF	UPM	Informed UPM that HIA/HHF cannot agree to findings of Trustees regarding repatriation of 37 items reported in letter of July 20 and draft NIR, that HIA/HHF intends to bring dispute before the NAGPRA Review Committee, and summarized concerns
12 Oct. 2009	Letter	HIA/HHF	UPM	Thank you letter for UPM sending copy of their response to letter from John Martin; requested copy of Mr. Martin's original letter dated July 31, 2009.

Table of Contents, Binder of Additional Materials for Review Committee, November 2010

For purposes of this summary, HHF refers to the following organizations: HTC, HTHF, HHF. HHF (formerly HTHF) represents HTC in this claim.

Hoonah to U Penn

	Date	Format	From	To	Summary
	1995				
1	26 Sept. 1995	Letter	HHF	UPM	Repatriation claim for "Hoonah, AK: T'akdeintaan Clan, Snail House Collection" as objects of cultural patrimony; includes list of 34 objects.
2	15 Dec. 1995	Letter	HHF	UPM	Advised that HTC is a tribe under NAGPRA and items are claimed as objects of cultural patrimony
	1998				
3	12 Feb 1998	Letter	HHF	UPM	Submitted revised repatriation claim for 45 items in UPM "Snail House Collection" (21 pages), resolutions from Snail House leaders authorizing HHF to represent them
4	23 Mar 1998	Letters (2)	HIA	UPM	Submitted repatriation claim for Snail House items, resolutions that HIA is formally authorized to act on behalf of the T'akdeintaan Clan and Snail House
5	25 Mar 1998	Letter	HHF	UPM	Submitted further revised repatriation claim for the 45 objects in UPM "Snail House Collection" (22 pages), superseding that of Feb. 12
6	1 July 1998	Letter	HHF	UPM	Responded to question #1 in UPM letter of 18 May that HHF has not withdrawn their request, states that the March 25, 1998, repatriation petition remains in effect, re-enclosed copies of resolutions from Snail House leaders authorizing HHF to represent them
	2000				
7	28 Feb 2000	Letter	HIA AND HHF	UPM	Notified UPM that HIA and HHF have consolidated their claims and will act jointly from now on, provided additional information in response to UPM questions drawing mainly on oral traditions and traditional knowledge, expressed their 'extreme anxiety' to conclude the claim

	2001				
8	2 May 2001	Letter	HIA/HHF	UPM	Detailed response to issues raised in UPM letter of May 10, 2000, and an item by item discussion that requested objects are objects of cultural patrimony and right of possession is with the T'akdeintaan Clan, drawing on information from the collector's notes, oral history and anthropological literature, for "Snail House Collection" plus Marmot Frontlet, 45 objects (66 pages)
9	27 Nov 2001	Letter	HIA/HHF	UPM	Response to UPM request of 25 Oct (offended by suggestion that clan leader is not to be trusted, copies of letters are not available), requested UPM's evidence to support their claim that the sale of the objects had the consent of the clan
	2002				
10	6 Dec 2002	Letter	HIA/HHF	UPM	Stated disagreement with finding, requested copy of museum documentation validating UPM claim of sale of items by Archie White
	2004				
11	25 Feb 2004	Letter	HIA/HHF	UPM	Requested reconsideration of claim
	2006				
12 a & b	3 & 15 Dec 2006	Letter/Claim	HIA/HHF	UPM	Submitted revised claim for each item in the "Snail House Collection" plus three items (Marmot Frontlet, Mt. Fairweather Headdress and Octopus Tentacle Staff) as sacred objects (64 pages)
	2008				
13 A	10 July 2008	Letter	HIA/HHF	UPM	Requested that museum remove Mt. Fairweather Hat and Octopus Tentacle Staff from this Claim
13 B	8 Dec 2008	Letter	HIA/HHF	UPM	Requested a formal response to claim around the new year

U Penn to Hoonah

	Date	Format	From	To	Summary
	1995				
14	26 Oct. 1995	Letter	UPM	HHF	Advised that UPM's Repatriation Committee will require information to substantiate claim
	1996				
15	21 Feb. 1996	Letter	UPM	HHF	Requested additional information to substantiate claim in the form of a list of questions about origin and use of objects
16	18 April 1996	Letter	UPM	HHF	Second request for additional information, informed HHF that tapes or transcriptions of elder's oral testimony can be used
17	18 May 1998	Letter	UPM	HIA, Richard Dalton and Patrick Mills cc: HHF	Denied claim — evidence submitted is inadequate to support a determination that NAGPRA applies in this case, UPM is preparing a set of questions requesting additional information to substantiate claim, asked questions relating to issue of competing claim from HHF and which entity is the more appropriate claimant
	2000				
18	26 Jan 2000	Letter	UPM	HIA, Richard Dalton, Patrick Mills, HHF, Adam Greenwald	Re-requested information about which entity is the more appropriate claimant, requested detailed information about each individual object as object of cultural patrimony and/or sacred object, and asked series of questions relating to "the relevant anthropological literature" regarding the relative importance and significance of objects, crests, replicas, and the alienation or sale of objects
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					and March 25, 1998, and between these and the anthropological literature
	2001				
20	25 Oct 2001	Letter	UPM	HIA/HHF	Requested additional information about evidence mentioned in May 2, 2000, report (copies of letters about Archie White's sale of items and how information provided by clan leader sheds light on who sold items)
	2002				
21	21 May 2002	Letter	UPM	HIA/HHF	Denied claim --- UPM has right of possession and none of the objects fit the definition of object of cultural patrimony. Museum acknowledges that certain objects hold particular historical significance and is willing to consider the returning some of the items outside of NAGPRA and make the remainder accessible to the clan
22	18 Dec 2002	Letter	UPM	HIA/HHF	Informed HHF that UPM has provide most of this before, but they will look to make sure
	2005				
23	19 May 2005	Letter	UPM	HHF	Thanked Hoonah representatives for their visit and information volunteered at that time, suggested HHF revise claim of May 2, 2001, and resubmit
	2007				
24	30 March	Letter	UPM	HIA/HHF	UPM's Repatriation Committee has begun to review the new claim, and hopes to have recommendations to University's Trustees by Fall
	2008				
24B	5 Sept 2008	Letter	UPM	HIA/HHF	Agreed to HHF request to remove 2 items from current claim, evaluation of claim by UPM's Repatriation Committee is underway, recommendations to the University Trustees expected in early winter

2009 Correspondance

	Date	Format	From	To	Summary
	2009				
25	16 Jan 2009	Letter	UPM	HIA/HHF	UPM's Repatriation Committee has finished review and is preparing its recommendation to the University's Trustees, to be completed in a few weeks
26	26 Jan 2009	Email	HHF	UPM	Requested response to claim before end of February, as Snail House/Mt. Fairweather House members are planning a meeting to discuss next actions. Follow up formal letter stating same request dated Jan 28, 2009
27	4 Feb 2009	Email	UPENN	HIA/HHF	UPM Board of Trustees decision is not expected until June.
28	22 Feb 2009	Letter	HIA/HHF	UPENN	2009 dispute letter submitted for NAGPRA Review
29	2 April 2009	Letter	US Dept of Interior	UPENN	Notice to UPENN (Richard Hodges) that NAPGRA Review is scheduled for May 23, 2009
30	23 April 2009	Letter	UPENN	David Tarler/NAGPRA DFO	Response to their actions regarding this claim
31	27 April	Conf Call	UPENN	HIA/HHF	UPM requested HIA and HHF to postpone the dispute hearing before the NAGPRA Review committee until after the June meeting of the University's Trustees.
32	30 April 2009	Letters	HIA/HHF	David Tarler/NAGPRA DFO & UPENN	HIA/HHF informed UPM and NAGPRA DFO that further action on this case will be delayed until after the June meeting of the Trustees and request to defer hearing will be sent.
33	19 June 2009	Letter/Resolution	UPENN	HIA/HHF	HIA/HHF informed the University's Trustees determined that eight objects are eligible for repatriation but the remaining 37 objects are not, but in recognition of their historical significance to the Clan the university will consider entering into a joint curatorial and custodial structure that allows the items to be resituated in Alaska and made available for use by the Clan; received fax of Resolution.

34	24 June 2009	Letter	HIA/HHF	UPENN	Accepted repatriation of eight objects, requested written decision regarding the denial of the remaining 37 items, requested information about pesticide treatments and the postponement of press releases and proposed conference call until Clan has completed internal discussions.
35	14 July	Email	UPENN	HIA/HHF	Received pdf of Resolution to Repatriate Clan Objects and establish partnership between the Clan and the UPM passed by the University's Trustees on June 19, 2009; notified that NIR is being drafted.
36	20 July 2009	Letter	UPENN	HIA/HHF	Received response to questions about pesticides use, press releases and reasons why 37 objects did not meet NAGPRA definitions; received draft NIR
37	5 October 2009	Letter	UPENN	HIA/HHF	Received letter informing HIA/HHF of first set of results regarding pesticide.
38	7 October	Email	UPENN	HIA/HHF	Received pdf of letter of Oct 5, 2009 and cost figures for NAGPRA grant application related to shipping items to be repatriated.
39	12 October	Letter	HIA/HHF	UPENN	Informed UPM that HIA/HHF cannot agree to findings of Trustees regarding repatriation of 37 items reported in letter of July 20 and draft NIR, that HIA/HHF intends to bring dispute before the NAGPRA Review committee, and summarized concerns.
40	12 October	Letter	HIA/HHF	UPENN	Thank you letter to UPM sending copy of their response to Letter from john Martin; requested copy of Mr. Martin's original letter dated July 31, 2009.

List of Objects covered by HIA/HHF Repatriation Claim
T'akdeintaan Clan [Mount Fairweather "Snail" House]
University of Pennsylvania

1998 Claim [39 Catalog numbers, 46 total objects]

Catalog #	Description
1. NA 6828	Shaman's Drum, "Old man of war'
2. NA 6829	Caribou Skin Robe, "Lituya Bay Robe"
3. NA 6830	Dance mask, "Sun Mask"
4. NA 6831	Shaman's mask, "Owl Mask'
5. NA 6832	Dance Mask, "Commander of the Tides"
6. NA 6833	Shaman's mask, "Gunakadeit"
7. NA 6834	Frontlet, "Thunderbird at the Hunt"
8. NA 6835	Head gear, Shakee.at, "Ravine Frontlet"
9. NA 6836	Headdress, "Raven head cover'
10. NA 6837	Headdress, "Bears Ears headdress," or "Abalone Head fins"
11. NA 6838	Headdress, "Raven's Head-top-stock", or "Octopus Hat"
12. NA 6839	Headdress, Human hair
13. NA 6840	Headdress, Bear's ears
14. NA 6841	Frontlet, "Beaver Frontlet"
15. NA 6842	2 ceremonial dance objects, "Bear Forearms"
16. NA 6843	Staff's head, Raven
17. NA 6844	Rattle, Raven
18. NA 6845	Rattle, "Loon rattle" [shaman's rattle]
19. NA 6846	Rattle, Plain
20. NA 6847	Shaman's headdress, brass hat, "Loon Spirit Hat"
21. NA 6848	Button blanket, Diving Whale
22. NA 6849	Blanket, with strips of Chilkat blanket design
23. NA 6850	6 ceremonial Rings
24. NA 6851	Cedar ring
25. NA 6852	Cedar ring
26. NA 6853	Headband
27. NA 6854	2 ceremonial Rings
28. NA 6855	Beaded dance collar, Whale
29. NA 6856	Ceremonial Horn
30. NA 6857	Ceremonial Horn
31. NA 6858	Ceremonial Horn
32. NA 6859	Ceremonial Horn
33. NA 6860	Ceremonial Whistle
34. NA 6861	Ceremonial Whistle
35. NA 6862	Pipe
36. NA 6863	Feast spoon, "Skeleton of Raven"
37. NA 6865	Dance object, "Eagle's tails"
38. NA 6866	Head band, Cedar Bark
39. NA 8498	Head gear, shakee.at, "Marmot with bat Frontlet"

Ceremonial Robes and Blankets

1. Tlto-Aw (Lituya Bay) Robe, Catalog No. 6829

This robe is an important crest object of the T'akdeintaan clan that memorializes a significant event in the early history of the clan when a large tidal wave swept the clan out of Lituya Bay and into the ocean where many drowned. Lituya Bay is recognized as the first home of the clan. The faces depicted in the design represent the landscape of Lituya Bay where this event happened, the wave itself that carried away the people, and the spirits of the T'akdeintaan people who perished there. The clan has preserved the story and a grieving song, named 'Teet Shí' ("Wave Song"), which go with it. The wave song is the oldest and most solemn of the clan's grieving songs; it expresses immense grief for their ancestors who did not survive the calamity. The song is performed by women who move in a distinctive swaying motion while wearing red yarn ear pendants, both of which represent the wave and the people washing around in the water holding on to their loved ones. The song ends with a distinctive movement symbolizing the final moments when people are drowning, and is itself at.óow of the T'akdeintaan clan.

The Lituya Bay Robe is a specific ceremonial object of the Hoonah T'akdeintaan clan that was used by the Tsalxáan Hít in Tlingit mortuary ceremonies. It is an important crest object that memorializes a significant event in the early history of the clan, in memory of which the clan adopted as a crest the geographical locale of Lituya Bay and the wave that drowned their ancestors and washed them out to sea. The robe represents the spirits of clan ancestors who drowned in the waters of Lituya Bay. The robe is a named object associated with other at.óow relating to this crest, including the Wave Song, distinctive swaying dance movements, the associated story and other material representations of the event (such as a clan house named Teet Hít, "Wave House").

The Lituya Bay Robe is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors who drowned and those who commissioned the robe and preserved it in subsequent generations (so they can be present and receive the spiritual counterpart of the food and material goods that are distributed to the guests). It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Lituya Bay Robe is an object that was specifically devoted to traditional Tlingit funerary ceremonies and which has religious significance or function in the continued observance of these ceremonies. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Diving Whale Ceremonial Robe, Catalog No. 6848

This crest memorializes the death of a clan member who lost his life while harpooning a whale, perhaps getting caught up in the line as the whale dove after being struck. The whale crest was shared with another T'akdeintaan house, the T'akdein Hit, which was the house of the young man who died as a result of the encounter. The T'akdein Hit had a house screen in the form a whale. The clan also possessed a whale hat and the whale hat song (Yáay S'áaxw Daat Shí). The significance of the whale crest in the Mt. Fairweather House collection is further evidenced by one of Archie White's names, Tú x'a xaaw ('hair inside the mouth'). This name probably refers to baleen, the hair-like material inside the mouth through which some species of whales filter seawater to feed on plankton. The name was given to Archie by his grandfathers, who were Gaanaxteidí from Klukwan, one of whose houses is the famed Whale House. This name was bestowed on him to honor his paternal relationship with the Gaanaxteidí clan, and the blanket may have been placed on him at that time, or made to memorialize the bestowal.

The Diving Whale Robe memorializes the loss of a clan ancestor during a whale hunt, whose death is also represented in a mourning song originating in the Tsalxáan Hít. The whale is also depicted in the name bestowed on the clan leader (Sháadei Háni) in whose collection the blanket was stored at the time it was acquired by the Museum; the name remains in use today. The Diving Whale Blanket is an important at.óow of the Tsalxáan Hít that recalls the spirit of the ancestor and of the crest animal with which his death is connected. The blanket also represents the spirits of those who mourned and composed a song in his memory, and those who commissioned and used the blanket up until it was acquired by the museum.

The Diving Whale Robe is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is also needed for specific ceremonial use in spirit dances that are performed "behind the blanket." The Diving Whale Robe is an object that was specifically devoted to traditional Tlingit funerary ceremonies and which has religious significance or function in the continued observance of these ceremonies. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Ceremonial Blanket with Strips of Chilkat Weaving, Catalog No. 6849

This blanket is worn by Archie White in a historic photograph taken in front of the Mt. Fairweather house. This group portrait indicates the high value that was placed on this blanket by the clan, since Mr. White was Sháadei Háni, or Clan Leader. The borders of the blanket are made from strips cut from a Naaxein (Chilkat Robe). The origin of the blanket is most likely from a k̲oo.éex' during which strips of Chilkat weaving were distributed to close patrilineal relatives of the deceased who were seated among the guests. This would be done when the deceased was so loved by her matrilineal relatives that they wanted to express their feelings in this way. It was an honor to receive the pieces given in memory of the deceased, which increased the value of the blanket. The Ceremonial Blanket is thus closely associated with the memory of a deceased clan relative of the opposite side, and it also represents the honor that was expressed to an ancestor of the T'ak̲deintaan clan on whom the strip was bestowed.

The Blanket with Chilkat Strips is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is also needed for specific ceremonial use in spirit dances that are performed "behind the blanket." The Blanket with Chilkat Strips is an object that was specifically devoted to traditional Tlingit funerary ceremonies and which has religious significance or function in the continued observance of these ceremonies. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Shamanic Items

Shaman's Drum, Catalog No. 6828

This decorated box drum was a named possession of the clan and was used for the singing of songs during memorial ceremonies. Shotridge reported that "it had been the first object of heirloom in the possession of the Snail House Family," and it was originally a shaman's drum. It was carved to represent the shaman's helping spirit, which Shotridge called Adawulcan [Adawulshán]. This might be a reference to the old man who lived with Raven at the head of the Nass River a long time ago when the world was still dark, and who was named Adawulcanaku [Adawulshánaagu], 'Old Man who foresees all trouble.' This name refers to one of the special abilities of a shaman, to see impending misfortune.

Large wooden box drums decorated with crest designs were named possessions of a clan and were devoted to performances of ceremonial songs and dances during the memorial k̲oo.éex'. They were also used to announce a k̲oo.éex'. Lily White said, "they used to use a drum from Mt. Fairweather House for this, years ago, and that could be the one." She said that two Naa Káanis would put on a headband and place feathers in it, and they stand in the middle of the street and hit the drum, which was an invitation for people to come to the house. The phrase "To pick up the drum" signifies that a clan is going to hold a k̲oo.éex', and it also refers to the mourning section of the k̲oo.éex', Gaaw Wutaan, during which a series of mourning songs are performed by the grieving clan.

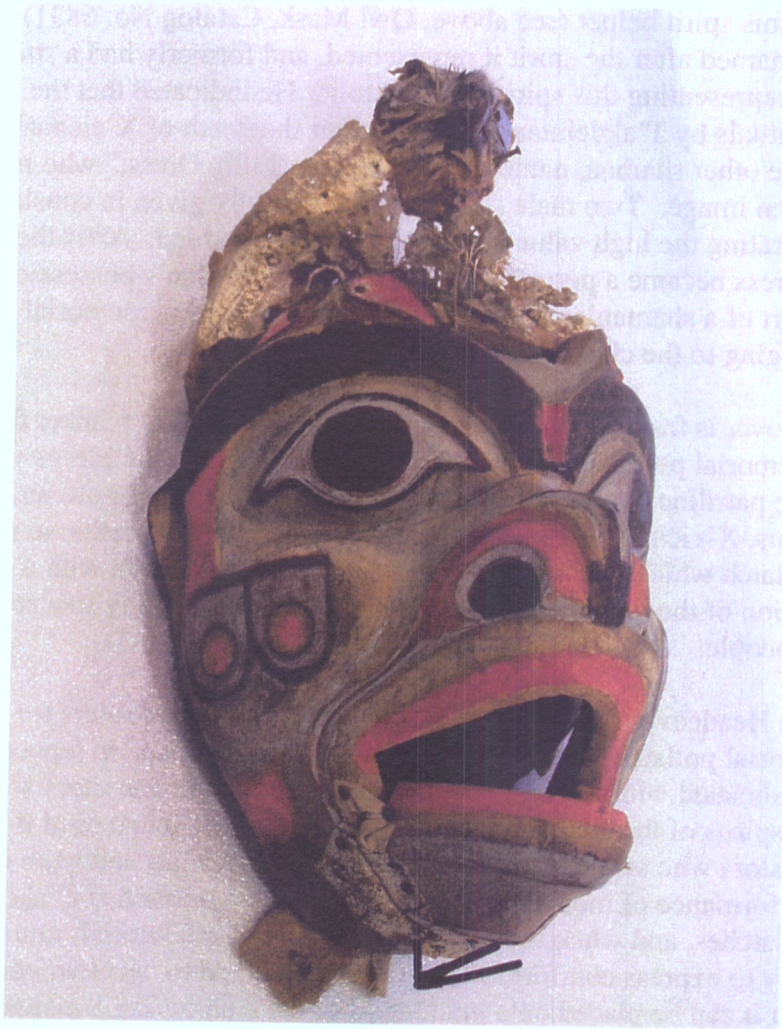
This named box drum is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to represent one of the clan's shamanic (helping) spirits associated with it, and to evoke (make present) the spirits of clan ancestors. It will call forth the spirits of the T'ak̲deintaan shaman(s) who owned and used it in the past as well as those clan ancestors who have used it in clan memorials and were its caretakers in subsequent generations, so they can be honored and receive the spiritual counterpart of the food and material goods that are distributed to the guests. It is needed for drumming to accompany the singing of mourning and spirit songs during the memorial potlatch. The decorated box drum is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Owl Mask, Catalog No. 6831

According to Shotridge's notes, this mask represents the "owl of the heavens," which was a spirit of a T'akdeintaan shaman named X'eichaak'w who went to Tsalxáan (Mt. Fairweather) to seek a spirit from there. A clan elder confirmed that the mask is a shamanic object and the name was an ancient name belonging to a T'akdeintaan shaman. There are numerous shaman spirits associated with Tsalxáan that are important at.óow of the T'akdeintaan clan, including the Mountain Women, the dog, the one-horned mountain goat and the loon spirit. All of the spirits of Tsalxáan provided spiritual aid to the clan in the past. The condition of this mask suggests it is very old or was removed from a grave.

Shamanic objects are incorporated into memorial ceremonies and are used for display and other purposes, but they are recognized as associated with the clan shamanic spirit that they represent. They are used in memorial songs and dances, and in the performance of spirit dances known as Yéik Ootí ("Imitating the Spirit"), which resemble the performance of shamans during their curing rituals. This ceremony is sometimes referred to as the Dance Behind the Blanket, in reference to the position of the dancer who wears a mask, hat or headdress once used by shamans and, positioned behind a blanket so that only the object is visible, imitates the spirit represented on the objects. Clan members sing the same spirit songs once sung by their ancestors in shamanic rites to call on these spirits.

The Owl Mask is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to represent the clan's shamanic (helping) spirit associated with it, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed for the performance of spirit dances (the Dance Behind the Blanket) in imitation of shamanic performances in which the mask had been used in the past. The Owl Mask is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.



Raven Headcover (Yéil Shádaa), Catalog No. 6836

Shotridge reported that this ceremonial headdress was originally made for X'eichaak'w, a well-known T'akdeintaan shaman, for use in curing rituals. This is the same shaman that claimed the owl as his spirit helper (see above, Owl Mask, Catalog No. 6831). Shotridge said the headdress was named after the spirit it represented, and formerly had a small carved figure in the form of a man representing this spirit attached to it. He indicated that the object continued to be used in curing rituals by T'akdeintaan shamans after the death of X'eichaak'w. It was passed down to at least one other shaman, named L'aakak'u, or 'Little Dress," who replaced the human figure with the raven image. Two male slaves were reportedly given in consideration for the improvement, indicating the high value with which it was regarded. After the passing of this shaman, the headdress became a permanent object among the clan's possessions, indicating that the object, once part of a shaman's paraphernalia, was later used in memorial koo.éex' along with other at.óow belonging to the clan. This was not uncommon.

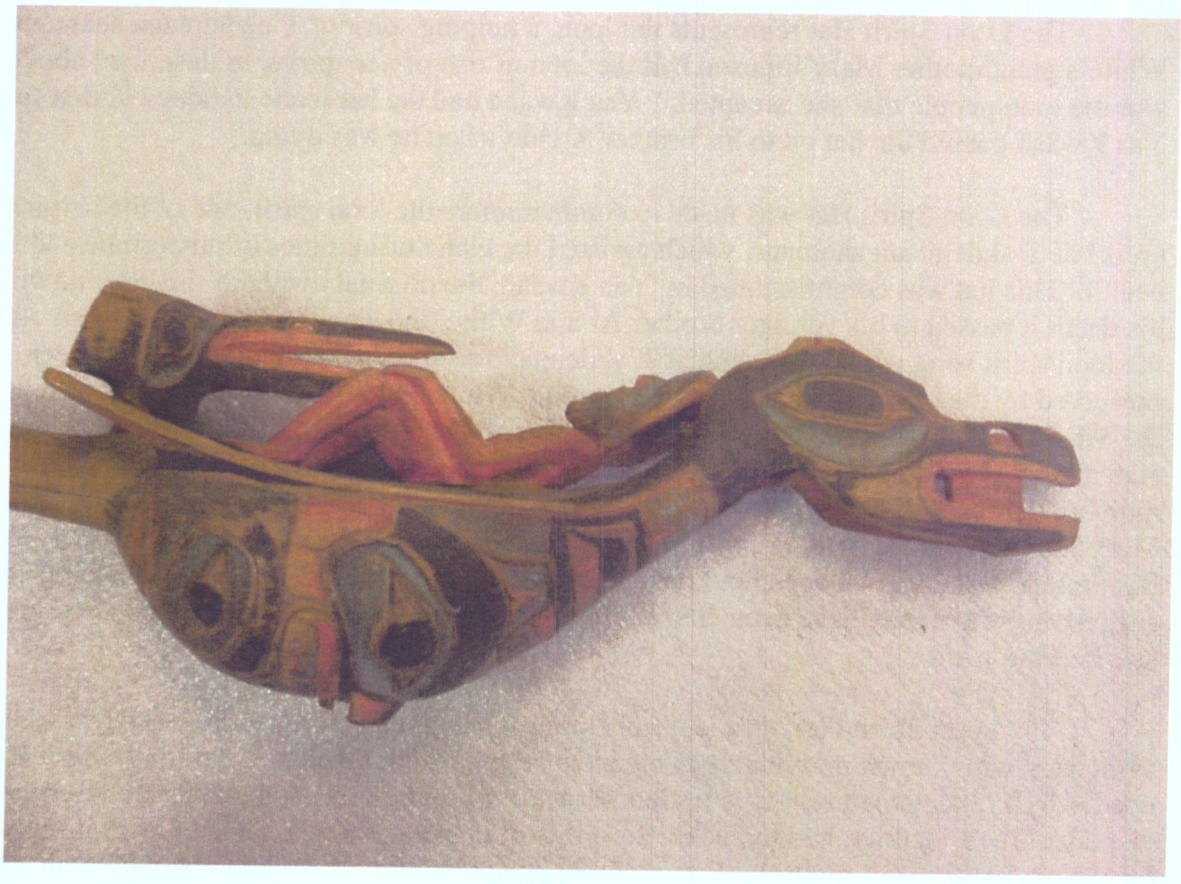
The head cover is fashioned from a corner piece of a Chilkat blanket that most likely was cut up during a memorial potlatch in honor of the deceased, when the pieces would have been distributed to close patrilineal relations of the deceased so they could hold on them in memory of their ancestor. Thus, X'eichaak'w most likely received the woven section in memory of an individual at a potlatch which occurred long ago, and its re-fashioning with a carving of the raven is an indication of the high value that was placed on this item by succeeding generations of the T'akdeintaan people.

The Raven Headcover is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to represent the clan's shamanic spirit associated with it, and to evoke the spirits of clan ancestors associated with it. It will call forth the spirits of the T'akdeintaan shamans who owned and used it in the past as well as those clan ancestors who subsequently used it in clan memorials and were its caretakers. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is needed for use in performances of spirit dances (Dances Behind the Blanket). The Raven Headcover is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Loon Spirit Rattle (Kagit Yéik Sheishóox̲), Catalog No. 6845

This rattle represents the loon spirit, a helping spirit of a T'ak̲deintaan shaman named Mary Johnson, *Shkík*, who practiced in Hoonah during the early twentieth century. Shaman's spirits have helped the T'ak̲deintaan people and given strength to the clan throughout its history, and there are many shamans in the history of the Mt. Fairweather people. The T'ak̲deintaan have the loon spirit song that is a shaman's song associated with this spirit. Lily White described how her grandmother, Mary Johnson, acquired the loon spirit when she was taken out to Mt. Fairweather and put in a cave for several weeks until she had chosen her helping spirit. The Loon Spirit Rattle is associated with Mary Johnson, who acquired the loon spirit as one of her helping spirits. According to Lily White, she was the last of the T'ak̲deintaan shamans to practice her craft. It is possible that she was one of two shamans that were practicing among the northern Tlingit in 1934.

The Loon Spirit Rattle is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to represent the clan's shamanic spirit associated with the rattle, and to evoke the spirits of clan ancestors who used it in the past (including Mary Johnson). It is needed to accompany the singing of mourning and spirit songs during the memorial potlatch, particularly for the T'ak̲deintaan loon spirit song performed in memory of clan shamans associated with the loon spirit. The Loon Spirit Rattle is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.



Loon Spirit (Brass) Hat (Kagit Yéik Shadakóox'), Catalog No. 6847

The Loon Spirit Hat represents the loon, a helping spirit of T'akdeintaan shamans. Lily White's grandmother Mary Johnson had the loon as one of her spirits, as described above. "This was the loon people that she accepted." Yaa Kwáan had the hat made in honor of this spirit. Yaa Kwáan passed the hat on to his brother Archie when he was dying.

The Loon Spirit Hat was made to commemorate the loon spirit, one of the helping spirits (yéik) of T'akdeintaan shamans, which assisted the clan during times of misfortune and bad health. This hat was commissioned by Yaa Kwáan, the original owner of the hat, and that upon his death it passed to his younger brother Archie White (the clan leader). Yaa Kwáan also had the loon spirit song which was sung at T'akdeintaan memorial ceremonies and has been preserved by the clan. The hat is worn by Archie White in a historic photograph taken in front of the Mt. Fairweather house, in which he is wearing the blanket with Chilkat strips and the Loon Hat, and he is holding the Loon Rattle. The hat is a specific ceremonial object that was used in memorial koo.éex' by its previous owners/stewards. The hat is associated with a named shaman, Mary Johnson, whose helping spirit is represented by the hat. Her granddaughter, Lily White, has preserved the knowledge about her spiritual life. The notes on Shotridge's catalog card suggest that there may have been clan ancestors from the more distant past who also had the loon as a helping spirit.

The Loon Spirit Hat represents a helping spirit of T'akdeintaan shamans and is directly associated with known individuals of recent ancestry within the clan. The Loon Spirit Hat is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Loon Spirit Hat is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Ceremonial Masks and Headdresses

Sun Mask, Catalog No. 6830

The sun is an important crest of the T'akdeintaan clan which was formerly represented on a large carved image (the Sunshine Plaque) that hung on a wall in the Mt. Fairweather House (Tsalxáan Hít) and functioned as a house screen. This image resembled the design of the Sun Mask in which the face was surrounded by a flat border or frame. The Sun Mask is an important at.óow that recalls a screen-like image that was formerly located in the Mt. Fairweather House. It is also associated with a specific historical event in the life of the clan related to the disposition of an important crest object (the Géelák'w pole), about which a mourning song was composed that continues to be performed in clan memorials. The name of the song is 'the Remembrance of Géelák'w.' The song honors the clan ancestors who, in disposing of the pole, sacrificed a slave to signify the high value they placed on it; it is this event that is specifically memorialized in the name of a T'akdeintaan house, Kaa Shaayí Hít (Head House). It is directly associated with Archie White, the previous caretaker of the mask who was living in Kaa Shaayí Hít at the time he sponsored the restoration of Tsalxáan Hít, Mt. Fairweather House. It is an item that was in the collection of the Mt. Fairweather House at the time it was acquired by the Museum.

The Sun Mask memorializes this story about the Géelák'w pole. The clan has a replica of this mask (Gagaan L'axkeit) that they use in funerals and memorials. The Sun is a particularly important image in clan oratory in condolence speeches, in which words direct the attention of the mourners to the mask and metaphorically draw on the image of the sun's rays to warm the mourners and to dry their tears of grief.

The Sun Mask is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so it can be held by a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Sun Mask is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

NA
6830

Master of the Tide (Yookis'kookéik) Mask, Catalog No. 6832

Yookis'kookéik is the name of Raven that has charge of the falling and the rising of the tide. This crest is taken from an episode in Raven's Journey that occurred when Raven was creating the world, and relates how Raven wanted to gather food resources such as clams and cockles that were under water all the time because the water level was perpetually at 'high tide.' So Raven went down into the sea and tricked the old lady who was responsible for this, and gained control of the tides. The mask has eyeballs that can be rolled to appear as if they are closed, which probably represents the changing of the tides. There was another mask also owned by the Mt. Fairweather/Snail House that was known by this name. On this mask, the raven's wings were positioned to cover the face, but when struck they would fly open to reveal the face of the wearer.

Archie White was given the name *Yookis'kookéik* at the re-dedication of the Mt. Fairweather House after it was restored under his sponsorship. When the first potlatch was held in the newly renovated house, the T'akdeintaan clan "brought him out" before the guests and bestowed the name on him. "This name was given to him for his greatness, the work he ever done among his tribe." He continued to live in the Mt. Fairweather House until his death.

The multiple at.óow representing this crest --- the mask, the associated story and the name *Yookis'kookéik* --- were held by the head of the Mt. Fairweather House of the T'akdeintaan clan in the early twentieth century. The name was formally bestowed on Archie White during a memorial potlatch attended by members of opposite clans, who witnessed, accepted and validated the conveyance, before the mask was acquired by the Museum. The name was transferred down through successive generations in the clan and is held today by living clan members. The last caretaker of this mask was Archie White, and as such his ancestral spirit, like those of all clan ancestors who held the mask (and the title) before him, is represented by the mask.

The Yookis'kookéik Mask is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so it can be held by a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Yookis'kookéik Mask is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

NA
6832

Gunakadeit Mask, Catalog No. 6828

The crest represented by this design is that of a wealth-bringing sea monster. Shotridge indicates that the T'akdeintaan were given rights to the Gunakadeit crest in recognition for their role in manumitting a member of the Wrangell Kaasx'agweidí clan (another Raven clan). According to Shotridge, the freed person gave the song of Gunakadeit to the T'akdeintaan, but he did not say that the mask itself was involved in the transaction which suggests this object was commissioned by the clan sometime in the past to memorialize this event in the clan's history.

The Gunakadeit Mask is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so it can be held by a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Gunakadeit Mask is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Thunderbird at the Hunt Headdress (Shakee.át), Catalog No. 6834

Shotridge reports that this object became at.óow of the T'akdeintaan clan through a bequest granted by a member of the Wrangell Kiks.ádi clan "because of a maternal relationship -- mother's father." The actual relationship is unclear, however, because the Thunderbird is not a Kiks.ádi crest, and a transfer from a MF is not the usual and customary relationship through which such rights may be bestowed to one's patrilineal relatives. The Thunderbird is claimed by the Wrangell Kaasx'agweidí Clan. It is possible, from this partial account and the knowledge about the origin of the previous item (the Gunakadeit Mask, Catalog No. 6828), that at some time in the past there was some sort of special relationship between the T'akdeintaan and Kaasx'agweidí clans that resulted in the transfer of the shakee.át to the T'akdeintaan.

The Thunderbird at the Hunt shakee.át is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is needed by religious leaders for the spirit dance and the dance called Dáanaa Wuduwaják, "Killing the Money," performed at the end of the koo.éex', which signifies the relinquishment of all claims to the money contributed during the potlatch and represents the spiritual unity of all those present and the ancestors whose names were called during this portion of the ceremony. The Thunderbird shakee.át is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Géelák'w "Ravine" Frontlet, Catalog No. 6835A-B

The Géelák'w frontlet is made in the image of the frontal screen that was on the Tsalxáan Hít (Mt. Fairweather House) in Hoonah. Géelák'w is generally synonymous with the name Tsalxáan in referring to Mt. Fairweather as a whole. It refers to the part of the mountain where it separates into two peaks and specifically to the notch, or "V," made by the two peaks. Géelák'w is the part of the mountain where Gooxk', the little boy who became a one horned goat climbed, taking all the animals with him. The One Horned Goat transformed into a powerful spirit for the T'akdeintaan shaman and is an at.óow of the T'akdeintaan. Mt. Fairweather is a powerful spiritual ground and is one of the important at.óow for the T'akdeintaan. The spirits inside the mountain, the Mt. Fairweather Women, and other shaman's spirits such as the Mt. Tribe's Dog and the Loon Spirit (see above) that are significant at.óow of the T'akdeintaan, are also emplaced there.

At the top of the panel was an image of Géelák'w, that part of Mt. Fairweather that separates into two peaks separated by mountain pass or notch, which is represented on the panel by an animal figure with two ears. The top figure of the requested item corresponds to this feature, with the two small "horns" possibly representing the twin peaks of Géelák'w corresponding to the ears on the house panel. The down at the top of the headdress probably represents the clouds that are associated with Mt. Fairweather (as a predictor of weather conditions). As in the house panel, the next figure on the frontlet is depicts the story of Raven deceiving King Salmon to come ashore, another of the clan's important at.óow. It is depicted in a face painting named Raven's cooking place, which is attributed to the Mt. Fairweather/Snail House.

The Géelák'w frontlet is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so it can be worn in a spirit dance and in the Dáanaa Wuduwaják ("Killing the Money") dance, also called the behind the blanket dance, and accompanied by a spirit song handed down from one of the T'akdeintaan shamans. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Géelák'w Headdress is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Beaver Frontlet (Shakee.át), Catalog No. 6841

The Beaver Shakee.át is an important at.óow belonging to the clan. The T'akdeintaan claim to the beaver crest is documented by the existence of other at.óow in the beaver design in the clan's possession, such as the Beaver Chilkat Robe, and their use in the most sacred portions of the koo.éex'. The Beaver Shakee.át is an important ceremonial object because it is used in spirit dances that resemble the shamanic performances associated with clan ancestors who practiced curing ceremonies. Called the Behind the Blanket dance, such performances occur in koo.éex' and are accompanied by a spirit song, and include the spirit dance referred to as Dáanaa Wuduwaják, "Killing the Money," when through the calling of clan names the spirits of all the ancestors are evoked.

The Beaver Shakee.át is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to evoke the spirits of clan ancestors associated with it. It is needed by clan members when they are guests at traditional funerals and memorials for use in oratory to express comfort to the grieving clan and to evoke the spirits of its previous stewards. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is a very important ceremonial object that is needed by religious leaders for the dance called Dáanaa Wuduwaják ("Killing the Money") performed at the end of the koo.éex', which signifies the relinquishment of all claims to the money contributed during the potlatch and represents the spiritual unity of all those present and the ancestors whose names were called during this portion of the ceremony. The Beaver Shakee.át is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Bear's Ears Headdress (Gangoosh), Abalone, Catalog No. 6837

Bear's ears are associated with shamanic practices and are used in contemporary Tlingit mortuary ceremonials in the performance of spirit dances associated with the distribution of money. Spirit dances resemble the use of gangoosh by shamans during curing rituals; they were worn when the shaman was battling hostile spirits causing illness to a patient or those of another shaman. In spirit dances, they dance behind a ceremonial blanket, which may be a Chilkat or a beaded blanket. They may choose a child or grandchild of the clan (a close patrilineal relative) to perform it, as a special honor. Non-shamans made use of gangoosh when going to war or during ceremonies when giving away great wealth at a potlatch.

Shotridge listed three previous T'akdeintaan owners through whom this item was passed down to Archie White. The "pedigree" is a demonstration of the status of the object as highly valued at.óow of the clan, as well as a record of named individuals whose ancestral spirits are associated with it. He also noted that abalone was more valuable at that time than gold is during the modern period, indicating the high value of this object.

The Abalone Bear's Ears, Gangoosh, is a very important ceremonial object that is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to evoke the spirits of clan ancestors associated with it. It will call forth the spirits of the T'akdeintaan shamans who owned and used it in the past as well as those clan ancestors who subsequently used it in clan memorials and were its caretakers. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is needed for use in performances of spirit dances, such as Dáanaa Wuduwaják ("Killing the Money") near the end of a memorial potlatch just prior to the distribution of money, and so that a grandchild may be called up to dance using the gangoosh, showing special respect and honor to that individual. The Abalone Bears Ears is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Bear's Ears Headdress (Gangoosh), Fur, Catalog No. 6840

Bear's Ears, Gangoosh, are worn by clan leaders during memorial k̲oo.éex' for entrances, when greeting guests, as well as during songs and oratory associated with the grieving portions of the rite. They are also historically associated with shamanic curing rituals and are used during the k̲oo.éex' for spirit dances, known as the dance behind the blanket. Such dances may be performed during the k̲oo.éex' or near the close of the ceremony in the dance known as Dáanaa Wuduwajá k̲, "Killing the Money." A grandchild of the clan is sometimes called up to dance behind the blanket to show special honor and respect to that individual, and his grandfather brings him out before the guests and places the ears on his head for that purpose.

The Fur Bear's Ears, Gangoosh, is a very important ceremonial object that is needed by T'a k̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to evoke the spirits of clan ancestors associated with it. It will call forth the spirits of the T'a k̲deintaan shamans who owned and used it in the past as well as those clan ancestors who subsequently used it in clan memorials and were its caretakers. It is needed for the performance of mourning songs and oratory presented at T'a k̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is needed for use in performances of spirit dances, such as Dáanaa Wuduwajá k̲ ("Killing the Money") near the end of a memorial potlatch just prior to the distribution of money, and so that a grandchild may be called up to dance using the Gangoosh, showing special respect and honor to that individual. The Fur Bears Ears is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'a k̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Ceremonial Headdress, "Head Top Stock of the Raven" or Jellyfish Headdress, Catalog No. 6838

This named headdress represents another episode in the Raven cycle. Raven, looking for something distinguished to wear to a great feast, saw a jellyfish clinging to a rock and decided that he would look noble if he wore it on his head. Shotridge reported that the headdress was brought out at the dedication of the Mt. Fairweather House when it was first erected in Hoonah "during the early days of the present town," indicating that it was commissioned and presented at a potlatch in honor of the clan ancestors in whose memory the house was built. It thus has special significance associated with an important event in the clan's history, and it has been in the possession of the clan for multiple generations through a succession of house leaders.

The Taakw Aanási Shadaakóox̲' (Jellyfish Headdress) is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Jellyfish Headdress is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Human Hair Headdress, Catalog No. 6839

This human hair headdress was most likely made from the hair of a deceased member of the clan who was a specially beloved or respected person, which explains why it is in the collection of Tsalx̲áan Hít at.óow. The hair was intentionally cut and made into a headdress, to be preserved and brought out for memorials to remember the individual. Sometimes these headdresses were also put on a hat. It represents the spirit of the ancestor from whom it was removed on their death.

This headdress is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Human Hair Headdress is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Rattles

Raven Rattle (Yéil Sheishóox), Catalog No. 6844

Sometimes called a "chief's rattle," rattles are used by clan leaders and song leaders in the performance of clan songs, and they have special functions in the singing of the most sacred clan songs, the mourning songs. When performing their crying songs, the singers evoke the experiences of their ancestors memorialized in the song. Mourning songs are described as "heavy" for this reason, which are believed to carry the "weight" of their deceased ancestors. In this part of the memorial ceremony, a rattle gives strength to the clan or song leader that contributes significantly to his ability to perform his ceremonial role.

Shotridge reported that this rattle was purchased by Yaa Kwáan (Archie White's elder brother) for the dedication of the reconstructed Tsalxáan Hít, which explains how it came into the possession of the Tsalxáan Hít. Archie White was the principal sponsor of the restoration, and he is holding the rattle in a historical photograph taken in front of Tsalxáan Hít sometime afterwards.

The Raven Rattle is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches to give strength to the clan's religious and song leaders, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. The Raven Rattle is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Plain Rattle (Sheishóox̲), Catalog No. 6846

This oval rattle does not have a crest depicted on it. It is of the sort that was once used by shamans. There were many shamans in T'ak̲deintaan history, and it is probably associated with one or more shamans from the Tsalx̲áan Hít (Mt. Fairweather House). The ceremonial uses, roles and functions of this rattle are similar to those described above for the Raven Rattle. Rattles are used by clan leaders and song leaders in the performance of clan songs, and they have special functions in the singing of the most sacred clan songs, the mourning songs, to give strength to the clan or song leader, which contributes significantly to his ability to perform his ceremonial role.

The plain, oval rattle is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches to give strength to the clan's religious and song leaders, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. The Plain Rattle is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Other Ceremonial Objects

Raven Staff Head, Catalog No. 6843

The Raven staff was used by T'akdeintaan chiefs and song leaders in making their entrances into funerary rites and during the performances of songs in memorial potlatches. Some anthropologists said that canes and staffs were the most highly prized of the clan's heirlooms. They show the identity of the clan ("who they are") and are used for the most sacred of the potlatch songs. Referred to by Tlingit term meaning, 'Song Leader's Cane,' ceremonial staffs are used in memorial potlatches to "hold up" the singers and give them strength during the performance of mourning songs, which are described as "heavy" for the experiences that they depict. The "weight" of these songs is sometimes felt as an external force acting on the singer, and the ceremonial use of staffs provide special support to the clan or song leader that contributes to his ability to perform his ceremonial role. Song leaders from among the guest clans used their staffs to direct the singing of their fellow clan members when they were responding to the hosts' mourning songs. Also called "chief's staffs," they were used by chiefs and other prominent men to emphasize important points in their speeches. Clan grandchildren are honored using a cane: as with a hat or a blanket, clan leaders will tell a grandchild to hold the cane and to come out with it before the guests.

The Raven Staff Head would be placed on the top of a ceremonial cane or "stick" which served a ceremonial role and function in clan memorials for the public display of clan identity during an entrance into a koo.éex' and in singing mourning songs, the most sacred portion of the ceremony. It would serve to represent the identity of the clan before the assembly and to provide strength and support to clan and song leaders during performances of the most sacred songs of mourning.

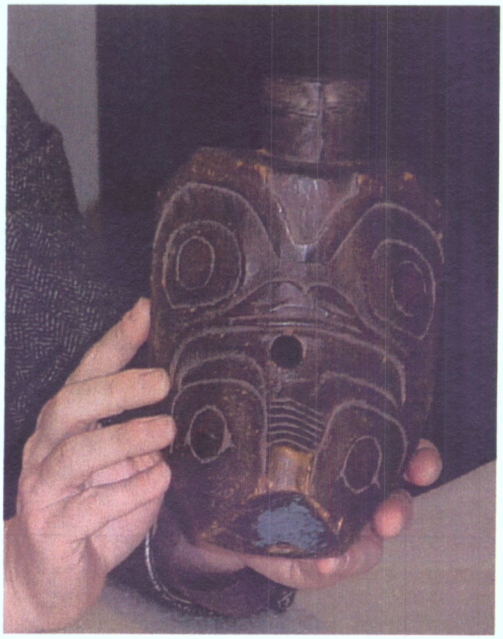
The Raven Staff Head is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be held by grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Raven Staff Head is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Pipe (S'ik̲daakeit), Catalog No. 6862

This large carved pipe was used as part of the funeral rite for the deceased, when guests were given tobacco and the pipe to smoke it in while in the presence of the deceased. It was believed that the deceased would receive the spiritual counterpart of the tobacco during the smoking ceremony. The ceremony took place after death but prior to cremation of the deceased, and after a welcoming speech invited guests would receive gifts and be expected to deliver oratory, prior to the smoking of pipes. The ceremony is no longer practiced as part of Tlingit funerals.

The carved pipe is an important ceremonial object that was held in the collection of T'ak̲deintaan heirloom objects by Archie White before it was acquired by the Museum. It is a specific ceremonial object that was devoted to specific religious ceremonies in the past, and it is important for its association with deceased clan ancestors who used and preserved it.

The Pipe is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it including those in whose honor it was used in the past and those who owned and used it during the smoking feast that was formerly part of the funeral rite. The pipe also represents the spirits of those ancestors who are believed to have received the spiritual essence of the tobacco that was consumed in it during mortuary ceremonies. Ceremonial use (display) of the pipe will serve to bring forth the spirits of these clan ancestors for participation in the k̲oo.éex', so they will receive the spiritual essence of the food and goods that are distributed. The pipe is needed so that it can be held by a grandchild during a memorial potlatch to honor that individual and the clan ancestors associated with it. The Pipe is an object that was specifically devoted to traditional Tlingit funerary ceremonies and which has religious significance or function in the continued observance of these ceremonies. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

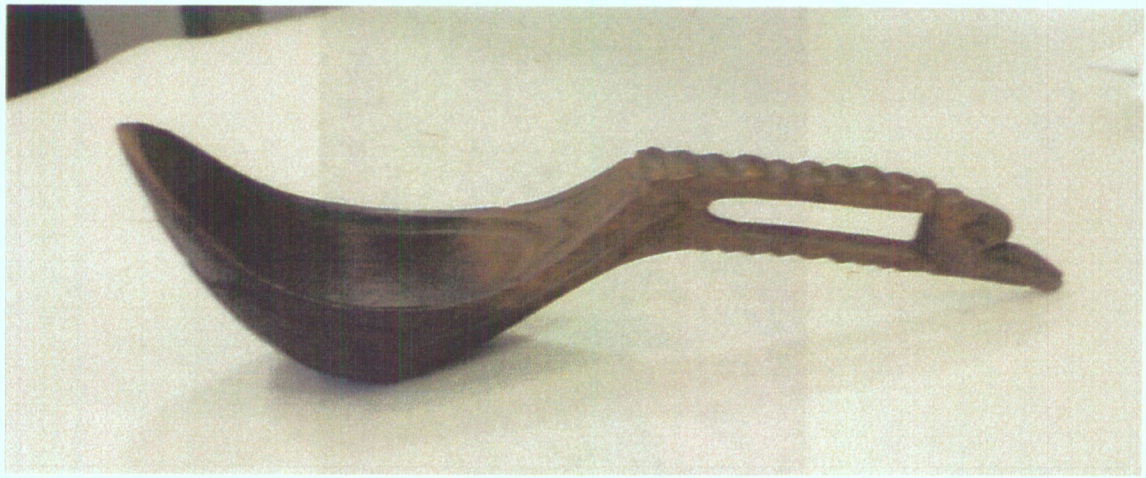


Feast Spoon, Skeleton of Raven, Catalog No. 6863

This very large spoon (Sheen), carved in a Raven design, was a ceremonial object used for the distribution of food during the feasts associated with the memorial to the dead (k̲oo.éex'). The very large spoons were not used for eating but were used as serving spoons or plates. A spoon of this size would be used in a very important part of the k̲oo.éex', that portion of the memorial in which food, material goods and money is distributed to the guests. It functioned as a dish for serving food to the guests during the feasts, and like feast dishes this spoon is carved with a crest design and is named for a crest animal, "Skeleton of the Raven." Such dishes were very valuable. It is believed that the spirits of clan ancestors receive the spiritual essence of the food and wealth that is distributed by the hosts, who are symbolically "feeding the ancestors."

The Raven Feast Spoon is an important ceremonial object that was held in the collection of T'ak̲deintaan heirloom objects by Archie White before it was acquired by the Museum. It is a specific ceremonial object that was devoted to specific religious ceremonies in the past, and it is important for its association with clan ancestors who used and preserved it.

The Raven Feast Spoon is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed by traditional religious leaders for the distribution of food to the guests during the meals that are part of the memorial k̲oo.éex', and in which clan ancestors are believed to receive the spiritual counterpart of the food. It is also needed for use in the sacred ceremony performed near the close of the k̲oo.éex' in which all of the money is put into a container known as the Gan kas'íx'i, or "fire dish" (a large ceramic bowl symbolically holding the wealth that was formerly put into the fire for the benefit of the ancestors). The Raven Feast Spoon would be used for this function. The Raven Feast Spoon is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.



Dance Ornament: Beaded Dance Collar, Catalog No. 6855

The beaded dance collar with the crest design is another important item of ceremonial clothing worn by the bereaved clan (hosts) or invited guests during the k̲oo.éex'. "Over the blankets, coats, jackets, and shirts, men and women often wore cloth bibs at the neck, with crest beadwork, or one or two "octopus finger bags" ..." (de Laguna, in Emmons 1991:255). Two men are wearing beaded collars in the portrait photograph of clan members in their regalia taken in front of the Mt. Fairweather house. This collar or bib is made with a whale design, a widely used crest of the T'ak̲deintaan that may be related to the whale episode in the Raven Journey, and which has a special significance to the Mt. Fairweather House (see above, Diving Whale Blanket, Catalog No. 6848). The whale crest is associated with a mourning song that was composed by a house member, and a name or title that was bestowed by the Klukwan G̲anax̲teidi Clan on Archie White, the custodian of the Mt. Fairweather at.óow, with whose collection the bib was acquired by the Museum.

The Whale Collar is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Whale Collar is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Dance Ornament, Bear's Forearms (2), Catalog No. 6842

The Bear's Forearms are important ceremonial objects in the possession of the T'a<u>k</u>deintaan clan at the time they were collected. The forearms are needed by traditional religious leaders to be worn during the entrance of the clan at the beginning of the <u>k</u>oo.éex', and they are needed by clan and song leaders during the performance of clan mourning songs. They are needed so they can be worn by clan members during the performance of clan mourning songs, as the sea otter skins are worn by the clan during contemporary <u>k</u>oo.éex'. The Bear's Forearms were in the collection of the Tsal<u>x</u>áan Hít and serve the ceremonial function of representing the identity of the clan and of the spirits of clan ancestors who owned and used them in the past during the <u>k</u>oo.éex'.

The Bear's Forearms are needed by T'a<u>k</u>deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with the object. They are needed for the performance of mourning songs and oratory presented at T'a<u>k</u>deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. They are needed so that a grandchild can be invited to wear them during a memorial potlatch to honor that individual and the clan ancestors who owned the objects in the past. The Bear's Forearms are objects that were specifically devoted to a traditional Tlingit religious ceremony and which have religious significance or function in the continued observance of the ceremony. They are needed by traditional religious leaders of the T'a<u>k</u>deintaan clan for the continued practice of their traditional religion by the present day adherents.

Dance Ornaments, Eagle Tail Fans (4), Catalog No. 6864

Ch'ák' Koowú (Eagle Tails) were used by the Peace Deer, Guwakaan, in a peace dance to signify his role as a peacemaker between two clans. A person who was acting as a "deer" carried eagle tail feathers in each hand. Eagle tail fans, which are symbolic articles of peace, were given to the peace deer by their attendants. The peace ceremony is another type of religious ritual which used elements that are central to the koo.éex', including the singing of mourning songs and the presentation of at.óow.

In a peace ceremony conducted in the early 1970s, William Johnson (T'akdeintaan) and George Dalton, Sr. (Kaagwaantaan, T'akdeintaan yádi) were "peace deer" and performed the dance with eagle tail feathers in hand. It is believed that the eagle tails help the peacemakers enter the spirit world and talk with spirits for the purpose of ensuring that peaceful relations would ensue. A name (title) was also given to the Guwakaan during the ceremony; George Dalton received the name, Tsalxáan Guwakaan (Mt. Fairweather Peace Deer). At this ceremony, the deer wore regalia and held eagle tail fans in their hands while they danced. George Dalton wore a Chilkat robe with tassels attached to it.

The Eagle Tail Fans are needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with them. They are needed to pay respect to and bring forth the spirits of clan ancestors who were peacemakers in the past. They are needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches. They are needed so they can be held by a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who used the objects in the past. The Eagle Tail Fans were specifically devoted to a traditional Tlingit religious ceremony, the peace ceremony, and were used during the performance of mourning songs, and they have religious significance or function in the continued observance of the memorial koo.éex'. They are needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Tsimshian-Style Secret Society Dance Ornaments (18)

Cedar Bark Neck Ring (Kaséik̲'w), Catalog No. 6850A-F
Cedar Bark Neck Ring (Kaséik̲'w), Catalog No. 6851
Cedar Bark Neck Ring (Kaséik̲'w), Catalog No. 6852
Cedar Bark Head-Band (Kaséik̲'w), Catalog No. 6853
Cedar Bark Neck Ring (or Head-Band) (Kaséik̲'w), Catalog No. 6854A-B
Cedar Bark Head-Band (Kaséik̲'w), Catalog No. 6866
Ceremonial Horn (Tóoxs'eit), Catalog No. 6856
Ceremonial Horn (Tóoxs'eit), Catalog No. 6857
Ceremonial Horn (Tóoxs'eit), Catalog No. 6858
Ceremonial Horn(Tóoxs'eit) , Catalog No. 6859
Ceremonial Whistle (Akoo.éikw), Catalog No. 6860
Ceremonial Whistle (Akoo.éikw), Catalog No. 6861

Kaséik̲'w (Cedar bark neck rings and head rings or bands) are important items of ceremonial clothing worn by the bereaved clan (hosts) during the k̲oo.éex'. They are used during songs and oratory, and at other times when clan members are standing at the front of the room wearing their regalia, and in a special dance is performed by the hosts using the neck rings. The Ceremonial Horns and Whistles are musical instruments that, like drums, were used in T'ak̲deintaan memorial ceremonies for the performance of songs and dances. Anthropologists have referred to such items as "imports" from the south because they are elements from certain secret society performances that have been incorporated into Tlingit rituals. Shotridge referred to all of these items as belonging to one outfit of a Tsimshian secret society dance.

These items were most likely acquired by the T'ak̲deintaan from the Tsimshian from Metlakatla through a special relationship that formed between the two groups during the Russian period. Richard Dalton, Sr., related the story of the name he bore, Tikata, which is a chiefly title of Tsimshian origin given to the T'ak̲deintaan by a visitor from Metlakatla named Yashootz. This Tsimshian chief later bestowed rights to a Raven crest (Raven that went down to the Bull Kelp), a rattle and a song that went with it. Tikata gave sea otter skins and muzzle loading rifles in return to acknowledge the honor. It is likely that these cedar bark ornaments and ceremonial horns and whistles were acquired through this relationship, and passed down among clan members through the Mt. Fairweather House. The items memorialize the historical relationship with the Tsimshian, and the ancestors who were involved.

The Cedar Bark Neck Rings, Head Bands and the Ceremonial Horns and Whistles are T'ak̲deintaan at.óow that were held in the collection of heirloom objects by Archie White before they were acquired by the Museum. These items are specific ceremonial objects devoted to religious ceremonies in the past, and they are important for their association with clan ancestors who used them.

These ceremonial objects are needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with them. They are needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. They are needed so they can be placed on grandchildren of the clan during memorials to honor that individual and the clan ancestors who owned them in the

past. The items are objects that were specifically devoted to a traditional Tlingit religious ceremony and which have religious significance or function in the continued observance of the ceremony. They are needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

BEFORE THE NAGPRA REVIEW COMMITTEE

IN THE MATTER OF THE DISPUTE BETWEEN SEALASKA CORPORATION AND ALASKA STATE MUSEUM RELATIVE TO THE TEEYHÍTTAAN CLAN *YEIL AAN KAAWU NAA S'AAXW* (LEADER OF ALL RAVEN CLAN HAT)

MEMORANDUM OF LAW

This memorandum of law is submitted by the Sealaska Corporation to provide controlling legal guidelines for resolving its dispute with the Alaska State Museum over the right of possession of the Teeyhíttaan Clan's Raven Crest Hat, known as *Yéil Aan Kaawu Naa s'aaxw* (Leader of all Raven Clan Crest Hat). *See,* Dispute Letter (Letter of July, 2010 from Chris McNeil, President & CEO, Sealaska Corporation to David Tarler, DFO) and Appendices A-H. As will be shown, the Sealaska Corporation is entitled to the relief requested in the Dispute Letter.

This memorandum of law will identify the dispositive facts and law presented in Appendices A-H to the Dispute Letter. First, Section I will provide the background of this dispute, an overview of the parties' contentions, and a summary of Sealaska's argument. Next, Section II.A summarizes the facts leading to the purported conveyance in 1969. It will also (1) describe the clan property at issue in this dispute, the Teeyhíttaan Clan's Raven Crest Hat as a "sacred object" and "object of cultural patrimony" under NAGPRA; (2) analyze the 1969 donation document relied upon for the Museum's ownership claim, and (3) evaluate the factual basis for museum ownership asserted in the Museum Report to show that no facts were presented to substantiate the claimed authority of alienation Finally, Section II.B will summarize applicable tribal law set forth in Appendices A-H and the judicial interpretation of that law. The analysis will also explain why the Museum's novel discourse on tribal law is at odds with the judicial interpretation of Tlingit law and fails to present any basis for Mr. Paul's authority to alienate the clan's hat under the uncontroverted facts established in this case.

I. INTRODUCTION.

The events that bring this dispute to the Review Committee are as follows. On August 12, 2008, the Sealaska Corporation (hereinafter "Claimant") filed a repatriation

claim against the Alaska State Museum (hereinafter "Museum") on behalf of the Teeyhíttaan Clan of Tlingit Indians.[1] The claim asked the museum to repatriate the Teeyhíttaan Clan's Raven Crest Hat on the grounds that it is a "sacred object" and "object of cultural patrimony" held by the museum without a "right of possession" within the meaning of the Native American Graves Protection and Repatriation Act, 25 USC 3001 *et seq.* (hereinafter, "NAGPRA"). *See,* Appendix D (Repatriation Petition). The petition asserted that the tribal caretaker of clan property, Mr. William Paul, lacked legal authority under Tlingit law to alienate the hat to the Museum in 1969. The petition submitted voluminous documentary evidence supporting the claim that consisted primarily of Museum records; and it documented applicable Tlingit law. *See,* Appendices A, F and G.

On April 10, 2009, the Museum concluded that it has a "right of possession" and declined to repatriate the hat.[2] Shortly thereafter, the Museum significantly narrowed the disputed issues in a letter to the Review Committee DFO, David Tarler.[3] Specifically, the Museum's letter admits that Sealaska proved the following elements of the claim:[4]

1. The hat is a "sacred object" within the meaning of NAGPRA;[5]
2. The hat is an "object of cultural patrimony" within the meaning of NAGPRA;[6]
3. The hat is "culturally affiliated" with Sealaska under NAGPRA;[7] and

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[1] Under 43 CFR 10.2(b)(2), the Sealaska Corporation has standing to file NAGRPA repatriation claims as an Alaska Native Corporation established by the Alaska Native Claims Settlement Act, 43 USC 1601 *et seq.* The Teeyhíttaan Clan of Tlingit Indians (Raven Moiety) is one of many clans that comprise Tlingit society but is not itself a federally recognized tribe. The Clan authorized Sealaska to file this claim on its behalf by resolution. Teeyhíttaan Clan members of Wrangell, Alaska, are enrolled shareholders in the Sealaska Corporation.

[2] *See,* Appendices G (Item #39: Letter from Department of Education to Sealaska, April 10, 2009, and accompanying Museum Report) and H at 58-83.

[3] Appendices G (Item #40, Email from David Tarler to Rosita Worl & Bruce Kato, April 20, 2009) at H at 84.

[4] Appendices G (Item #43, Letter from Bruce Kato to Mr. Tarler, April 20, 2009) and H at 90.

[5] *See Also,* Museum Report, Appendix H at 71 (The hat is a "sacred object").

[6] *See also,* Museum Report, Appendix H at 71 (The hat is "cultural patrimony").

[7] *See also,* Museum Report, Appendix H at 69 ("{T]he preponderance of evidence demonstrates that the object is culturally affiliated with the Teeyhíttaan clan as represented by the Sealaska Corporation.").

4. Sealaska presented evidence which, standing alone before the introduction of evidence to the contrary, supports a finding that, more likely than not, the Museum does not have a "right of possession" to the hat; however, the Museum qualified this admission by asserting that William Paul effectively transferred ownership of the hat to the Museum in 1969.

The Museum's qualified admission on the "right of possession" gives rise to this dispute. The parties dispute the effect of William Paul's alleged donation of the hat in 1969 to the Museum. Relying upon its interpretation of a museum donor document, the Museum contends that Mr. Paul conveyed ownership of the clan property to the Museum; whereas, the Claimant asserts that regardless of the Museum's strained interpretation of the donor document, Paul lacked legal authority in 1969 to alienate that property under Tlingit law because he acted unilaterally without the consent of the Teeyhíttaan Clan.[8]

Since April of 2009, the parties have met and communicated on numerous occasions, but are unable to resolve their dispute over the Museum's claimed ownership of the hat.[9] Consequently, Sealaska requests that the Review Committee make the findings and determinations listed at pages 9-10 of the Dispute Letter to establish all of the criteria for repatriation under 43 CFR 10.10. Given the Museum's admissions, the "right of possession" element of the claim remains in dispute.

The central issue to be decided by the Review Committee is this: In the facts of this case, did Mr. Paul have the "authority of alienation" under Tlingit law as the caretaker of clan property to unilaterally convey ownership of clan religious property and cultural patrimony to the Museum in 1969?

This issue must necessarily be resolved by reference to Tlingit tribal property law. NAGPRA is a unique federal statute that requires museums to determine what is sacred from a Native American perspective and the "right of possession" and "authority of alienation" of cultural items must be determined according to tribal law.[10] Specifically,

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[8] The donor document is Appendices G (Item #7) and H at 9.

[9] *See,* correspondence and meeting notes documenting the parties' consultation efforts to resolve this ownership dispute in Appendices G (Items 49-64) and H at 98-135.

[10] *See, generally,* Trope and Echo-Hawk, "The Native American Graves Protection and Repatriation Act: Background and Legislative History," 24 Az. St. L. J., No. 1 (Spring 1992) at 68, 76-77.

the "right of possession" means "possession obtained with the voluntary consent of an individual or group that had authority of alienation." *See,* 43 CFR 10.10(2). The "authority of alienation" is determined by tribal law. As stated in *Cohen's Handbook on Federal Indian Law (2005 ed.),* §20.02[1][c] at 1240: "Whether an individual or group had authority to alienate an item necessarily requires an inquiry into tribal law at the time of alienation." [11]

In this case, the Tlingit have a well-developed body of indigenous property law that has been documented by anthropologists, studied by attorneys, and interpreted by the courts. That body of law can readily guide the resolution of this issue by the Review Committee. Tlingit property law, including ownership rules governing clan property and the limited rights of Tlingit caretakers of that property, is presented by the Claimant in the following documents: (1) Dispute Letter (pp. 3-7); (2) Repatriation Petition (Appendix D, pp. 8-10, 17-20, 22-26); (3) "Cultural Context of *Haa At.oowu*" by Dr. Worl (Appendix H); and Inalienable *At.oww* ("The Ownership and Stewardship of Clan Possessions in Tlingit Property Law" by Charles W. Smythe) (Appendix A). Importantly, the Claimant also submitted voluminous NAGRPA legal precedent in Appendices A and C for repatriating Tlingit clan property in similar circumstances, where museums have repatriated clan property as cultural patrimony that cannot be alienated by individuals under tribal law at the time the object was separated from the group (Appendix C), including a 2008 repatriation of Tlingit clan property by the Alaska State Museum which provides strong NAGPRA precedent for the claim in this case (Appendix D). In the 2008 case, the Alaska State Museum recognized the persistence of Tlingit law (as laid out by the Claimant in this case) and made the following determination in a Notice of Intent to Repatriate, Federal Register (Feb. 25, 2008, Vol. 73, No. 37):

> Under Tlingit law, the tunic is considered at.oow of the Wolf House of the Sitka Kaagwaantaan, and is by definition the property of the group. Based on Tlingit law, the tunic is an object of cultural patrimony and has ongoing importance to the clan. While at.oow is cared for by a clan leader it remains communal property. In this case, the tunic was alienated by the widow of the caretaker, Lily Yarkwan, who belonged to another clan. Officials of the Alaska State Museum have determined that, pursuant to 25 U.S.C. 3001(3)(D), the tunic has ongoing

[11] *Accord,* Trope and Echo-Hawk (1992), *supra* at 68 (tribal law or custom governs). *See also,* Museum Report, Appendix H at 12 ("Determining if a museum has a 'right of possession' for an object under NAGPRA hinges on whether the person or persons who alienated the object had the authority to do so.").

> historical, traditional or cultural importance central to the Native American group or culture itself, rather than the property owned by an individual. Officials of the Alaska State Museum also have determined that pursuant to 25 U.S.C. 3001 (13), the museum does not have the right of possession to the object of cultural patrimony.

In this case, the Alaska State Museum failed to apply the same principles of Tlingit property law, as will be explained in Section II, and proffered instead a novel and distorted view of Tlingit law of its own making that is at odds with the settled judicial interpretation of Tlingit property law, as well as the Museum's own application of that law in the Wolf House tunic case in 2008 (Appendix D).

A. Summary of Argument. The Museum bases its ownership claim in this case on the argument presented in the Museum report entitled "Assessment of a Repatriation Claim for the *Yeil Aan Kaawu Naa s'aaxw,* Leader of All Ravens Hat (II-B-209) in the Collection of the Alaska State Museum, filed on Behalf of the Teeyhíttaan clan of Wrangell by the Sealaska Corporation, August 13, 2008), March 3, 2009 (Appendix H, pp. 60-83) (hereinafter, "Museum Report"). The Museum Report contends that Paul conveyed ownership of the hat to the Museum. The factual case for this contention rests on one vague document with contradictory language that is open to various interpretations, surmise proffered by the Museum that Paul intended to convey ownership, and the Museum's unproven "assumption" that Paul secured the authority to alienate clan property under Tlingit law. The legal case for its ownership claim is based upon a novel interpretation of Tlingit property law at odds with court decisions on the subject and the interpretation of that law by authoritative sources. The Museum advanced six reasons to support its ownership and "right to possession" contentions; but none of its novel arguments have merit, as discussed in Section II.B, *infra.*

For the above reasons, the Museum's ownership claim is unproven and lacks merit under Tlingit law at the time of the alleged alienation. As will be shown in this Legal Memorandum, Mr. Paul did not have authority as the trustee of the Teeyhíttaan Clan to alienate clan religious property and cultural patrimony without clan knowledge or consent under Tlingit law. It is well-established that the general rule of Tlingit property law is that *at.óow* (clan property), such as the Teeyhíttaan Raven Crest Hat, is communal

property belonging to the Teeyhíttaan Clan; and Tlingit clan caretakers of such property are merely trustees of clan property for the clan membership and do not have the authority under Tlingit law to alienate that property without the consent of the clan, and then clan property can be alienated only in narrow circumstances prescribed by tribal law and custom. *See, e.g., Chilkat Indian Village, IRA v. Johnson, et. al,* No. 90-01 (Chilkat Tr. Ct., Nov. 3, 1993) (Slip Opinion) (Attached to this Legal Memorandum as "Exhibit 1") (Communal ceremonial property belonging to a Tlingit clan cannot be alienated by the caretaker or anyone else without consent of the clan); *Tlingit and Haida Indians v. United States,* 177 F. Supp. 452 (Ct. Cl., 1959) (There is no authority under Tlingit law in a clan or clan division to alienate or otherwise dispose of clan property, except under special circumstances).

The Claimant established a *prima facie* case through uncontroverted documentary evidence that Paul alienated the hat unilaterally, without the knowledge or consent of anyone. That purported conveyance violated tribal law, and the Museum has shown no exception to the Tlingit property law that is applicable to the facts in this case that would serve to cloth William Paul, as the Tlingit caretaker and trustee of clan property, with the authority of alienation. Thus, under the criteria for repatriation in 43 CFR 10.10(1) (i)--(iii), Claimant met its burden of presenting evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Museum "does not have a right of possession to the" hat. This was admitted by the Museum, as discussed above.

As a result, the burden of proof shifted to the Museum under 43 CFR 10.10(1) (iv) to present evidence proving that it has a "right of possession." The Museum failed to sustain its burden. As will become readily apparent in Section II, *infra*, the Museum Report presented no hard evidence to substantiate the Museum's suggestion that Mr. Paul secured the consent of the clan to alienate the hat. Surmise and speculation do not amount to proof. Furthermore, the Museum Report disclosed no valid "authority of alienation" for Mr. Paul's purported conveyance of the hat under Tlingit law. Accordingly, the Claimant is entitled to a ruling by the Review Committee that the repatriation claim satisfies all of the criteria for repatriation specified by 43 CRF 10.10 and repatriation of

the hat is mandated by federal law, as well as the other relief requested in the Dispute Letter.

II. ARGUMENT.

A. Summary of the Dispositive Facts under NAGPRA Repatriation Criteria.

The dispositive facts are summarized below. They are best considered within the context of the repatriation criteria set forth 43 CFR 10.10 (1). That criteria establishes the parties' respective burdens of proof and the elements of successful repatriation claims under NAGPRA in a four-step analysis. Under this criteria, a museum must repatriate a "sacred object" or "object of cultural patrimony" pursuant to the request of an Indian tribe or Alaska Native Corporation if all of the following facts are proven: (1) The object meets the definition of a "sacred object" or "object of cultural patrimony;" (2) the "cultural affiliation" of the object to the claimant is established by a preponderance of the evidence; and (3) the claimant presents a *prima facie* evidentiary case that the museum does not have "a right of possession" as defined by §10.10(a)(2).[12] Once a claimant surmounts these three hurdles, the fourth step places a burden upon the museum to prove that it has a "right of possession" to the object. *See,* 25 USC 3005(c); 43 CFR 10.10(1)(iv); Trope and Echo-Hawk (1992), *supra,* at 68. If the museum cannot prove a right of possession, the object must be repatriated. *Id.* As will be seen from the summary below, the Museum has admitted that Sealaska sustained its burden of proof under the first three steps, and the burden of proof shifted to the Museum in the fourth step to prove its right of possession, which it failed to sustain.

A summary of the dispositive facts are listed below. These are uncontroverted facts, unless otherwise indicated.

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[12] Section 10.10(a)(2) defines "right of possession" as:

> [P]ossession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American . . . sacred object, or object of cultural patrimony from an Indian tribe . .. with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession to that object.

As mentioned above, the "right of possession" and "authority to alienate" must be determined by reference to tribal law at the time of alienation. In passing NAGPRA, Congress sought to return massive amounts of cultural items that improperly left Native American hands in times past by various persons who did not have the authority under tribal law to alienate that material. *See,* Trope and Echo-Hawk (1992), *supra* at 43-45.

1. Once upon a time, a Tsimshian chief killed a Teeyhíttaan chief while hunting on Prince of Wales Island upon property owned by the Teeyhíttaan clan. In an attempt to settle the trouble peacefully, the Tsimshian chief placed his ceremonial hat on a raft with eagle down feathers and floated it up with the tide to the Teeyhíttaans at the upper lake. The Teeyhíttaan understood the significance of the act under tribal law and custom and accepted it as a peace offering between the Tsimshian tribe and the Teeyhíttaan clan of Tlingit Indians.[13] Thus, begins the story of the Teeyhíttaan Clan's Raven Crest Hat, known as *Yéil Aan Kaawu Naa s'aaxw* (Leader of all Raven Clan Crest Hat), which became consecrated as *at.óowu* by the clan as a "sacred object" and "object of cultural patrimony" under Tlingit law and NAGPRA, and the subject of this dispute.

2. The Clan Crest Hat at issue in this case is a magnificent object. It is a Raven crest carved of cedar and beautifully decorated. *See,* drawings and photos of the hat in Appendix H at 13-15, 33, 68. The hat is not simply a work of art. It represents an important event in the foundational history of the Teeyhíttaan Clan. Through the hat, the Clan can evoke clan ancestors in religious ceremonies, preserve clan identity, and ensure continuity by unifying clan ancestors and living members with unborn generations.

3. As explained below, it is undisputed that the Clan Crest Hat is Tlingit *at.óowu* (communal property), and also constitutes a "sacred object" and "object of cultural patrimony" that is "culturally affiliated" with Sealaska within the meaning of NAGPRA.

4. The Clan Crest Hat is *at.óowu,* which is a form of Tlingit communal property title and an associated cultural concept that is well described by Dr. Worl (Appendix H) and the Repatriation Petition (Appendix D) at 3-5.[14] According to that evidence, *At.óowu* is tangible communal property owned by a Tlingit clan that is primarily used in ceremonial activities. An object becomes transformed into *at.óowu* through a process that begins with the acquisition of a crest, its incorporation onto a physical object, its ceremonial transformation into clan property by being formally presented at a ceremony and accepted by the clan as the legal validation of ownership by a clan. *See, e.g.,*

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[13] *See,* Appendix H, p. 3 (Museum Catalog Record, Jan. 7, 1959.

[14] Dr. Worl is a highly regarded Tlingit anthropologist who provided expert testimony on Tlingit property law in *Chilkat Indian Village, IRA v. Johnson, et al.* (Chilkat Tr. Ct., Nov. 3, 1993) (Slip Opinion) (attached hereto, as "Exhibit 1" for the convenience of the Review Committee). The court found her "to be a credible, informative, and well-prepared witness." Sip Opinion, Exhibit 1 at 10.

Museum Report, Appendix H at 11. According to clan history, all of the elements have been met to transform the hat at issue in this case into *at.óowu.* The hat is a replacement copy of the original that was made *circa* 1900 by a Tlingit caretaker and clan leader after the original hat was partially destroyed in a fire. After it was made, a clan feast was held in accordance with tribal law when the replacement hat was formally brought out and presented to the clan in place of the original, and accepted. *See,* Appendix D, page 2. The Museum does not dispute that the hat is *at.óowu. See,* Museum Report, Appendix H at 11-12.[15] As admitted by the Museum, "Tlingit clans maintain groups of objects called *at.óow* that generally speaking would fall within the definition of "Object of Cultural Patrimony." Museum Report, Appendix H at 10. In short, there is no dispute that the hat was Teeyhíttaan clan *at.óow* "at the time of its alienation" in 1969. *Id. at 12.* As will be explained *infra* in Section II.B, specific Tlingit property law principles govern the ownership, caretaking, and alienation of *at.óowu* that are determinative of this dispute as a matter of tribal law.

5. The Clan Crest Hat is a "sacred object" within the meaning of NAGPRA. As explained in the Repatriation Petition (Appendix D at 11-15) the hat is a "sacred object" used and still needed by clan traditional religious leaders for the practice of Tlingit religion in mortuary ceremonies by present day adherents, or for the renewal of ceremonies. Among other things, the hat is presented and displayed in mortuary ceremonies because it represents the spirit of a crest animal, it embodies the spirits of Teeyhíttaan clan leaders and caretakers of the past, and evokes those ancestral spirits during ceremonial presentations; and the hat gives "weight" to clan songs and stories in such ceremonies and provides the necessary spiritual balance to the equivalent objects displayed by opposite clans in the ceremonies that is required by religious tradition to

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[15] The Museum Report concedes that even though the object is a replacement hat made by the Teeyhíttaan caretaker, "due to culture change and the elasticity of Tlingit property law, the hat may have been acceptable as *at.óow* by the Tlingit culture by the time of alienation."). Appendix H at 12. The Report gives the following rational for that finding:

> The evidence shows that the hat exhibits attributes of *at.óow* and *shagóon*: traditional stories, songs, or personal names referring to the object; manufacture by the opposite moiety (or acquisition through war, trade, payment, or diplomacy from another clan or tribe); a formal name for the object; history of its dedication before members of the opposite moiety (or payment through death or sacrifice by a clan member); replacement of an older version of the object; and a history of being cared for by a clan or house leader on behalf of the group. *Id.* at 11

protect the people in the ritual evocation of ancestral spirits in a ceremonial setting. *Id.* The Museum admits that "the preponderance of the evidence shows that the hat is an object of cultural patrimony and sacred object under the terms of NAGPRA." Museum Report, Appendix H at 12.

6. The Clan Crest Hat is an "object of cultural patrimony" within the meaning of NAGPRA. *See,* Repatriation Petition, Appendix H at 16-20. The hat is a Raven crest that memorializes a major historical event of central importance to the Teeyhíttaan clan and Tlingit people; and it has been preserved to recount that history, provide clan identity, and strengthen future generations as Teehiittaan *at.óowu*, because it binds clan members to their ancestors and symbolizes a spiritual relationship to the Raven and clan ancestors that is manifested in ceremonies. The hat is of central importance because it provides a physical form for spiritual beings and embodies the history of the Teeyhíttaan. As *at.óowu,* the hat is, by definition, inalienable communal property. It is owned collectively by the clan, and not by any individual. *Id.* The Petition explains that a clan leader or caretaker, such as Mr. Paul, "serves as a trustee of clan *at.óow*, and according to Tlingit property law, he holds clan property in trust for the clan and does not have the authority to alienate clan property." *Id.* at 17-18. The Museum admits that the hat is *at.óow* and "the preponderance of evidence shows that the hat is an object of cultural patrimony and sacred object under the terms of NAGPRA." Museum Report, Appendix H at 12.

7. "As is typical of Tlingit clans, the Teeyhíttaan appoined a custodian (also referred to as a caretaker or steward) to oversee the preservation and use of clan *at.óow* (communally owned historical objects and crest objects)." Museum Report, Appendix H at 2. "In the 20th century, the Teeyhíttaan clan selected as caretaker a clan member who rose to prominence in government and tribal affairs: Willaim L. Paul (1885-1977)." *Id.* "By around 1942, Paul assumed the role of a leader of the Teeyhíttaan clan and custodian of the hat." *Id* at 3.

8. As the Teeyhíttaan caretaker of the Clan Crest Hat, Paul "loaned" the hat to the Museum on September 22, 1947. *Id.* at 4. The loan documents (Appendix H at 1 and 3) state the hat was "loaned" to the Musuem.

9. On November 4, 1964, Paul appointed Richard Rhinehart, Sr. as his successor as the Teeyhittaan clan caretaker of the hat. Museum Report, Appendix H at 64. Paul's written statement on Museum letterhead states:

> Upon the death of William Paul, Sr., the crest hat . . . of the Tee hit ton Clan shall become the property of Richard Rhinehart, whose Tlingit name is "Ya Koog" of Wrangell, Alaska. The crest hat (H-B-809) is now on loan to the Alaska State Historical Society and Museum at Juneau, Alaska.

Appendix H at 4.

10. On March 10, 1969, William Paul signed a museum document that in pertinent part purports to "donate[]" the hat to the Alaska State Museum "except as noted" . . . "the current custodians name shall be displayed with the hat; at this time he is William Lewis Paul, whose Tlingit names are Shquindy and Ka-xwan (Jack Frost). The next custodian will be Richard Rinehart, Tlingit name Yuh-Koog . . ." *See,* Appendix H at page 9. The meaning of this document is unclear. Museum records disclose no other document made by Paul that casts light on his intent; and without that evidence we are left to guess at what he intended by an unclear document that is obviously open to various interpretations. The Museum steadfastly asserts that the document proves that Paul meant to convey ownership of the clan hat to the Museum, along with the "right of possession" under NAGPRA, but it is hard pressed to explain the contradictory conditions that Paul placed on the donation for reasons known only to him. Confronted with vagueness and conflicting uncertainties in the face of the document, the Museum is forced to admit that the meaning of the document, the intent of the donor, and the respective rights of the caretaker, clan, and museum are not clearly delineated in the document:

> Unfortunately, we have no record that as to how the responsibilities and costs of preserving the hat was to be shared between the caretaker and the museum. . . . The need for a clear understanding of responsibilities is clear.[16]

Tellingly, the Museum also confesses:

> If the museum was offered such a donation today, we would certainly undertake more consultation with the clan and make any resulting agreements more detailed.[17]

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[16] *See,* Museum Letter, August 11, 1997, Appendix H at page 30.

[17] Museum Letter, June 7, 2007, Appendix H at 39.

Indeed, the conflicting language in the document appears to continue Teeyhíttaan trusteeship and clan property rights. Given these uncertainties, the Museum's insistence that the "the records are clear that the hat is no longer a loan" is not persuasive. *Id.* at 39. The document is far from "clear." In any event, Museum's strained interpretation is immaterial, because Paul lacked the authority of alienation in 1969 under Tlingit law, as discussed in Section II.B.

11. To substantiate its ownership claim, the Museum presents an argument built on surmise, presumptions, and assumptions, but offered no evidence of any kind to prove its "right of possession," other than the vague document described in paragraph 10. The Museum Report speculates about Paul's intent. It baldly asserts that Paul "knew" his donation would protect the hat from art dealers, deterioration, and fires, and intended to appoint a successor caretaker so the clan would have a diminished right to "some knowledge of and access to the hat." Museum Report, Appendix H at 66. None of this surmise is evinced in the document, which says nothing of the sort. Building upon this surmise, the long line of speculation continues: "He likely viewed the museum as a failsafe in the preservation of the hat in case the clan's population continued to dwindle or if they no longer wished to participate in the traditional culture." *Id.* at 78. In the absence of evidence on Paul's intent, the Museum's ownership claim rests solely upon one vague document that leaves its claim open to substantial doubt.

12. The Museum also failed to prove that Paul had authority to alienate the hat under Tlingit law at the time of the alleged alienation. The only signature on the donor document is Paul's. The document fails to disclose that Paul acted with the knowledge and informed consent of the clan. No other museum record shows that Paul obtained the consent of the clan to alienate its property. Without a scintilla of evidence, the Museum Report resorts to speculation:

> [W]e do not know precisely what steps William Paul took to assure that he had authority to donate the hat, but we <u>infer</u> that he acted within the constraints of Tlingit law as practiced at the time of alienation. [emphasis supplied.]

Id. at 20. Speculation is no substitute for facts. The museum offered no evidence to prove Paul's authority to alienate the hat. A bare inference falls short of sustaining the Museum's burden to prove that it has a "right to possession" under 43 CFR 10.10(1) (iv),

but this assumption of unproven fact is the *only thing offered* to substantiate the Museum's "right to possession." On this record, the Museum's ownership claim is unsupported and should be rejected by the Review Committee for failure to sustain the burden of proof imposed by 43 CFR 10.10(1)(iv).

B. Paul Lacked the "authority of alienation" under Tlingit Property Law.

This section first summarizes applicable Tlingit property law at the time of alienation in 1969.[18] It will also show how the Museum's analysis distorts Tlingit property law in a search in vain to find a colorable exception to the rules that would support its ownership claim. *See,* Museum Report, Appendix H at 71-79.

At the heart of this dispute is a form of tribal property that is owned in common. As noted in *Cohen's* (2005 ed.), there is no analogous counterpart to communally owned tribal property in the Anglo-American concept of private property law:

> Tribal property is a form of ownership in common. It is not analogous to tenancy in common, however, or other collective forms of ownership known to Anglo-American private property law, because an individual tribal member has no alienable or inheritable interest in the communal holding. No tribal member has any vested property right that would permit claims to partition the tribal estate or to share pro rata in the proceeds of any sale. Absent contrary federal legislation vesting individual rights of ownership in tribal members, no tribal member can claim a federal right against the tribe to any specific part of the tribal property. Rather, tribal property interests are held in common for the benefit of all living members of the tribe, a class whose composition continually changes as a result of births, deaths, and other factors. The manner in which a tribe chooses to use its property can be controlled by individual tribal members only to the extent that the members participate in the governmental processes of the tribe.

Id., §15.02 at 966-67 [footnotes omitted]. The dispute over the ownership of the Teeyhíttaan Clan Crest Hat concerns the validity of the alienation of communal tribal property by an individual Indian who did not follow Tlingit law or processes.

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[18] As mentioned earlier, Tlingit law is presented by these Sealaska documents: (1) Dispute Letter (pp. 3-7); (2) Repatriation Petition (Appendix D, pp. 8-10, 17-20, 22-26); (3) "Cultural Context of *Haa At.oowu*" by Dr. Worl (Appendix H); and Inalienable *At.oww* ("The Ownership and Stewardship of Clan Possessions in Tlingit Property Law" by Charles W. Smythe) (Appendix A). Specific NAGRPA precedent for repatriating Tlingit clan property in similar circumstances is also presented, where museums have repatriated clan property as cultural patrimony that cannot be alienated by individuals under tribal law at the time the object was separated from the group (Appendix C), including a 2008 repatriation of Tlingit clan property by the Alaska State Museum which provides strong NAGPRA precedent for the claim in this case (Appendix D).

There are many forms of tribal property, including tribal land, tribal natural resources, tribal trust funds, and cultural property. Because the Clan Crest Hat is tribal cultural property, the general rule in federal Indian law about the alienability of tribal cultural property must be consulted. The general rule is expressed in *Cohen's* (2005):

> Tribal peoples' conception of "ownership" and "property rights" vary with each group's customs and traditions, policy choices expressed in tribal legislation and common law, and the type and use of property at issue. In general, however, as a matter of tribal law cultural property is not individually owned, but is held in trust by an authorized caretaker or often for the tribe as a whole. Traditional expert witnesses testify that caretakers or trustees generally have no right under tribal law to sell or dispose of cultural property in their care. [footnote 22 omitted, citing *Chilkat Indian Village, IRA v. Johnson,* 20 Indian L. Rep. 6127, 6131, 6134-6135 (Chilkat Tribal Ct. 1993). To the contrary, they testify that trustees have a duty to safeguard the property in particular locations and for particular uses, which are often ceremonial. To ensure that those duties are met, some tribal courts have named the tribal council itself as trustee when the traditional trustee is incapable of performing the trust duties.

Id. § 20.01[2] at 1231 [footnotes omitted.] This leading treatise also provides helpful guidelines for determining and applying indigenous property law on the ownership, control, transfer, and alienation of tribal cultural property:

> Tribal courts and traditional authorities have the power, authority, and expertise to identify and interpret tribal laws governing the definition, holding, use, and transfer of artifacts and resources within tribal land. Tribal courts generally reject the applicability of private property concepts with respect to the holding and transfer of cultural property, and instead engage in fact-finding to identify the group or subgroup with historical, ceremonial, and customary rights and responsibilities for the cultural property and the authorized individuals who act as trustees with respect to the property. If a tribal court has the requisite jurisdiction over the parties, disputes over the ownership of artifacts and resources found on tribal land are governed by the law of the tribe. Although state common law principles governing ownership of personal property have been applied in the past to artifacts and resources that had been removed from tribal lands, matters of cultural property should be determined according to tribal law regardless of the forum in which the case is heard.

Id. at 1232. Indeed, as discussed earlier NAGPRA necessarily requires that tribal law be consulted to determine ownership and "right of possession" disputes over "sacred objects" and "objects of cultural patrimony."

Accordingly, Tlingit law on the ownership and alienation of tribal cultural property will be examined next. From Sealaska's documentation of Tlingit law (*See*, footnote 18), four general rules emerge that govern the ownership and alienation of clan religious objects and cultural patrimony that is considered *at.óowu*:

1. The clan is the owner of that cultural property, which is communal tribal property;

2. Caretakers of that property are fiduciaries who care for such property as trustees;

3. Caretakers do not have authority to alienate that property, especially without clan consent; and

4. While various exceptions to the general rule against alienation allow the alienation of clan property with clan consent, none of those exceptions apply to the facts in this case where a caretaker unilaterally alienated *at.oowu* to a museum for reasons known only to him, and without the knowledge or consent of the clan.[19]

As discussed next, these four general rules were in effect at the time of Paul's alleged alienation in 1969, as is event from the judicial decisions of the era and the contemporaneous authoritative sources on Tlingit law that span the period beginning in 1946 to the present date.

(1.) <u>The General Rules of Tlingit Property Law Pertaining to the Ownership and Alienation of Clan Property, such as the Clan Crest Hat, do not allow Caretakers to Alienate Clan Property without the Consent of the Clan; and There Are No Exceptions to this General Rule that are Applicable To William Paul's Alienation of the Hat to the Museum.</u>

[19] To the limited extent that ceremonial clan *at.oowu* can be alienated, the permissible circumstances for alienating *at,óowu* are laid out in the Sealaska materials, (Appendix D at 10; Appendix F at 3; Appendix A) and they do not include the unilateral alienation of important clan property to a museum by a caretaker for reasons of his own without the knowledge or consent of the clan. The sanctioned circumstances include the formal transfers from on clan to another for payment of a clan debt, the indemnification for wrongdoing, and the settlement of legal disputes among clans, or for various gifts to other clans for diplomatic purposes among the clans. These customary and traditional transfers are exceptions to the general rule against alienation but do not invalidate the general rule against alienation that prevents caretakers, clan leaders, or individual clan members from alienating clan property without the consent of the clan.

The Tlingit retain a complex and well-developed body of traditional tribal property law governing the ownership and alienation of tribal cultural property. Under that body of law, Tlingit clans function as the main property owners in the culture and almost all of the formal property belongs to the clans, not individuals or caretakers of that property who administer clan property as trustees only. *See, e.g.,* Repatriation Petition at 8-10 (Appendix D) for an authoritative summary of Tlingit Law. *See also,* Appendix H at 2-3. That body of law has persisted into the present with surprising vitality, despite pressures placed upon the Tlingit culture by outside forces during the twentieth century, such as colonization, religious suppression, enforced government assimilation, and the conflicts between tribal and federal law.[20] During that process, Tlingit land rights and fishing rights were diminished by Supreme Court rulings, and Congress created a new statutory form of individual property rights for Tlingit Indians as shareholders in corporate assets paid to Alaska Natives in the settlement of aboriginal land claims and fishing rights.[21] Yet, despite these impacts on those forms of Tlingit property, tribal law governing cultural property survived largely intact, and persisted into the present. Indeed, since 1990 the federal law on Native American "cultural items" as defined by NAGRPA requires that ownership and right to possession determinations be made according to traditional tribal law applicable at the time the cultural property left Native American hands. As will be seen, Tlingit law on cultural property was in effect among the Tlingit clans in 1969 when William Paul attempted to alienate clan cultural property.

The general rules governing ownership and alienation of clan property were documented by authoritative sources in a landmark study in 1946 (shortly before Paul loaned the hat to the Museum). *See,* Walter R. Goldschimdt and Theodore H. Hass, "*Haa*

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[20] The impact of these forces upon Tlingit society and its largely successful efforts to resist them during the twentieth century and persist into the present is examined by Walter Echo-Hawk, *In The Courts of the Conqueror: The Ten Worst Indian Law Cases Ever Decided* (Golden: Fulcrum Publishing Co., 2010) at 205-214, 359-394.

[21] *See, e.g., Tee-Hit-Ton Indians v. United States,* 348 U.S. 272 (1955) (Teeyhíttaan aboriginal land rights were diminished by the doctrine of discovery as possessory rights that could be taken by the United States without the need to compensate the Teeyhíttaan); *Organized Village of Kake v. Egan,* 369 U.S. 60 (1962) (Tlingit aboriginal fishing rights are subject to state conservation laws); Alaska Native Claims Settlement Act, 43 USC 1601 *et seq.* (creating individual Tlingit shareholder interests in tribal settlement fund established by Congress); Alaska National Interest Lands Conservation Act, 16 USC 3101 *et seq.* (ANILCA) (federal protection of tradition Native subsistence practices).

Aaní, Our Land: Tlingit and Haida Land Rights and Use" (1946) (reprinted by Sealaska Heritage Foundation, 1998). Haas was a lawyer who was Chief Counsel for the Bureau of Indian Affairs and Dr. Goldschmidt was an anthropologist. *Id.* at xxv. After a summer of field work among knowledgeable Tlingit informants in the Tlingit communities of Angoon, Haines, Hannah, Kake, Ketchikan, Klukwan, Juneau-Douglas, Saxman, Sitka, Wrangell, Yakutat, and the Haida community of Kasaan, the researchers published their landmark study on Tlingit possessory rights among the 44 Tlingit clans, including the Teeyhíttaan, to ascertain tribal land use rights in southeast Alaska. They noted that traditional Tlingit property law "was still poignant in memory and in the actions of the people of several communities" and "Native law remains a force in Tlingit and Haida daily life." *Id.* at 17. Their region-wide research documented that the "Tlingit had well defined conceptions of property and legal rights." *Id.* at 16. The researchers observed some weakening of Native culture due to the foreign influence of American customs over the past 80 years, but found that the influence "is not a denial of the old rights to land nor of the continued importance of these old rights" and that "the recognition of ancient clan rights to land, and the old status system based upon such ownership . . . are still poignant in the lives of the Natives of the southeastern portion of Alaska." *Id.* at 16-17. Thus, there is no doubt that the restrictions against alienation of clan property by caretakers under tribal law obtained when Paul loaned the hat to the Museum in 1947.

Goldschmidt and Haas (1946) found that the clans were the basic property-holding units in Tlingit society. They owned land and other valuable property. *Id. at 12.* Goldschmidt and Haas stated the general rule at 16:

> The clan or house is an economic group in Tlingit society which, like a corporation in western society, controls the use of certain lands and other valued properties. The head of the clan or house group is the person directly responsible for administering the property, but according to custom, his rights are subject to certain restrictions. The most important of these are that (1) he cannot sell the right—though it may be transferred in legal settlement to another group, and (2) he must allow the use to appropriate members of his group.

That rule was interpreted in 1959 by a federal court in *Tlingit and Haida Indians v. United States,* 177 F. Supp. 452 (Ct. Cl. 1959), where the Tlingit sought compensation for the taking of aboriginal land. In awarding over 7 million dollars in damages for the

taking of Tlingit aboriginal land in southeastern Alaska, the court found that the general rule of Tlingit law pertaining to clan land and natural resources was in effect at the time that the land was taken by the United States in the twentieth century: After extensive hearings on Tlingit culture and traditional property rights, the court found that clans own the property rights to land in Tlingit society, with significant restrictions against alienation. The court stated at 456:

> The modes of living and of dealing with property among these Indians were regulated by rigidly enforced tradition and custom, and except under special circumstances, there was no authority in a clan or clan division to sell, transfer, or otherwise dispose of, in whole or in part, any claimed area of land or water. [emphasis supplied.]

That the Teeyhíttaans subscribed to that tribal property law principle from the beginning of the twentieth century into the 1950s is evident from the clan's persistent efforts to protect Teeyhíttaan clan land rights in *Tee-Hit-Ton Indians v. United States,* 348 U.S. 372 (1955) (involving a taking of clan property by the Forest Service in 1952), and in the related land claims litigation carried on throughout the 1950's, including the *Tlingit and Haida* decision of 1959 (involving the taking of clan property beginning in 1907 to establish the Tongass National Forest).

Similarly, the clans also own tangible tribal cultural property known as *at.óowu,* which includes the Teeyhíttaan Clan Crest Hat, as discussed in the preceding section. *See,* Section II.A, paragraphs 2-7 (reciting the uncontroverted facts in this dispute). Consistent with the general federal Indian law property rules on cultural property described in *Cohen* (2005), *supra,* under Tlingit law, clan members own no individual property interest in ceremonial *at.óowu,* and they cannot devise, sell, transfer, or otherwise alienate that communal property, especially without the consent of other members of the clan. *See,* authorities discussed in footnote 18, *supra.* A Tlingit clan holds such cultural tribal property on behalf of future generations, which is a precept that is founded on the culture's notions that these clan objects (1) contain the spirits of ancestors, (2) are necessary to maintain the social and spiritual harmony of the clan through ceremonial display, and (3) clan survival depends upon continuity with future generations who will own and use that property. *Id.*

Importantly, the authority of clan caretakers of cultural property, or *at.óowu,* is carefully circumscribed by tribal law: The caretakers hold that property in trust with a fiduciary duty to use and protect the property for the benefit of clan members; and they lack the authority to alienate communally own tribal cultural property of the clan, especially when the consent of the clan is not obtained.[22] This restriction on the alienation of clan property obtains even if the caretaker desires to dispose of clan cultural property.

The general rules pertaining to cultural property are for all practical purposes the same as those that govern clan land rights, as seen in the protracted efforts by the Tlingit village of Klukwan to protect clan ceremonial *at.óowu* from unlawful alienation to art dealers, a legal struggle that spanned the 1970s to the 1993 tribal court decision in *Chilkat Indian Village, IRA v. Johnson, et. al,* No. 90-01 (Chilkat Tr. Ct., Nov. 3, 1993) (Slip Opinion) (Attached herto as "Exhibit 1").[23]

In this case, the court examined extant Tlingit property law in a four-week evidentiary trial on the subject that gathered extensive expert and traditional evidence about the ownership and alienation of clan cultural property. The evidence compiled shows the continuity of traditional Tlingit property beyond 1969, including the vitality of the principles relied upon by Sealaska in this dispute. The *Chilkat* decision involved the unlawful alienation of communally-owned clan ceremonial property by individual Tlingits. The court made several instructive findings and holdings. The property at issue in the case was similar to the Teeyhíttaan Clan Crest Hat in this dispute, since it was "'clan trust property' with great spiritual significance to the Ganexteidi Clan." Slip Opinion, Exhibit 1 at p. 6.[24] The court found that under tribal law, the duty of a caretaker

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[22] *See,* these authoritative sources for this rule: Goldscmidt and Haas, *supra* at 17 (a clan leader cannot sell clan property); George Emmons, *The Tlingit Indians* (Seattle: Univ. of Wash. Press, 1991) at 27, 39 (While clan leaders are highly respected, their actual authority is limited, and major decisions that involve the interest of the clan are subject to clan consent); R.L. Olsen, "Social Structure and Social Life of the Tlingit in Alaska," Anthropological Records, Vol. 26 (Berkeley: University of California Press, 1967) at 37 (the trustee alone does not have the authority to alienate clan property)

[23] The related string of litigation in this matter includes, *Chilkat Indian Village v. Johnson,* 643 F. Supp. 535 (D. Alaska, 1986), *aff'd in part, rev'd in part,* 870 F. 2d 1469 (9th Cir. 1989), as well as a village ordinance enacted in 1976 to codify tribal legal protections of clan property against alienation contrary to Tlingit law.

[24] Credible evidence explained how property "is confirmed as being clan trust property, which includes presenting it in a ceremony in which members of the opposite [clans or moiety] are invited, which completes the confirmation of the clan trust property." *Id.*

of that property is simply "to care for the property of the house and clan, and *has no right to sell or otherwise dispose of clan property*." *Id.*[italics supplied]. Instead, the clan "as a whole would control decisions about the custody of the artifacts." *Id.* at 10. The court found that a caretaker does not have "the right to unilaterally dispose of clan crest objects." *Id.* Dr. Rosita Worl, "a noted Tlingit anthropologist" summarized the rule in her expert testimony, stating: "Under Tlingit law, such objects cannot be sold, unless for some reason (such as restitution for a crime) the entire clan decides to do so." *Id.* She added, "[t]he participants in a clan decision such as this would include all adult males, and high-ranking women." *Id.* at 10-11. The same principles of Tlingit property law established in this 1993 trial apply to the 1969 period when Paul allegedly attempted to alienate the Teeyhíttaan Clan Crest Hat to the Alaska State Museum.

Based upon these findings, the *Chilkat* court held that the individual Tlingit Indians violated a tribal ordinance that codified Tlingit law by removing the clan artifacts without permission and ordered them to return the *at.óowu* to the village on behalf of the clan. In so doing, the court rejected the defendants' defense—which is similar to the Museum's contention in this case—"that traditional Tlingit culture is dead, and thus tribal law is not valid." *Id.* at 19. In rejecting that defense, the court stated:

> The defendants' argument that Tlingit culture is essentially dead was unsupported by the trial evidence. While the culture has been under assault from non-Indian outsiders and institutions, the lengthy testimony of many credible witnesses at trial confirmed the validity of Tlingit culture at Klukwan, and the continuing, important role of traditional law. The court finds that the Chilkat Indian Village maintains and nourishes its culture—even though that culture, like any, is dynamic and ever-changing as a function of time and changed circumstances. [25]

Id. at 20. The findings and holdings of the *Chilkat* decision demonstrate that Paul lacked the authority to alienate the hat as a Tlingit caretaker in 1969 without the consent of the Teeyhíttaan clan under Tlingit property law, which continued its vitality and importance among the Tlingit clans through the end of the twentieth century and beyond.

The general rules of Tlingit cultural property law remained in effect among the clans during the twentieth century, along with rigorous restrictions on the right of

[25] This finding is consistent with and shows the continuity of the findings of Goldschmidt and Haas in 1946 that Tlingit property law remains important among the clans despite pressures from non-Indian outsiders and institutions.

caretakers or clan leaders to alienate that property. This fact is illustrated not only by the above cases, but also by the many successful Tlingit NAGPRA claims in similar situations, where "sacred objects" and "objects of cultural patrimony" were alienated during the twentieth century in violation of extant Tlingit law at the time of alienation. Appendix C shows over twenty such cases repatriating the cultural property of twelve clans. In these cases, seventeen different museums repatriated forty objects of Tlingit *at.óowu* as "objects of cultural patrimony," rather than property owned by a Tlingit individual or clan leader, because that person had no authority to alienate clan property under extant Tlingit law. Tellingly, the Alaska State Museum itself recognized the continuing validity of these same Tlingit legal principles in its 2008 repatriation of Wolf House *at.óowu* (Appendix D), and applied those rules to repatriate that "cultural patrimony," because that clan property was alienated in violation of Tlingit law. In so doing, the Museum correctly recognized the persistence of Tlingit law in the twentieth century. Its determination is summarized in the Notice of Intent to Repatriate, Federal Register (Feb. 25, 2008, Vol. 73, No. 37):

> Under Tlingit law, the tunic is considered at.oow of the Wolf House of the Sitka Kaagwaantaan, and is by definition the property of the group. Based on Tlingit law, the tunic is an object of cultural patrimony and has ongoing importance to the clan. While at.oow is cared for by a clan leader it remains communal property. In this case, the tunic was alienated by the widow of the caretaker, Lily Yarkwan, who belonged to another clan. Officials of the Alaska State Museum have determined that, pursuant to 25 U.S.C. 3001(3)(D), the tunic has ongoing historical, traditional or cultural importance central to the Native American group or culture itself, rather than the property owned by an individual. Officials of the Alaska State Museum also have determined that pursuant to 25 U.S.C. 3001 (13), the museum does not have the right of possession to the object of cultural patrimony.

In this case, the Alaska State Museum failed to apply the same principles of Tlingit property law and seeks to deny the Tlingit rules against alienation that were in place when Paul allegedly alienated the hat without obtained the consent of the Teeyhíttaan clan.

In sum, under the general rules of Tlingit property law governing the ownership and alienation of tribal cultural property, or *at.óowu*, William Paul, as caretaker of the Teeyhiittaaan Clan Crest Hat, did not have the authority of alienation in 1969 under extant tribal law, because the evidence in the record indicates that for reasons known only to him, Paul unilaterally alienated the hat and no evidence exists in the record that he sought or received the informed consent of the clan to alienate clan property. Consequently, Paul lacked authority to convey title to the hat. As discussed next, the Museum's effort to legitimize that alienation under Tlingit law lacks merit.

(2) The Museum failed to show the Existence of any Exception to the Tlingit Rule Against Alienation that applies to the Facts of this Case.

The Museum Report presents six arguments to support its ownership claim under Tlingit law and the "right of possession" standard of NAGPRA. *See,* Museum Report, Appendix G at 12-18. Each are addressed below, and none have merit.

1. Tlingit law allows the alienation of clan cultural property to museums. (Appendix G at 13). The Museum erroneously states that Sealaska contends that no alienation is ever allowed outside Tlingit culture under any circumstances under Tlingit law. This is not entirely true, as the legal authorities relied upon by Sealaska do recognize the transfer of clan ceremonial property under narrow circumstances sanctioned by Tlingit law; however, none of those circumstances allow the unilateral alienation of such property by a clan leader or caretaker to a museum for undisclosed reasons without the consent of the clan.[26] The Museum asserts that Tlingit law specifically allows the alienation of clan property by a clan leader to museums, citing a 1995 and 2001 resolution of the Central Council of Tlingit and Haida Tribes. *Id.* at 13. These resolutions were not Tlingit law in 1969 at the time of the alienation.[27]

2. Clan property can be alienated without the consent of all clan members. (Appendix H at 15). While the Museum spends several pages disputing a rule that Tlingit law requires *unanimous consent by all clan members* in order to alienate clan cultural property, that argument does not help sustain the Museum's ownership claim in this case,

[26] *See,* footnote 19, *supra.*

[27] Nor can they be read to state a new rule of museum property ownership.

because the evidence in the record in this dispute shows that Paul acted alone, without the consent of anyone. Hence, even assuming for the sake of argument that the Museum is correct, Paul still did not have the authority of alienation since no evidence exists in the record to show that he had the consent of any clan member.

3. There is a "presumption of regularity" unless clan members made overt efforts to halt the transaction or punish William Paul. (Appendix H at 16). The Museum is attempting to re-write the burden of proof specified in 43 CFR 10.10 and the four-step evidentiary process provided therein. The Claimant sustained its *prima facie* burden of proof that the museum lacks a "right of possession" under 43 CFR 10.10(1)(i)—(iii), based upon documentary evidence that Paul alienated the hat unilaterally. The burden then shifts to the museum to "present evidence to the contrary proving that it does have a right of possession." 43 CFR 10.10(1) (iv). Neither the regulations nor the statute contain a "presumption of regularity" that obviates the Museum's burden of proof under 43 CFR 10.10(iv), as suggested by the Museum. Though the Museum complains that it is difficult to know whether donors have the legal authority of alienation, that is the nature of any property transaction in American commerce, and the familiar general principle *caveat emptor* ("let the buyer beware") applies as much to museums as to any other party who without a warranty bears the risk of faulty title from a seller or donor. NAGPRA certainly grants no exception to this familiar rule to museums. On the contrary, NAGPRA sought to redress tribal people for the massive loss of cultural items alienated by Indians who improperly alienated cultural property without a legal right of alienation under tribal law. *See,* Trope and Echo-Hawk (1992), *supra,* at 43-45.

4. Paul's donation was a sanctioned exception to the rule against alienation, because it is like "a gift from the Clan to a sovereign," and consequently Paul needed no consent before making that gift. (Appendix H at 16). The Museum stretches the imagination too far with this novel theory. In the facts of this case, Paul's donation to the museum bears no resemblance to "a gift from the Clan to a sovereign," and it did not involve any international diplomacy at all; nor does the conveyance fall into any of the narrow circumstances sanctioned by Tlingit law for alienating clan property by a clan leader or caretaker. *See,* footnote 19, *supra.*

5. The Museum has no burden to prove that it has a "right to possession" unless Sealaska offers additional proof that Paul was punished by the clan, or that the clan contacted the museum to halt or protest the transaction. (Appendix H at 16). The Museum insists that Paul had clan consent to alienate the hat, but provided no evidence whatsoever to substantiate its surmise and speculation. Since it provided no proof that Paul had the authority of alienation, the Museum grasps at straws by manufacturing a "presumption of regularity" (see # 3 above), and asserting that it has no burden of proof after Sealaska has made a *prima facie* showing that the Museum does not have a right of possession under 43 CFR 10.10(1)(iii). The Museum's insistence upon further evidence from Sealaska is not the law.

6. Under a brand new rule of Tlingit Law of the Museum's own making, clan leaders and caretakers do not need <u>any</u> consent at all to dispose of clan property as they see fit. (Appendix H at 18). As a last resort, the Museum creates a brand new rule of Tlingit law in which caretakers in the twentieth century do not need the consent of anyone to alienate clan property, because they may dispose of such property as they see fit. This novel and radical departure from Tlingit law cannot be taken seriously. It have never been the law, especially in 1969, or now; and the Museum's novel notion is at odds with the twentieth century cases and NAGPRA repatriations that hold otherwise. The Museum's novel position seriously disserves the Tlingit people of southeastern Alaska by undermining important safeguards for tribal cultural property embedded in Tlingit law—namely, the requirement that caretakers of cultural property as trustees must have consent of the clan owner to alienate clan property. Without that legal safeguard, clan property would quickly be stripped clean by museums, art dealers, and others as done in the pre-NAGPRA era that Congress sought to rectify with the passage of NAGPRA.

CONCLUSION

For all of the above reasons, the Museum failed to establish its ownership claim and "right to possession" in this dispute. Sealaska is entitled to the relief requested in the Dispute Letter.

Respectfully submitted this 23rd day of July, 2010,

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Exhibit 1

Chilkat Indian Village, IRA v. Johnson, et al.

CHILKAT INDIAN VILLAGE TRIBAL COURT

CHILKAT INDIAN VILLAGE, IRA v. JOHNSON, et al.

No. 90-01 (Chilkat Tr. Ct., Nov. 3, 1993)

Summary

In an action brought by the Chilkat Indian Village, IRA against an individual and a corporation and individuals comprising the "Whale House Group" for the conversion of tribal trust property and violation of a tribal ordinance which prohibits the removal of such property from the village without prior notification of and approval by the Chilkat Village Council seeking declaratory and injunctive relief and monetary damages, the Chilkat Indian Village Tribal Court orders the return of artifacts and the payment of expenses for the artifacts' return as well as costs and fees of litigation.

Full Text

Before BOWEN, Tribal Court Judge

BOWEN, Tribal Court Judge

Decision

Background

This case involves the 1984 removal of four house posts and a rain screen, known as the "Whale House artifacts," from the Chilkat Indian Village in Klukwan, Alaska. The Chilkat Indian Village (village, tribe) filed this action in this court on January 8, 1990, against Michael R. Johnson, his corporation, and the individuals comprising the "Whale House Group."

The complaint sets forth two causes of action. First, the village alleges that defendants attempted to convert tribal trust property to their exclusive use and benefit. Second, the village alleges that defendants violated a tribal ordinance which prohibits removal of such property from the village without prior notification of and approval by the Chilkat Village Council, which is the tribe's governing body. The village seeks declaratory and injunctive relief, as well as money damages.

Following the resolution of procedural motions, as well as agreed continuances and stays in both tribal and federal district court, on January 2, 1992, defendants, through counsel Ms. Willard, filed answers generally denying the allegations in plaintiff's complaint, as well as alleging broad counterclaims (discussed below) against plaintiff.

A four-week court trial was completed on February 12, 1993. This matter is now ripe for decision. However, before addressing the merits of this tribal court case, it is useful to review related proceedings in federal court. As noted below, the federal district court (D. Alaska) retains jurisdiction of the related federal action in this matter in J84-024-CV (JAV).

After the 1984 removal of the artifacts from the village, the tribe filed an action in federal district court against Michael Johnson and his corporation (case no. J84-024 (D. Alaska)). Among other things, the federal court complaint

alleged violation of the 1976 Tribal Ordinance governing removal of artifacts from the village (discussed below), and sought injunctive and monetary relief. On November 21, 1984, the district court enjoined Johnson in his personal and corporate capacities from selling or disposing of the artifacts, arid ordered the tribe to join 14 individuals comprising the Whale House Group as named defendants. Following joinder of the Whale House defendants, and upon the tribe's October 22, 1985, summary judgment motion, the district court dismissed the tribe's claim that 18 U.S.C. §1163 (prohibiting embezzlement and theft from Indian tribes) created a private cause of action in federal court. *Chilkat Indian Village* v. *Johnson,* 643 F. Supp. 535 [13 Indian L. Rep. 3137] (D. Alaska 1986). In a separate memorandum and order, the district court ruled *sua sponte* that it lacked subject matter jurisdiction over the tribe's remaining claims. In so doing, the court held that the tribe's claim that the artifacts were communally owned mid defendants removed them without permission was a conversion claim arising under state rather than federal law. The district court further held that the tribe's 1976 Ordinance prohibiting removal without obtaining prior council approval did not arise under federal law for purposes of 28 U.S.C. §§ 1331 and 1362.

On appeal, the Ninth Circuit Court of Appeals affirmed the dismissal of claims against the Tlingit defendants and die dismissal of the claim founded on 18 U.S.C. § 1163. *Chilkat Indian Village v. Johnson,* 870 F.2d 1469, 1476 [16 Indian L. Rep. 2115] (9th Cir. 1989).[1] The court of appeals reversed, however, regarding the village's claim against Michael Johnson and his corporation, holding that the tribe's enforcement of its ordinance against those non-Indian defendants raised federal questions. *Id.* at 1475. The court observed that "the heart of the controversy over the claim will be the Village's power, under federal law, to enact its ordinance and apply it to non-Indians." *Id.* at 1474. Questions such as whether the village is a federally recognized tribe, whether it possesses general legislative powers, or jurisdiction over the artifacts and defendants in particular, and whether its fee lands constitute Indian Country, were noted and described by the Ninth Circuit as issues which "are not before us now, but they are federal questions and they lie at the heart of the Village's claim to enforce its ordinance." *Id.*

In remanding the case to the district court, the Ninth Circuit did not address the question, which it said was not discussed by the parties, whether the case was subject to requirements of exhaustion of remedies in tribal court under *National Farmers Union Ins. Cos. v. Crow Tribe,* 471 U.S. 845, 856-57 [12 Indian L. Rep. 1035] (1985). However the court did note that "[a]n earlier action arising out of this same controversy was dismissed partly because the issues might better be addressed in a tribal forum. *Johnson v. Chilkat Indian Village,* 457 F.Supp. 384 (D. Alaska 1978)." *Id.* at 1475 n.11.

On remand, Johnson moved for summary judgment on the basis that even if the tribe had the authority to enact the 1976 Ordinance and apply it to him, he did not violate it. On January 11, 1990, the district court rejected Johnson's argument, holding that if the village possessed sufficient attributes of sovereignty, then "the district court must abstain from hearing the suit until the parties have exhausted tribal remedies." Memorandum and order, slip op, at 9-10 (Jan. 11, 1990). The district court directed the parties to brief the threshold questions whether the village possesses the sovereign authority associated with tribal status and whether exhaustion is required. *Id.* at 11.

In its October 9, 1990 memorandum and order the district court granted the tribe's motion for summary judgment on the issues of tribal sovereignty and exhaustion. The court found that "acts of Congress and the executive lead this court to conclude that Chilkat Indian Village has been recognized as a tribe by the federal government." *Id.* at 12. The court noted the principle of federal Indian law that tribes possess retained civil regulatory and judicial authority in civil matters over non-Indians, and cited controlling language in *Montana v. United States,* 450 U.S. 544, 565 [8 Indian L. Rep. 1005] (1981) governing tribal civil authority over non-Indians. The district court then made the following significant holding.

> The court agrees with the plaintiff in that the power to pass the ordinance that is in dispute in this case was part of the retained, inherent power of the Chilkat Indian Village. In addition, it would appear that under its constitutional power, Chilkat Indian Village had the power to prevent the sale or disposition of any assets of the Village without the consent of the Council. The court further agrees that alleged acquisition by a non-Indian of the artifacts in question would constitute conduct that would have some direct effect on the welfare of the tribe.

Slip op. at 13-14 (Oct. 9, 1990).

On the subject of Indian Country as defined by 18 U.S.C. § 1151, the district court concluded that the village-owned fee lands at Klukwan, from where the artifacts were removed, constitute a "dependent Indian community" under that statute and applicable law, and thus are "Indian country." In rejecting defendants' argument that the Alaska Native Claims Settlement Act (ANCSA)[2] extinguished the village's authority over any defined territory, the court noted that "[a] fundamental canon of construction in Indian law is based on the principle that there must exist a 'clear and plain' intention to abrogate or limit an Indian right. *United States v. Santa Fe Pac. R.R.*, 314 U.S. 339, 353, 625. Ct. 248, 255 (1941)." Slip op. at 14. Finding that nothing in the ANCSA preamble "indicates a 'clear and plain' intention to *extinguish* Chilkat Indian Village's dependent status as it existed prior to the passage of ANCSA," the district court concluded "[t]herefore the status of the dependent Indian community was not extinguished by ANCSA." *Id.* at 15.

Finally, pursuant to the rules governing exhaustion set out in *National Farmers Union, supra,* and *Iowa Mutual Ins. Co. v. LaPlante,* 480 U.S. 9 [14 Indian L. Rep. 1015] (1987), the district court submitted all issues pending in the case, including challenges to tribal jurisdiction as well as the merits of the tribe's claims that Johnson and his corporation violated the tribal ordinance, to this tribal court.[3]

Returning to the pre-trial procedural history of this case in this tribal court, as noted above, the plaintiff filed its complaint in this tribal court on January 8, 1990. That same day, Joe Hotch and Ed Warren, the duly appointed chief judge and alternate judge of this court, recused themselves (both were witnesses at trial, as were many of the leaders of the small Indian village). Eventually the undersigned was appointed as special judge by Chilkat Indian Village Resolution No. 90-006. With the above-described proceedings continuing in federal court, the parties agreed to stay proceedings in this court-except for continuing efforts by plaintiff to accomplish service of process on all defendants-until such time as the federal district court completed its (potentially dispositive) rulings on issues related to tribal status and exhaustion.

Following the above-described federal court proceedings, and pursuant to an order of this court regarding the filing of potentially dispositive motions, on March 15, 1991, defendants filed a "motion to dismiss and motion for summary judgment on behalf of all potential defendants." Plaintiff filed an opposing brief and defendants filed a reply. This court's November 27, 1991 memorandum and order denied defendants' motion with respect to arguments dealing with the subjects of timely service, statute of limitations, real party in interest, standing, and indispensable parties. Pursuant to Fed. R. Civ. P. 12(d),[4] jurisdictional challenges were deferred so that additional and more complete evidence could be developed at trial.

A lengthy telephonic conference was conducted by this court on December 20, 1991, resulting in a comprehensive scheduling order dated January 15, 1992. On June 29, 1992, Donna Willard, attorney for all defendants, filed a motion for withdrawal for cause, citing irreconcilable conflicts.[5] Following an August 3, 1992 telephonic hearing on the motion and other matters, this court issued an order that same date granting her motion for withdrawal. The tribal court received copies of pleadings indicating that the federal district court granted a similar motion soon thereafter. Since that time, then, the defendants have represented themselves, including during trial.

In the months preceding trial, which commenced January 18, 1993, in the tribal court at Klukwan, Alaska, there were disputes regarding discovery motions, alleged noncompliance, and resulting orders. This court denied a motion by defendant Irene Rowan to continue the trial date for several months,[6] and ordered defendants Michael R. Johnson and his corporation to comply with plaintiff's disco very requests by January 8, 1993. This date extended the original deadline, with which defendants had still not complied, but rather had responded by requesting further delay in court-ordered deadlines based on unsubstantiated and, likely disingenuous reasons.[7] A final pretrial conference was telephonically conducted January 11, 1993. Consistent with the court's practice upon issuance of the order allowing defendants' counsel Donna Willard to withdraw, notice was provided to all named defendants. Electing to participate were plaintiff's counsel Joseph Johnson and defendants Irene Rowan, Ronald Sparks, and William Thomas noted in this court's order following final pretrial conference, dated January 13, 1993, "[d]efendant Michael Johnson received notice, and, according to Irene Rowan, Michael Johnson telephoned her the morning of the hearing, discussed certain substantive matters with her, but apparently decided not to participate." Order following final pretrial conference at 1.

Applicable Law

The law applicable in this tribal court action is tribal law, which is comprised of both written and unwritten, custom law of the village.[8] The written manifestations of applicable tribal law include the Constitution and By-Laws of the Chilkat Indian Village, as amended, Ordinance 80-001, establishing a Chilkat Indian Village trial and appellate court system, and what is perhaps the most significant written expression of tribal law applicable to this case, the Ordinance of May 12, 1976 (Artifacts Ordinance) which reads as follows.

> No person shall enter onto the property of the Chilkat Indian Village for the purpose of buying, trading for, soliciting the purchase of, or otherwise seeking to arrange a removal of artifacts, clan crests, or other traditional Indian art work owned or held by members of the Chilkat Indian Village or kept within the boundaries of the real property owned by the Chilkat Indian Village, without first requesting and obtaining permission to do so from the Chilkat Indian Village Council.
>
> No traditional Indian artifacts, clan crests, or other Indian art works of any kind may be removed from the Chilkat Indian Village without the prior notification of and approval by, the Chilkat Indian Village Council.[9]

As the district court noted in 1978 and again in 1990[10] when it referred this case to this court, article IV ("Powers of the Village") of the tribe's federally approved constitution and bylaws provides that the seven-member village council has the power to "prevent the sale, disposition, lease, or encumbrance of any land or waters, or other assets of the Village without the consent of the Council." Art. IV, §(l)(e). Under section (1)(n) of the same article, the council has the power to "preserve and cultivate the arts, crafts and culture of the Indians of this community and their customs..."

Ordinance 80-001 (Tribal Court Ordinance), which defines basic aspects of the tribal court system, was enacted on April 29, 1980, following discussions with officials of the Bureau of Indian Affairs (BIA), and amendment of the tribe's constitution (certified by the BIA's Area Director for Alaska). The constitutional amendment added a new section making it clear that the tribe had authority to "adjudicate matters of a civil and criminal nature, arising within the geographic limits of the real property owned by the Village. . . ." Art. IV, §1(0).

The Tribal Court Ordinance establishes trial and appellate courts of record, sets forth the qualifications of judges, provides for the appointment of judges *pro tem,* as was required in this case where the sitting judges might have had or be perceived to have a conflict, and addresses the law to be applied in cases brought in the court, including applicable Tlingit custom law. Article III includes a provision disclaiming any criminal jurisdiction. Article VII, § (l)(b) of the Ordinance provides that pending the adoption of tribal procedural rules, "the Federal Rules of Civil and Appellate Procedure, insofar as they are applicable and compatible with Tlingit custom and law, shall be followed in the Trial Court and Court of Appeals of the Chilkat Indian Village."

As is common in many tribal courts, strict rules of evidence applicable in state and federal court trials were not imposed by this court. The only rule of evidence at trial was relevancy.

Issues

Some of the threshold issues raised by defendants have already been decided. As noted above, this court adopted as a matter of tribal law the district court's holding that the village is a federally recognized tribe. *See* n.9, *supra.* This court's November 27, 1991 memorandum and order also held that the tribe has the authority to establish a tribal court as a function of its retained, inherent judicial powers. *Id.* at 6.

Additionally, this court adopts as a matter of tribal law the district court's holding quoted above (at 5-6) that the village had the authority to enact the Ordinance of May 12, 1976,[11] governing removal of artifacts, and that the "alleged acquisition by a non-Indian of the artifacts in question would constitute conduct that would have some direct effect on the welfare of the tribe.. .." Slip op. at 13-14 (Oct. 9, 1990).

There is no dispute about the basic facts surrounding the physical removal of the artifacts from the Whale House in Klukwan during April 1984.[12] Rather, the issues to be decided are: (1) whether the Whale House rain screen and four

house posts constitute "artifacts, clan crests, or other Indian art works" within the meaning of the relevant tribal ordinance; (2) whether the tribe has the power to enforce the ordinance against the defendants, including the non-Indian art dealer, Michael Johnson and his corporation; (3) whether any or all of the defendants violated the ordinance; (4) whether defendants have presented any defenses which preclude judgment against any or all of them; and (5) whether defendants can pursue counterclaims against the tribe, and if so, whether such counterclaims have been established. Finally, this court will determine the appropriate relief and other remedial orders which should issue.

Plaintiff must establish its claims by a preponderance of the evidence. The same standard applies to defendants' counterclaims. The following discussion is a chronological account of the testimony and documentary evidence presented at trial which is relevant to the above issues.

Discussion

The trial in this matter commenced January 18, 1993, and ended February 12, 1993. Before opening court, the court agreed to meet with the parties, and a number of procedural and special needs aspects were discussed. Defendants informed the court that all named Tlingit defendants would attend and participate, with the exception of Mia and Rochene Rowan. Their mother Irene Rowan informed the court that they were away from the area and that she would represent them. The trial schedule was discussed in light of such concerns as the special needs of defendant Margaret Thomas, who is diabetic and the oldest among all defendants. There was no problem reaching agreement as to the hours in which court would be held at Klukwan in order to accommodate special needs, as well as the expressed needs of defendants to caucus and otherwise prepare on a daily basis for trial.[13]

Particular concerns of several defendants regarding their rights at trial and Opportunity to present all aspects of their case were discussed, defined, and resolved. The Tlingit defendants made it clear that they were not representing defendants Michael Johnson and his corporation.

The parties were reminded that, while opening statements would not constitute evidence, the parties could use that avenue to state objections on the record, which the defendants had verbally raised in the off-record pretrial meeting.

The opening statement of plaintiff's counsel Joseph Johnson provided an overview of plaintiff's case, including a reading of the May 12, 1976 Ordinance, and what plaintiff expected to establish at trial. Among other things, attorney Joseph Johnson emphasized the role of art dealer Michael Johnson, beginning at least in 1971, in offering large sums of money in his quest to acquire the artifacts, and the effect of those efforts on the tribal community.

Defendants William A. Thomas, Jr. (Bill Thomas), Evans Willard, Clifford Thomas, David Light, Christine Thomas Martin, Margaret Thomas, and Irene Rowan all made opening statements. They all took the position that the tribal court lacked jurisdiction over them and the subject matter of the case, and emphasized that they appeared "under protest" in order to defend the good name of their family, including deceased relatives who had been accused of wrongdoing in connection with the removal of the artifacts. Defendants at trial were reassured that their objections were duly noted and preserved, and that the court subscribed to the general legal maxim that fundamental jurisdictional challenges are never waived.

Plaintiff called as its first witness Joe Hotch, President of the Chilkat Indian Village Council. Mr. Hotch, who was recalled to the stand three times during the trial, was at all times found to be a credible witness. He began his testimony by explaining the significance of the traditional regalia (headpiece and shirt) which he wore while testifying. He then provided some demographic information about Klukwan.

The village has a population which varies from 110-120 people in the winter, to 150-175 people in the summer. With the exception of about ten people, Mr. Hotch stated that all residents are Tlingit Indians. The tribe, which is organized and has a constitution and bylaws pursuant to section 16 of the Indian Reorganization Act, 25 U.S.C. § 476, collectively owns all of the land in the village, including all of the real property on which all residences are situated.[14] Joe Hotch stated that the tribal council, of which he is president, is regarded by village members as the sole governing body. He stated that at various times some of the Tlingit defendants served as members of the council, including Evans Willard, David Light, Wes Willard, and Bill Thomas.

Mr. Hotch, whose parents were Victor and Annie Hotch, is a member of the Eagle (or Wolf) moiety, Eagle Clan, and Bear and Killer Whale houses. He is the caretaker, *i.e., "hitsati"* of the Killer Whale House. He stated that his father Victor Hotch was a member of the Valley House (Ganexteidi Clan of the Raven moiety). Mr. Hotch emphasized that a *hitsati* has the duty under tribal law to care for the property of the house *and* clan, and has no right to sell or otherwise dispose of clan property.

Mr. Hotch's testimony addressed several aspects of Tlingit social structure, which is complex, and was covered in detail by other witnesses such as Rosita Worl, a highly regarded Tlingit anthropologist, whose testimony is discussed below. All Tlingits are either of the Raven or Eagle (also called Wolf) moiety, which exists primarily for marital purposes. Under Tlingit custom law one must marry only a member of the opposite moiety, regardless of the lack of blood relation of prospective marital partners of the same moiety.

Although identification by Tlingits as members of a particular village is very significant for many purposes, the clan is the primary and most important affiliation for Tlingits. While there are several clans within the Eagle moiety at Klukwan, perhaps conveniently, all Ravens in Klukwan are members of the Ganexteidi Clan. Finally, within each clan there are different house groups. Mr. Hotch listed all of the house groups in Klukwan. "Houses" in this context refer to physical structures, which traditionally housed nuclear families.[15] *See generally, G.* Emmons, *The Tlingit Indians* (edited with additions by Frederica de Laguna, 1991).

Regarding the four house posts (sometimes called poles or totems) and rain screen here at issue, Joe Hotch testified that they were "clan trust property," with great spiritual significance to the Ganexteidi Clan, which has primary custodial rights over them. Mr. Hotch and other witnesses explained that the tribe on the whole also has an interest in the artifacts because they have tremendous significance not just for Ravens, but for all Eagles in Klukwan as well.

Joe Hotch described in eloquent terms the healing quality which the artifacts assume. For example, when a member of an opposite clan (of the Eagle moiety) died, and a potlatch was held as a part of the progression of Tlingit funeral arrangements, members of the grieving clan would be brought before the rain screen and told that it constituted medicine which would relieve the loss of their clan member.

Mr. Hotch also provided detailed testimony regarding how certain property is confirmed as being clan trust property, which includes presenting it in a ceremony in which members of the opposite "tribe" *(i.e.,* in this case members of clans of the Eagle moiety) are invited, which completes the confirmation of the clan trust status of property such as the Whale House artifacts, which, according to Mr. Hotch, were subject to this process. Joe Hotch recalled attending many ceremonies at the Whale House in which the artifacts played a central role.

He also recalled the two unsuccessful attempts in the mid-1970s to remove the artifacts from the Whale House in Klukwan. He recalled that in 1976 Estelle DeHaven Johnson,. a Tlingit who was the granddaughter of "Chief Shotridge" of the Whale House, attempted to remove the artifacts with the backing of art dealer Michael Johnson. The attempt was thwarted when villagers (Victor Hotch in particular by some accounts) placed one or more skiffs (small vessels) in front of the door to the Whale House. Joe Hotch (and others) recalled that following the first unsuccessful removal attempt, Michael Johnson financed a federal court action to determine ownership of the artifacts. *Estelle Johnson v. Chilkat Indian Village, et at.,* 457 F. Supp. 384 [5 Indian L. Rep. F-194] (D. Alaska 1978), although the pendency of that action did not deter a second attempt to remove the artifacts later in 1976.[16] That second attempt was unsuccessful when the village siren was sounded, trees were felled blocking exits of the village, and members of the tribe acted together to prevent the removal. [17]

Joe Hotch identified plaintiff's exhibit (ex.) 6, which was admitted during Mr. Hotch's testimony. That document, dated October 7, 1976, was signed by Mr. Hotch's father Victor Hotch, and witnessed by Joe Hotch and Richard King. It reads:

> To Whom It May Concern:
>
> I, Victor Hotch, of Klukwan, Alaska, state that I no longer wish to be associated with any plan or option or agreement for the sale and removal of houseposts, screens, or other Tlingit Indian artifacts kept in the

Whale Clan House at Klukwan. By this letter I withdraw any permission which I have previously given to any person, including Michael and Sharon Johnson and the Northwest Historical Corporation for the sale and removal of the Whale House artifacts.

Plaintiff's ex. 6. According to Joe Hotch, his father executed this statement around the time that he had returned checks to Michael Johnson: one for $50,000, and another for $1,000, which had been tendered in an attempt to solicit Victor's support for the removal and sale of the Whale House artifacts. Joe Hotch testified that he and Richard King, members of the Eagle moiety, witnessed the document, which was significant because as members of an opposite clan of the Eagle moiety (Victor was a Raven), the appropriate "stamp" under Tlingit custom law was put on the document.

Joe Hotch testified that around the same time, *i.e.,* the Fall of 1976, a peace party was held in Klukwan, attended by representative clans of both moieties, for the purpose of confirming the position of the community on the whole that the Whale House artifacts should not be removed. The congregation was also intended to heal wounds resulting from contacts initiated by Michael Johnson with a number of village residents, which involved discussions about the possibility of removing the Whale House artifacts, which would then be sold on consignment by Michael Johnson.

Joe Hotch testified that he had taken it upon himself to earlier write to Michael and Sharon Johnson to express his objection to Mr. Johnson's offers of large sums to entice the sale of the Whale House and other artifacts. Mr. Hotch's May 27, 1975 letter to Michael and Sharon Johnson (who then resided in Seattle, Washington) reads in pertinent part as follows.

> I find it imperative to present my objection to your technique and tremendous dollar offers you present to gain possession of our artifacts here in Klukwan. These artifacts are a part of our Thlinget needs to retain, as they represent our past and our future within the art itself; for this reason they have been handed down generation after generation.
>
> ...
>
> A Thlinget selling its tribal artifacts is degrading its entire Clan, much more the Thlinget nation. ... We have gone on record year after year to protect our tribal artifacts. I'm sure our IRA president Dick Hotch made you aware of this by telephone previously, however I'm doing likewise, being that this affects many tribes in our Thlinget nation I'm sending copies to the newspapers listed below.

Plaintiff's ex. 10. Michael Johnson's June 6, 1975, in response, reads in relevant part as follows.

> I understand your fears for as well as your love of the objects which represent your fine heritage. There is no doubt that there is strong pressure from the non-native world regarding these objects. Tlingit art is now recognized by all the art authorities of the world as one of the greatest that ever existed and is important to the whole history of mankind.

Significantly, in the next paragraph, Michael Johnson assures Joe Hotch that:

> I would never... attempt to purchase objects from a clan keeper without the consent of the entire clan.

Plaintiff's ex. 11. Joe Hotch testified that the background to the letters quoted above included unsuccessful efforts by Michael Johnson to persuade his father Victor Hotch, who had been appointed caretaker *(hitsati)* of the Whale House, as well as Victor's sister Mildred Sparks, to accept large sums in exchange for agreeing to facilitate the removal and sale of the Whale House artifacts. Joe Hotch then testified that following unsuccessful attempts by Michael Johnson to persuade his father and aunt to sell the artifacts, Michael Johnson telephoned Joe Hotch, raising the ante a bit, offering him $75,000 if he would arrange for the sale of the rain screen and house posts to Michael Johnson.

Joe Hotch testified that he was saddened when around this same time (during the mid-1970s) Michael Johnson was ultimately successful in persuading Joe's brother Dick Hotch to sell a bear mask, which was lost to their Bear Clan forever. Joe Hotch testified that Michael Johnson furnished Dick Hotch with a replica of the bear mask which was intended to fool the community into thinking that the replica was the original. According to Mr. Hotch, that folly

proved fruitless and the replica was recognized as such.

This testimony by Joe Hotch laid the foundation for discussion of what is referred to simply as the Ordinance of May 12, 1976, quoted above, which prohibits removal from the village (without prior council approval) of "artifacts, clan crests, or other Indian art works," which defendants are accused of violating. Mr. Hotch testified that by that time they had retained the services of attorney Linn Asper, who represented the tribe in its attempts to prevent removal of the artifacts by enacting the May 12, 1976 Ordinance to that effect, as well as defending the tribe in Estelle Johnson's federal action seeking to clarify ownership and control of the artifacts.

On May 6, 1976, the village sent a telegram to the BIA in Washington, D.C., requesting direct intervention to assist the tribe in preventing continuing attempts to remove artifacts, as well as recovering artifacts lost to date which had been removed without appropriate consultation and consideration by the entire clan, which properly exercised custody of artifacts under tribal law. The telegram informed the BIA's Commissioner Morris Thompson that "[o]n April 26, 1976 members of Chilkat Indian Village unanimously voted never to sell our artifacts and to protect those within our possession. The tremendous dollars offered for these artifacts are turning our Tlingets against one another." Plaintiff's ex. 13. Joe Hotch testified that six days later, upon proper notice, the ordinance prohibiting removal of artifacts (without first requesting and receiving council approval) was passed unanimously. He and others testified that the ordinance was thereafter conspicuously posted in the village.

Mr. Hotch also explained that the tribe was the plaintiff in this and the related federal court action (J84-024) because Martha Willard requested the assistance of the IRA § 16 tribal government in recovering the artifacts after the 1984 removal. Mrs. Willard, a leader of the Ganexteidi Clan, had previously rejected Michael Johnson's proposals regarding the sale of the artifacts, and was the person who contacted state troopers, alleging that a criminal theft of the artifacts had occurred.

Judge Linn Asper provided lengthy, credible testimony which covered his legal representation of the village from 1976-1980, including the establishment of this tribal court through amendment of the tribe's constitution, and then enactment of Ordinance 80-001. Prior to holding his current position as a state court judge in Haines, Alaska, Mr. Asper was a state district court judge for several years in Juneau, Alaska.

Judge Asper testified that he was originally retained to assist the village in getting back the "Frog House" [18] property, and then became general counsel to the tribe, handling all of its legal affairs. He stated that one week after the Frog House property was removed, he was arranging to get an affidavit from a truck driver involved in removal of the Frog House property. That truck driver informed Mr. Asper that he could not talk with him just then because he had to go to Klukwan to pick up another load of artifacts. Mr. Asper notified Joe Hotch at Klukwan, and the members of the village prevented the trucks from removing the Whale House artifacts.

The dispute over control of the Whale House artifacts resulted in the *Estelle Johnson* litigation in federal court, mentioned above. Linn Asper represented the village, which was one of the defendants, and Robert E. Giles of the Seattle firm of Perkins, Coie *et al.* represented the plaintiff. According to Judge Asper, Michael Johnson financed plaintiff's action, and sought a declaration by the federal court that he had the right to purchase and remove the artifacts from Klukwan. Michael Johnson was unsuccessful with respect to that relief. Judge von der Heydt's September 27, 1978 memorandum and order, 457 F. Supp, 384 (D. Alaska 1978), held that the defendant village had sovereign immunity, was an indispensable party, and dismissed the case without prejudice on that basis. 457 F. Supp. at 389. Judge von der Heydt's order clearly reflects the federal court's expectation and preference that the dispute be resolved by a tribal court at Klukwan according to Tlingit law. *Id.*

In response to a question from plaintiff's counsel, Judge Asper stated that the 1976 Ordinance prohibiting removal was a central part of the federal court action, and that Michael Johnson clearly was aware of it. Numerous exhibits were received into evidence from that period reflecting the ongoing wrangling of the parties and their attorneys over this dispute, which still has finally to be resolved.

[redacted] state and federal governments were brought in as well. For example, as early as August 25, 1975, the BIA's Area Director for Alaska memorialized the following observations.

> We made a trip to Klukwan on August 21st. While we were up there the Village Council expressed some concern they had about a man who, continually comes to Klukwan in order to attempt to purchase ceremonial regalia and other original artifacts. Several members of the Council have confronted this individual and indicated they don't like him coming around and making these attempts. His solicitations are of a serious nature insofar as he has offered as much as $500,000.00 for some items.

Plaintiff's ex. 31. The same Area Director's June 14, 1978 letter to Linn Asper reads: "Your question relating to recognition of Chilkat Indian Village as it is currently organized is an unequivocal yes."[19] Plaintiff's ex. 33.

The witness also testified that during the pendency of the earlier federal action a second attempt was made during early morning hours to remove the artifacts from the Whale House. According to Judge Asper, the locks to the Whale House were broken, but villagers managed to stop the removal before the truck could be loaded and driven away. Judge Asper testified that it was thereafter discovered that Michael Johnson had rented the truck which was used in that attempt.

On the subject of Michael Johnson's involvement with the attempt to remove the artifacts during the pendency of the *Estelle Johnson* case, Judge Asper recalled:[20] "Michael Johnson had invoked the jurisdiction of the federal court and at the same time he was asking the federal court to do these things for him [allow for sale and removal of the artifacts] he was financing the operation to steal them, the way we saw it."

Judge Asper also provided answers and insights (under both direct and cross-examination) regarding the Tribal Court Ordinance (80-001), including the intent behind the ordinance, and the intended meaning of particular provisions. For example, he stated that article III, § 4(2), which asserts jurisdiction over "Decedents Estates," was specifically drafted to empower the tribal court to hear disputes such as the instant matter. Judge Asper also explained that the ordinance was enacted in response to the federal court's ruling in the *Estelle Johnson* case, which concluded with the expectation that a tribal forum would be established to resolve the dispute. He stated that the ordinance was intended to confer tribal court jurisdiction over a non-Indian such as Michael Johnson, who had visited the village several times during the early 1970s, and had established a pattern of contacts designed to facilitate his commercial dealings with members and property within the village.

Tlingit elder George Stevens, Sr., born in 1916, provided credible and compelling testimony at trial. Mr. Stevens., like other Tlingit elders, such as Cyrus Peck, Sr., began his testimony by making a statement in Tlingit. That statement was then translated (by Anna Katzeek), and the witness was then subject to direct and cross-examination. Mr. Stevens stated that he is a member of the Valley House (of the Ganexteidi Clan of the Raven moiety). He then stated that his mother's English maiden name was Sarah Kladoo, and that Maggie Hotch was her blood sister. The witness next responded "right" when asked if Maggie was the mother of Mildred Sparks, Victor Hotch, and Clarence Hotch.[21]

Mr. Stevens provided the court with his knowledge of the background to the building of the current, cement Whale House, and his view of the significance of the artifacts. He recalled the 1937 payoff potlatch for his maternal grandmother, and the purchase of cement in Juneau by his mother, transferred by his father to Klukwan, resulting in the rebuilding of the Whale House, now known as the cement Whale House in Klukwan. Mr. Stevens emphasized that his mother's people (Ganexteidi Clan) and other tribal members were motivated in significant part to construct the present cement Whale House to preserve [22] the artifacts:

> The reason why my mother helped on that house at that time. . .is to preserve that wall screen, and the totem poles, wormdish, whatever they had in there. They wanted to preserve it and save it. During the payoff there was nothing said about selling it-no!

Mr. Stevens stated that he felt compelled "to testify against your group [the Tlingit defendants]. I have to, I'm not going to sit back. I'm honoring my mother's words."

The witness then recalled that just before his mother died in 1968, she summoned him and expressed concern over the fate of the artifacts. Mr. Stevens was instructed by his mother that if he was ever approached on the subject of removing the artifacts, not to take part in it. Expressing himself in Tlingit, Mr. Stevens's translated testimony was as

follows.

> My mother said the poles in. the house, and the screen, there's something happening with them in the wrong way. There's a story on the screen and our respect is on it. Without this screen and the corner posts, this house is going to be like a house with ghosts-a weird place. That's what she said to me.

George Stevens stated that Victor Hotch advised him to be courageous in resisting any attempts to sell the artifacts, saying "don't let anything happen to our artifacts." The witness testified that as a matter of tribal law, no one individual could sell the artifacts, and that the artifacts represent the history of the Ganexteidi Clan.

Under cross-examination, Mr. Stevens reiterated that Victor Hotch told him several times never to take part in selling the artifacts.

Anna Katzeek testified at length about the history and significance of the artifacts. Mrs. Katzeek is the widow of George Katzeek, who was a member of the Ganexteidi Clan. She was privy to many conversations over the years regarding the artifacts. She recalled that Mary Williams gave Victor Hotch the key to the Whale House around 1950, with the understanding that the totems would be preserved so that future generations could view their history through the artifacts. Mrs. Katzeek was definite in saying that Victor Hotch was a member of the Valley House.

Mrs. Katzeek said that the rightful heirs of the Whale House today would be Martha Willard's children, and the descendants of female children. However, under tribal law, even if the rightful heirs of the Whale House could be determined (which would not include the Tlingit defendants), it is still the Ganexteidi Clan as a whole which would control decisions about the custody of the artifacts. Mrs. Katzeek said it was "unthinkable" to her husband and his clan, as well as to herself, that the artifacts could be sold. The artifacts tell the story of the clan and must remain with the clan, she said.

David S. Case, the author of *Alaska Natives and American Laws* (1984), testified about his role in the Interior Department's Regional Solicitor's Office from 1978-1982, and certain advice he gave the BIA regarding Klukwan's Constitution and the requirements for enacting ordinances. In particular, Mr. Case testified that there was no need for the BIA to approve Klukwan's Tribal Court Ordinance.

Elder Annie Hotch, the widow of Victor Hotch (they were married in 1915), testified that her husband knew that the artifacts were not to be sold, and gave his brother Clarence the key to the Whale House with this understanding.

Noted Tlingit writer and scholar Andrew Hope III provided the court with useful testimony covering details of Tlingit social structure, and the meaning of "clan crest objects." Mr. Hope explained that such objects, which include the artifacts here at issue, have gone through a ceremonial process, such as a potlatch in which the objects are dedicated. The spirits of ancestors are honored, and those spirits are warmed and like to be around clan crests such as the Whale House artifacts, according to Tlingit belief.

On the subject of ownership and sale of crest objects, Andy Hope expressed his view that such objects, which can include songs and stories, cannot be "owned;" there is no way to put a price on spirits, and certainly no *hitsati, i.e.,* caretaker of a tribal house, has the right to unilaterally dispose of clan crest objects. Mr. Hope offered his view that the artifacts should remain in the village, and that the spirits will feel better upon the return of the artifacts to the Tlingit community in Klukwan.

Rosita Worl, who is Tlingit, is a social anthropologist with roots in Klukwan. She received her M.S. degree from Harvard in 1975, and has submitted a draft thesis for her Ph.D. at that institution. She testified about Tlingit social structure, clan crests, and related subjects of tribal law. This court found her to be a credible, informative, and well-prepared witness, who provided direct answers to the questions presented to her.

Ms. Worl testified that the Whale House artifacts are crest objects which are owned by the Ganexteidi Clan on the whole. They were commissioned in the traditional way and brought out in a potlatch, in which members of the opposite side (Eagles) played a central role. Under Tlingit law, such objects cannot be sold, unless for some reason (such as restitution for a crime) the entire clan decides to do so. The participants in a clan decision such as this would

include all adult males, and high-ranking women. The witness testified that the traditional penalty for an individual selling artifacts in violation of tribal law was death.

Ms. Worl explained that Tlingit society traditionally is a "meritocracy," where one achieves high status not through physical wealth, but rather through good deeds. It is not a caste system, as one can change his or her status through the nature of their deeds. A 15-year-old could achieve high status, according to Ms. Worl.

Like other witnesses, Ms. Worl was asked if one must automatically follow the directives of an uncle.[23] She responded that an adult would not automatically follow a directive from someone like a maternal uncle, but rather would exercise independent judgment to assess the directive.

Rosita Worl stated that the Whale House has tremendous significance for all members of the Ganexteidi Clan, as well as the village generally. Many bodies laid in state at the Whale House. She added that any member of the Ganexteidi Clan has the right under tribal law to use the Whale House for certain purposes.

The next witness at trial was Charles Smythe, who received a Ph.D. in cultural anthropology from the University of Oregon in 1978. Dr. Smythe testified at length about the history of the Whale House artifacts and the genealogy of the Whale House of Klukwan and its members.

Dr. Smythe testified that establishment of the Whale House goes back to around 1830, and was the idea of a respected Ganexteidi leader named Xetsuwu. He was concerned that many Ganexteidi were marrying below their status, and that establishing a new house could bring together several groups which would not only have higher status than any of the previous house groups standing alone, but would also enhance their security.

Dr. Smythe subscribes to the view that Xetsuwu then commissioned the house posts from the Old Wrangell area of southeast Alaska. While there is a difference of opinion over who actually carved the house posts, a number of scholars attribute Xetsuwu himself with creation of the rain screen.[24]

Dr. Smythe utilized charts showing family trees to support his conclusion that the Tlingit defendants are not members of the Whale House, but rather are members of the Valley House of Klukwan. Further, he stated that he found no connection between the Whale and Valley houses.

A nexus of sorts is evident however, from the testimony of Dr. Smythe and others that Mary Williams, a member of the Whale House, made the decision to give the key to the Whale House to Victor Hotch, despite the fact that Victor was a member of the Valley House. (This figurative and literal giving of the key, making Victor caretaker of the Whale House, undoubtedly contributed to the apparent good faith belief of the Tlingit defendants that they are members of the Whale House.) Dr. Smythe also testified that Estelle Johnson and her children are the sole surviving members of the Whale House of Klukwan. [25]

Under effective cross-examination by defendant Irene Rowan, Dr. Smythe stated that he had spent about 75 days researching the history of the Whale House, yet he admitted that he had not interviewed any of the Tlingit defendants, apparently because he thought they might be hostile.

Ms. Rowan also asked Dr. Smythe who were the current leaders of the Ganexteidi Clan in Klukwan. He answered that such leaders would include George Stevens, Chief William Johnson, [26] Ruth Kasko, James King, Jones Hotch, Jr., and perhaps others.

Plaintiff called as its next witness Roger McCoy, a retired Alaska state trooper, who was contacted by Martha Willard in June 1984 to report the theft of the artifacts some two months earlier. There was no question who the principal players in the removal were, and the troopers and the state prosecutor proceeded to investigate the removal of the artifacts in order to determine if a state crime had occurred. While Trooper Roy Holland went to Seattle to interview Michael Johnson and others, Trooper McCoy drove to Klukwan to view the alleged crime scene and interview witnesses there.

Trooper McCoy confirmed the removal of the artifacts by four or five men in April 1984 around Easter. He said that he spoke with Clarence Hotch, Bill Thomas, Irene Rowan, and others, such as complainant Martha Willard. Trooper McCoy testified that he next gathered facts indicating that the artifacts had been ferried to Seattle, and that Michael Johnson, whose residence was in Seattle at that time, acted in concert with the removers and likely oversaw the removal of the artifacts from Klukwan while he (Michael Johnson) was just 22 miles away at the nearest city of Haines, Alaska, when it took place.

Trooper McCoy stated that as a result of his investigation, he concluded that some art dealers make a living by persuading Indians to sell their artifacts. He also testified that because of the cloud over ownership of the artifacts, the district attorney declined to prosecute the removal as a criminal theft.

Plaintiff's witness David Katzeek is a Tlingit born in Klukwan (Thunderbird Clan, Eagle moiety) who, like his mother Anna Katzeek, is familiar with Tlingit tribal law, including applications of tribal law within the village, and is generally regarded as having such expertise. His testimony included his statement that applicable tribal law in this case prohibits the removal and consigned sale of the Whale House artifacts by a group such as the Tlingit defendants.

Mr. Katzeek was asked by plaintiff's co-counsel Ms. Perlmutter to explain the historical significance of the Whale House artifacts, and then whether there is a spiritual significance to the artifacts. His answers were as follows.

> The primary significance is knowing who you are... with us, these particular artifacts tell a story.... When you're selling an artifact. . . you're not only getting rid of a piece of wood... you're getting rid of the music, the song, the dance, and the good, the bad, and the ugly.
>
> ...
>
> The worm dish story of a young woman nursing a worm as a pet which became a threat to the entire community... is right up there in the 21st century. If the problem was not resolved it would have ended in the destruction of not just the clan that was involved, but the entire community.... A similar thing 2,000 years later is happening. Is that of the mind? Is that just happening within the intellect? It doesn't involve the soul and the spirit? A script could be written: 'Wormdish Revisited, the Community of Chilkat, 2,000 years later.' This is why we need to keep these things here; this is why we sing the song, and this is why we need them for our ceremonial parties. That's the significance of the artifacts.

Ed Warren was plaintiff's next witness at trial. The court observed that he clearly was well-informed with respect to the subjects he addressed during direct and cross-examination, and presented a calm and credible demeanor. Mr. Warren, a Tlingit who was born, raised, and continues to reside in Klukwan, emphasized that the IRA § 16 tribal government, which is the plaintiff in this action, is the proper party under the circumstances of this dispute to civilly prosecute this case on behalf of the Whale House and the Ganexteidi Clan, and to oversee the return and custody of the artifacts, which he characterized as clan trust property. Mr. Warren noted that the Chilkat Indian Village Tribal Council is the singular governing body in Klukwan, and that members of the village organized the tribal government pursuant to IRA § 16 with the confidence that the council would take ultimate responsibility for protecting tribal resources, which encompasses the artifacts.

Ganexteidi Clan member Ruth Kasko compared the artifacts with the American flag, rhetorically asking, "where are you without it?" She recalled that her father Daniel Katzeek (Killer Whale) and her oldest brother George helped to build the current cement Whale House for the Ganexteidi. He wasn't concerned about not being paid for this labor, Mrs. Kasko testified, because he knew that his children were Ganexteidi and felt that his efforts were to their behalf. Mrs. Kasko, a leader of the Ganexteidi and current member of the tribal council, stated that the 1976 ordinance was intended to protect tribal property such as the artifacts.

Evelyn Hotch's deceased father Clarence Hotch was a principal participant and on the scene director of the 1984 removal of the artifacts which gave rise to this litigation. Her testimony reflected an abiding feeling that her father's ultimate decision to cooperate in a commercial dealing with Michael Johnson to remove the artifacts was dead wrong under tribal law, and that she never forgave him for that.

Mrs. Hotch recounted a history dating back to the 1970s of visits to Klukwan by the non-Indian defendant Michael Johnson, during which she observed systematic and calculated attempts by Michael Johnson to "butter them up." Mrs. Hotch cited offers by Michael Johnson to arrange and finance trips to Seattle for her father, and others who were seen as potential players in a deal to sell and remove the Whale House artifacts.

Subsequent to the removal of the artifacts by her father and other defendants, Evelyn Hotch testified that she asked her father how he could do such a thing, which contravened not only tribal customs and written tribal law (the 1976 Ordinance) which she knew her father was aware of, but also the explicit directive of her Uncle Victor Hotch to his brother Clarence to make sure to reject all efforts by outsiders to purchase and remove the artifacts. Mrs. Hotch sighed that her father had no answer to this question, and simply told her to mind her own business.

Other witnesses called by plaintiff included Don "Bosch" Hotch, Judson Brown, and Jones Hotch, Jr. A common theme of their testimony was that removal of the artifacts violated applicable tribal law, and that the remedy for the violation should include the return of the artifacts to Klukwan.

Jones Hotch, Jr. testified that he is a member of the Whale House, but was never consulted regarding the removal of the artifacts (and never would give such consent). The witness stated that "our artifacts are on foreign soil. We want them brought back to home soil."

Defendant Bill Thomas was called by plaintiff, and was the only defendant to testify. Plaintiff's attorney Ms. Perlmutter was allowed to conduct her questioning of Mr. Thomas in the form of cross-examination. A lot of ground was covered and facts regarding his knowledge of events regarding the 1984 removal of the artifacts and Michael Johnson's role were effectively elicited.

Ms. Perlmutter began by confirming that Mr. Thomas first talked with Michael Johnson about the artifacts in 1983. She then asked if Michael Johnson was the one who initiated the contact, *i.e.,* "he made the first phone call to you?" Bill Thomas answered that yes, he thought that was the case. Plaintiff's ex. 82 was then discussed. That document is a copy of a March 14, 1984 letter from Michael Johnson addressed to "Chief" Clarence Hotch and Mr. Bill Thomas. It reads as follows.

> I do want you to know that Estelle Johnson will not be coming up there. I have too much money, time, and emotion invested in this thing to let her interfere. You must remember that her Uncle and Mother built the Whale House building, and that we will need her to be on our side later. That is why I am talking to her now. You and Clarence will not have to deal with her. I will.
>
> I expect to come to Haines to meet with everyone April 23 or 24. We can discuss the contracts we already have as well as how to handle this thing in the future.
>
> If you decide to take the artifacts out before then call me... and I will come right up. Be assured that I will get you the best price for it.
>
> P.S. Why don't you call Martha and Rose and try to reach an understanding with them. Perhaps they would like me to sell their things for them and you could help each other move the things out of the Village.

Plaintiff's ex. 82.

Mr. Thomas testified that prior to the removal he and Clarence Hotch met with Michael Johnson at the Thunderbird Motel in Haines, and discussed the anticipated removal of the artifacts. Bill Thomas stated that during that meeting Michael Johnson presented him with the consignment agreement. Plaintiff's ex. 84. That agreement is signed by Michael Johnson and Bill Thomas. Mr. Thomas signed on behalf of "the Whale House Group," whose members are listed in an appendix. The consignment agreement, which is dated May I, 1984,[27] guarantees that the Tlingit defendants will receive a minimum of $1 million from the sale of the artifacts.

The members of the "Whale House Group" listed in the appendix to the consignment agreement are the Tlingit

defendants in this case. All of them signed a document titled "Power of Attorney and Confirmation of Ownership" in early May 1984 appointing Bill Thomas as their agent regarding the sale of the artifacts through dealer Michael Johnson. Plaintiff's ex. 85. That document provides that if Bill Thomas dies or becomes disabled, Irene Rowan is appointed in his place.

A separate contract was executed on July 25, 1984, by Michael Johnson, and Estelle Johnson and Shirley Cunningham. That document acknowledges that Michael Johnson was attempting to sell the artifacts at that time; that the women claim an interest in the artifacts; and that in exchange for Michael Johnson paying Shirley Cunningham $10,000 and Estelle Johnson $50,000, the women agree to:

> release any interest they may have in any other Artifacts from the village of Klukwan, Alaska, that are not in the possession of the undersigned and any interest they may have in the cement structure situated in Klukwan, Alaska, known as "The Whale House."

Plaintiff's ex. 86.

Mr. Thomas recited the basic facts involving the actual removal of the artifacts in late April 1984, about which there is virtually no dispute. Clarence Hotch came to Bill's house in Klukwan and told him the time had come to act to remove the artifacts. Bill called his brother Clifford, who brought a truck from his residence in Haines. Buzzy and Vincent Hotch also assisted, according to Bill Thomas. Clarence opened the door to the Whale House, they removed the artifacts (except the worm dish, which was too fragile and old to even be carried), loaded them onto three trucks, and transported the artifacts to the Haines Motel where Michael Johnson was staying, so that he could inspect the property. After being stored in the garage of Defendant Evans Willard for a few days, Michael Johnson and Bill Thomas arranged for and effected transportation of the artifacts to Seattle by ferry.

Bill Thomas stated that he currently feels at times that the removal was wrong. He said that in large part he felt obliged to participate in the removal because his uncle, Clarence Hotch, desired it.

Mr. Thomas also discussed the current rift between the Tlingit defendants and Michael Johnson. Mr. Thomas testified that the Tlingit defendants no longer consider the consignment agreement to be binding; that the artifacts are not for sale; and that they should be returned to Klukwan.

Bill Thomas explained that the rift with Michael Johnson was inevitable upon the Tlingit defendants' decision to fire attorney Donna Willard during the spring of 1992, at which time they also informed Michael Johnson that the artifacts were no longer for sale. Mr. Thomas stated that Michael Johnson responded with a threatening letter, saying he was not going to "get shafted." Bill Thomas then emphasized to the court that the Tlingit defendants were not present at trial for the purpose of defending Michael Johnson, who Bill Thomas said took advantage of an elder: his uncle Clarence Hotch.

Conclusions

I. The Whale House Rain Screen and House Posts as Artifacts, Clan Crests, and Indian Art Within the Meaning of the Ordinance

The artifacts consist of four elaborately carved wooden posts (made of spruce and over nine feet high) and a wooden partition (made of thin cedar boards) called a rain screen. George Emmons [28] wrote that they are "unquestionably the finest example of native art, either Tlingit or Tsimshian, in Alaska, in boldness of conception-although highly conventionalized in form-in execution of detail, and in arrangement of detail."[29] The record indicates that if the artifacts were sold on the open market they would likely reap a price of several million dollars.

The artifacts were created around 1830. A prominent leader in Klukwan, Xetsuwu, resolved to build a new house (Whale House) in order to unify certain existing house groups of the Ganexteidi Clan. He commissioned the house posts from a famous carver who resided, in the Stikine River area, near what is currently referred to as Old Wrangell,

Alaska. The name of that artist remained unknown until 1987, when a written account was discovered which identified his name as Kadjisdu.axtc. [30] The artist, who made detailed sketches while being told about the clan's stories during the canoe trip to Klukwan, is said to have resided in Klukwan for one year while carving the posts. By some accounts he was paid 10 slaves, 50 dressed moose skins, and several blankets.

The four posts represented the four groups that were brought together to form the new Whale House. The posts and rain screen tell stories of the clan; not just of the Whale House. The artifacts and the Whale House itself were created and dedicated in the traditional manner. The Ganexteidi hired Eagles to construct the original house. The Eagles were then repaid in a traditional "payback party," [31] and the property was brought out in a potlatch and dedicated as clan property.

As Dr. Smythe noted, Xetsuwu's vision to unify the Ganexteidi under a new house with these clan crests was successfully implemented. The clan, as well as the Chilkat Indians generally, became a strong and powerful people. They maintained control of valuable trade routes to interior Alaska, and became quite prosperous.

The historical resistance by members of the clan to a series of efforts by outsiders to purchase these great works is testimony in itself of the clan crest nature of the artifacts, which are held in trust by the clan.

Around 1899, Yeilgooxu (whose English name was George Shotridge), *hitsati* of the Whale House, organized the construction of a new Whale House because the original one was in disrepair. Although a mudslide destroyed it before completion, the artifacts were rescued. Yeilgooxu refused the offers of his friend George Emmons to acquire the artifacts. Following the death of Yeilgooxu, Yeilxaak, who was *hitsati* of the Raven House, was chosen to be *hitsati* of the Whale House, in part because of his close ties with the Whale House.

Louis Shotridge, the son of Yeilgooxu, caused a furor in the tribal community when he attempted to purchase the Whale House artifacts for the University of Pennsylvania's University Museum. In 1922 he arranged a meeting of Ganexteidi leaders, and offered $3,500 for the artifacts. Although that was a tremendous amount of money at that time and place, the clan turned him down.[32]

As a function of the matrilineal nature of Tlingit social structure, Louis Shotridge, like his mother, was a member of the Kaagwantan Clan of the Wolf moiety-the opposite side of his father's clan (Ganexteidi) and moiety (Raven) affiliations. His disingenuous [33] claims to the property under Western inheritance law were rejected by the village. Shotridge became obsessed with acquiring the artifacts, continued his efforts during the 1920s and 1930s, but was never successful. While working for the territorial government in 1937 as a stream guard Louis Shotridge suffered a mysterious death. A schoolteacher found him near his cabin south of Sitka, Alaska. He had laid there several days with a broken neck, and died an agonizing death 10 days later.

Obsession with acquiring the Whale House artifacts did not end with Louis Shotridge. Defendant art dealer Michael Johnson has also been obsessed with the artifacts' acquisition, and his actions in this respect have caused tremendous conflicts and ill will at Klukwan. While the Tlingit defendants cooperated with him to remove the artifacts in 1984, the evidence brought out at trial leads this court to conclude that they seem to regret their 1984 actions in concert with Michael Johnson. Their spokesman Bill Thomas expressed such regret, and all of the Tlingit defendants now want the artifacts returned to Klukwan, and want nothing more to do with Michael Johnson and his attempts to sell the artifacts.

This court concludes that, inexorably, the Whale House property at issue constitutes "artifacts, clan crests, or other Indian art works" within the meaning of the tribe's 1976 Ordinance prohibiting removal of such property without first obtaining the consent of the council at Klukwan.

II. Power of the Village to Enact the Ordinance and Enforce it Against the Defendants

Defendants have challenged the tribe's authority to enact and apply its 1976 Ordinance. The assertion directly raises two issues going to the heart of this dispute. First, does the Chilkat Indian Village have the power to enact this legislation? [34] If so, may it lawfully apply the ordinance to some or all of the defendants? Answers to these dual questions require a two-tiered analysis.

A. The Tribe's Power to Enact the 1976 Ordinance

In *Chilkat Indian Village v. Johnson, et al.,* 870 F.2d 1469 (9th Cir. 1989), the court assumed-without deciding-that the Chilkat Indian Village had the power to enact the challenged ordinance in the first instance. But to prevail on this claim, the court held that the tribe must establish its authority "under federal common or statutory law...." 870 F.2d at 1474, n.9.

The village has consistently maintained that it has the authority to enact the ordinance under *both* federal common and statutory law. At the same time during this epic litigation, defendants have maintained that the tribe lacks the sovereign capacity to enact the ordinance. Just before trial, which commenced January 18, 1993, defendants cited a recently issued Solicitor's opinion in support of their position. Solicitor's Opinion, *Governmental Jurisdiction of Alaska Native Villages Over Land and Nonmembers* (Jan. 11, 1993) (Sol. Op.) During the course of the four-week trial in this matter the parties requested-and were granted-the opportunity to present oral arguments on this issue.

Because it is the policy of the tribe to develop tribal law in a manner consistent with applicable decisions of the federal courts, the starting point in determining the tribe's legislative powers under federal common or statutory law is applicable decisions of the United States Supreme Court.

In *New Mexico v. Mescalero Apache Tribe,* 462 U.S. 324 [10 Indian L. Rep. 1028] (1983), the Court evaluated a dispute between the Mescalero Apache Tribe and the state of New Mexico over hunting and fishing rights on the reservation [35] by nonmembers. The Court noted the state's concession that "the Tribe exercises exclusive jurisdiction over hunting and fishing by members of the Tribe and may also regulate the hunting and fishing by nonmembers." 462 U.S. at 330 [footnote omitted]. The Court then addressed competing state and tribal interests. While that recurring conflict of federal Indian law is not at issue in this tribal court action, the Court's "broad considerations," quoted below, which guided its assessment of federal and tribal interests, are equally applicable to the Chilkat Tribe's power to regulate, through enactment and enforcement of its 1976 Ordinance, the use and control of tribal resources such as the artifacts, whose situs for over 150 years was Klukwan (in houses affiliated with the Ganexteidi Clan) prior to their 1984 removal.

> We have stressed that Congress' objective of furthering tribal self-government encompasses far more than encouraging tribal management of disputes between members, but includes Congress' overriding goal of encouraging "tribal self-sufficiency and economic development." In part as a necessary implication of this broad federal commitment, we have held that tribes have the power to manage use of their territory and resources by both members and nonmembers.

462 U.S. at 334-35 [citations and footnotes omitted]. This court construes the "broad federal commitment" recognizing the power of tribes to manage the use of their "resources by both members and nonmembers" as encompassing the Chilkat Tribe's power here to regulate the conditions under which the Whale House artifacts can be removed from the village. *Id.*

This conclusion is compelled from an examination of the tribe's federally recognized authority under federal statutes and common law,[36] as well as the "Indian country" status of the contiguous 897.4 acres owned in fee title by the tribe, which comprise the Chilkat Indian Village, and define the boundaries of its territorial jurisdiction. See Chilkat Ordinance 80-001, art. III, § 5.

Federal common law includes recognition by the federal courts of tribes' inherent legislative powers. In referring this case to this tribal court, the district court noted and rejected defendants' argument that the power to enact civil legislation such as the ordinance at issue is restricted to tribes occupying "reservations":

> This argument avoids the principle that those powers lawfully vested in an Indian tribe are generally not 'delegated' powers granted by Congress. but rather are "inherent powers of a limited [sovereign] which [have] never been extinguished." *United Slates v. Wheeler,* 435 U.S. 313, 322, 98 5. Ct. 1079, 1086 (1978)... Tribes exercise power "over both their members and their territory." *Mazurie,* 419 U.S. at 557, 95

5. Ct. at 717. This power includes the power to legislate and adjudicate matters within tribal territory.

Slip op. at 12 (Oct. 9, 1990). Citing controlling language in *Montana v. United States,* 450 U.S. 544, 565 (1981) *(Montana),* Judge von der Heydt then concluded that "the power to pass the ordinance that is in dispute in this cas was part of the retained, inherent power of the Chilkat Indian Village." Slip op. at 13. *See also* F. Cohen, *Handbook of Federal Indian Law* (1982 ed.) at 252-57, 342-43 (Cohen). ("Under the principle that tribal sovereignty is retained where not ceded to or restricted by federal authority, tribal court civil jurisdiction is very broad." [37] *Id.* at 342.)

This court concludes, then, that the Chilkat Tribe had authority to enact the 1976 Ordinance based on federal common law, the village's IRA constitution, as well as its retained, inherent authority.

B. The Tribe's Authority to Enforce the Ordinance

In *Chilkat Indian Village v. Johnson, et al.,* 870 F.2d 1469, 1474 (9th Cir. 1989), the court held that "[i]n our case the state of the law is such that the heart of the controversy over the claim will be the Village's power, under federal law, to enact its ordinance and apply it to non-Indians [footnote omitted]." With respect to enforcement against the Tlingit Indian defendants, however, the court held that no federal issue was raised, and that enforcement against the Tlingit defendants [38] raised "issues of tribal law. . . [which] are the staple of the tribal courts." 870 F.2d at 1475-76.

The Supreme Court's 1981 language in *Montana* remains the basis under federal law to evaluate tribal civil jurisdiction over non-Indians. The *Montana* Court held that the two circumstances in which tribes retain inherent sovereign power to exercise civil jurisdiction over non-Indians are:

> [1] A tribe may regulate, through taxation, licensing, or other means, the activities of nonmembers who enter consensual relationships with the Tribe or its members, through commercial dealing, contracts, leases, or other arrangements.
>
> [2] A tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.

450 U.S. at 565-66. *See also Brendale v. Confederated Tribes and Bands of the Yakima Indian Nation,* 492 U.S. 408, 109 S. Ct. 2994, 3007, 3018 [16 Indian L. Rep. 1044] (1989); *Duro v. Reina,* 110 5. Ct. 2053, 2061 [17 Indian L. Rep. 1025] (1990); *FMC v. Shoshone-Bannock Tribes,* 905 F.2d 1311, 1314-15 [17 Indian L. Rep. 2093] (9th Cir. .1990); *Morongo Band of Mission Indians v. Rose,* 893 F.2d 1074, 1078 [17 Indian L. Rep. 2035] (9th Cir. 1990) *(Morongo); Knight* v. *Shoshone & Arapahoe Indian Tribes,* 670 F.2d 900 [9 Indian L. Rep. 2043] (10th Cir. 1982); *Confederated Salish & Kootenai Tribes v. Namen,* 665 F.2d 951, 964 [9 Indian L. Rep. 2009] (9th Cir. 1982).

There is no dispute that defendant Michael Johnson (and his corporation) entered into contractual relations with the Tlingit defendants regarding the removal and sale of the Whale House artifacts. The evidence at trial revealed Michael Johnson's extensive history of dealing with tribal members. Those dealings finally bore fruit in 1984 when defendant Bill Thomas, a tribal member residing in Klukwan, signed the consignment agreement with Michael Johnson on behalf of all of the Tlingit defendants. These facts meet the first basis of the *Montana* Court set forth above. This court holds that the tribe has the authority to regulate these consensual relations, and that it has jurisdiction in this respect over non-Indian defendants Michael Johnson and his corporation.

The trial evidence convincingly demonstrated the continuing importance of the artifacts to the tribe. As such, this court concludes that the removal of the artifacts from Klukwan had a direct effect on and posed a distinct threat to the political integrity, health, and welfare of the tribe. This court heard extensive, credible testimony about the significance of the artifacts to the welfare of the Ganexteidi Clan as well as the entire tribe. All members of the village continue to rely on the artifacts for essential ceremonial purposes. The artifacts embody the clan's history. Just as earlier attempts to remove the artifacts caused injury to the tribe through friction and clashes among tribal houses and clans, *a fortiori* the 1984 removal in violation of the tribe's 1976 Ordinance had a direct effect on the health and welfare of the tribe. This court finds that under the second basis of the *Montana* Court, the tribe retains inherent power to exercise authority

over the conduct of Michael Johnson, who conspired with the Tlingit defendants to remove the artifacts from the village in violation of the 1976 Ordinance.

The Ninth Circuit stated that the issue of Indian Country must be addressed when assessing the village's claim to enforce its ordinance. 870 F.2d at 1474. In referring the case to this court, the district court did so. It held that "if Chilkat had governmental power under its status as a reservation, it appears that ANCSA did nothing to extinguish those powers." Slip op. at 11 (Oct. 9, 1990). Although ANCSA extinguished the tribe's reservation, Judge von der Heydt held that Indian Country continued to exist after passage of ANCSA, because nothing in ANCSA explicitly terminates Chilkat's powers, including its territorial jurisdiction. "Therefore, the status of the dependent Indian community was not extinguished by the passage of ANCSA." Slip op. at 15.

Nonetheless, defendants continue to argue that the village does not constitute Indian Country within the meaning of the applicable federal statute. 18 U.S.C. § 1151. Defendants offered a single piece of evidence: the above-mentioned U.S. Solicitor's opinion which issued in the last days of President Bush's administration. Plaintiff argues that the Solicitor's opinion ignores controlling law governing the effect of ANCSA; that even if the Solicitor's pinion were correct, it does not apply to the Chilkat Indian Village; and that the evidence demonstrates that the Chilkat Indian Village is a "dependent Indian community." This court agrees.

The village holds its former reservation lands in fee title. The Solicitor's opinion noted as follows.

> Although ANCSA did revoke the reservation for the Natives of the Village at Klukwan, the reservation lands were not conveyed to the ANCSA corporation for the Village of Klukwan. Instead, Klukwan became a special case during ANCSA's implementation when Congress amended § 16 of ANCSA in 1976 by adding §16(d), 43 U.S.C. § 1615(d). As a result, the IRA-chartered "Chilkat Indian Village" organized in 1941 by the Natives of Klukwan, ended up holding fee title to the 897.4 acres of its prior statutory reservation.

Sol. Op. at 108 n.271. Defendants argue that the Solicitor's opinion must be construed as concluding that those village lands do not constitute Indian Country. According to the Solicitor, although there are tribes in Alaska, various provisions of ANCSA implicitly extinguished tribal territorial powers. Sol. Op. at 130.

This court finds that the Solicitor opinion's most glaring omission on this issue is its failure to even mention the one judicial decision squarely on point: the district court's ruling in this case. Slip op. at 15 (Oct. 9, 1990). As noted above, the district court held that ANCSA did not extinguish the dependent Indian community (Indian Country) land status in Klukwan. Because the Solicitor's opinion is just that: an *opinion,* this court continues to subscribe to the view expressed in the decision of the federal district court, which constitutes binding authority on the federal question of tribal territorial jurisdiction over non-Indians.

Plaintiff also argues that even if the Solicitor's opinion were correct, it does not apply to the Chilkat Indian Village. Plaintiff points out that the Solicitor considers Klukwan a "special case," as quoted above. The Solicitor's finding that ANCSA "lands and village-owned fee lands in Alaska do not as a general rule qualify as dependent Indian communities," Sol. Op. at 117, is not inconsistent with an additional finding that the "special case" of Klukwan falls outside of this "general rule," and that the Chilkat Indian Village's lands constitute a dependent Indian community, and thus Indian Country.

Finally, plaintiff argues that the evidence establishes that the Chilkat Indian Village is a dependent Indian community. In this respect, plaintiff asserts that the federal courts have adopted standards for determining the existence of Indian Country which apply to tribes in Alaska. In *Alaska v. Venetie,* 856 F.2d 1384, 1390 [15 Indian L. Rep. 2123] (9th Cir. 1988), the court of appeals adopted the criteria in two other federal appellate decisions. *United States v. Martine,* 442 F.2d 1022 (10th Cir. 1971); *United States v. South Dakota,* 665 F.2d 837 (8th Cir. 1981).

The relevant criteria involve consideration of (1) the nature of the area, (2) the relationship of the area inhabitants to Indian tribes and the federal government, (3) the established practice of government agencies toward that area, (4) the degree of federal ownership and control over the area, *(5)* the degree of cohesiveness of the area inhabitants, and (6) the extent to which the area was set aside for the use, occupancy, and protection of dependent Indian peoples. *Alaska v.*

Venetie, 856 F.2d at 1391. While a full discussion of plaintiff's extensive briefing on this issue is beyond the proper scope of this decision, which incorporates the district court's holding on this question, this court agrees with plaintiff that the evidence presented at trial supports the conclusion that Klukwan meets the standards of a dependent Indian community set forth above.

III. Violation of the Ordinance by Defendants

There is abundant evidence in the trial record establishing that all of the defendants, including Michael Johnson, violated the 1976 Ordinance. The Tlingit defendants did not counter any of the evidence regarding their role with Michael Johnson, as well as the actual removal. Neither did Michael Johnson, who elected to not attend the trial, offer any such evidence. This court finds that the Tlingit defendants violated the tribe's 1976 Ordinance.

If any defendant can be singled out as the architect of the removal it is Michael Johnson. He began his quest in the early 1970s when he first visited Klukwan. He returned regularly, systematically dealing with different clan and house members in his efforts to acquire the artifacts. Johnson at first focused on Martha Willard, telling her in 1975 that he had found documents confirming her title to the artifacts. When she resisted his attempts, Michael Johnson turned to Estelle DeHaven Johnson.

When Estelle's attempt to remove the artifacts (paid for by Mr. Johnson) was unsuccessful, Michael Johnson financed a lawsuit in federal court to determine ownership of the artifacts. Yet that pending lawsuit did not deter Michael Johnson from financing a second attempt to remove the artifacts. Michael Johnson admitted to this in a 1977 sworn statement. Plaintiff's ex. 131 at 97-98. A third attempt by Johnson was unsuccessful because Wackenhut, a security service, declined his offer to pay them to enter the village and remove the artifacts.

After the federal case was dismissed, Michael Johnson directed his efforts to Victor Hotch, Clarence Hotch, and Mildred Sparks, sending checks to all of them. The evidence showed that Victor, at least, returned the checks and declined to complete any agreement for the sale of the artifacts. Michael Johnson finally persuaded Clarence Hotch, acting in concert with the Tlingit defendants, to remove the artifacts so that the defendants now before this court co profit from selling the Whale House artifacts.

The preponderance of evidence at trial leads this court to conclude that Michael Johnson, as well as some of the Tlingit defendants, was aware of the 1976 Ordinance. [39] Nonetheless, neither Michael Johnson or any other defendant requested the permission of the council before removing the artifacts.

The fact that Michael Johnson was 22 miles away in the town of Haines during the physical removal of the artifacts does not absolve him from culpability for violating the ordinance. This court agrees with plaintiff that, just as the driver of a getaway car is guilty of a bank robbery committed by his partners, Michael Johnson is as responsible for the removal of the artifacts as if he had been among the men who performed the physical removal that April night in 1984.

Defendant Michael Johnson conducted an obsessive campaign to acquire the artifacts. He dealt with any and all people in the village who might assist him to remove the artifacts. Acting through his corporation, he played village members off against each other, while making inconsistent representations to them. The evidence at trial uniformly established that Michael Johnson conspired with the Tlingit defendants to remove the artifacts, and that he aided and abetted the actual physical removal of the artifacts. [40] This court finds that Michael Johnson and his corporation violated the tribe's 1976 Ordinance.

IV. Defendants' Defenses

Even though Bill Thomas was the only defendant (called by plaintiff) to testify at trial, it was apparent from the questions posed by various defendants, as well as the full record (including the closing remarks of the Tlingit defendants), that the defendants intend to rely primarily on two defenses: (1) that under Tlingit custom, they had no choice but to obey their uncle, Clarence Hotch, and (2) that traditional Tlingit culture is dead, and thus tribal law is not valid. The incompatibility of these mutually exclusive assertions has not escaped notice by this court.

As to the first assertion, there was a wealth of testimony at trial that the Tlingit defendants, as adult members of their clan, certainly did have the right to question a directive by their uncle which contravened established customs of the village-in this case that the artifacts could not be sold by a caretaker of one house, but rather were subject to the control of the entire Ganexteidi Clan (and regulated through ordinance by the tribal government).

Additionally, in order to obey their uncle Clarence Hotch, the Tlingit defendants necessarily had to disobey a contrary directive by their uncle Victor Hotch. The evidence at trial showed that while Victor may have waffled in some years during the 1970s, by 1980 he had clearly expressed his disapproval of Michael Johnson's efforts, and instructed that the artifacts were not to be sold. The family understood that Victor had willed his stock in Klukwan, Inc. to Clarence pursuant to their agreement that Clarence would use this asset to preserve the artifacts.

The defendants' argument that Tlingit culture is essentially dead was unsupported by the trial evidence. While the culture has been under assault from non-Indian outsiders and institutions, [41] the lengthy testimony of many credible witnesses at trial confirmed the vitality of Tlingit culture at Klukwan, and the continuing, important role of traditional law. This court finds that the Chilkat Indian Village maintains and nourishes its culture-even though that culture, like any, is dynamic and ever-changing as a function of time and changed circumstances.

Defendants' counterclaims include a claim for aliquot credits in ownership, and the claim to legally own the artifacts. To the extent that these claims may really be in the nature of affirmative defenses, this court finds that they are unsubstantiated by the evidence at trial.

Based on the evidence at trial, and the full record, this court concludes that no legal defense has been established by defendants.

V. Defendants' Counterclaims

Defendants asserted several counterclaims[42] in their initial pleadings in this court. The defendants did not pursue these counterclaims at trial. Plaintiff argues that the counterclaims are barred by the tribe's immunity from suit, and, in any event, were not proven. Based on a review of applicable law, and the obvious lack of any evidence to support the counterclaims, this court rules for plaintiff on this issue.

This court's review of applicable federal law shows that the primary source of tribal counterclaim immunity law is *United States* v. *United States Fidelity & Guaranty Co.,* 309 U.S. 506, 5 12-13 (1940) *(USF&G).* The Court in that case held:

> These Indian nations are exempt from suit without congressional authorization (footnote omitted]. It is though the immunity which was theirs as sovereigns passed to the United States for their benefit.... Possessing this immunity from direct suit, we are of the opinion it possesses a similar immunity from cross-suits.

309 U.S. at 512-23.

Citing this 1940 case, the Court more recently affirmed tribal immunity from counterclaims in *Oklahoma Tax Comm 'n v. Citizen Band Potawatomi Tribe of Oklahoma,* _____ U.S. _____, Ill S. Ct. 905, 112 L.Ed.2d 1112 [18 Indian L. Rep. 1006] (1991). In *Oklahoma* the tribe filed a suit to enjoin collection of $2.7 million in cigarette taxes for sales made to non-Indians on tribal property. [43] The state counterclaimed, asking the federal court to enforce its assessment, and to enjoin the tribe from selling cigarettes in the future without collecting and remitting state taxes to the state. The tribe moved to dismiss the counterclaims based on sovereign immunity.

While acknowledging the general concept of tribal sovereign immunity, the state argued that the tribe waived its immunity when it sought an injunction. It also argued that to the extent that its counterclaims were compulsory under Fed. R. Civ. P 13(a), the federal court did not need an independent basis to hear those claims. The Court rejected the state's arguments, noting that it had "rejected an identical contention over a half-century ago in" *USF&G.,* 112 L.Ed. 2d at 1120. The Court stated: "We held that a tribe does not waive its sovereign immunity from actions that could not

otherwise be brought against it merely because those actions were pleaded in a counterclaim to an action filed by the tribe." *Id.* at 513. The Court went on to hold: "Petitioner does not argue that it received congressional authorization to adjudicate a counterclaim against the tribe, and the case is therefore controlled by Fidelity & Guaranty. We uphold the Court of Appeals' determination that the Tribe did not waive its sovereign immunity merely by filing an action for injunctive relief." *Id.*

The Ninth Circuit Court of Appeals issued what is perhaps the leading federal case on the subject of tribal counterclaim immunity outside of the Supreme Court's decisions. *Chemehuevi Indian Tribe v. California State Board of Equalization,* 12757 F.2d 1047 [12 Indian L. Rep. 2057] (9th Cir. 1985), *rev'd in part on other grounds,* 474 U.S. 10 [12 Indian L.Rep. 1077] (1985) *(Chemehuevi).* The *Chemehuevi* court held that tribal sovereign immunity bars counterclaims brought directly against a tribe. *Id.* at 1052. Distinguishing *United States v. Oregon,* 657 F.2d 1009, 1014 [8 Indian L. Rep. 2171] (9th Cir. 1981), the court held that entry into a lawsuit may constitute express consent, "but only if, when entering the suit, the tribe explicitly consents to be bound by the resolution of the dispute ordered by the court." *Id.* at 1053 n.7.

Pursuant to tribal policy discussed above, this court incorporates the above federal law as a matter of tribal law. Defendants' counterclaims, which were not factually established, are dismissed as a matter of law.

Relief and Order

In fashioning the appropriate relief in this tribal court case, this court first recognizes that the artifacts are currently stored in a Seattle warehouse pursuant to an injunction of the federal district court in J84-024 (JAV). Therefore, plaintiff, as the prevailing party in this action, is directed to make appropriate application to the district court to enforce necessary aspects of this court's order; principally for a modification allowing for the return of the artifacts to the Whale House at Klukwan.

This court is convinced that as a matter of tribal law the artifacts must be returned to Klukwan. Placing them in the Whale House will return the parties to the status that existed before the illegal 1984 removal. [44] In other words, it will reinstate the pre-litigation status quo. This court also recognizes that there may be a lack of adequate custodial capacity of the Whale House, and possibly the Ganexteidi Clan as a whole in Klukwan. After all, the clan, through its leaders, requested that the village (which enacted the 1976 Ordinance) bring this action enforcing the ordinance, and seek the return of the artifacts to the village on its behalf. Accordingly, this court hereby makes it clear that plaintiff Chilkat Indian Village, in consultation with the Ganexteidi Clan, has ultimate authority to enforce its ordinance, effect the return of the artifacts to Klukwan, and otherwise exercise all necessary custodial responsibility in overseeing the care and future custodial arrangements of the Whale House artifacts.

Plaintiff has sought an award of unspecified actual and punitive monetary damages against defendants. Its request for actual damages is against all defendants jointly and severally. Its request for punitive damages is requested in separate unspecified amounts against (1) the Tlingit defendants, and (2) Michael Johnson and his corporation. Plaintiff cites several factors which it believes justify a separate award of punitive damages against Michael Johnson and his corporation. Those factors are consistent with this court's findings regarding Michael Johnson's pernicious role in this matter discussed above.

On the subject of damages under tribal law, this court finds that the evidence presented at trial compels a fundamental distinction between the Tlingit defendants and Michael Johnson and his corporation-even though no legal rationale was established for the 1984 actions of any of the defendants. Although the Tlingit defendants were undoubtedly motivated in part by greed, they also believed-mistakenly as it turns out-that as members of the Whale Houses [45] they had a right to assume custody of the artifacts. The bad faith conduct of their uncle Clarence Hotch and Michael Johnson contributed to their incorrect assumption-as of 1984-that they had the right to take the actions resulting in violation of the tribe's ordinance. They appeared at trial, attempted in good faith to justify their actions, but also expressed responsibility for their actions. The Tlingit defendants, in their own way, expressed regret, and all of them now want the artifacts returned to the village.

Michael Johnson, on the other, hand remains relentless in his efforts to acquire the artifacts, which he intends to sell to

the highest bidder. He is unremorseful, and has become vindictive regarding the prospective outcome of these proceedings. He chose to not participate in the trial, and was likely disingenuous about his reasons for not attending. He declined to participate even by telephone. [46] The evidence unequivocally established that he exercised bad faith in his matter from the beginning. [47] As Judge Linn Asper testified: "Michael Johnson had invoked the jurisdiction of the federal court [to clarify ownership], and at the same time he was.. . financing the operation to steal them..."

Order

Under these circumstances, and upon due deliberation under tribal law, this court orders the following: The artifacts are to be returned to the Whale House in Klukwan. Plaintiff shall make appropriate application to the federal district court to accomplish this as soon as possible. Michael Johnson (and his corporation) are to pay for all expenses required to return the artifacts to the Whale House at Klukwan. Additionally, defendants Michael Johnson and his corporation are responsible to plaintiff, as the prevailing party, for costs and fees in this tribal court action. Plaintiff is ordered to submit a bill of costs and a statement of its attorneys' fees within 30 days of receipt of this decision. Michael Johnson (and other defendants) shall have 30 days after service of said bill and statement to file an objection. No other actual or punitive damages are awarded.

Counsel for plaintiff Carol H. Daniel, Joseph D. Johnson, and Mary Ann Kenworthy, Anchorage, Alaska; Willa Perlmutter, Juneau, Alaska

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Notes:

[1] *"We reach a different conclusion with regard to the claim seeking to enforce the Village's ordinance against its own members or others whose Indian status may subject them to the internal jurisdiction of the Village.... In the overwhelming majority of instances, a tribe's enforcement of its ordinances against its members will raise no federal questions at all. E.g., Doe* v. *Fort Belknap Indian Community,* 642 F.2d 276 [8 Indian L. Rep. 20691 (9th Cir. 1981). Such cases primarily raise issues of tribal law, and they are the staple of the tribal courts.... We conclude, therefore, that the Village's claim for enforcement of its ordinance against its own members does not arise under federal law within the meaning of 28 U.S.C. §§ 1331 and 1332." 870 F.2d at 1475-76.

[2] Act of December 18, 1971, P.L. 92-203, 85 Stat. 689, 43 U.S.C. §1601 *et seq.,* as amended.

[3] Upon reconsideration, the district court noted that in referring the case to tribal court it "retained no issues to itself except to retain jurisdiction." Memorandum and order at 2 (Dec. 19, 1990). Following certification of its October 9, 1990 decision, as modified, for immediate appeal pursuant to 28 U.S.C. § 1292(b), on February 21, 1991, the court of appeals denied defendants' petition for appeal. As such, the above-outlined issues are now plainly before this court.

[4] Chilkat Indian Village Ordinance No. 80-001, art,. VII, § 1(b) provides that until such time as the tribal council may adopt procedural rules, the Federal Rules of Civil Procedure apply to the extent that such rules are compatible with Tlingit custom and law.

[5] The principal spokesman among the Tlingit defendants had earlier verbally informed the tribal court clerk that the Tlingit defendants had fired Ms. Willard.

[6] By letter to the court dated December 9, 1992, defendant Irene Rowan requested that the trial be postponed from January until June or July 1993, in order to facilitate settlement negotiations, and to become familiar with court procedures and possibly retain a new lawyer. This request was denied for the obvious reasons that plaintiff did not

embrace the need for delay based on negotiations, and Ms. Rowan and the other defendants had been on notice and expressly advised to obtain new counsel by their former attorney Donna Willard since June 25, 1992.

[7] On January 5, 1993, the court received cover letters dated December 30, 1992, from Sharon and Michael Johnson with a brief enclosed narrative requesting a two-month delay to respond to this court's December 23, 1992 order compelling defendants Johnson and his corporation to comply with plaintiff's discovery request. Michael Johnson's unsworn statement claimed that he was scheduled for surgery January 6, 1993, which was stated to take two hours, and would require one or two months' recovery. He claimed that his physical condition would prevent him from conducting the search necessary to comply with the discovery request. He provided no other details regarding the operation, such as what it was for, did not indicate whether it was elective or otherwise, and offered no sworn information by anyone pertinent to the procedure and how he may have been restricted thereby. Nonetheless, it was evident from the testimony and documentary submissions of the other defendants during trial, which began January 18, 1993, that Michael Johnson and his wife conducted searches and reviews of documents in their possession relevant to plaintiff's discovery request, and selectively faxed and otherwise made certain documents available to the other defendants.

[8] This court is also mindful of (and has in many instances applied) federal statutory and case law; especially that which has been applied to this dispute by the district court and court of appeals. This court's November 27, 1991 memorandum and order at 5-6 expressly adopted the district court's October 9, 1991 holding that plaintiff Chilkat Indian Village has been recognized by the federal government as a federally recognized tribe. As discussed below, nothing in the federal trial and appellate court decisions respectively authored by Judge James A. von der Heydt and Judge William C. Canby, Jr., a distinguished Ninth Circuit judge who published *American Indian Law,* (2d ed. 1988), is inconsistent with the conclusions of tribal law enunciated below. Therefore, to expressly confirm conformities between tribal and federal legal applications, as well as a matter of comity, the federal court rulings to date are hereby adopted as a matter of tribal law.

[9] In discussing the village's power to enforce the ordinance against non-Indians, the court of appeals wrote that "[i)ndeed. the meaning of the ordinance is barely open to dispute, but the Village's power under the federal statute common law to enact and apply it is open to immense dispute." 870 F.2d at 1474.

[10] *Estelle Dehaven Johnson* s'. *Chilkat Indian Village, et al., 457* F. Supp. 384, 386 (D. Alaska 1978); slip op. at 10 n.20 (Oct. 9, 1990).

[11] Since the district court's most recent holding in this matter, there has been a refinement of federal case law on the definition of Indian Country, and a clarification by the Interior Department regarding its view of tribal powers in this state. *Oklahoma Tax Commission v. Sac and Fox Nation,* (No. 92-259) _____ U.S. _____ [20 Indian L. Rep. 10201 (1993) issued by the Court on May 17, 1993. That decision emphasized in part that "Congress has defined Indian country broadly to include. . .dependent Indian communities *Id.* at. (The question of Indian Country at Klukwan is discussed below as it relates to the tribe's authority to enact and enforce the Artifacts Ordinance which prohibits removal "from the Chilkat Indian Village.")

Additionally, during Assistant Secretary of the Interior Ada Deer's recent visit to Alaska (October 1993), she released a list of federally recognized tribes in this state which broadly defines the listed tribes' powers, and includes the Chilkat Indian Village of Klukwan. While the current Interior Department's policies covering all of the issues of this case have not as yet been fully fleshed out, recent pronouncements not only confirm that tribes such as the Chilkat Indian Village are federally recognized; there is also evident a clear trend towards viewing such tribes as having all of the attributes of sovereign status of tribal governments in the 48 contiguous states.

[12] Defendants William Thomas and Clifford Thomas, together with their uncle, Clarence Hotch (since deceased), and Buzzie and Vincent Hotch performed the actual removal while non-Indian art dealer Michael Johnson (who had travelled several hundred miles from Seattle, Washington) waited 22 miles away in Haines, Alaska. The artifacts were taken to Haines, where the men picked up Michael Johnson, and temporarily stored the artifacts in defendant Evans Willard's garage. William Thomas and Michael Johnson then discussed arrangements to ship the artifacts to Seattle, where they have since remained in a warehouse pursuant to the federal court's injunction.

[13] The defendants attending trial were housed at Haines. Alaska, 22 miles by road from Klukwan. Some of the defendants permanently reside at Haines, a city with a number of hotels, which is accessible by land and air, as well as by ferry (the Alaska Marine Highway). In this respect defendant Michael Johnson's protest that trial at Klukwan during the winter somehow posed difficulties preventing one's ability to attend is regarded as disingenuous.

[14] *See* discussion *infra* regarding the land status of Klukwan (unique status of current tribal ownership of exact boundaries of former reserve). Unlike many other Native villages in Alaska, which have both IRA tribal governments and state-chartered municipal governments. at Klukwan the only government is the plaintiff in this action-the IRA tribal government. It provides all necessary services, such as fire, water, electricity, garbage collection, etc.

[15] Traditionally, as a function of the matrilineal nature of Tlingit social structure and practice, Tlingit males moved to the house of their maternal uncle around the age of 8-12 years of age, where they were thereafter raised and received instruction about their clan and tribal law generally. *(E.g.,* testimony of Rosita Worl.) While this practice is less common today, many witnesses, especially elders, were raised in this manner.

[16] Alaska State Judge Linn Asper, who was counsel to the tribe in 1976, testified that he was incredulous that Michael Johnson financed a second attempt to remove the artifacts in 1976 at the same time that he was financing the federal suit to clarify ownership of the artifacts.

[17] Testimony of Judge Asper, Evelyn Hotch. and Jones Hotch, Jr.

[18] That dispute arose when a Canadian art dealer purchased certain property which the tribe felt was communally owned, and could not be sold by the individuals who dealt with the art dealer. Judge Asper stated that the Frog House matter was settled just prior to trial.

[19] Judge Asper testified that the special relationship between Klukwan and the federal government included factors such as Klukwan having comprised the only reservation in southeast Alaska other than Metlakatla, and the iron ore business undertaking at Klukwan which the Interior Department, with the village as a de facto partner, managed during the 1970s.

[20] At this and other points Judge Asper clearly recalled his recollections and feelings as an *advocate* for the village while he was their counsel. The court particularly noted his indignation at this juncture of his testimony.

[21] This simple accounting of the witness's matrilineal background is significant within the context of this case because it logically follows that he would consider the Tlingit defendants, descendants of Mildred Sparks and Clarence Hotch, to be members of the Valley House; not the Whale House.

[22] The prior Whale Houses were made of wood, and were therefore subject to burning-which threatened the destruction through burning of artifacts kept therein.

[23] The Tlingit defendants argue that they were duty bound to follow the directive of Clarence Hotch to sell the artifacts.

[24] *See, e.g.,* Emmons "The Whale House of Chilkat," *Raven's Bones* (Andrew Hope III, editor 1982) at 81 *et seq.* Anna Katzeek testified that she understood the artifact known as the rain screen to depict the "rains-the falling of the rains in the great flood which covered the earth, which the Tlingit people witnessed."

[25] Dr. Smythe noted that Estelle Johnson has resided away from the village for about 40 years, does not relate as a member of the village, and actually "sold" her interest in the Whale House to Michael Johnson for $60,000.

[26] According to Chief William Johnson, the word "chief" in his name holds no significance regarding a title, and is simply a part of his name in Klukwan.

[27] Bill Thomas testified that he signed the agreement at the office of Michael Johnson's attorney in Seattle after the artifacts had been shipped there.

[28] Witness Rosita Worl, who the court finds provided the best expert testimony at trial, was asked by the court who, among several published ethnographers and anthropologists on the subject of Tlingit culture, best reported the culture. She provided helpful analyses of several works, and singled out Emmons as the most accurate. Emmons's copious notes while living among the Tlingit during the 1880s and 1890s are included in a highly regarded and informative book which was published two years ago. G. Emmons, *The Tlingit Indians* (edited with additions by Frederica de Laguna 1991). *See Id.* at 60 *et seq.* (Whale House of Klukwan).

[29] *See* n.24, *supra. See generally* Enge, "Treasure of the Tlingit," *Anchorage Daily News,* April 4-8, 1993, at A1 (five-part series on the history of the Whale House artifacts) (Enge).

[30] Enge, part 2 at 4.

[31] In referring to ceremonies, "party" is synonymous with "potlatch."

[32] New York anthropologist Edmund Carpenter, who in 1975 published an essay about Louis Shotridge and the artifacts, is quoted as saying: "There wasn't 35 bucks in the whole of Klukwan at the time and they turned it down. That's style." Enge, part 3 at 6.

[33] He wrote a letter to the museum in Pennsylvania confessing that "as one who had been trained to be a true Kaguanton, in my heart I cannot help but have the feeling of a traitor who has betrayed confidence." *Id.*

[34] Despite the prior holdings of this court and the federal district court that the village did have authority to enact th ordinance, the issue is revisited by this court in light of the evidence established at trial.

[35] "Reservation" is a term of art, and is a part of the federal definition under 18 U.S.C. § 1151 of "Indian Country," which includes "dependent Indian communities," such as the lands owned in fee by the Chilkat Indian Village. *See* Judge von der Heydt's slip op. in J84-024 at 15 (Oct. 9, 1990).

[36] As noted above, both sources of federal law were addressed by the federal district court in its 1978 and 1990 holdings recognizing the powers of the tribe under its IRA § 16 constitution to prevent the sale of village assets without council approval, and to preserve the arts, crafts, and culture of the Indian village.

[37] Cohen n.103 at this juncture cites *United States v. Wheeler,* 435 U.S. 313 [5 Indian L. Rep. A-33] (1978), and 55 Interior Dec. 14 (1934) (Powers of Indian Tribes). This tribal court also subscribes to the analysis of tribal powers contained in *Hepler* v. *Perkins,* 13 Indian L. Rep. 6011, 6014 (Sitka Tr. Ct. 1986).

[38] The tribe's constitution, art. II, § 2 provides that under certain circumstances loss of membership can occur. No evidence at trial was presented establishing that any of the Tlingit defendants has at any time taken the affirmative steps provided for in the constitution to become nonmembers of the village. Joe Hotch testified that some of the Tlingit defendants have at various times served on the village council (which requires membership). The evidence did confirm that Bill Thomas, the only defendant to testify, was a member and resided in the village at the time of the 1984 removal. After trial, this court provided all parties with the opportunity to address the question whether any or all of the Tlingit defendants are currently members of the village. No response was received by any party.

[39] As noted above at 27, Judge Asper testified that the tribe's 1976 Ordinance was a central part of the initial *Estelle Johnson* federal court litigation (financed by Michael Johnson) in this matter, and that therefore Michael Johnson wa certainly aware of the tribe's 1976 Ordinance when the 1984 violation of the ordinance occurred.

[40] The record in federal court on this issue was sufficiently established to allow the court of appeals to explain in the *Morongo* case: "In Chilkat, the non-Indian had caused the artifacts to be removed from the Village; the subject of the regulation was clearly internal." *Moron go Band of Mission Indians v. Rose,* 893 F.2d 1074, 1078 (9th Cir. 1990).

[41] As the federal courts are acutely aware, the interests of tribes and states frequently collide. It is no surprise that the state of Alaska intervened in the federal action in this matter, and argued against recognizing tribal authority.

[42] Those counterclaims are intentional and malicious interference with contract rights; deprivation of due process, equal protection and just compensation; a claim for aliquot credits on ownership; negligence; breach of fiduciary trust obligation; libel; that defendants are the legal owners; and a claim for all fees and costs.

[43] The tribal property had the same Indian Country status as the land owned by the village in this case.

[44] This remedial action should also promote healing of the most recent wounds suffered by the tribal community (including the Tlingit defendants) by the continuing efforts by outsiders to use tribal members to purchase and remove the Whale House artifacts from Klukwan.

[45] The evidence at trial established that the Tlingit defendants are not, as they had honestly thought, members of the Whale House. They are members of the Valley House. Of course, under tribal law, even if they were members of the Whale House. other members of the Whale House, as well as the Ganexteidi Clan at Klukwan, would need to be consulted before the artifacts could be taken out of the cement Whale House building in the village. Then, pursuant to the 1976 Ordinance, council permission would need to be received.

[46] Telephonic testimony is allowed and is common in state and tribal courts in Alaska.

[47] For example, his May 28, 1975 letter addressed to "Tlingit Friends" confirms his understanding that: "All people volved in this know the Whale House is clan material."

Appendix A

The Ownership and Stewardship of Clan Possessions

The Ownership and Stewardship of Clan Possessions in Tlingit Property Law

Charles W. Smythe

> "right of possession" means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession of that object, ...
> (NAGPRA Regulations 43 CFR 10.10(a)(2))

The purpose of this paper is to discuss whether a Tlingit individual (specifically a clan leader or custodian) has the right to alienate objects regarded as clan property (*at.óowu*) under Tlingit legal traditions, and to present evidence of the traditions that were practiced in the late 19th and early 20th centuries. It will describe customary Tlingit practices associated with the ownership of clan and house property, with particular attention to the questions of what are the duties and responsibilities of the clan custodian or trustee, do these individuals have the right to dispose of clan property and, if so, under what conditions may this take place. This question has become key to this and other repatriation cases as it bears on the right of possession as defined at 43 CFR 10.10(a)(2), and because at least three institutions have asserted that the experience of culture contact effectively ended traditional cultural practices related to the ownership and stewardship of clan property and enabled individuals to sell such items to agents of these institutions and other collectors. The prevailing view among certain museums is that some time after American civil and religious authority was imposed on the Tlingit people after 1880, Tlingit individuals gained the authority to alienate such items, thus giving the right of possession to the institutions that acquired them regardless of their continuing cultural importance and sacred value to the Tlingit clans. This paper will show that traditional cultural practices relating to clan property have been exercised continuously since the contact period, and continue to be followed today by clans in Southeast Alaska[1].

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[1] For a comprehensive review of Tlingit property law, please refer to Tlingit At.óow: Tangible and Intangible Property, 1998 Ph.D. Dissertation by Rosita Worl. This study reveals the complexity of Tlingit law as it operates within the cultural context of Tlingit society and examines its application in several case studies, some of which are cited in this paper.

However, to frame the discussion in terms of customary practices of property ownership, inheritance, succession and decision-making would be inadequate, since objects that are in the category of clan *at.óowu* are more completely understood as components of a larger system of ceremonial prerogatives that include songs, stories, names, designs, landscape features and sites, animals, spirits, shaman's spells, etc. --- the collectivity of material and immaterial representations of a clan's ancestors and the events and occurrences with which they were involved that give identity to the group today. This is what traditional Tlingit people such as Richard Dalton and Anna Katzeek called "history." It is expressed most fully through social action, during clan ceremonies (most notably the ku.éex'), when the items representing the clan's identity are brought out, displayed, acknowledged and validated by members of opposite clans in a process that can best be described as an exchange among closely related clans of opposite moieties.[2] The larger framework encompasses the events that gave rise to the clan's identity; the spirits of clan ancestors and of the entities encountered by them that are believed to be inside the objects, or evoked by their use; the locations on the sea and land where these events were emplaced; certain spirits, animals and other resources found there; and the essential continuity between the past, the present and future generations of clan members (Haa Shagóon). Interactions with other clans and tribes are also included in the framework. Each clan has a unique history that distinguishes it from the others, and through the distinctive social exchange that occurs during Tlingit ceremonials the clan displays and reveals its essential identity that place it in association with, but distinct from, the other clan groups comprising their social world. "It's like the skin on your face," when you show your artifacts, in front of everybody (Kasko 1993: Interview Notes).

The discussion of clan property must be positioned in relation to the encompassing set of cultural practices and understandings that defines the meanings of clan *at.óowu*. In this framework, clan *at.óowu* are the inalienable possessions presented to other clans during ceremonies as exchange items of special value, in a form of giving among people (opposite clans) who are equivalent to each other. Clans can expect that they will eventually be "reciprocated" with a display of their *at.óowu* and clan ritual knowledge from those to whom they have given. The value of an item grows as it is exchanged symbolically between clans, through successive displays and validations in ceremonies, and its spiritual connection to the clan is brought forward from past generations to the present and future ones. Such objects have great significance not just for the clan and moiety, but for members of the opposite moiety as well, that collectively comprise the wholeness of Tlingit society.

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[2] This is a reciprocal or "balanced" exchange referred to as "wooch yax", since members of opposite clans will also bring out prerogatives of equal weight (importance) in a ritualized response to the displays of the hosting clan.

Ownership and Stewardship of Clan Property

Since before the turn of the 20th century, anthropologists have noted that the Tlingit have highly developed concepts of property rights (see Krause 1956:115; Swanton 1908:428). Following fieldwork conducted in the 1940s, Goldschmidt and Haas provided this summary:

> ... the Tlingit had well defined conceptions of property and legal rights to territory. The clan or house group is an economic group in Tlingit society which, like a corporation in western society, controls the use of certain lands and other valued properties. The head of the clan or house group is the person directly responsible for administering the property, but according to custom, his rights are subject to certain restrictions. The most important of these are that (1) he cannot sell the right---though it may be transferred in legal settlement to another group, and (2) he must allow the use to appropriate members of his group. The fact of ownership is publicly announced at the dramatic potlatches in which the new owner----whether by inheritance or other legal means---establishes his title. These potlatches involve the whole tribe, and often members of neighboring tribes, and are such outstanding events in the lifetime of the individual that they are graven permanently upon the memory of the people. ... Nowhere among unlettered peoples in North America was there so clear a recording of property ownership as among these Northwest Coast people.
> (Goldschmidt and Haas 1978:16)

All of a clan's material and immaterial possessions, including ceremonial objects that are frequently the subject of claims under NAGPRA, are the common property of all members of the clan. This clan property right arises from being born into the clan, so even a baby will have part ownership in whatever the clan has. This right is not lost or extinguished through death, for the Tlingit believe that deceased persons travel to another world "where they're going to meet their own on the other side" (A. Katzeek 1985:4). The spirits of the dead remain associated with clan territory, as they are believed to live in clan hunting and fishing grounds, coming to the village on ceremonial occasions to participate in clan potlatches (Oberg 1973:64). Today, clan property rights extend mainly to clan houses and ceremonial objects and prerogatives, but in the past the common property of clans and house groups included large canoes, important arms, trade goods and many of the utensils found therein (Oberg 1973:30, 62), as well as economic rights to natural resources within the clan's territory, such as fish, game, firewood and springs.

Each house had a leader, or "keeper of the house" (Hit s'áatí) who served as the custodian or "trustee" of clan property. "The house chief, or yitsaati ("keeper of the house") does not own the house nor the ceremonial articles but holds them in

trust for the others" (Oberg 1953:30, also see pp 46, 52). Olson (1976:37-38) refers to his role as a trustee and a custodian of the property. Emmons (1991:35, writing about the period prior to the turn of the century) also describes his role as a custodian of property: "although the hats themselves descended from the clan chief to his successor, the chief was only the custodian, and the hats were actually the property of all the clan." Since houses within a clan were ranked, the head of the leading house was recognized as the clan leader (Sháade háni). This anthropological evidence describes Tlingit customs practiced during the period under discussion, from the late 19th to the mid 20th centuries, and documents that the house or clan leader does not own the house or the ceremonial articles but holds them in trust for the use of the group as a whole or one of its members.

The crucial questions here are the following: in the role of trustee or custodian, does the house or clan leader have the authority to sell or otherwise transfer what are considered to be inalienable clan possessions, and was this a traditional right recognized in Tlingit custom in the late 19th and early 20th centuries when such items were acquired in significant numbers by museums and other collectors (such as in 1925 when Louis Shotridge claimed he purchased the Snail House/Mt. Fairweather House collection in Hoonah). The authority to sell (or to gift or donate) clan possessions, particularly to EuroAmerican collectors and institutions, relates specifically to the issue of "authority to alienate" as used in the Native American Graves Protection and Repatriation Act definition of right of possession. Other traditional forms of transfer will be discussed at another point in this paper, in relation to this same provision.

Ethnologists have stressed the limited authority of the clan or house leader, emphasizing that he did not have exclusive rights over clan property and that he was primarily a ceremonial leader, representing the clan to other clans during ceremonies, and to outsiders, but who led by consensus and made decisions collectively with the participation of clan members (Oberg 1973:30-31, 42; Goldsmith and Haas 1978:16; Olson 1976:37; Emmons 1991:39-40). Ceremonial items belonging to the clan were kept under his care in the house, and he was responsible for making them available to clan members for ceremonial use after which they were returned to the house. Olson, who uses the present tense to describe contemporary practices he recorded from multiple locations in southeast Alaska between 1933 and 1954, states, "... in many cases [trustees] cannot sell or otherwise dispose of such things without the consent of others" (Olson 1976:37).

Emmons, writing primarily about his observations in the 1880s and 1890s, described the limitations to a leader's authority in making decisions in clan councils:

> Although the office of chief was the most honorable among the Tlingit, the holder was possessed of limited authority. His power was more moral than real, for the people constituted the governing body. He presided over them in council and represented them in dealing with outsiders, but he governed only through their consent.

...

> Councils were not assembled at fixed times, but were called by the chiefs when the occasion required. They were presided over by him, and were attended by the subchiefs and other household heads in his clan. After discussing the subject and agreeing upon a course to pursue, a general meeting of all the adult males of the clan was called and the proposition stated. Every person present had an equal right to speak, and the sentiment of the majority was followed, but generally the prior decision of the house heads was accepted. (Emmons 1991: 39-40)

Traditional and historical information confirms that clan councils have been and remain a critical component of collective decision-making on the part of Tlingit clans relating to clan property. In a letter written in 1982, leaders of the Klukwan Shangukeidí clan referred to a decision by the "Thunderbird Eagle Council" made generations ago granting permission to use the clan's Thunderbird crest to a grandson who belonged to another clan (Letter from Sha'an-gu-Kei-De'e --- Thunderbird Tribe to Judge Walter L. Carpeneti, Sept. 2, 1982). Decisions about entrusting clan property to the next generation also took place in clan councils. Olson (1967:38) related the process by which a decision was reached among the Haines Lukaax̲.ádi concerning a Chilkat robe then in the care of the clan leader:

> Thus a certain [Chilkat] blanket is in the charge of Chief Danawak. But he is old and recently called in several close kin for their advice as to the disposal of the trusteeship. It was decided that the blanket should pass to the eldest surviving male of the house Hink!ahit (house by the stream).

Olson is careful to describe this occurrence as a transfer of the "trusteeship," or the office of custodian, rather than simply a transaction involving property, the blanket. In clan actions relating to the succession of a clan leader or custodian, the clan passes on the responsibility for the care for clan property, designated by the title of Hit s'áatí or Sháade háni, not the property itself, because the property remains in the ownership of the entire clan (see also Oberg 1973:42).[3] More recently, the Haines Lukaax̲.ádi Clan formalized a similar procedure in their clan trust to preserve and manage clan property. A process of public decision-making involving clan elders is described in the Trust document as necessary for making decisions about certain transfers of clan property in the future (see below).

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[3] The formal installation of a successor was achieved only in potlatch, when he was brought out before opposite clans and important items of clan atóowu were placed on him, signifying the transfer of the office of Hit S'aati (or Shaadeihani). This public presentation and validation by the opposite clans is a fundamental component of Tlingit ceremonials, which cannot be practiced without the possession and proper handling of clan atóowu and other clan prerogatives.

Clan Wills and Trusts

During the 20th century, some house and clan groups developed wills and clan trusts as a means to codify traditional Tlingit legal customs related to clan ownership and succession issues. These instruments are a direct response to pressures to sell such items and efforts by institutions, collectors and dealers to buy them. By these instruments, clan custodians adopted civil procedures from the EuroAmerican legal system to formalize customary and traditional Tlingit practices to protect their clan possessions. Annie Hotch (Klukwan Kaagwaantaan Clan) said (in 1989), "Right now we are making a will, a promise, that these *at.óowu* will not be sold. This is why I am talking about this, the Brown Bear House" (Annie Hotch Notes, 1993). She explained that the purpose of the will is to follow the practices of their elders and to "handle" things properly:

> What I'm going to tell you about our things as told to me by my clan elders. Just as they promised how they will handle things, or how to go about it. That's the way we are going to handle it. There are only a few of us. We treasure our *at.óowu*. We have younger children growing up. Our ancestors have passed on from these things. And this, our Brown Bear House, and Killer Whale and the screen. This is our thoughts, we do not want to see these things to be objects of disagreement or dispute or to be mishandled. This is what this tape is for. Nothing should cause us to be disagreeable or dispute pertaining to these artifacts.
> (Hotch 1989)

The prescription to keep clan possessions in the village has been particularly salient in Klukwan throughout the 20th century. Martha Willard (Klukwan Gaanaxteidí, Raven House) recalled when, as a young girl, her grandfather, Chief Yéil xáak (Klukwan Gaanaxteidí, Raven House), told her that the artifacts (referring to those from the Whale House, which had come into his possession as caretaker) should remain in the Raven House --- meaning that they should not be removed from the village. She related a story how her grandfather and Matthew Johnson of Frog House decided that no more items would leave the village:

> A long time ago people were encouraged by the missionaries to get rid of all the artifacts. Lots of people sold their artifacts or totems because of this. Finally, my grandfather Yéil xáak and Matthew Johnson of the Frog House saw that we were losing our history and our culture. They realized how important the artifacts were and decided that the village would not let anything else go. A canon was fired three times in front of all the people in Klukwan. The artifacts were to remain in Klukwan and be our landmark.
> (Martha Willard Deposition, Whale House Case)

The introduction of civil government under territorial laws in Southeast Alaska villages introduced another authority that decreed the termination of Tlingit ceremonials and indirectly sanctioned the sale of clan property. Newly formed city councils in southeastern communities such as Klukwan and Hoonah passed ordinances which prohibited the practice of Tlingit ceremonials within their territorial limits. Annie Hotch related how the people of Klukwan abolished their city council after they realized what was happening:

> The selling started when Klukwan had a city council. People started selling things at that time --- the city council said that anyone that does any tradition will be put in jail, and that's why they got rid of city council. Party at Four-Mile [a former village situated between Haines and Klukwan], they took two of them to jail for participating in potlatch. When they got out, they said they ate well. There was a log cabin in Klukwan that was the jail, and the clan leaders got rid of the city council after that.
> (Hotch 1989)

Clan members and elders might engage in "interventions" when a clan member or leader made attempts to sell items, but such activity would be personally costly since intense feelings of shame, disgrace and perceptions of personal entitlements and superiority were embedded in such confrontations --- emotions that traditional Tlingit sought deeply to avoid in regular social interchange. Annie Hotch (Klukwan Kaagwaantaan Clan) related one such experience involving her brother:

> The cannery was running, Haines Packing. My mother was working and I was working, people were working. Someone came to tell her that Xaal Tsuw came up to Klukwan, he came up to get *at.óowu*, like the Killer Whale house artifacts from the house is what he wanted, the Brown Bear jacket. Then my mother went to see the Cannery Superintendent. She said, you as a white man have a lot of respect for the flag of the country. That is how we are, it is like the way the flag means to you is the way we feel about our artifacts. I just received news that someone is up there (Klukwan) to obtain these things. I am here for you to excuse me from work. He answered, go right ahead. Mrs. Lee, when you return you will go right to work [meaning she would not lose her job]. So they went my mother and [name] (Mrs. Willard Lani Strong) went, she accompanied her to Klukwan.[4]
>
> So there were three of them and they talked with him. My mother was the last one to speak here is what she said to him (the one who came

[4] This interchange with the cannery superintendent shows the changed economic circumstances of the Tlingit, who were engaged in wage work away from their villages, but more importantly it reveals the power relationships that such bosses exercised in the everyday lives of Tlingit people.

to get the artifacts). Yes, my son, my son. I don't want this to go.... These belong to our grandfathers: they have all passed on. I do not want this to leave or sent away. The person who brought them in his car was also Kaagwaantaan, his name is Keit xootch is his name. He is also paternal grandson of Kaagwaantaan. It is whom that brought up to Klukwan.

When he came into the house, my mother said to him, go sit on that box, sit on it. You are not going to get off that box until it is left to us. That's what my mother was saying. My mother was the last to talk after the other ladies talked with him. Your sister has four children, referring to her grandsons (who are Annie Hotch's sons). Four of them have grown up. Which relatives or nephews do you want to send this to? This is the place for it here. Your nephews, referring to her grandsons. There are others only mine are four that are grown up.

He was very quiet, then he said, "Mom, I will not take them. I will leave it in your hands, you will take care of this for my sister's sons, you will be the one to care for this." This is the way it is, they (my sons) do not take things and act like it rightfully belong to them, the rightful owners have willed the things they have. These three ladies returned to their jobs. The cannery owner was so good to them. This is why the things are still here, the house. This is how they become owners of the artifacts and the house. They didn't run there and take over on their own. Those that were the owners gave it to them. (Hotch 1989)

There are not many descriptive accounts such as this that can be offered by Tlingit tribes to satisfy evidentiary requirements imposed by certain museums in order to demonstrate that clan members asserted their collective right of possession, and thus that traditions of Tlingit property law were practiced, at the time such items were acquired by a collector. This standard of evidence presumes that clans either had prior knowledge of such acts or that the sales of items occurred in public, without secrecy or subterfuge. The availability of such evidence for particular historical objects is an exceedingly high standard of proof that cannot, in most cases, be met. The outcome of a recent (2001) crisis in Angoon can be used to support the contention that customary Tlingit concepts of communal ownership are evident in the contemporary period. When it was learned that the Trustee or House Leader of a Deisheetaan house was said to have agreed to the sale of clan *at.óowu* to a collector, members of the clan went to his home to discuss the matter with him. Later, in a clan meeting, he agreed to a decision by the clan not to sell the items (Rosita Worl 2010: Personal Communication).

The custodian of the Klukwan Gaanaxteidí Whale House *at.óowu* was among the first to prepare a will, in 1922, to designate his successor. This occurred while

Louis Shotridge was making determined efforts to convince the owners (and the communities in Klukwan and Haines) that it would be better for the clan to acknowledge that the old ways have passed and to put these things into a museum for safekeeping and to show the world the glories of Tlingit culture. At this time he was serving as an agent of the University of Pennsylvania Museum, seeking to acquire clan possessions ("heirlooms") for the museum's collections, and he held a community meeting to discuss his proposal to buy the items. When he was unsuccessful in persuading the community to sell the objects, he asserted a claim through his patrilineal relationship and enlisted the aid of his father's brother, a man who had been passed over for the position of clan leader, to intervene on his behalf.

Chief Yéil xáak's will, certified on Oct. 24, 1922 by Sol Rapinsky, Probate Judge in Haines Precinct, says:

> After my demise. First I appoint my nephew, Jim Young of Juneau Territory of Alaska. To come to Klukwan and take charge of My House and all my native curious [curios] but not to dispose. or sale any of my stuff. all to be kept and not to be removed to any other place.[5]
> (Alaska State Library Historical Collection, Ms 107, Box 62, Fldr 13)

By this means Chief Yéil xáak designated a successor custodian of clan property and sought to ensure that such property will never be sold or otherwise disposed of, nor removed from the clan house in Klukwan.

In 1923, Yéil xáak posted a paper notice on the house where the items were stored saying that he and his nephew, Jimmie Young, were the caretakers, which served to discourage Shotridge who had arrived in Klukwan to remove the items. On July 14, 1923, James Wickersham, a former judge and Territorial Representative to the U.S. Congress, sent the following night letter to from Juneau to Henry Phillips, Native, Sitka, Alaska:

> There is trouble between Jim Young and Louis Shotridge about Klukwan property. Important that you should come and go Haines with Jim Young and get papers signed before old chief at Klukwan dies. Lloyd Winter says come.
> (Alaska State Library Historical Collection, Ms 107, Box 62, Fldr13)

Ultimately unsuccessful, Shotridge abandoned his quest for these *at.óowu*, and in 1925 he sponsored a formal peace ceremony in Haines to repair the enmities he had unleashed and restore harmony between those who wanted to sell and those who wished to retain the items (see Shotridge Papers; Milburn 1997; Worl 1998).

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[5] There follows a list of clan property including 8 totem poles (house posts), 4 hats, 3 masks, 1 basket (Mother Basket), 3 dishes, 1 apron, 2 Native War Guns, 1 breast plate, 1 rattle, 3 Russian cannons.

Thirty-five years later, another custodian (Mary Williams) developed an instrument that identified persons who would become the custodians of the Raven and Whale House *at.óowu*. Entitled, "Assignment of Guardianship over Tribal Possessions and Relics, in Case of Death," the document was witnessed by six clan members, in addition to the typist who appears to have been an employee of the BIA (dated April 27, 1956). Five clan members (both men and women) are appointed as "Guardians and Advisors ... over my Tribal Possessions and Relics contained in the Raven Tribal House, Klukwan," and there followed a list of the clan's possessions. In addition, the document directed that these persons "shall be or act as Guardians over" certain members of the Chilkat Raven Clan, who are listed by name. Ms. Williams also identified four house posts in the Concrete House (successor to the wooden Whale House), placing three under the guardianship of named individuals: "The following Totems [house posts] ... shall not be moved and are under the Guardianship and protected by the persons named." She specified that the fourth house post, along with the Woodworm Dish, shall remain there and be possessions of the Raven Clan of Klukwan."

This instrument specified the principles of clan property ownership and explained the customary restrictions on the authority of the keeper(s) and how the property can be used, providing a crucial description of Tlingit traditions as articulated by this clan in the mid-1950s. It is a clear statement that no one in the clan has the authority to sell clan possessions.

> The Raven Tribal House which stand in Klukwan, Alaska shall remain a Community House for the Chilkat Raven Clan and will be under no one persons' jurisdiction, but only a possession of the Ravens as a Clan. This Raven Clan will be only the Raven Clan of Klukwan, Alaska. None of the items listed above as being in the Tribal Raven House in Klukwan, Alaska shall be given by me or any other persons as personal possessions but persons named above will only be appointed as Guardians and [of] same articles and will not have the power to remove them except in the case of a Benefit Ceremonial Dance. They will not be offered for sale by anyone. The possessions of the Raven Tribal House in Klukwan shall not be moved from their Tribal House except on above mentioned occasion and shall be returned to the same Tribal House immediately after use for this purpose. They must stay in their original Raven House immediately after use for this purpose. They must stay in their original Raven Tribal house in Klukwan, Alaska and may not be moved to another Tribal House at any time.

Additional statements referred specifically to the totem poles (house posts) in the Raven House and the Concrete Community House, and include instructions that they shall remain in their respective places and not be moved or disturbed, and be the possessions of the entire Raven Clan in Klukwan.

Lukaax̲.ádi Clan Trust

The Lukaax̲.ádi Clan Trust is the most comprehensive and thoroughgoing effort to use the Euro-American legal system to codify traditional Tlingit legal practices. In the form of a charitable trust, the Lukaax̲.ádi clan defines the primary responsibilities of the Chilkoot (Haines) Raven House Leader (Hit s'áatí) as protecting and preserving clan property, and identifies and charges his successors (a "Board of Hit s'áatí Trustees," comprised of three named individuals) with carrying out the purposes of the trust following his death. In this instrument, the Chilkoot Lukaax̲.ádi Clan affirms that in the Tlingit legal system, there is no authority for an individual to sell or otherwise dispose of clan property without the consent of clan elders given in a public meeting.

During the Wooshkeetaan case, which entailed an investigation of traditional Tlingit legal practices (discussed below), the State of Alaska formed the opinion that the court must apply Tlingit law and customs to some form of communal ownership recognizable under Anglo-American law (Svobodny 1985:17). It then proceeded to review several models including a trust:

> A trust creates a right in the trustee for the benefit of another. A fiduciary relationship is created between the trustee and trustor, cestui que trust, which requires the trustee to deal with the property for the benefit of the trustor. If there exists a trust relationship in this case between either the Woosh-ke-taan clan or the Thunderbird House there would appear to be, under a trust theory, an inability to alienate the property.
> (Svobodny 1985:18-19)

The State then identified a legal problem with the trust model, which given the communal nature of clan property would violate the rule against perpetuities, and introduced the idea of a "charitable trust" to get around this problem.

> A charitable trust is a trust which the performance of will, in the opinion of a court of equity, accomplish a substantial amount of social benefit to the public or some reasonably a large class thereof the public. Specifically, charitable trusts have been found for religious purposes and for the maintenance of monuments, which may fit the facts of this case. ... In this instance a charitable trust would seem to fit most of the facts of the evidence presented to this court and it would not violate the rule against perpetuities. [6]

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[6] The State continued this discussion by offering the court a viable alternative that fit the facts of the case regarding Tlingit property law: "If the court were to accept the trust model and find that the sale of the artifact would be a violation of the fiduciary duty and if the court accepted the charitable trust model, the State of Alaska through its museum would be willing to maintain the artifact in trust

(Svobodny 1985:19)

Interestingly, the Wooshkeetaan case provided some legal support for the charitable trust model that was adopted a year later by the Lukaax̲.ádi Clan. Through a charitable trust, the clan has developed procedures to protect and preserve clan property, while also restricting its sale or disposal to transactions that would benefit the clan as a whole.

The purpose of the trust is described in Article II:

> The purpose of the Lukaax̲.ádi Clan Trust is for the protection and preservation in perpetuity of clan property in the collective ownership of clan member beneficiaries for the benefit and education of clan generations with residual benefits to the public. The trust converts traditional clan property obligations into trust provisions enforceable under Western and Tribal courts of law. Protection and preservation of clan properties is well established in the Tlingit legal tradition expressed in the well defined, and commonly understood rules and obligations for the care of clan property. Codification of the Tlingit oral tradition of clan property law into a charitable trust provides the legal mechanism for preventing the sale, theft, wrongful inheritance, or alienation of clan property. The Lukaax̲.ádi Clan Trust expresses the sprit of the Tlingit tradition in western legal terms thereby rendering it clear and enforceable in Western courts or Tribal tribunals. It is also the purpose of this trust to receive and collect additional clan property that has been validated at a potlatch as part of the Lukaax̲.ádi Clan property.
> (Hammond 1986:1-2)

This statement indicates that the fundamental purpose of the Clan Trust is to formalize and make enforceable traditional Tlingit legal practices in Euro-American law for future generations. With this early statement, the Trust refers to the traditional restrictions placed on the Hit s'áatí regarding the sale of clan property and clearly says that the Hit s'áati does not own clan property, but he shares a vested ownership in the clan property with all the other members of his house group. Subsequently, the document describes the position, duties and authority of the Hit s'áati as "the traditional elder who is bestowed with the honor and responsibility of care of the clan property of a house group, and who represented the house group on formal occasions (ritual, political, economic)" (Hammond 1986:19).

Under the terms of the trust, the sale or transfer of clan possessions is permitted under certain circumstances, but only if the decision is made with the

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for the owners." As described above, the court did not respond to this suggestion, deciding in favor of the Plaintiffs in 1986, and the screen was eventually sold to a private collector.

consent of clan elders. The decision must be made in public and for a purpose that does not serve the financial interests of an individual clan member.

> Transfer of clan property by sale has been covertly practiced by self-interested Tlingits since European contact. This practice is not openly discussed among clan elders or hit s'áati because it is commonly understood to be in direct violation of Tlingit property law. There are special circumstances where transfer or sale may legitimately occur. It must be undertaken for the purposes of non-monetary gain for any of the members of the house group or clan, must be decided upon publicly, and the decision must involve the elders of the clan. An example of such a sale is expressed in the decision of a house group to sell one piece of clan property in order to raise funds to restore a clan house. Covert or self-interested sale is in direct violation of Tlingit property law.
> (Hammond 1986:17)

While this statement acknowledges that sales or transfers of clan property occurred in the past, it explains that they were carried out by individuals who acted in private, without the knowledge of the clan, most often for personal gain, and these transactions were not sanctioned under traditional Tlingit clan property law. The Lukaax̲.ádi Clan trust uses principles of traditional Tlingit property law, expressed in an instrument of Anglo-American law, to prevent such illegitimate practices from occurring the future.

Court Cases

The earliest property disputes among Tlingit clans that were brought into American courts occurred more than 100 years. One well-known case involving competing claims to the frog crest by two Sitka clans has been described and analyzed in detail by Worl (1998:158-182; see also de Laguna 1972:288-91). There are two recent cases that went to trial, one in state court and one in tribal court --- both of which provide further evidence of the contemporary practice of Tlingit legal traditions at the close of the 20th century. These are commonly referred to as the Wooshkeetaan case and the Whale House case.

State of Alaska v. George Jim, et al. (1986) (The Wooshkeetaan Case)[7]

This case was brought by the State of Alaska for the purpose of determining whether the Wooshkeetaan clan custodian had the sole authority to sell a highly valuable item of clan property (a house screen) that was then on loan to the Alaska State Museum, and which the custodian wished to sell. The issues regarding the authority of the custodian to sell the object, and the need for prior consent of clan members, were fundamental in this case. The court heard testimony on April 25,

[7] An extended discussion of the various issues raised in this case is presented in Worl 1998:191-202.

1984, that under Tlingit law or tradition, the Wooshkeetaan screen is owned in common by all members of either the Wooshkeetaan clan or the Thunderbird House (for which the screen had been made). Ownership in common means that all the members of the house or clan must agree before a sale can be made. However, George Jim, for the plaintiffs, claimed that the custodian had the authority to alienate the screen without the consent of the clan, and if the house members needed to be consulted, they had forfeited their rights by not making contributions to the care of the previous custodian. While the State reported that the totality of evidence presented to the court was mixed as to whether clan property could be alienable, reflecting statements made by Plaintiffs and others, it summarized the evidence of traditional Tlingit law regarding the fundamental issue of alienation as follows:

> "The evidence in regard to Tlingit law and custom, at least by some witnesses, is that the Wooshkeetaan screen is not alienable without the active participation of the entire clan or house" (Svobodny 1985:19, 20).[8]

One clan member, Ms. Martin, said the penalty for an individual selling a clan artifact was automatic loss of clan membership (banishment).

David Katzeek (Klukwan Shangukeidí Clan (Thunderbird), who later became clan leader, testified that a caretaker was responsible for the preservation of artifacts and that the caretaker was not the owner since there was no individual ownership of ceremonial property in Tlingit custom and law (Svobodny 1985:4, 21). Mr. Katzeek focused on the objectives of stewardship (preservation) and the absence of individual ownership, indicating that there was no individual right to sell or dispose of a clan possession entailed in the position. In response to a series of questions about the sale of clan property, Anna Katzeek (Mr. Katzeek's mother) suggested that the item could not be sold under Tlingit law. Asked whether clan property may be sold or disposed of by the clan, Ms. Katzeek replies, "No. They're not supposed to sell it." A short time later she is asked the same question in relation to the Wooshkeetaan Screen (which at this time was being offered for sale by the custodian), "Does any one person have authority to sell that Wooshkeetaan Screen?" Ms. Katzeek replied, "No they don't have an authority to sell it at all, especially if it's a big item like that." Following up again, the lawyer asks, "Does a small group of people, say two or three people, have any authority to sell that screen," to which she answers, "...in the olden days there was no such authority. I don't know about today." Ms. Katzeek's testimony has been described as indicating that a custodian may sell clan property with the consent of the clan (Alaska State Museum 2009).[9] Ms. Katzeek offered similar testimony in the Whale House case in 1993, saying it was "unthinkable" that the artifacts could be sold --- the artifacts tell the history of

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[8] The witnesses who testified in favor of this view were Anna Katzeek, Marie Olson, Carolyn Martin, Bessie Vaasa, and Albert Wallace (who later recanted his testimony).

[9] This conclusion was based on an interpretation of her qualifying statements in answers to these questions, when she said, "They're not supposed to sell it" and "I don't know about today."

the clan and must remain with the clan (Bowen 1993:6134). She also stated at that trial that the clan as a whole controls decisions about the custody of artifacts.

In the Wooshkeetaan case, Ms. Katzeek referred to another component of permission that was related to this specific case, in her extended answer to the second question presented above. This screen, which is painted in the design of her own clan, the Klukwan Shangukeidí (Thunderbird), was constructed after a Wooshkeetaan grandchild asked permission of his Shangukeidí grandfather to use the crest for this purpose. In her response during testimony, Ms. Katzeek explains that "if the person who originally asked to use the design was alive and was wanting to sell, he would have to come and ask permission of his grandfather's (turning tape over) concern it would be a disgrace because he was given permission to show to the people who he is, this is my identity, this is where I come from" (A. Katzeek 1982:10).[10] Since the person who made the original request has been deceased for a long time, this is a Tlingit way of saying that the sale of the item is illegitimate in her view. But her answer also reflects the knowledge that her ancestor is the one being dishonored in this way.

The impropriety of selling the screen was also expressed in a 1982 letter written to the judge in this case by the Shangukeidí Clan Leader and his designated successor (Joseph White and David Katzeek).

> If the Court elects to proceed, we can only hope that you take into account the way property such as the Thunderbird Screen was treated in traditional Tlingit culture. Such property was always treated as communal property. Even though the Thunderbird Eagle Clan does not assert a direct ownership interest in the Screen, we believe that one of our members gave permission to use our crest with the understanding that the screen would forever remain with the Woosh-ki-ton people in the memory of a great Thunderbird Eagle. It certainly has not been our custom to allow the use of our crest for personal gain and profit. We are deeply saddened by the action taken by the Woosh-ki-ton people and trust you will allow us to resolve our differences in our own way.
> (Letter to The Honorable Judge Walter L. Carpeneti from Joseph A. White and David G. Katzeek, September 2, 1982)

The major thrust of the letter was to recommend that the determination of ownership of the screen should be resolved traditionally in a clan or tribal council, rather than in his court. But the issue of personal gain and profit was an important consideration in this case, since the person claiming to be the Wooshkeetaan custodian was also claiming that he had the right to sell the screen on the basis of individual ownership.

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[10] Unfortunately, in the transcript submitted to the court, some words were lost from her statement while the tape was being turned over.

Since there was no tribal court in existence in Juneau at this time, the court proceeded to issue a judgment. The court acknowledged the significance of this case in Tlingit cultural tradition: "This action involves rights to the control, possession, use and disposition of an artifact which finds its origin deep within Tlingit culture, custom and law." However, through a formal process of default, a legal concept or process which in all likelihood was not known to the Tlingit, all those who came forward initially were eventually disqualified for lack of participation in the case, and the court ordered that no other parties than the sellers have rights to the screen. The order of the court was the stipulation put forward by the plaintiffs, that they possessed sole ownership of the screen with a right of alienation and that the screen was to be sold. However, in an addendum, the judge offered the following comments:

> The court enters this order with reluctance. This disposition appears not to comport with traditional Tlingit law and custom, which this court felt should be looked to "closely" in adjudicating this case. ... Moreover, it seems unlikely to be the outcome which a tribal court, were there such a court in existence to which this case could have been referred ..., would have reached after considering the facts. (Carpeneti 1986:3-4)

The next case to be discussed was decided in tribal court.

Chilkat Indian Village, IRA v. Johnson, et. al (1993) (The Whale House Case) [11]

The facts of this case and the testimony of witnesses provide additional evidence of the exercise of Tlingit traditional legal practices in the late 20th century and the efforts of clans and tribal villages to enforce them. This case revolved around the removal of clan *at.óowu* from the Whale House of the Klukwan Gaanaxteidí Clan by descendants of another clan house (Valley House), and their attempted sale to an art dealer named Michael Johnson. It was heard in tribal court in Klukwan over a period of one month in January and February, 1993. There are several points that are noteworthy for the purpose of this discussion.

Background

In 1976-77, there were two unsuccessful attempts to remove highly valued clan property (the four house posts and screen) from the Whale House (Klukwan Gaanaxteidí Clan) in order to sell them to an art dealer, to which villagers responded with physical force. At the time, Estelle DeHaven Johnson, the sole remaining lineal

[11] For a detailed description of the historical events surrounding this case, and an extensive analysis of the multiple dimensions of the proceedings, see Worl 1998:202-23.

descendant of the Whale House and granddaughter of Chief Shotridge, had agreed to sell the artifacts to a collector, Michael R. Johnson. She arranged for the house to be opened and a truck was sent to remove the objects, but villagers were alerted and felled trees across the two entrances to the village. A second attempt was prevented when the village a siren was sounded, and villagers confronted Ms. Johnson and her husband and physically prevented them from removing the artifacts (see Worl 1998:212; also see Bowen 1993:6131-32).[12] On April 26, 1976, in response to the efforts of art dealers to acquire artifacts from the community, village members "unanimously voted never to sell our artifacts and to protect those within our possession" (Telegram to BIA Commissioner Morris Thompson, in Bowen 1993:6132). Then, on May 12, the village council unanimously passed the Artifacts Ordinance which prohibited the removal of clan artifacts owned by tribal members without the permission of the Chilkat Indian Village Council.

As in the 1920s, when a peace ceremony was conducted in Haines to restore harmony after the disruptions resulting from Louis Shotridge's efforts to acquire these same objects, a peace ceremony was held in Klukwan attended by representative clans of both moieties in the fall of 1976. According to Joe Hotch, its purpose was to confirm the community's position that the Whale House artifacts should not be removed, and it was intended to heal the wounds resulting from contacts with villagers initiated by the art dealer Michael Johnson who sought to acquire the artifacts on consignment (Hotch Testimony, summarized in Bowen 1993:6132). In October of that year, the custodian of the Whale House, who at the time was Joe Hotch's father, wrote a letter to whom it may concern, stating that he no longer wished to be associated with any plan or agreement for the sale and removal of the Whale House artifacts, and withdrew the permission he granted earlier to any person (Michael Johnson) for such activity.

In 1984, the objects were successfully removed by members of a different Gaanaxteidí clan house, the Valley House, and transported to Seattle where they were to be turned over to the same dealer. Learning too late that the items had been removed, the village sought an injunction which prevented the sale, and the items were enjoined to remain in a storehouse in Seattle until the dispute could be settled. It was this action which led to the tribal court proceeding in 1993, referred to here as the Whale House case.

Testimony Related to Tlingit Property Law

There were many statements about the history and significance of the objects, which Joe Hotch referred to as "clan trust property" with great spiritual significance to the Gaanaxteidí Clan (Bowen 1993:6131). The testimony by Anna Katzeek has been described above, in relation to the Wooshkeetaan case, that there

[12] Estelle de Haven Johnson brought suit against the village but the case was dismissed on the grounds that the village government, as a sovereign entity, could not be sued without its consent (Johnson v. Chilkat Indian Village, 457 F. 2d 384 (D. Alaska 1978)).

was no authority under traditional Tlingit legal practices to sell such artifacts. In the trial, this position was first discussed by Joe Hotch, who "emphasized that that a *hit-s'áati* has the duty under tribal law to care for the property of the house *and* clan, and has no right to sell or otherwise dispose of clan property" (Bowen 1993:6131). In deposition, another Klukwan Kaagwaantaan, Jennie Thlunault, was very explicit with regard to the limitations on the authority of the keeper: "A caretaker's job is to protect the house and keep the artifacts safe, not to sell them."

There was testimony by numerous witnesses that no one individual or group (such as the defendants), including the Hit s'áatí or caretaker, has the right to unilaterally sell or dispose of clan property, and such objects cannot be sold although under certain circumstances (such as in restitution for a crime) it might be possible if the entire clan decides to do so (Testimony of George Stevens, Anna Katzeek, Andy Hope, Rosita Worl and David Katzeek, as described in Bowen 1993). Such objects, which can include prerogatives such as songs and stories, cannot be "owned" (Andy Hope). Anna Katzeek said that "the clan as a whole" controls decisions about the custody of artifacts, referring to the process of decision-making in clan councils regarding caretaker succession. According to Worl, the participants in a clan decision such as this would include all adult males and high-ranking women.

Legitimate Transfers and the Concept of Alienation

There are certain exceptions to customary rules under which clan property may be transferred temporarily to and sometimes acquired permanently by members of another clan or tribe. Thus, for example, Swanton (1908:415) reported that a man of high caste might borrow a crest object from his brother-in-law (opposite moiety), but he was not permitted to retain it. Such inter-group transfers are customary and traditional, and they do not invalidate the larger system in which highly valued clan possessions and prerogatives are maintained in the custody of matrilineal localized clan groups as inalienable clan possessions. Over time, it is inevitable that some inalienable prerogatives are lost, and new ones gained; this is simply a fact of human life and does not signify that a cultural system is broken down or has undergone a transformation.

Such transfers may include gifts, indemnity payments, capture in war, and items bestowed on clan children and grandchildren. These exceptions have been discussed most directly by de Laguna (1979:458-61). She holds that clans sold their property, and in support of this statement she mentions that the sale of land occurred, but there is only one example in the literature, an account reported in a myth (Swanton 1909). It is difficult to evaluate this transaction due to the lack of information about the circumstances and the reason it was memorialized in this story. On the other hand, it is documented that clans purchased items that rose to the importance of clan *at.óowu* through continued ceremonial use and display. During the fur trade, some clans climbed to eminence as their new wealth enabled them to build new houses and acquire and display new crest regalia (de Laguna

1972:458). Some items in the collection of the Snail House/Mt. Fairweather House of the Hoonah T'akdeintaan clan might have been purchased with such new wealth, probably acquired after sea otter pelts grew in value. Indeed, the Wrangell Naanyaa.aayí, perhaps the most wealthy of Tlingit clans during the fur trade period, "were so rich that they could use anything" as a crest (Swanton 1908:415). Through continued use in ceremonials, such purchased things would gain in value and become an heirloom possession. "Any heirloom (....., or "ownerless thing"), even though it does not carry the representation of the crest, may, through display at potlatches, become valuable and function as a crest object (See Oberg 1973:44-45; de Laguna 1972:450-61)" (de Laguna, in Emmons 1991:33).

Clan *at.óowu* have been passed between clans and from Tlingit clans to other tribes in the form of gifts. They may be potlatch or marriage gifts, or presented to cement special relationships between groups, or to recognize a special deed that a clan members performed in aid of another. The anthropologist de Laguna (1972:458-9) reports that clans have given *at.óowu* to an opposite clan as part of a payment (bride price) for the privilege of receiving a bride, and described three cases. de Laguna did not identify all the clans identified in the exchanges, but more than likely the bride and groom had a special clan relationship that the Tlingit recognize in which the bride may have been a "child" or a "grandchild" of her spouse's clan and which such clan relationships warranted the bestowal of gifts. In one case, the Kaagwaantaan obtained a Tsimshian song, given by the girl's father to her husband. In the following two examples, the items (clan *at.óowu*) originally belonged to clans related to bride, and the transactions were to be a kind of restoration. In another case a Yakutat Shangukeidí house clan leader offered the parents of a potential bride a considerable amount of money, many blankets, a bearskin and a Bear Headdress (shakee.át). The girl's father's side tried to force her to accept the marriage, because "they wanted to get back some of this stuff" (the Bear headdress), but their efforts were ultimately unsuccessful. In the other case, a Teikweidí woman was given in marriage for a Killerwhale Drum. The drum given to the Teikweidí was the most important heirloom of the Bear House Teikweidí, but it had been captured in some way by the clan of the husband to be. "It's a great thing when they got that [Killerwhale Drum] back through my sister" (de Laguna 1972:459). In these two cases, we see evidence of the cultural imperative on clans to recover items of clan property that once belonged to them, but had been lost in circumstances the knowledge of which has been lost (or was not talked about).

The T'akdeintaan Clan of Hoonah has in their possession a personal name that is Tsimshian in origin (*Tikata*), which was given to them by a Tsimshian chief as a special honor. In the past, this group of Tsimshian came regularly to their territory to hunt sea otter, and a special relationship between the groups developed over time. The name memorializes this relationship. In another example, a woman took special care of a member of another clan who was sick for many years. After she passed, the sick woman's daughter presented her with a Chilkat robe in recognition of the care she had bestowed on her mother. The robe is now in the possession of the caregiver's son, Dr. Walter Soboleff. Its acquisition by a member of

the L'eeneidí was as a gift presented in recognition of his mother's care and the special relationship between the clans of the caregiver and the sick person and is personal property until such time as a ceremonial presentation should occur.

If a member of a clan caused the injury or death of a member of another clan, whether accidental or intentional, the responsible person and his immediate family was expected to provide compensation in the form of property to the clan of the injured party. If the person or family were unable to make the appropriate payment, the entire clan was held responsible. In the case of a death, the life of a person of equivalent status as the deceased was demanded. Occasionally, clan prerogatives were substituted for payments in kind (that is, execution). In the case related by de Laguna (1972:458), the Yakutat Shangukeidí clan acquired songs from a Yukon chief who was believed responsible for the loss of those who were coming at his invitation, even if their deaths were accidental. Such transfers of prerogatives are inter-clan (or inter-tribal) exchanges for the purpose of paying an indemnity. A similar process occurred as part of a peace settlement.

If a crest was seized in a dispute, the original owners would feel an absolute obligation to redeem it.

> If the clan of the murderer refused to pay the amount demanded, then the injured clan could "take" one of the emblems (crests or totems) of the guilty clan. This they would carve on some object and claim it as their own crest until payment was made. In such a case the price would be paid to get the crest back. The native view is that *they could not do otherwise*, the crest *must* be redeemed.
> (Olson 1976:72)

Olson provided the following example dated 1933: after the murder of a Gaanaxteidí man, the Gaanaxteidí asked for money which they planned to use for the funeral potlatch and covering the grave, but the guilty clan did not pay. After two years passed, a member of the Gaanaxteidí clan mounted a skull of a wolf [the crest of the guilty clan) on his wall. "Now they have *got* to pay. ... This will *force* them to pay." The imperative for clans to recover items of clan property lost to another clan was evident in the cases of bride price described above.

Clan *at.óowu* were sometimes seized in war, for non-payment of debt, or in response to an insult. Adoption of another clan's crest was seen as stealing, which was a cause for war or violence between clans. The following examples of clan objects taken as a result of war were mentioned by de Laguna (1972:458): capture of a Wolf Post and the subsequent erection of house of same name; a crest hat displayed to Malaspina; the Angoon Beaver crest; and a facial design originally worn by Wrangell man and adopted by his slayer (in Swanton 1908: pl. LV, h). Russian muskets taken in war were given crest names. The appropriation of another clan's crest was carried out in response to an insult by the other clan. There are numerous examples of items from the U.S. military that were adopted as prerogatives such as

personal names and military hats and uniforms, signifying that debts were left unpaid or other forms of insult occurred. Occasionally a clan would assume a prerogative of another clan because of an insult or wrongdoing as an indemnity against the (future) reparation that is owed. In some cases the aggrieved clan would publicly display the crest it had taken in this way, as a means of social ridicule, but in others the clan would keep the object out of sight; in both cases there was the expectation that the offending clan would eventually redeem the item.[13]

The most common form of transfer of clan *at.óowu* occurring today occurs when a grandparent wishes to honor his grandchild. A special relationship is recognized to exist between a person and his or her grandchild who is a member of a different clan than that of his or her grandfather. During a ku.éex', a grandchild may be "recognized" by the grandfather who may call his grandchild forward to give her or him a name, or to place an object of his clan's *at.óowu* on this person. This distinction recognizes the special relationship between them and confers an honor on the grandchild. Sometimes a clan name is given to a person from another clan in this manner; in such cases the name will be used for the lifetime of the individual, but will be returned to the donor clan after the death of the individual who received the name. Of course, human nature being what it is, a personal name bestowed on a grandchild sometimes leads to the name being retained in the recipient's clan.

A grandchild may request the use of a prerogative (such as a clan object or a song) and can expect to be granted the right to use the item in a ceremony. Most often, the right to use of a song or artifact is temporary, granted for a single occasion such as a memorial. Instances of a longer period of use have been reported; for example that a man might "borrow" a crest from another moiety (that of his father or grandfather) for his use during his lifetime, and the use of the crest was sometimes retained by the man's clan after his death (Olson (1976:37). This occurred in the case of the Wooshkeetaan Thunderbird House screen, a design belonging to a Thunderbird grandfather of the individual who asked permission to make a house screen in this design, in honor of his relationship to the grandparent; the screen remained in the house after the death of the grandchild although Thunderbird crest and name remained the property of the Shangukeidí and not the Wooshkeetaan clan.

The ceremonial use of a prerogative belonging to one's grandfather is based on the special relationship that is believed to exist between a grandparent and her/his grandchild. One may be the recipient of an honor originating with a grandfather, or one may make a request to the grandfather to use an item, who usually grants the wish. Public display of the prerogative, usually in the form of a crest object such as a blanket or headdress, shows people the history, that the

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[13] According to Lily and Jake White, the object would not be used or displayed by the clan who has taken possession of it, as if it were theirs. "But the family [that] received it, they won't use it. The just put it away. They don't put it on anybody to dance or anything. They just keep it" (Lily White Interview, August 26, 2005).

individual is the grandchild of a person from such and such a clan. It is a public display of one's pride of having a certain grandchild, or of being the grandchild of a certain person. Just as with clan *at.óowu*, the use of such items "show[s] to the people who he is, this is my identity, this is where I come from" (A. Katzeek 1985:10).

Alienation

Today, clan possessions are primarily devoted to the ceremonial life of the clans. The traditions and customs of property ownership and intergenerational transfer of the rights and duties of stewardship, while subject to manipulation by individuals during the historical period, have been retained by traditional Tlingit clans and groups throughout the 20th century, as indicated in historical documents, anthropological literature, court cases and efforts by clans and communities to enforce traditional Tlingit property laws. The manipulation of the traditional rules, particularly by those who claimed the individual right to sell or dispose such items, was facilitated at various times by the efforts of religious, educational, civic, economic and even indigenous institutions, and was abetted by social and economic patterns of prejudice and discrimination. Indeed, the cumulative effects of these forces on Tlingit clans and communities cannot be denied, given the large numbers of clan possessions that were sold to outsiders, and the rationales given by some Tlingit people and even custodians for participating in these efforts.

The sanctioned exceptions to the standard rule of non-transferability, as described above, are a fraction of the totality of Tlingit social actions employing ceremonial objects. Although these practices have been described by earlier anthropologists (notably de Laguna) as instances of "alienation" of clan property, this framework is inadequate inasmuch as it ignores the social fact that such transactions are expressive of societal wholeness in an organization of exchange, which the Tlingit often refer to as "balance" or "wooch.yax̲." The items are objects of high value and the transactions most often occur in the context of exchanges between clans. Furthermore, the objects often remain in circulation among the clans and may carry on their historical associations with the donor clans, along with that of their new owners. That can be seen in the keenly felt obligation to redeem and recover items that have been seized as indemnification for personal injury, a debt or an insult, which may be accomplished through an exchange of other types of property. Some items have been transferred in place of taking the lives of clan members, and are a special form of exchange. In rare cases of bride gifts, a material object may actually be exchanged in the marriage transaction between clans. The same principle of exchange was evident in certain inter-tribal exchanges, such as between Tlingit and Haida or Tlingit and Tsimshian, which are structurally similar to inter-clan transfers since the transactions involve two localized clan groups that are engaged in relationships of social, ceremonial and economic exchange. It was with similar expectations (of developing a mutually beneficial relationship) that Tlingit clans sometimes presented items of value to members of foreign (European

and American) governments. There was an expectation of return of some sort, and that the gifted objects would retain their value.

The exceptions to the rule of inalienability are different from alienation, because they are often a form of "keeping while giving." Alienation occurs when objects are sold to collectors and art dealers, to museums and institutions, and they are completely removed from the arena of social action that gives them meaning. As defined by Thomas (1991:39, in Milburn 1997:180): "The alienation of a thing is its disassociation from producers, former users, or prior context." In Tlingit tradition, there was no regular and recurring practice or customary rule of alienation, in this sense, of a crest design or object in the way, for example, a Plains Indian could sell a design representing a vision received in a dream that gave protection, up to four times (or enabled him to sell the shield on which the original was painted), for some horses.

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Appendix B

Tlingit Property Law

Principles of Tlingit Property Law and the dispute settlement process

Tlingit Property Law

Principles of Tlingit Property Law and the Dispute Settlement Process[1]

Rosita Worl, Ph.D.

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1 **Abstracted from:**

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Worl, Rosita. 1999. *Tlingit At.oow: tangible and intangible property.* Ph.D. Thesis. Harvard University, Cambridge.

Principles of Tlingit Property Law and the Dispute Settlement Process

Property includes two essential aspects:

> -the object itself (tangible and intangible),
> -the web of social relations that define the relationship between individuals and the object or the use and disposition of the object (Hoebel 1972:58).

Property held by the Tlingit formerly included land, physical structures including houses and facilities where food processing occurred, warriors' armor and weaponry, ceremonial including shamanic objects, utilitarian objects and equipment and clothing, as well as intangible property including songs, stories, names and crests all of which were subject to Tlingit property law.

The 1867 Treaty of Cession abolished aboriginal title of Alaska Native lands and removed land in Southeastern Alaska from Native ownership and the jurisdiction of Tlingit law.

The Tlingit also held slaves, who played an important role in both the economic and ceremonial spheres, as property until 1900 (de Laguna 1972:470).

Another form of property included *at.óow*. Objects were transformed into *at.oow* through a process that began with the acquisition of a crest, its incorporation onto a physical object, its ceremonial transformation into property and its legal validation of ownership by a clan.

Once an object transformed into property including *at.óow*, a complex of behavior then governed the non-property holder's relationship to the property-holder.

Violation of that behavior or social norm was the basis of conflict and resulted in legal action and occasionally supernatural repercussions as well.

Tlingit Property Law

The legal principles governing *at.oow* are multiple and complex. A clan object can possess two distinct, and sometimes three, proprietary interests including ownership, use, and indemnification rights.

Under Tlingit law, two clans may have an ownership interest in an *at.oow*. The *Wooshkeetaan* screen, which was located in Juneau and which was the subject of a legal dispute provides an illustration of this principle.

> -The *Wooshkeetaan* maintained an ownership interest in the screen and a usufruct right of the Thunderbird crest.
>
> -The *Shangukeidi* hold ownership of the Thunderbird crest on the screen and the name of Thunderbird that was used to identify the screen and the house. This ownership right persisted in the duplicate that was made of the original screen.

Anthropologists uniformly concur that the Tlingit have a complex form of property ownership.

Goldschmidt and Haas (1946:17), who studied the possessory land rights of the Tlingit likened their organization and law to Western corporate institutions and law:

> ...the Tlingit had well defined conceptions of property and legal rights to territory. The clan or house group is an economic unit in Tlingit society, which, like a corporation in western society, controls the use of certain land and other valued properties....

While these laws were not codified, the rules governing Tlingit relations with each other and the legal expectations towards property were nevertheless known and well established throughout the society and acknowledged by neighboring tribes.

The dispute settlement process maintained by the Tlingit applied only in those instances in which two clans were involved, but it did not apply to the

internal affairs within a clan. Tlingit law was enforced whether the conflict was between two clans within the same moiety or clans from opposite sides. This principle is significant in that the settlement process did not apply to internal affairs of one clan. The dualism that dominates Tlingit society and culture is essential in the dispute settlement process. The objective of the dispute settlement process was to restore social balance and harmony between Eagle and Raven clans.

Conflicts between individuals within a clan were private affairs and not subject to Tlingit law. **A clan was free to settle internal infractions of the law as it saw fit.**

Intra-clan conflicts occurred, and the inability to apply the law to the internal affairs of a clan and to enforce the laws through sanctions may have been a contributing factor to the separation and migration of house groups from the parent clan.

Nader and Todd (1978:9) have suggested that avoidance, which "entails withdrawing from a situation or terminating a relationship", may serve as a sanction in itself. The result of the inability to apply any mechanism of redress often resulted in a complete break in social relations as a means to seek a solution.[2] Conflicts and movement of groups from their parent clans are extensively reported in the ethnographic literature.

The inability to apply laws to individual rights or property also supports the notion that private property did not exist in Tlingit society.

The legal system transformed tangible and intangible objects into property and conferred the rights of ownership to clans, but there was no comparable process or protection for individual rights and property.

The ethnographic literature has suggested that personal clothing and utilitarian objects were individual property, however, this concept of

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It was conceivable, and more than likely as the oral traditions suggest, that the migrant group might establish itself as separate and independent, and at such time would then have access to the law.

individual property is not apparent in the social, economic and legal systems as they traditionally operated.

The material for personal clothing and basic utilitarian objects were derived from clan-owned resources which supports the notion that a clan's interest dominated over an individual's persona and that individual property was not recognized.

Utilitarian objects could rise to significance and become clan property or an *at.óow.* An example of such as case is evidenced in the case of *K'alyaan's* hammer.

K'alyaan served as the battle leader in the 1804 war between the Tlingit and Russians. He had taken a hammer from a Russian blacksmith in an 1802 encounter to avenge the death of a *Kiks.adi* woman. He used the hammer as a weapon in this encounter in which they destroyed the first Russian settlement in the Sitka.

Later he shortened the handle and attached a rawhide thong to it that allowed him to tie the hammer in the same way that warriors tie their daggers to their wrist. **He is described going into battle** (Kuehn 1972), "*K'alyaan,* who was **dressed in full Tlingit armor with his Raven war helmet[3] and armed with his hammer,** surprised the Russians during the initial attack." (Kuehn 1972).

K'alyaan's hammer, which carried the name *Kaalshax'kayee,*[4] took on special significance to the *Kiks.adi.* The death of the *Kiks.adi* woman at the hands of the Russians purchased the right of the *Kiks.adi* to own the hammer

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3

Other oral accounts report that his father had requested that *K'alyaan* wear his Eagle war helmet in the 1804 battle.

4

This name was given to the first hammer which *K'alyaan* made out of copper. It was made with a knob in the middle of hammer head for the purposes of puncturing the skull which thus gave rise to its name, *Kaalshax'kayee.*

as clan property. Its presentations during ceremonies when great sums of money were distributed[5] transformed the hammer into *at.óow.*
Tlingit law is applied at the group rather than the individual level, and thus clans were held responsible and liable for a wrongful act of its individual members.

Injurious deed precipitating legal action applied to both voluntary and involuntary acts. Clans were obligated to pay for damages whether the misdeed was intentional or accidental.

An example of the application of this tenet is evident in the case in a *Lukaax.adi* woman who had been invited to dinner by a *Kaagwaantaan* of the *Gaaw Hit* (Drum House) of Klukwan.

The *Lukaax.adi* woman died after eating a meal. Although one individual had invited her to dinner and her death was accidental since it was assumed she had died of food poisoning, the *Kaagwaantaan* clan as a whole was held responsible for her accidental death. The *Kaagwaantaan* compensated the Chilkoot *Lukaax.adi* with a *tinaa* or copper shield which now hangs on the wall in the *Yeil Hit* (Raven House) in Haines.

These two principles were basic to Tlingit law and applied even in cases in which a father was responsible for an injurious act to his own child. A father's child is a member of a different clan.

In one such case, a clan was held liable for the death of one of their clan member's son. The son drowned while accompanying his father on a trip.[6] The father's clan was required to compensate the clan of which his wife and son were members.

5

A duplicate of the original Russian hammer was reportedly made for the Sitka 1904 potlatch. This reflects another legal precept that duplicates remain clan property.

6

Recall in Tlingit society, boys are raised and trained by their maternal uncle rather than their fathers.

The accidental death of the *Deisheetaan* shaman in the Angoon Bombardment case is another example of a conflict and liability created through an involuntary act.

Clans as Property Holders

The clan was traditionally the basic unit that held all property in Tlingit society. Today, the clan remains as the body that holds clan ceremonial property. Clans also continue to assert ownership of their traditional lands despite not having legal title to their lands.

Ownership resides within the clan as a unit rather than within its individuals. Clan objects are owned at once by all its members and by none of its members individually. This principle remains in force and individual clan members have no private property interests in objects that have been validated as clan property in ceremonial activities.

The basic rule recognizes clans as the property-holding unit. However, property interests vary within the same clans that are dispersed through two or more communities. Localized clans hold the primary ownership of physical property within their community. Members of the same clan that are associated with different communities have a secondary interest and must request permission to use property of the localized clan.

A clan dispersed through several communities, collectively holds intangible property, such as crests, stories, songs, and names clans irrespective of their locations. All members of a clan theoretically hold ceremonial property because the entire membership irrespective of their residence are expected to render support to a localized clan when it commissions and validates new clan objects as property.

Patty Paul, a former clan leader of the *Kaagwaantaan* in Sitka reiterated this principle when he stated that *Kaagwaantaan* from all communities in Southeast Alaska contributed money for the expense associated with the construction of the duplicate Wolf posts that were validated as clan property in a 1904 ceremony. All Kaagwaantaan thus had an ownership interest in them.

The localized clan is presumed to have a greater interest in property they commissioned and constructed, which is evident in the assumption that the property should remain in the community of the localized clan.

This expectation is apparent in an ongoing conflict in which a *Kaagwaantaan* clan leader entrusted clan objects to a *Kaagwaantaan* originating from another community prior to his death. The *Kaagwaantaan* members within the community of the deceased clan leader where the clan objects originated are pressuring the non-resident *Kaagwaantaan* member to turn the property and custodianship over to them.[7]

Utilitarian property and land held by localized clans are treated differently than crests and ceremonial property. Localized clan owned utilitarian property and land within a community and its territorial boundaries, and members of the same clan originating from other communities had to acquire the permission of the localized clan to utilize their equipment and to hunt and fish on their land and waters.

Ownership of clan property is acquired through **membership** within a clan. In Tlingit society, an individual's right to share, own or use property is a matter of birth into a clan. One gains access to property by virtue of the fact that he or she is born into a clan and is a member of the group.

An infant has all the attendant power to use and own clan property in his or her own right. The child does not acquire this prerogative through inheritance of an estate from his or her parents. Descendible ownership or transference of property rights between generations is absent within the Tlingit legal system.

7

In actuality, the objects are in the possession of the deceased *Kaagwaantaan* clan leader's grandson who is a member of another clan (the non-resident *Kaagwaantaan* placed the objects with the grandson, but maintains authority over the objects). The clan to which the grandson belongs is also urging the return of the clan objects to the *Kaagwaantaan* because of the high number of deaths within their clan. The deaths are viewed as supernatural sanctions since their clan is holding property which belongs to another clan.

The ngit form of commu l ownership was studied by Felix Cohen (198 who was a recogniz l expert on Indian law as it was developed by the U ted States governme in its relationship to Indian tribes. He disc ed communal owne ip in his monumental work, *Handbook of Fed l Indian Law,* and ci l the opinion rendered by the Supreme Court in the c of *Journeycake v. C erokee Nation and the United States* that defir communal property

> he distinctive char eristic of communal property is that very member of the mmunity is an owner of it as such. He oes not take as hei purchaser, or grantee. If he dies his ght of property doe ot descend; if he removes from the ommunity it expire f he wishes to dispose of it he has othing which he ca nvey; and yet he has a right of property the land as perfec that of any other persons; and his ildren after him w njoy all that he enjoyed, not as heirs but communal owner

Com nal law, as describ y Cohen, applies to Tlingit law. No desc ible or alienable ri accrue to individual members of the tribe at the t the property vests he method of transfer stipulates that no conv nce is permissible ess all members of the tribe or clan agree.

Indi al clan members h no individual property interest in ceremonial objec and they cannot de e, sell or transfer them. Under this form of unita ownership, membe f a clan cannot deprive other members of his or he terest should they consent to the alienation of clan property.

The r rence to the loss of operty interests and rights "if he removes from the c munity" in the *Jour vcake v. Cherokee Nation and the United State* oes not apply to the ingit. I have noted clans maintain an interest in int gible property and a condary interest in tangible property should they ve away from the p nt clan.

How r, the loss of prope interest and rights applies in those instances in whic sub-unit of a clan l ves its parent clan and establishes itself as a separ clan. Should the p nt clan acquire new property, the offshoot has no in sts or rights in the w property acquired by its parent clan.

However, offshoot clan maintains an interest in crests that were acquired prior to its departure, but none in new crests acquired by the parent clan after its departure.

A clan holds property that it received from its ancestors, and on behalf of its future generations. This legal precept is embedded in the religious and cultural values of *at.oow* or *Haa Shagoon*. These values acknowledge that

> -spirits of ancestors remain with clan objects,
> -social and spiritual harmony are maintained through the use and display of the ceremonial objects between the moieties, and
> -survival of the clan is dependent on its future generations who will also hold and utilize the ceremonial properties.

The pre-imminence of the clan in Tlingit law was noted in the *Kiks.adi* and *L'uknax.adi* competing claims to the Frog crest. Both parties made claims to the Frog as clans, and not as sub-units or houses. In the Angoon Bombardment case, the *Deisheetaan* clan pursued the claims against the commercial whaling company rather than the house of which the deceased shaman was a member.

The initial conflict in the *Wooshkeetaan* case was between the *Wooshkeetaan* clan members and three members of a house group. Recall that Tlingit law did not apply to the internal affairs of a clan. However, the clan would have had the full authority to dispose of the conflict in the way that they saw fit.

The ability to argue the individual rights was allowed only in a western court. The court was apparently aware that its decision in favor of the defendants rather than the clan was contrary to Tlingit law and was based on American jurisprudence.

The court noted that it rendered its decisions with reluctance and awarded the screen to the estate of one of the defendants and the surviving wife of the other defendant who died before the decision.

The Whale House case also demonstrated the primacy of the clan over its house units or groups of its members. The conflict was between members of the *Gaanaxteidi* clan. The village presented evidence to show that the defendants, who identified themselves as members of the Whale House, were actually members of the Whale and Valley Houses, and this evidence was not refuted by the defendants.

The judge ruled in favor of the *Gaanaxteidi* rather than any segment of the clan.

Possessory Rights of Houses

Houses, as sub-units of clans, have an ownership interest in clan property. Houses also have the primary possessory rights of clan objects that the house commissioned and produced. However, the clan retains residual ownership rights.

Clans own crests, and as members and a unit of a clan, houses have the right to utilize clan crests in the production of new objects. The Whale House Case provides an illustration of the utilization of the several *Gaanaxteidi* crests in the rain wall screen, the four posts and the Woodworm feast dish by a house unit.

Duplicate *Kaagwaantaan* Wolf poles were made for three different houses in Sitka also illustrate this principle.

The segmentation of houses and clans indicates that new houses were constructed as the population was expanding during the prehistoric period. In such instances, clan members claimed house membership in their old as well as in the newly constructed house.

Clan objects were also transferred between houses without concern for divested ownership. In a case study of the transference of the office of clan leader through nine generations illustrates that property that were divided between two brothers who are presumed to have lived in two different houses.

The Whale House Case also provides an illustration of clan objects that were moved between the Whale and the Raven Houses.

Dual membership in houses also demonstrates that houses hold possessory rights and clan retains the residual ownership rights in house property.

An example dual membership is noted in the *Shangukeidi's* construction of a new house in Klukwan in 1971. The Klukwan *Shangukeidi* claim membership in the House Lowered from the Sun and the old Thunderbird House.

They maintained a property interest in both houses by claiming ownership of the house names, ceremonial objects, and the physical structures themselves (the older house burned shortly after the construction of the new clan house, but the *Shangukeidi* maintained their intangible property interests in the Thunderbird House, i.e., its name and oral traditions).

While it is evident that property moved between houses, this pattern may have intensified as the Tlingit began to abandon the traditional communal houses and move into nuclear family houses. Clans began to consolidate their ceremonial property that had been originally dispersed among different houses into their remaining clan houses in the early to mid-1900s.

The Sitka *Kaagwaantaan* provide an example of this consolidation pattern. Swanton (1908:405) identified 14 *Kaagwaantaan* houses in Sitka at the turn of the century, but this number began to decline after this period.

The Park Service records indicate that on February 7, 1959, the *Kaagwaantaan* moved three totem poles from the Wolf House, which was also identified as the *Woosh-gee-tan [Wooshkeetaan] Hit,* to the *Kaagwaantaan* Community House and several other objects to the *Aanyadi Hit.*

The Wolf House had been damaged by fire some 15 years earlier and was soon to be demolished. The *Kaagwaantaan* leader, Alex Andrews, whose Tlingit name was *Koox'ishch',* was serving as the custodian for the clan collection that was originally in the Wolf House and his own, *Ch'aak' Kudee Hit* or Eagle Nests House.

Alex Andrews and George Hall of the Park Service searched the Wolf House before its destruction, and found a large bentwood box and the front design board from Chief *Anaaxoots'* House.[8] These objects are presumed to have been placed in the *Kaagwaantaan* Community House along with the three poles from the Wolf House. The Community House also contained four other old house poles that were hidden from the missionaries who had told them to destroy their old idols.

A ceremonial Bear staff that was originally in the *Xoots Hit* or Bear House was transferred to the *Kook* Hit. The record reveals that the *Kaagwaantaan* moved their clan property freely between the different houses since they were obviously viewed as clan property.

The distinction between possessory rights of a house and the ownership rights of clans is evident in the legal process in which an object is transformed into property and its ownership is validated by a clan. Under this process, property interests accrue to the clan, and house members have ownership interests as a clan member.

A critical fact that supports the legal notion that a house unit does not have absolute ownership independent of the clan is reflected in that a house unit does not hold ceremonies independent of the clan unless a house unit is synonymous with a clan.

A house may initiate the commissioning and production of a new object, but its full clan membership is expected to support the production costs and

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In 1963, Alex Andrews placed this bentwood box in the Sitka National Park. In 1970, the next caretaker, Bill Peters, along with three other *Kaagwaantaan* members signed a formal loan agreement with the Park which stated that they would never sell, dispose or allow the collection to leave Sitka. According to an internal Park Service memo, sometime after the 1970 agreement had been signed, Bill Peters wanted to renew the agreement, "Just do it again, to make him feel good." This suggests he was re-validating clan ownership much in the same way as it occurred in ceremonies. The Park also received on a loan basis another *Kaagwaantan* collection from another leader, Patty Paul. These two *Kaagwaantaan* collections formerly had been held by a single custodian before they were separated between Alex Andrews and Patty Paul.

ceremonial expenses in which the object is ritually presented and thus share in its ownership.

The house unit in this case, like the localized clan described above, maintains the primary possessory right to new ceremonial objects which it commissioned for production over other house groups within the clan.

Usufruct Rights of Clan Children and Grandchildren

Tlingit law allows an individual to assign property rights to another individual who is a member of different clan than the granting clan. This right is designated as a usufruct right.

Usufruct rights allow "the use and advantage of another's property short of destruction or waste of its substance" (Gluckman 196 :357). A father and grandparent may grant a **usufruct** or **use right** of a crest or ceremonial regalia to a child and grandchild of his or her clan.

When the usufruct right has been conveyed, the child or grandchild may use the crest or the ceremonial regalia, but the right is limited to use and is not an ownership right. In some instances, the father or grandfather may extend use rights for a specific occasion or a limited period, while in others the use right may be for an extended period.

The child or grandchild does not possess the authority to transfer this use right to another individual. It exists only during the lifetime of the child or grandchild who received the right and cannot be assumed by the offspring of the child or grandchild.

The use right of a crest or clan regalia cannot be taken as a liability payment by another clan. The use right ends with the death of the child or grandchild.

The use of a grandparent's or clan father's regalia is also governed by rules. Someone of the opposite moiety from the child or grandchild ceremoniously puts the grandparent's or father's regalia on the child or grandchild.

The father or grandfather acknowledges the relationship to the child or grandchild and through the act announces the extension of the usufruct right.

Should the child or grandchild use the regalia in the absence of the father or grandparent, he or she must tell the history of the item and to whom it formerly belonged and acknowledge their father's or grandfather's clan to indicate that the crest remains the property of the granting clan.

The *Wooshkeetaan* case provides an example of a paternal grandparent granting his grandson the right to use the Thunderbird crest. The complexity of this case was compounded by the placement of the grandfather's crest on a permanently-fixed ceremonial object rather than ceremonial regalia which is the norm.

The Shangukeidi also stressed that a use right had been granted, but they maintained ownership of the Thunderbird crest. This case also exemplifies the dual nature of property interests in an object including the extension of a use right of the crest by one clan and the ownership of the object or screen by a second clan.

Authority of Clan and House Leaders

The *shaadeihani,* the clan leader, and *hits 'aati,* the keeper of the house, hold property in trust for their members. Under Tlingit law, a trust relationship exists between the clan and house leader as the trustee and their members as the trustors.

The clan and house leaders have a fiduciary duty to use and protect the property for the benefit of their members. Under this trust, a right of property and unitary ownership exist on behalf of the clan and house members.

The clan and house leaders enjoy a special status, responsibilities, and privileges, but they lack the authority to dispose of communally-held property.

> -Emmons (1991:27, 39): Clan and house leaders are highly respected, but their actual authority is limited, and major decisions that involve the interest of the clan are subject to clan consent.

-Goldschmidt and Haas (1946:17): Clan leader's right to property are subject to restrictions. "He cannot sell the right [to property] though it may be transferred in legal settlements to another group...."

-Olson (1967:37) affirms this legal tenet that the trustee alone did not have the authority to sell or otherwise dispose of clan property.

-During the May 1994 Clan Conference in Juneau, a caretaker discussed the limitation of his authority regarding the disposal of clan property. He reported that he wanted to sell two clan objects in order to secure funds to renovate his clan house. He had been offered $250,000 and duplicates to replace the two objects that he wanted to sell, but not all members agreed to the sale. He indicated that he disagreed with the decision of his clan members, but intended to comply with their wishes.

The authority of a trustee to alienate clan property was one of the questions in the Whale House case. The trustee asserted he possessed the right to sell six clan objects without the express approval of the members of the *Gaanaxteidi* clan, and he directed that his nephews to remove the objects from the clan house.

The judge ruled in this case that the objects belonged to the clan that had denied the legitimacy of the trustee's act to alienate clan property.

In the *Wooshkeetaan* case, two Tlingit maintained that the house leader had limited rights. They asserted that the house leader had the authority to sell the screen, but they supported the communal ownership of the screen and maintained that the trustee would have to share the proceeds from the sale of the screen with members of the clan.

The communal claims of ownership in the case studies and the ultimate resolution in three of the cases affirm that individual members, including the clan and the house leader, lack the authority to dispose of clan property.

Validation of Property Rights and Trustees

Goldschmidt and Haas (1946:15-16) cite an unpublished manuscript of Viola E. Garfied that describes the legal functions of the potlatch in validating both property rights and the succession of an incumbent to the office of clan or house leader:

> Both the Tlingit and Haida utilize the potlatch as a vehicle for the public proclamation of claims, and to keep their property rights and prerogatives a matter of public record. This is especially true of the potlatch given by the successor to a house head. In fact, he cannot legally hold the position until the potlatch has been give, at which he settles up the estate, as it were, listing the property belonging to the house group and acknowledging the debts which have been incurred.

The legal role of the Tlingit moiety system is evident in the requirement to have clans from opposite moieties present during ceremonial activities in which the ownership to property is announced and validated and in which an individual assumes the leadership position.

Two processes occur in the ceremonial context to make the transaction legal and to validate the ownership of property:

-a ritualized presentation of the object by one clan
-a public acknowledgment by an opposite clan.

The ceremonial process can be simple or elaborate, but these two components are essential.

In the presentation ceremony, the name and history of the clan, crest, object, and associated song and names may be recited and recalled. It also includes a payment to the guests, or in an earlier period, the sacrificing of slaves. In response, the guest clan or clans also engage in speech-making, singing, and dancing. The presence of the opposite clan and their response to the hosting clan ensure the legality of the transaction.

The same basic process applies to the validation of a new clan or house leader.

-The new leader is ritually dressed in ceremonial regalia that his predecessor had held in trust by members of the opposite clan.
-He addresses the guests and recounts the life of his predecessor and distributes gifts and money to the opposite clan.
-The guests, in turn, respond with an acknowledgment and thus validate his new position.

During the 1981 Tlingit Property Law Forum, tribal scholars drew a parallel between the transformation of an object into property and parliamentary procedures. Under Robert's Rules of Order, an individual offers a motion. If no one seconds the motion, it dies. If the motion is seconded, it becomes the property of the corporate body. Only the body has the right to dispose of the motion through such action as adopting, rejecting, deferring or tabling it.

Validation of Ownership or Action

Tlingit Law	**Roberts Rules of Order**
-ritual presentation	-making a motion
-response by the opposite clan	-seconding of a motion
-ceremonial action	-disposal of the motion

The offices of *shaadeihani* and *hits'aati* are considered apart from the particular person who occupies the position.

The Tlingit use a phrase to describe the succession process:

l s'aati at toodei nagutch--stepping into the masterless things, or literally, stepping into his brother's or his uncle's role

Under this process, the succession is to a position of *shaadeihani* or *hits'aati,* and it is directly linked to clan property through a trust relationship.

Alienation of Property

Tlingit law imposes rigorous restrictions on the alienation of clan property even if its clan leader desires to dispose of property.

Tlingit law readily allows for the voluntary and involuntary transfer of a clan's most prized possessions when a transgression has been committed against another clan and a debt is encumbered.

A clan can lose rights to its tangible and intangible property through this indemnification process if it fails to meet its legal obligation to another clan. An injured clan can confiscate physical property or the crest of an offending clan without repercussion and assume ownership of the object or replicate a crest on its ceremonial objects if its claim is not satisfied.

> -The *Kaagwaantaan's* seizure of the Wolf Post from the *Teikweidi,* which was is a clear example of involuntary loss and the taking possession of *Teikweidi* tangible property.
>
> -The *Kiks.*adi's duplication of the *L'uknax.adi* Sleeping Man crest provides another illustration of an involuntary loss and the confiscation of intangible property-- a crest by a clan whose debts have not been satisfied.
>
> -The *Deisheetaan, Kaagwaantaan,* and *Shangukeidi's* adoption of the military uniform for unsatisfied debts are examples of the application of this tenet to social entities outside of Tlingit society.

A clan may choose to voluntarily surrender its crest or property for the payment of a debt before a claim is initiated by an aggrieved clan. An example of the voluntary relinquishment of property is evidenced in the case of the *Yaxtehittan* who assumed responsibility for the death of three young *Kaagwaantaan* men of the Box House.[9]

[9]According to Cecilia Kuntz, who told me this story, two of their names were *Kaakayeik* and *Kaanaxtee Eesh,* but she was unable to recall the third name.

A young man of the *Yax̲tehittan* had robbed a liquor store, and its owner set out to look for the thief. He found three *Kaagwaantaan* men camping and accosted them with a club. During the scuffle, the store owner was killed.

The White settlers came after the three men and hung two of them. Before they could hang the third *Kaagwaantaan,* a naval officer from the warship *Jamestown* rescued the *Kaagwaantaan* who was named *Kaakayeik.* He was taken to jail, but managed to escape. He ran with his ball and chain to the Dipper House where he sawed off the ball and chain.

When the settlers learned of his escape, they rushed to the Auk village. The young *Kaagwaantaan* told the other Tlingit that too many Tlingit had already been killed by the White men.

He insisted that he be allowed to fight the settlers alone. *Kaakayeik* emerged from the house and ran towards the settlers howling like a Wolf, the crest animal of the *Kaagwaantaan.*

He wrestled a hatchet from one of the settlers, and before he hit him he shouted, "We will now feed you dry bread and water," which had been his fare while he was incarcerated.

Rather than dying at the hands of the White men, the young *Kaagwaantaan* killed himself with his pistol. Later the grieving uncle of the three *Kaagwaantaan* went down to the tideland flats and cried, "Let the tide come over me, my nephews are gone."

Two men went to the beach and brought the uncle to the Dipper House. The *Yax̲tehittan* told the uncle that they assumed responsibility for the deaths of his three nephews, and gave the *Kaagwaantaan* land around Gold Creek and *Eech' Shaa Nax.*[10] The *Kaagwaantaan* also took possession of the ball and chain as a crest.[11]

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[10] *Eech,* which means crystal or area that shines, in this case, with gold, suggests that the site may have been Perseverance Valley

[11] Jake Williams was the first caretaker of the ball and chain. After his death it was transferred to Billy Johnson, but when he died the ball and chain were buried with him.

A conflict that occurred shortly after 1867 and a settlement made with the issuance of a promissory note for the settlement of a debt provide another example. The case involved two clans from opposite moieties in which a daughter was held responsible for the death of her father and his friend.

Her clan conceded that it was responsible for their deaths. Her clan sponsored a ceremony and acknowledged that they were too impoverished to pay their debt to the opposite clan, but they offered them their greatest possessions.

They placed a large rock on a table and said that it symbolized their land. They then placed on the table a bundle of short sticks tied together by a fish line, and they said that it represented their clan houses. Finally, they presented another bundle of sticks tied together by a strip of calico that represented blankets and symbolized wealth.

The clan acknowledged they would repay their debt "stick, by stick." The mortgage held by the aggrieved clan has not yet been repaid, and it has been a source of tension between the two clans.[12]

In some cases, the death of a member of a clan that deprived another clan of property may satisfy a debt. Such a case was exemplified when the village of Hoonah burned down in the mid 1940s.[13] A group of *T'akdeintaan* women were smoking fish underneath their house (which was built on

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This tension erupted into a conflict nearly one hundred years after the initial dispute over the name given to a public facility. The clan, which holds the mortgage to the land on which the facility sits, gave the building one of its house names. This upset the clan which is recognized as the traditional owner of the land, but which has not yet repaid its debt. They boycotted the activities celebrating the opening of the facility and refused to visit the facility for another five years until a negotiating process was initiated in the late 1960s.

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The Bureau of Indians Affairs conditioned their financial aid to the community on the requirement that only nuclear family houses be built rather than the communal clan houses.

pilings). The canvas they used to enclose the area caught on fire and spread throughout the village.

An old, blind man had refused to leave the *T'akdeintaan* house when it began to burn. He told his clansmen, who tried to persuade him to leave, that he intended to die. His kinsmen acceded to his wishes and put their clan regalia around him.

As the house burned, the *T'akdeintaan* elder was heard barking like their Dog Spirit which was associated with the *Shaatukwaan Keidli at.oow* (Mountain Dog Hat). The *T'akdeintaan* were held responsible for the fire, but the other clans did not initiate any claims for the loss of their property since a *T'akdeintaan* had sacrificed his life in the fire.[14]

Intangible Property[15]

Tlingit legal constructs include intangible property, such as crests, names, song, sounds or cries of crests, and oral traditions. At present, the Tlingit also assert that intangible property includes intellectual knowledge which reflect the collective cultural knowledge of the Tlingit such as that pertaining to the Chilkat weaving, ceremonial dancing, and the production of medicinal and spiritual plants, and other traditional biological remedies.

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His death did not appease the anger of at least one clan which likened a dog and fish in two of their crests to *T'akdeintaan* crests. While the two objects with the dog and fish were not originally made as ridicule objects, they were used to express their ill feelings towards the *T'akdeintaan* for the loss of their property.

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This thesis has made no distinction between tangible and intangible property since no differentiations are made between them in Tlingit law. However, the Tlingit legal system governing ownership of intangible property is not generally known or understood, and it is briefly reviewed here to highlight the Tlingit concepts of ownership of intangible property. Intangible property rights have become an issue among the Tlingit as they see the wholesale expropriation of their crests, which are viewed as part of the public domain and apparently outside of the protection of existing Western laws. Crests are also treated as art and commercialized in the non-Indian community (and by a significant number within the Tlingit community as well).

The Tlingit legal regime makes no distinction between tangible and intangible property. Intangible property is treated the same as tangible property in terms of its ceremonial transformation into property, the validation of ownership, and the dispute settlement process.

Both the *Kiks.adi/L'uknax.adi* and *Wooshkeetaan* case studies involved issues surrounding intangible property or crests. The Angoon case reflects a conflict in which the naval uniform was confiscated as a crest of the *Deisheetaan*. The adoption of the name of *Schwatgi* by the *Shangukeidi* for the failure of the naval Lt. Schwatka to pay his debt represents another appropriation of intangible property.

In the minds of the Tlingit, claims of ownership to intangible property extend to communities outside of Southeast Alaska and also to the non-Natives. They attempted to protect their claims of ownership to intangible property throughout the 1800s and well into the 1900s.

In one incident, a television station showed, *The Alaskan,* which played two Tlingit songs as background music for a scene. A clan recognized one of the songs as their own, and they retained a lawyer to assert their ownership. They discovered that a teacher recorded the songs at a ceremony that was held in Hoonah a few years earlier.

In another case involving both tangible and intangible property, a totem pole was taken from Old Port Tongass to Seattle in the early 1900s. Fifty years later the Tongass Tlingit demanded restitution stating that the pole had been removed without their knowledge or permission.

The result was that the City of Seattle had to pay the Tlingit for the poles 50 years after its illegal seizure (Corser:n.d.). The claim continued when the Tlingit learned that the reproduction of the pole was planned, and the Tlingit initiated an intellectual property claim.

Tlingit legal precepts extend clan ownership of crests to all forms of reproduction. The *Kaagwaantaan* have placed restrictions on the photographing of their objects stored in the Sitka Park. They also signed a formal agreement with the park to share in the profits from the sale of postcards of their totem and screen.

The Chilkat Tlingit purchased the art of Chilkat weaving from the Tsimshian Indians, and they have claimed it as their own art form. In 1993 a group of five indigenous weavers gathered in Hoonah and adopted a statement reasserting ownership of Chilkat and a form of geometric weaving, known as the Raven's Tail, and declared the following:

> We declare our indigenous rights and privileges according to traditional law. In recent times, many of our arts were laid aside because we were taught that our arts were valueless, evil, crude, and only belonged in the hands of museums and collectors as mementos of a dying culture. At one time our art defined and interpreted who are were as Nations, Clans, Families and Individuals and set the boundaries for our jurisdiction over the land....We pledge to uphold the wishes of our ancestors and living elders to regain ownership of our traditional art forms and pledge to strengthen our roles as teacher, artist, and interpreter of our art forms through future gatherings and expanding the circle of weavers....

Dispute Settlement Processes

According to the oral traditions of the Tlingit, the dispute settlement process had its beginnings in the supernatural world. The first settlement occurred between a brown bear and dog salmon. To record his promise that he would no longer bother the dog salmon, the bear painted red stripes on the dog salmon that appear when the dog salmon enters fresh water.

The general ethnographic literature depicts the Tlingit as a warring society, but it has directed little attention to its mechanisms to maintain social order and harmony. The Tlingit traditional dispute settlement processes, prior to the introduction of the western judicial system, involved both formal and informal procedures.

Disputes are social processes embedded in social relations (Nader and Todd, Jr. 1978:16), and the Tlingit, in their desire to preserve a valued, and necessary relationship, will seek a settlement procedure that promotes reconciliation.

The objectives of dispute settlements:

-to rectify the situation by some regularized procedure in the public arena;
-to restore the rights that were affected by a grievous act;
-to ensure freedom from further infringement; and
-to obtain compensation for damages.

Dualism is embedded in Tlingit legal and judicial processes, and to ensure that an act is legal, the presence and participation of opposing clans are essential in all of the legal processes (the dispute settlement process may also be used between two clans within the same moiety). Dualism is a dominant organizing principle in the following processes:

-gathering raw materials to manufacture ceremonial and other objects
-preparing the raw material for production
- producing objects and building houses
-transforming objects into property
- validating claims of ownership
-extending use rights
- appointing new clan and house leaders
-settling disputes.

A clan may have a grievance against another clan for the violation of a law that requires that damages be paid to the aggrieved clan. The preconflict stage refers to a condition in which one clan perceives an action to be unjust and grounds for a complaint, and verbalizes expectation of compensation for damages.

The offending clan may elect to immediately compensate the aggrieved clan for its wrongful act. In this case, no dispute exists.

A disagreement between two clans enters the conflict stage should damages not be paid for a complaint. A clan escalates a dispute by making it public and noticing the intent of doing something about a desired claim. At this point the clans traditionally opted for one of the following processes:

Informal Dispute Settlement Processes

The Tlingit employed a number of informal processes to exert public pressure on clans to resolve disputes and meet their legal responsibilities. Public opinion serves as a legal device when the defendant recognizes and accepts that the plaintiff claims are correct, the settlement or punishment is accepted as sound, and the wrongdoer accedes to the settlement because he feels he must yield.

The action of the plaintiff and the supporting public opinion constitute a rudimentary sort of "court," and the procedure is inescapably legal.

One such rudimentary court utilized by the Tlingit to persuade a clan to settle a dispute and meet its obligation was through the display of an object that is known as a ridicule or shame pole or mask.

Should a clan commit an offense and fail to meet its debt, the aggrieved clan might commission a mask to be made of the offender, and then publicly display the mask or pole. The honor of the offending clan is impugned and its members may be coerced into meeting their debt.

The Lying Woman's mask is an example of a ridicule mask that was employed to seek resolution to a conflict. In this case, a high status woman in Wrangell gained notoriety for gossiping. She greatly offended her husband's clan when she began to tell lies about her husband.

The husband's clan had a ridicule mask made of the wife which was then prominently displayed. The wife's clan was greatly humiliated by the mask, and immediately compensated the husband's clan. The clan took additional action to ensure that the wife did not continue this practice.

Another informal method was employed by an individual of an aggrieved clan in which he or she danced with a grandchild in a public place. This act conveyed a silent message to the guilty clan that unless a payment was made, the aggrieved clan would make the offense public.

The same message could be conveyed by beating a drum throughout the day in the town center. To avoid public disclosure and open ridicule, the guilty party usually made the payment.

Supernatural Sanctions

Several references have been made to supernatural sanctions as a means to control social behavior. de Laguna (1972:455) and others have reported how crests may be used to maintain peace. Supernatural sanctions sometimes prompt and accompany legal action.

The coercive powers of the supernatural sanctions lie in the belief that spirits are associated with tangible and intangible property, and that they interact with their living counterparts. The misuse of property or inappropriate behavior in the presence of *at.oow* can lead to harmful consequences.

This ideology holds that the natural world is patterned after the supernatural world, and the human kin of the spirits are required to adhere to supernatural rules that govern the use and ownership of property.

These rules dictate the interactions between clans, and require specific treatment of ceremonial objects. Violations of these norms can subject the wrongdoer to the wrath of spirits associated with ceremonial objects as in the instance in which members of one clan hold property that legally belongs to another clan.

The spiritual forces embodied within an object are directed against the clan illegally holding the object. In one such case, several members of a clan are perceived to have died as a result of supernatural sanctions.

Formal Dispute Settlement Processes

Informal methods were employed to pressure clans to meet their obligations without necessarily publicly disclosing a crime. In other processes, the dispute became public and often involved a third party.

One method involved the entry of a third party into a dispute. In this process, a third clan paid the damages to a claimant clan.

The motives may not be benevolent. Emmons (1991:355-356) provides an illustration of the entry of a third party into a conflict.

In this case, an Angoon clan held the Sitka *Kiks.adi* responsible for the death of one of their clansmen. The *Kiks.adi* did not accede to the Angoon clan's demand for payment. Before the dispute could escalate into a war, a third clan, the *L'uknax.adi,* interceded and paid the *Kiks.adi's* debt to the Angoon clan. In this instance, the conflict with the *Kiks.adi* shifted to the *L'uknax.adi.*

The public confiscation of a crest, which as noted earlier is the one of the most prized possessions of a clan, by an aggrieved clan from a clan which has failed to meet its obligations is another dispute settlement mechanism to restore social order.

A debt is owned, and a payment is taken such as in the case in which the *Kiks.adi* confiscated the Sleeping Man Crest from the *L'uknax.adi.* This legal process also allows a clan to repurchase its crest from the clan which took the crest to satisfy a debt.

The Peace Ceremony Settlement Process

The settlement process referred to as the peace ceremony,[16] was basically a mechanism of negotiation. Nader and Todd (1978:10) have described the negotiation procedure as one in which two principal parties are the decision makers, and the settlement of the dispute is one to which both parties agree, without the aid of a third party.

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According to Tlingit oral traditions, the peace ceremony was introduced by the Tree People who came from an unknown area in the south. They were not Tlingit, and it is not known whether they were humans or spirit people. The Tree People taught the Tlingit how to conduct the peace ceremony, which was first held in Hoonah. They were instructed to be sensitive in their words and actions and to cleanse their mind and bodies. Their diet was restricted, and they were forbidden to eat certain foods, such as seaweed.

However, the peace ceremony, has a component which likens it to a procedural model involving adjudication or the presence of a third party who has the authority to resolve a dispute (ibid.:11). In its outward appearance the peace ceremony is a reconciliation ritual between two clans, but viewed within its entirety, it is a legal institution, which as described by Bohannan (1967:46), is one through which the people of a society settle disputes that arise between one another and counteract any gross and flagrant abuses of the rules.

de Laguna (1972:592) summarizes the peace ceremony process:

> ...the making of peace was equivalent to making a legal settlement that would eliminate all causes for conflict; the original reason for the fighting and all the ensuring injuries were treated as if they were issues in a case at law. Restitution or recompense had to be given for what had been seized or destroyed; for human lives lost equivalence had to be surrendered. Thus, paradoxically the victors in battle were theoretically the losers in peace. Ideally, peace was made when an equal number of persons, of matching rank, had been killed on both sides. Payment of damages in the form of such property as coppers, blankets, slaves, or other valuables, might be accepted in order to equalize the score of deaths. Property was also given to redeem captives and crest objects, or these might be exchanged.
>
> Most important of all, making peace involved the holding of a peace ceremony, with elaborate symbolism to testify that grudges were buried and with magico-relgious sanctions to guarantee amicable behavior.

The peace settlement process is sometimes initiated after a third party, a council of house leaders, enters a dispute and urges the disputing clans to resolve their differences. The process may begin with localized clan-wide meetings of house leaders to discuss and seek resolution of a conflict.

The house leaders discuss and agree on a course of action. They then convene a clan council meeting in which every adult male of the clan has an equal right to voice his opinion.

Majority rule prevails, and in most cases, the decisions made by the house leaders are adopted (Emmons 1991:40). Older women of high rank, also had considerable influence in political and economic actions affecting the clan (de Laguna in Emmons 1991:40). The council meetings made decisions about the terms of peace.

The next phase is a formal request for peace. A *Nakaani* (brother-in-law) from each of the disputing clans is appointed to represent the respective clans. He cannot be a member of either clan since he acts as a third-party mediator and as the moderator of the ceremonies.

Each *Nakaani* confers with its respective clan, and then the two *Nakaanis* meet to negotiate the terms of peace. Finally the accord is brought to each of the clan councils and together they settle on the appointment of acceptable hostages who will be exchanged between the disputing clans.

The *Nakaani* also has the authority to conduct searches for weapons at the onset of the peace ceremony.

The ceremony begins with one of the disputing clan arriving and singing their songs and bearing eagle feathers on a staff or the masthead of canoes, which are the signs of peace and which possess supernatural powers. If the clan is not a resident of the community, the visiting clan canoes approach the village in a single column and stop just short of reaching the village.

The visiting clan chief calls the names of the opposing clan leaders. He then recounts the events leading to the conflict, the losses they incurred, their demands for payments, their desire for peace, and finally offers their hostages, which may number up to eight, to the resident clan.

The resident clan leader responds, invites the visitor to land, and his clansmen rush forward and carry the hostages into the clan house (Emmons 1991:352).

In some instances, a mock war is held between the two clans. The warriors, including women, approach each other with their weapons poised as if they are going to attack.

The face of each hostage is painted with his crest, and he has two feathers in his hair. He stands among his clansmen and then advances toward the enemy. The warriors from the other clan seize the hostage, and with shouts of joy, lift him to their shoulders and carry him into the village.

Each clan had the option of killing its hostage, but if he were allowed to live, he would find the weapons that had been used in the conflict and throw them into areas identified as Deep Salt Water.

Emmons (1991:329) reports when someone was called upon to offer his life for his clan, even if it were for an act that he himself had not committed, he did so willingly. If the hostage had a younger brother, he stepped forward to offer himself in lieu of his older brother.

The hostage is carried to a place of honor in back of the clan house where he is placed on a stack of furs, and is symbolically transformed into a deer, a peaceful animal and a symbol of peace. From this point, he is identified as a peacemaker.

The captor clan provides him with the finest regalia, including the Chilkat blankets that he will wear throughout his captivity, and the attendants, who are assigned to care for him, put eagle down into his hair. Throughout his captivity, the attendants feed, dress, and paint the peacemaker's face with his crest. They respond to his every wish, and also assist him to assure that he does not violate any of the multiple taboos to which he is subject. They also prevent any attempts by the peacemaker to escape.

The *Guwakan* cannot use his right hand since it is the hand that symbolically committed the crime for which he is being held. The first three fingers of his right hand are bound together.

The reasons for some of the taboos are unknown such as the requirement for him to sleep on his left side. His attendants watch him throughout the night to ensure that he does not roll over onto his right side.

The peacemaker, who was given an honorific name[17] at the beginning of the ceremony, must conduct himself at all times in a peaceful manner. He maintains peace within the clan by invoking supernatural sanctions against anyone violating the peace.

He can draw the two eagle feathers from his head to invoke peace should any sign of conflict develop, and this act ensures immediate compliance. The peacemaker is required to watch for any incidents that might violate the peace.

He is also viewed as a source of good luck. The peacemaker is an honored person among the captor clan, and he is addressed as *"Ax̲ Guwakaani"* (My Deer).

At the end of a year, the peacemaker is officially freed in a ceremony which is divided into two segments that continue over several days. It begins with the peacemaker and his attendants fasting for two to four days to cleanse their minds and bodies.

The deer can drink only a little salt water in the early morning, "before the Raven cries" (Emmons 1991:352). At the close of the fourth day, the deer is taken by his attendants into the woods. He is washed and dressed in clean clothing. Rocks are placed under the peacemaker to ensure that he has a long life.

The first four days of the peace ceremony are similar to a mourning period and sorrow ceremony in which each of the disputing clans sings its own mourning songs and recount their clan histories.

If the terms of the peace settlement include payment of property, it is made before the feast. If a clan does not have sufficient property to meet its obligations, the last resort is to offer land.

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Examples of peace names include Hummingbird Deer, Mountain Deer, Abalone Deer, Kicking-in-the-Sky Deer. The peacemaker imitates through his movements and dance the animal after which he was named. These names become the property of his clan and are given to clan members in succeeding generations.

The *Lukaax.adi* are said to have obtained portions of their land in the Chilkoot area from the *Chookaneidi* in this manner.

The peacemaker dances with the captor clan rather than his own. Those who were involved in the dispute are not allowed to dance. The final dance begins with the entry of the dancers stomping their feet.

According to Tlingit beliefs, ill feelings are stored in the heels, and they follow one around. The stomping signifies that the clan is stomping their ill feeling into the ground.

The peacemaker enters with his two attendants and dances with his right arm extended and his hand, which has now been untied, open. He dances to the songs that had been composed for him, and he imitates the movement of the deer name that had been given to him.

Each captor clan carries its peacemaker on their shoulders and then the hostages are exchanged. The last ceremony is described, "They are shouted out," just as they were "shouted in" when the hostage first came to the captor clan. With the exchange of hostages, the peace ceremony is complete.

The peace settlement process was used until this middle of this century as a dispute settlement process. The last traditional peace ceremony was held in the late 1950s.

In 1992 discussions were initiated to hold a peace ceremony to resolve a dispute. In this case the dispute occurred between two communities rather than clans over proposed governmental boundaries. Each believed that the other was infringing on its traditional land use and occupancy area or those associated with the geographical boundaries of the traditional _____*kwaan.*

The issue was resolved to the satisfaction of both sides without the benefit of a peace ceremony.

A widely publicized peace ceremony that was intentionally not completed was held along the Chilkoot River by the *Lukaax̲.adi* in 1980. The *Lukaax̲.adi* wanted to make public their claims against the State of Alaska.

Daanaawaak, the clan leader, stated that the peace ceremony would not be completed until the state and federal government addressed their concerns:

-the removal of a fish weir, which the clan leader believed affected the salmon population in the Chilkoot River,
-the cessation of sports fishing in the Chilkoot River,
-the further disposal of their traditional lands under a governmental land lottery program, and
-conveyance of land to landless ANCSA villages

The state moved to settle some, but not all of the claims, and legislation that would convey lands to Haines, which is one of the villages that did not receive land, is still pending in Congress.

Technically, the peace settlement is a mediated negotiation process in which terms of a settlement are discussed and agreed upon. The settlement terms are settled prior to the ceremony. The peace ceremony is a means to ensure the maintenance of harmonious relationships between the disputing clans throughout the year.

The Hoonah Clan Conference, which addresses various cultural issues during its annual meetings, has indicated that it will be discussing the application of the Peace Ceremony as a dispute settlement mechanism for contemporary circumstances.

Western Legal Systems and Tribal Courts

One of the first acts of the Tlingit in the American legal system was to hire a lawyer. A council of clan leaders convened for several sessions to discuss the sale of Alaska to the United States by the Russians in 1867.

Some of the leaders favored war to drive the Americans out, but a prominent leader from Chilkat argued against this action pointing out the vulnerability of the coastal villages from attacks by the United States war vessels.

Instead the Tlingit adopted a diplomatic stance and advised the United States officials that they owned Alaska, that Russians had lived in Alaska only with their permission, and that the United States should give them the money if they wished to purchase Alaska.

Frustrated over a lack of response from the United States government, the Tlingit hired a lawyer in 1890 to make its claim of land ownership (*The Tlingit and Haida Indians of Alaska v. The United States* 1959).

The Tlingit, particularly in Sitka, which was the seat of government, were using the Western legal systems in the late 1800s while they were still employing the traditional dispute resolution processes.

One of the first cases in an American court was the *Kach-koo-tay, et.a., vs. Daniel Benson* which was part of the extended *Kiks.adi* and *L'uknax.adi* conflict over the claims of ownership of the Frog crest. The case was brought to the District Court for the District of Alaska in January 1899.

Its decision did not resolve the issue; instead, the conflict intensified and evolved into further disputes. The news accounts indicate that the court and non-Indian community did not understand the complexity of the conflicts. Ultimately, the disputes between the two clans were settled through traditional processes.

The Tlingit utilize both traditional and American legal systems to resolve disputes. Negotiated agreements between disputing clans have been made and validated by American legal institutions.

One such example exists of an agreement signed by the clan leaders of the *Kaagwaantaan* and the *Kiks.adi* before the U.S. Commissioner on January 5, 1899.

Although vague in its wording, the agreement, which was signed with "x" marks by Anna Hootz [*Anaaxoots*] and Kat tlan [*K'alyaan*] and witnessed by

four individuals, presumably representing both clans, proposes that each will not interfere in the affairs of the other, "we will adhere to our own tribal dances and not attempt to infringe or interfere in each others dances or any of their tribal customs."

The Tlingit began to use Western courts in earnest beginning in the mid 1970s. The conflicts, which appear to coincide with the appearance of art collectors who were purchasing clan ceremonial objects, centered on the rights of a caretaker or a segment of a clan to sell clan property.

Both state and federal courts appear to have recognized the conflicts between Tlingit and American law and searched with little success for case law that could be applied to the Tlingit cases based on the traditional customs of property ownership.

Both the *Wooshkeetaan* and the *Gaanaxteidi* cases, discussed in Chapter Five, referenced the *Demmert v. Demmert* case which applied the concept of "communal ownership" as a basis of attempting to understand Tlingit law, but even this case was unable to address the complexities and differences in Tlingit law.

The most successful model, which is based on a western judicial institutional form, appears to be tribal courts that acknowledge traditional Tlingit law and the laws adopted by tribal governments such as is evident in the Whale House Case.

Several tribal governments in Southeast Alaska have established their own courts and have adopted statutes that recognize traditional property law in the ownership of cultural objects and crests. The statutes apply to both tangible and intangible property such as ceremonial regalia, sacred, funerary, and utilitarian objects, clan songs, stories, names and houses within their jurisdiction.

Currently a number of ongoing conflicts over ceremonial property are evident in the Tlingit community.

In one case, the disputants are attempting to utilize a negotiated settlement process between one clan and two individuals who represent two different

clans. In addition, the clan of one of the members is pressuring for resolution because of the number of deaths in their clan which they perceive to be supernatural sanctions because one member of its clan, who is a party to the dispute, is holding property which is owned by another clan.

The Convergence of Communal and Individual Property

Tlingit ownership of property is governed by two antithetical universes of thought, and these mutually irreconcilable ideologies are on a collision course. On the one hand, the Tlingit live in a world in which their ancient teachings place paramount values on the group and communal ownership of property. Tlingit law does not recognize or protect the interests of individuals apart from their clan. On the other hand, the Tlingit are enmeshed in a modern society in which the preeminent values are placed on individualism, private property and the right of unencumbered alienability of property. The modern legal regime does not recognize the communal nature of Tlingit laws nor that property might contain spiritual beings and supernatural dimensions.

Paradoxically, the collision course was set in motion, in part, by the Tlingit themselves who embraced the new economic opportunities brought with American enterprise and who pursued the settlement of their land claims under a corporate model rather than the reservation system under which most all other American Indian tribes hold their lands. This conflict is most clearly epitomized by the creation of a new classification of Tlingits, the New Native. The New Natives include all of the Natives who were born after December 17, 1871 and who are not members of ANCSA corporations.[18] They represent as estimated 12,000 Southeast Alaska Indians, and they have no ownership interest in land to which they would have had a propriety interest under traditional Tlingit law had land remained in clan ownership.

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The ANCSA allowed only those Natives who were alive on December 17, 1971 to enroll as shareholders in the Native corporations. Natives born after this date may inherit shares, and a later amendment to ANCSA granted parents and grandparents the right to immediately give or "gift" stock to New Natives.

The Tlingit responded to the opportunities presented by the explorers and traders who first reached their shores by engaging in economic relations with them and incorporating the new material culture they brought into their own system, but the world of the Tlingit began to change with the arrival of the first permanent settlers. If one were bold (or foolish) enough to point to a precise period and set of circumstances that served as the catalyst for further changes within Tlingit society, one might cite the process leading to the emergence of the nuclear family unit which became evident in 1881. This change was significant enough for Commander Henry Glass to comment in his official report to the Secretary of the Navy of June 6, 1881. He commented on "the breaking up of the communal system of living...," and reported that the Tlingit had build seven single family houses in Sitka since March of that year.

While the movement into nuclear family dwellings did not signify the demise of the communal system of property ownership, it marked the emergence of the differentiation of property and property-holders and the advent of individualism. Prior governmental reports had noted that Tlingit lifestyles and customs had undergone little change since contact with the Europeans and Americans. During the first fifteen years of American occupation, the military did little to promote change within Tlingit culture, and had, in fact, used Tlingit law and customs to maintain peace between the Tlingit and the Whites. (*Tlingit and Haida Indians of Alaska v. The United States* 1959).

The transformation in Tlingit society was facilitated by changes in land ownership and the movement of the Tlingit into the capital economy. Income opportunities were made available by the expropriation and transfer of land from Native ownership into the public domain, and its transformation into what has been classically described as a commodity. Until this period, land and the resources derived from it were owned by clans, and the fruits of the land supported the Tlingit physically and spiritually. Use of the land reinforced the social bonds among clan members. The interrelationship among the Tlingit and their relationship to the land and its beings were the underpinnings of their culture.

The changes within Tlingit society were made possible with the enactment of the 1884 Organic Act and the arrival of American developers. With these two events, land was wrenched from clan ownership and was transformed into a discrete form of property. The process of separating the Tlingit from land and nature commenced. Karl Polanyi's thesis that economic activities are embedded in the social fabric of society became readily apparent in the transformation of Tlingit society. As the Tlingit abandoned their traditional economic system, the house as a social and economic unit collapsed, and the clan survived as a reflection of the traditional religious life of the Tlingit. Individualism and individual ownership rights had entered the world of the Tlingit.

Individual Tlingits enjoyed the benefits of the new economy, but the clans did not quietly acquiesce to the loss of their lands. They attempted to maintain ownership of their traditional land base, even to the point of one clan bringing its claims of ownership all the way to the Supreme Court, but clan ownership of land was never recognized under Western law. Occasionally small tracts or lots were conveyed to individuals,[19] but this was under the new social and legal regime. Goldschmidt and Haas (1946:18), who as noted earlier studied the possessory rights of Southeast Alaska Indians, reported on the emergence of individual land ownership and introduction of inheritance rights:

> It is interesting to note that once land becomes the right of a native recognized by American law in the form of a patent or a permit, then transfer of that land tends to follow a patrilineal inheritance in accordance with American custom. The implications of this are that, while native law remains a force in Tlingit and Haida daily life, these people are not adverse to the adoption of American customs. It also, of course, creates some confusion in the tenure system and social patterns--the short of confusion that is generally attendant upon the adoption of a foreign civilization by a native culture.

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With the enactment of ANCSA in 1971 approximately 600,000 acres were conveyed to the regional and village Native corporations in Southeast Alaska.

Individualism and private property were incorporated into Tlingit ideology and society through the changes in land ownership patterns, the appearance of nuclear families, the entry into the capital economy, and by the missionaries who touted, with the forceful hand of civil authorities, the wisdom of individualism and the Christian work ethic. One clan leader urged his kin to adopt the new ways and suggested that they might go to the White man's heaven, but he added that for himself he would not abandon his ancestors.

While the Tlingit used their income to maintain their individual households, they continued to share their resources and support the ceremonial activities of their clans. Kamenskii (1985:41) reports that the *L'uknax.ai* distributed $18,000, instead of the several slaves that would have traditionally been killed, during its 1899 potlatch to ceremonially bring out the contested Frog sculpture. This amount of money is significant based on Drucker's (1972 or 1973:65) report that the standard daily wages paid to the Tlingit in 1882 ranged from $1 to $2 per day. The rate of pay that a Tlingit was able to earn during this period and the amount of cash distributed at this and other potlatches, suggest that clan members were continuing to contribute significant portions of their earnings from their new productive activities to support their clan's ceremonial activities. This is a pattern that persists in the present period, and perhaps surprisingly, has been enhanced with ANCSA corporate dividends. As noted earlier, as much as $70,000 is now distributed in ceremonies along with other goods totally an additional several thousands of dollars. Money and blankets replaced blankets and furs as the riches to be distributed at potlatches to validate the ownership of ceremonial property and appointment of new clan leaders.

The transformation and the elements that persisted within the clan, property ownership, and laws were also described by Goldschmidt and Haas (ibid.):

> As a result of nearly 80 years of American administration and close contact with white miners, traders, missionaries, school teachers, canners and government officials, the old legal system of the Tlingit and Haida has been greatly altered. Yet there remains a surprising continuity in their customs, attitudes and patterns of behavior where these were not in direct conflict with

> Christian ethics and American law. Slavery, the potlatch as a legal expression, old shamanistic rites, the secret societies, are no longer found. The sanctity of the clan and the identification of the individual with the clan of his mother, the recognition of ancient clan rights to land and old status system based upon such ownership and the status of earlier clans; the rules against intermarriage within clans---all these are still poignant in the lives of the natives of southeastern portion of Alaska.

Goldschmidt and Haas also commented on the increasing individualization of households in place of the large communal houses and the growing prominence of the village organization that were evident in 1946. The movement away from a strict clan-based society and towards a village organization was further strengthened with the establishment of municipal and tribal governments, the organization of village corporations and their receipt of 23,000 acres of land under ANCSA that were formerly owned by clans.

Clan houses began to disappear as the nuclear family gained in prominence, and a process of transferring and consolidating clan property into one or more houses occurred. Occasionally, clan collections were transferred to two or more trustees who lived in nuclear family houses. Other clans placed their property in museums on long-term loans.

The adoption of Christianity was sometimes accompanied by the destruction of clan collections as was reported by one *Kiks.adi* who lamented that her clan burned their ceremonial objects in response to pressure from the missionaries. Christianized Tlingit also sold their clan objects or as one dismayed clan leader described this phenomenon, "They sold their sins."

The separation of *at.oow* from its social context and its transformation into an art form and commodity led to the sale of clan ceremonial objects. Regrettably, many clan items were sold by individual clan members or by surviving spouses or their children who had no property interests in their deceased spouses' or parent's clan property. Other clan objects were stolen outright, sometimes even from graves.

The responsibilities and status of clan leaders diminished with the loss of the clan land base and wealth and the emerging status of individuals who earned higher incomes in the capital economy. The ceremonial role of clan leaders waned under the unrelenting attacks of missionaries and civil authorities, but never disappeared completely. Today their responsibilities lie within the ceremonial sphere and in the care of clan ceremonial property or *at.oow*. In some instances, the leadership and trustee functions have been separated into two offices. If a clan leader left his traditional community, as was often the case in villages which lacked income opportunities, a caretaker was appointed to oversee the clan property and the uninhabited clan house. In some cases, a clan leader took the ceremonial objects with him, but this is greatly resented by members of the clan who continue to reside in their traditional communities. Some clans failed to appoint new clan leaders while others have not formally validated those who have been appointed to this office. Accompanying these changes within the Tlingit world was the growing significance of women which led to the formal recognition and appointment of "clan mothers." Occasionally women temporarily assume the clan leadership office until their sons become of age to assume the position. The *Yax̲tehittan* reported that they will officially validate the appointment of a woman who now holds the position of clan leader in the summer of 1998.

The absence of a designated formal clan leader does not imply that a clan ceases to function. For example, the *Lukaax̲.adi* do not have a clan leader although three individuals trustees were named by the late Austin Hammond, *Daanaawaak,* to serve in the capacity of co-successor *Hits'aati.* This Board of *Hits'aati* Trustees serve as caretakers of clan property. They do not function as ceremonial leaders, but they remain active in ceremonial activities. *Daanaawaak* also tried to meld Tlingit and American law and transferred clan property to a charitable trust organization formed under American law which, however, would be governed by traditional property law.

Although the potlatch was not outlawed in Alaska, as it was in Canada in 1884, missionaries and civil authorities actively discouraged participation in ceremonial activities. As reported in Chapter Four, Governor Brady tried to ban the 1904 Sitka *Kaagwaantaan* potlatch. Some communities complied with such demands. One village sponsored a ceremony in 1920 in which

they symbolically buried their culture in a coffin, but in 1970, this same community reversed their position and resurrected their culture with the raising of a totem pole. More often the potlatches went underground and were held in secret or disguised in Alaska Native Brotherhood and Alaska Native Sisterhood ceremonies, but the ceremonial activities, particularly those surrounding memorial ceremonies, never ceased.

Despite the overwhelming pressures for change, the clan and the ideologies of communal property persist along with the incorporation of private property doctrines. The convergence of these competing beliefs are clearly exemplified in the wills left by several clan leaders. In these documents, the clan leaders distinguished between clan and personal property.[20] The clan property is conveyed to an identified successor, who is selected according to the traditional pattern which is usually a younger brother or maternal nephew, while private property is left to the surviving spouse and children. In some instances, a clan leader has conveyed an oversight interest to the property he held in trust to his children which is contrary to Tlingit law or at best may represent an attempt to propose new Tlingit law. Eric Morrison, a Tlingit and lawyer, explains his rationale for the extension of such proprietary rights. His argument is not based on Western laws of inheritance, but proposes that biological children have an interest to safeguard their father's clan property because of their clan relationship under the sociological classification, "child of a clan."

In 1981 a group of elders met to discuss the status of the cultures of the Southeast Alaska Indians. They likened their culture to a blanket which they said they had been holding onto, but now their hands were becoming weak and tired. They charged the region-wide ANCSA corporation, Sealaska, to take the leadership role in preserving and maintaining the traditional culture. From this directive, the Sealaska Heritage Foundation was founded. A concerted effort to revitalize the clan structure began in the early 1990s with a series of clan conferences at the regional and village level. Sealaska

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A few elders have abided by the traditional laws and make no claim to clan property as well as the house, clothing, and personal items of their deceased spouse which are all returned to their spouses' clans.

Corporation is now examining the possibility of returning trust oversight of the historical and sacred sites to the clan leaders.

In a discussion of the changing role of clan leaders, one of the clan mothers lamented that she had to apologize to the spirit in the clan hat, which she is holding in trust for her clan. She noted that she was unable to bring the hat out because she was not assured that another hat from an opposite moiety would be present to ensure spiritual balance. Another clan leader crystallized their overall task with the statement, "They must restore the social and spiritual balance of the Tlingit."

Remarkably and to their credit, the Tlingit have managed to maintain ownership of clan ceremonial objects without the protection of a legal system that recognizes communal ownership of property. They have accomplished this in the face of economic need coupled with tremendous pressure to sell their remaining clan objects to unscrupulous art dealers who covet their ancient objects and have appeared uninvited at doors flashing thousands of dollars. The offers for the Whale House objects reportedly went as high as $6 million.

On the other hand, the Tlingit have met with little success in protecting their intangible property, most notably their crest and spirit designs which have been transformed into art forms and art objects. They have been powerless to protect their intangible property represented by the crest designs which continue to be expropriated by non-Tlingit and transformed into a multi-million dollar industry whose benefits primarily accrue to the non-Tlingit. Their art forms, which to most Tlingit are imbued with spiritual attributes, are viewed as public domain to which the public has unfettered access and complete freedom to use. Whitt (1998:148) asserts that by declaring intellectual and cultural properties of indigenous people to be in the public domain, which in essence means that these properties belong to everyone, sets the stage for their conversion into private property. Her legal theory of cultural acquisition begins with the premise that property belonging to no one is the functional equivalent of the premise of property belonging to everyone. These postulates facilitate the conversion process that results in the transfer of indigenous intellectual property into the public domain followed by the privatization of property.

In a paper discussing the communal property rights in cultural objects and the difficulties Native Americans have in adjudicating their claims in a legal system that is fundamentally incompatible with Native Americans, Byrne (1993:120-121) wrote:

> The lack of legal recognition of communal rights in cultural property combines with a well-developed bias in Anglo-American law against Native American cultural views. Since legal systems are, first and foremost, reflections of the religious and social values of the dominant culture, our legal system is inextricably linked with Judeo-Christian values, which in turn are strongly rooted in capitalism....Although recognition of cultural communal property conflicts with established tenets of Western law regarding cultural objects, the recurrence of disputes based upon communal property claims has made it hard to suppress the concept....

Byrne also proposes that the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), although inherently flawed, represents the first legislative recognition of communal property rights. NAGPRA provides for the protection of Native American burial sites and the possible return of human remains, funerary objects, sacred objects and objects of cultural patrimony or communally-owned objects from museums and other institutions which receive federal funding. The Tlingit have already successfully used this law to press for the return of clan objects. It is also significant to note that in their petitions to museums, they claim ownership of both tangible and intangible property or the clan object itself as well as the crest depicted on the object.

Although disputes over clan property continued, the Tlingit appeared to have reconciled the competing ideological systems recognizing both communal and individual property rights until they implemented the ANCSA. Recall that the Tlingit discussed the expulsion of the Americans after they purchased Alaska from Russian, but their resolve waned as they began to enjoy the new economic opportunities. They took this new found knowledge and pursued the settlement of their land claims under a corporate model rather than the reservations system that characterized the system

adopted by most other American Indian tribes. Their experience with the Bureau of Indian Affairs (BIA) under the Indian Reorganization Act left them with little regard for government oversight. Their attempts to enter the commercial fisheries industry were constrained by government bureaucrats who controlled their funds and business decisions. The leaders were loath to accept the idea that the BIA might have trust responsibilities over their lands under the reservation model. The Tlingit sought full control and unrestrained ownership of their land, and the answer appeared to be in the corporate model.

In the 26 years the Southeast Alaska Indians have operated corporations that were created under ANCSA, they have had varying success. Sealaska, the region-wide ANCSA corporation, became an almost immediate success joining the ranks of the Fortune 1000 corporations only to fall to near bankruptcy a few years later, and then to regain financial success. Its 1997 net earnings for a nine month period were reported at $26 million on revenues of $140 million. In the same year, Sealaska distributed nearly $10 million to its 16,000 shareholders. While financial success is important to the Southeast Alaska Indians, most feel that their corporations should be more than business institutions and their corporations should respond to their social and cultural needs including the protection of their subsistence hunting and fishing rights.[21] Alaska Natives went to Congress repeatedly to amend ANCSA to allow them to implement programs which other business corporations do not ordinarily address. The Southeast Indians have been fairly successful in changing the corporate model to accommodate their needs. For example, in addition to its financial dividends and the employment opportunities it provides to Alaska Natives, Sealaska awarded $630,000 to 480 students in scholarships and heritage study grants and distributed $2,000 to 109 elders in 1997. During the same year, Sealaska expended $2.2 million on other educational and cultural projects including support of the Sealaska Heritage Foundation which is focusing on language development programs and curriculum. The Southeast Alaska ANCSA corporations have also been engaged in the struggle to protect the subsistence hunting and fishing lifestyle of their villages. The Native

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The corporation has conducted longitudinal studies of its shareholders who consistently support the allocation of resources to support educational and cultural issues.

corporations are different from other business corporations in other ways, notably the congressional mandate that the 12 regional ANCSA corporations in Alaska distribute 70 percent of their profits to other ANCSA corporations throughout Alaska. For Sealaska this revenue sharing has translated into nearly $9 million in 1997 or a total of $215 million since its inception.

Although ANCSA has generally been successful in Southeast Alaska, it contained a major flaw that would ultimately lead to conflicts between communal and individual ideologies. It failed to provide a mechanism to allow for the enrollment of its New Natives. Alaska Natives, who adhered to the belief that their culture and society depend on the assurance of a perpetual membership and who believed that Native children have a right to share in the ownership and benefits of their ancestral lands, went back to Congress to amend ANCSA in the late 1980s to allow them to enroll New Natives. When Congress was enacting ANCSA it 1971, it did not consider the perpetual enrollment of New Natives or the perpetuation of tribal groups. ANCSA, with corporations, land, and money that would be held by individual shareholders, was viewed as the vehicle for the economic assimilation of Alaska Natives. Rather than amending ANCSA to allow for the perpetual enrollment of New Natives, in the compromise that was adopted, each Native corporation would have to vote to allow New Natives to enroll in the corporations. It was assumed that corporations would readily admit the New Natives. However it was the very financial success of the Southeast Alaska ANCSA corporations and their abilities to distribute significant dividends[22] that fueled the opposition to the enrollment of New Natives. Land and resources or the financial benefits derived from the development of the land were no longer viewed as communal property or that children had rights to land as they had under the traditional forms of property ownership. The competing ideologies of communal and individual rights and property are evident in the two advisory votes held by Sealaska

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In Southeast Alaska, the dividends were significant due, in part, to an unanticipated tax benefit that brought nearly a half billion dollars into the Southeast ANCSA corporate coffers. In addition, the village corporations with small shareholder populations were able to make sizable distributions from their earnings with cumulative dividends to date averaging between $20,00 to nearly $100,000 per shareholder, and at least one corporation has paid even higher dividends.

Corporation in which the Indians of Southeast Alaska were equally divided between those who opposed and supported the enrollment of New Natives. The Sealaska surveys of its shareholders indicate that Native people believe that New Natives should benefit from ANCSA corporations, but they differ on how this should be accomplished. Even those who are adamantly opposed to their enrollment support special endowments such as the $4 million scholarship fund that benefits nearly 500 New Natives annually. The Southeast Natives continue to address how they are going to deal with the New Native issue, but at this time it remains unresolved.

In summary, Tlingit property law remains in force insofar as it applies to traditional ceremonial property or *at.oow*. The region-wide tribal government and several of the village tribal governments have adopted laws that formally recognize Tlingit property law and prohibit the removal of clan artifacts, crests, or other traditional Indian art work from a community without the approval of the tribal government. As indicated in the discussion of the Whale House case, adoption of a law allowing the tribal government to govern clan property represents the first new law adopted under the traditional legal regime. The process in which this new law was enacted involved a request by clan leaders, a unanimous vote by the village population, and adoption of the law by the tribal government. The case studies also include references to other changes to Tlingit law that have been proposed, such as the loss of property rights in the face of not fulfilling clan responsibilities and greater authority of clan leaders in disposing of property, but these proposals have not been pursued beyond advancing the argument.

The adoption of the western style court as another mechanism in the dispute settlement process is exemplified in the Whale House case. In this case, the federal district court clearly recognized the fundamental problems in implementing communal law under American law and the complexities of Tlingit law. It referred the case to a tribal court which it acknowledged was best suited to handle the case and complied with its rule not to interfere with the internal workings of Indian tribes. Evidence of traditional sanctions to restore order also appear to remain in effect coupled with a process of negotiation between disputing clans.

Tlingit society is characterized by two competing ideological systems, one in which individuals are interdependent and property is held in common by its

mem rs, and the other in ich individualism and individual property are
para unt. These two ide gies have conflicted in the corporate arena
creat under ANCSA. Ne rtheless, the Tlingit are engaged in a complex
proc of attempting to tra form the individualistic corporate model,
whic olds portions of the. ancestral land, to one that serves its communal
need protect and perpet e Tlingit values and culture.

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Appendix F

Cultural Context of *Haa At.óowu*

Sealaska Heritage Institute Cultural Context of *Haa At.óowu*

SHI outlines three inter-related Tlingit cultural tenets and practices and the principals of Tlingit property law to substantiate repatriation claims.

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April 15, 2009

Cultural Context of Haa At.óowu

Haa at.óowu, Haa Shagoon, and *Ku.eex'* and the principles of Tlingit property law

By
Rosita Worl, Ph.D.

To substantiate repatriation claims for *haa at.óowu* as a Sacred Object and an Object of Cultural Patrimony, three inter-related Tlingit cultural tenets and *practices--Haa At.óowu, Haa Shagóon, and Ku.éex'* and the principles of Tlingit property law will be outlined.

Haa At.óowu

Haa At.óowu is sacred tangible and intangible property owned by a clan that is used primarily in ceremonial activities.

The crest depicted on a *haa at.óowu* often derives from an encounter between a clan ancestor and a supernatural entity that appeared in the form of a bird, animal or fish.

The right to depict a visual representation (a crest) of this encounter on a ceremonial object and to claim a spiritual relationship and kinship with the supernatural entity is generally associated with the loss of life of a clan ancestor.

The term *haa at.óowu* encompasses all of the following:

-a legendary event
-the spirits of human ancestors and supernatural entities that were involved in a legendary event
-the site at which the event occurred and associated natural features
-the visual representation or crest symbolizing the event
-the physical object on which the crest is depicted
-the stories, names and songs associated with the event
-clan ancestors, who used and preserved the *haa at.óowu* in subsequent generations

Crests embody the spirit or being depicted in the visual representation and the spirits of clan ancestors associated with the *haa at.óowu.*

Crests symbolize the special relationship and kinship clan members have to the animal or entity depicted on the crest.
The crests depicted on the *haa at.óowu* serve to identify and unify clan members and define their relationships with other Tlingit.

Haa at.óowu are among the most prized possessions of a clan, and clans were willing to go to war, or to court in the present day period, to protect their ownership of *haa at.óowu.*

Haa at.óowu serve as "legal title" to the geographical site where the event occurred. *Haa at.óowu* are transferred within the clan through the generations in perpetuity. When a *haa at.óowu* deteriorates and can no longer be used, it is burned and mourned as if it were a human who had died and was cremated.

Haa at.óowu are immortal and survive their temporary representation in physical objects in the same manner as a person's spirit survives its body and is reincarnated into an infant or a newly made *haa at.óowu.*

Haa Shagóon

Haa Shagóon embodies the clan and spiritually

unites past, present and future generations. It represents our ancestors including our animal kin. It is the spiritual thread that unites the living and binds us to our ancestors and to future generations.

A clan's *Shagóon* is translated as both its "origin" or "heritage" (referring to its ancestral past), and its "destiny" or "fate" (referring to its future generations).

Haa Shagóon is represented by our material and immaterial *haa at.óowu* that spiritually unite the present generation to the past and to the future.

Haa At.óowu displayed at ceremonies represent a clan's *Shagóon,* connecting those present with all those who came before, and those yet to come in the future.

Ku.éex'

The *ku.éex',* commonly called "potlatch", is the central religious ritual in Tlingit ceremonial life.

In the *ku.éex',* the living members of a clan are united with their ancestors through the use of *haa at.óowu.* The *ku.éex'* is the principal context for the cultural presentation of a *haa at.óowu* and the evocation of spirits.

The religious rituals associated with the *ku.éex'* include the **death** rite; the **funeral;** and the **departure of the deceased's spirit from the natural world,** culminating in the larger ceremony, the *ku.éex'.*

Ceremonies are also held for the construction of new houses and to settle conflicts through the peace ceremony.

The *ku.éex'* is scheduled a year or more after the death of a clan member and is called a "payback" in recognition of the ceremonial services provided to the family and clan of the deceased by relatives of "opposite" clans.

The *ku.éex'* requires the participation of both Eagle and Raven clans. The interrelationships and interactions between these "opposite" clans during these ceremonies serve to restore spiritual and social balance and harmony that had been disrupted with the loss of a clan member.

During a *ku.éex',* the bereaved clan, which acts as the host, ritually presents their *haa at.óowu* to the opposite clan, recounts the names and stories giving rise to the crests, and sings the songs recalling the events behind the *haa at.óowu.* The most sacred of clan songs, the mourning songs, are presented at this time.

In response, guest clans engage in a reciprocal display and presentation of *haa at.óowu,* and speeches of condolence are delivered to the host clan.

During the *ku.éex'* the presentation of *haa at.óowu* serve to evoke the spirits of clan ancestors involved in the acquisition of the crest, the spirits of crest animals and ancestors who preserved and used the *haa at.óowu* in the following to the present generations. They are believed to receive the spiritual essence of the food and gifts that are given to the opposite clans by the bereaved.

The response and acknowledgement by the guest clan of the opposite moiety validates the *haa at.óowu* and ownership of each of the host clan's objects with their crest designs and other prerogatives.

During later stages of the *ku.éex',* the host clan "kills money" (formerly slaves), which is called *Daana ak gwa jaak,* by distributing it to the guest clans. The cash, food and gifts given by the host clan and their acceptance by the guest clan further validate the host clan's prerogatives associated with its *haa at.óowu.*

Tlingit Law

Clans are the basic property-holding units in Tlingit society.

A Tlingit infant acquires property rights through his or her birth into a clan and by virtue of his or her **membership** in a clan rather than through inheritance from his or her mother or parents.

Under Tlingit law, no descendible or alienable rights accrue to an individual, and inheritance rights as recognized under American law do not exist in Tlingit law.

All members of a clan collectively own their *haa at.óowu*. They own the intellectual property represented by the crest art, the names, stories and songs in the same way that they hold their tangible property.

Title to property is held in trust for clan members by the head person *(Sháade háni* or *Linít Tlein)* or House Leader *(Hít s'aatí)* of a clan and house. Trustees cannot make independent decisions to dispose of or alienate clan property.

The office of *Sháade háni* or *Hít s'aatí* is transferred through generations within the clan and house according to defined rules. The clan leader is highly respected, but his authority is limited and major decisions that involve the interest of the clan are subject to clan consent.

Property cannot be transferred, conveyed, or alienated unless all members of the clan agree. If any clan member should refuse to relinquish title to a clan object, then he or she cannot be deprived of his or her interest by an act of others, and the clan is required to maintain its ownership.

Sanctioned transfers of *haa at.óowu* between clans may be made to satisfy a clan's liability to another clan or indemnification for wrongdoing.

Contrary to American law, ceremonial or clan property cannot be transferred to a spouse or claimed by a surviving spouse because he or she is a member of another clan.

The concept of individual or personal property traditionally applied to relatively few objects such as personal daily clothing.

Anthropologists, legal theorists and early observers of Southeast Alaska (Emmons 1991; Goldschmidt and Haas 1946 & 1998; Olson 1967) and federal and tribal courts in the Whale House case (1993 Village Tribal Court No. 90-01 Decision), have uniformly recognized the group or clan property rights of the Tlingit and have consistently concurred that trustees do not have the authority to sell or dispose of clan property or *haa at.óowu*.

The Tlingit concede that many of their *haa at.óowu* were alienated from their society during the late 1800s and early 1900s and that one or more individuals may have been party to the alienation. The Tlingit, maintain, however, that such alienation was in violation of Tlingit law.

In an attempt to foreclose the alienation of *haa at.óowu* outside of the sanctioned transfer of *haa at.óowu* between clans, the Chilkat Indian Village adopted a tribal ordinance that prohibited the alienation of clan objects without the permission of the village council. The assumption is made that the council would approve of an alienation made in concurrence with Tlingit property law.

In 2007, the SHI Council of Traditional Scholars, whose members are traditional leaders with a deep knowledge of Tlingit culture, discussed the tenets of Tlingit law and adopted the Tlingit Property Law and Dispute Resolution and amended in 2009, which have been outlined above.

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September 26, 1995

Dr. Jeremy Sabloff and Ms. Pam Jardine
The University Museum
University of Pennsylvania

Dear Dr. Sabloff and Ms. Jardine:

The Huna Totem Corporation, a recognized Indian tribe pursuant to the Native American Graves Protection and Repatriation Act (NAGPRA), on behalf of the Snail House (Mount Fairweather House) of the T'ak̲deintaan Clan of Hoonah, hereby submits a repatriation claim for the objects identified on the enclosed list compiled by the University Museum entitled, "Hoonah, AK: T'ak̲deintaan Clan, Snail House Collection," (pages 7-9). These items are objects of cultural patrimony under the terms of NAGPRA. These items are owned collectively by the Snail House (Mount Fairweather House), and under Tlingit property law they cannot be alienated by any single individual or without the full consent of its members. This letter constitutes a claim for these objects and does not preclude further repatriation requests.

Sincerely,

Frank O. Williams
Vice-Chairman
Huna Totem Corporation
Snail House Member

Snail House Members:
(Mount Fairweather House)

Ron Williams

Marlene Johnson

Enclosure

HUNA TOTEM HERITAGE FOUNDATION
9309 GLACIER HWY., SUITE A-103 JUNEAU, ALASKA 99801 907-789-1773

Hoonah, AK: T'akdeintaan Clan, Snail House Collection

I.D.	OBJECT NAME	CULTURE	PROV. 2	PROVENIENCE	SOURCE
NA6828	Drum	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6829	Robe	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6830	Dance Mask	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6831	Mask, Shaman's	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6832	Mask, Dance	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6833	Mask, Ceremonial	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6834	Frontlet	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6836	Headdress	Tlingit	Alaska	Hoonah; Snail House; Hoonah T'akdeintaan Clan	Louis Shotridge
NA6837	Ceremonial Headdress	Tlingit	Alaska	Hoonah; Snail House; Hoonah T'akdeintaan Clan	Louis Shotridge
NA6838	Ceremonial Headdress	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6839	Headdress	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6840	War Headdress	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6841	Frontlet	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6843	Staff Head	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6844	Rattle	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge

Hoonah, AK: T'akdeintaan Clan, Snail House Collection

I.D.	OBJECT NAME	CULTURE	PROV. 2	PROVENIENCE	SOURCE
NA6845	Rattle	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6846	Rattle	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6847	Shaman's, Hat	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6848	Cape	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6849	Blanket	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6851	Neck Ring	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6852	Neck Ring	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6853	Headband	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6855	Dance Collar	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6856	Ceremonial, Horn	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6857	Ceremonial, Horn	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6858	Ceremonial, Horn	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6859	Ceremonial, Horn	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6860	Ceremonial, Whistle	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6861	Ceremonial, Whistle	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6862	Pipe	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge

Hoonah, AK: T'akdeintaan Clan, Snail House Collection

I.D.	OBJECT NAME	CULTURE	PROV. 2	PROVENIENCE	SOURCE
NA6863	Feasting, Spoon	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6865	Dance, Ornament	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge
NA6866	Headband	Tlingit	Alaska	Hoonah T'akdeintaan Clan; Snail House	Louis Shotridge

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Huna Totem Corporation

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December 15, 1995

Jeremy S. Sabloff
The Charles K. Williams II Director
The University Museum of Archaeology and Anthropology
University of Pennsylvania
33rd and Spruce Streets
Philadelphia, Pa. 19104-6324

SUBJECT: Repatriation Petition under the Native American Graves Protection and Repatriation Act

Dear Dr. Sabloff,

Thank you for your letter of October 26, 1996 relative to the Snail House repatriation claim. The following information is provided to meet the general requirements pursuant to the terms of the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 (PL 101-601).

Indian Tribe

The Huna Totem Corporation is an "Indian tribe" under the terms of NAGPRA Section 2.(3)(D)(7) [See National Park Service List of Tribal, Native Alaskan entity, and Native Hawaiian Organization Contacts List dated July 16, 1993 identifying Huna Totem Corporation as a Native Alaskan Entity].

Cultural Affiliation

The Tlingit Indians of Hoonah, the T'akdeintaan Clan and the Snail House share a group identity. We can trace our cultural affiliation historically and prehistorically from our ancestors who created and owned the objects and crests claimed under this petition to the present day tribe represented in this claim by the Huna Totem Corporation.

The Tlingit are a people and culture who are indigenous to the United States. We have owned and occupied Southeast Alaska since time immemorial. We conceive of ourselves as members of one group and distinguish ourselves apart from our neighbors. We divide ourselves socially into clans and house units.

We share social customs and customary laws that apply to all Tlingit whether they live in Cape Fox at the southern terminus t the Yakutat settlement in the most northern region. Our ancient language is mutually intelligible among the Tlingit. We share a common set of customs, traditions and beliefs. We maintain a high level of intermarriage, social and economic interactions that unify the Tlingit into a distinct social group.

The Tlingit initiated their aboriginal land claims against the United States shortly after the passage of the Treaty of Cession of 1867. This effort ultimately resulted in the enactment of the Alaska Native Claims Settlement Act of 1971. The Huna Totem Corporation was organized pursuant to ANCSA to hold the land entitlements of the Hoonah community including the Snail House.

Object of Cultural Patrimony

The Huna Totem Corporation asserts that the objects claimed under the letter dated September 26, 1995 and identified as "Hoonah, AK: T'akdeintaan Clan, Snail House Collection" are objects of cultural patrimony that have ongoing historical, traditional, and cultural importance central to the Tlingit people and to members of the T'akdeintaan and the Snail House (Mountain Fairweather House). The T'akdeintaan and the Snail House also claim ownership of the crest and spirit designs depicted on the objects. These objects are not owned by an individual Tlingit and therefore cannot be alienated, appropriated, or conveyed by any single Tlingit individual. The Tlingit consider the objects to have been inalienable when they were separated from the Snail House.

Within the Tlingit tribe, the clan and houses are the basic property holding units. Ownership of property resides within the group rather than by any individual member. Under Tlingit law no descendible or alienable rights accrue to an individual. Property cannot be transferred, conveyed, or alienated unless all members of the clan agree. If any one clan member should refuse, then he or she cannot be deprived of his/her interest by an act of others. An individual clan member has the authority to "use" clan property, but he/she cannot independently transfer or alienate this right. This privilege ends at death, and thus inheritance rights as recognized under American law does not exist in Tlingit law. The concept of individual or personal property traditionally applied to relatively few objects such as personal everyday clothing.

The Tlingit furthermore assert an ownership interest in the crest and spirit designs depicted on the objects subject to this claim. These designs signify the sacredness of objects since they symbolize a spiritual relationship with the entities depicted on an object. The object together with the design provide a

physical form in which spiritual beings may manifest their presence.

Continuing Cultural Importance

The Tlingit continue to place great significance on their ceremonial and clan objects. In addition the crest and spirit designs have supernatural significance to our people. We are required to treat our objects and the spirits they embody in specific ways to ensure spiritual balance and harmony. Our clan leaders and clan mothers believe that many of the social ills afflicting Tlingit people are attributable to the erosion of our heritage and loss and mistreatment of sacred objects.

Ceremonial objects are used in ongoing potlatches and memorial rites. Although we do not articulate our ideological beliefs in terms of religious precepts or codified theologies, we express and practice our traditional ideologies through our ceremonial objects and within the context of our ongoing rituals.

The spiritual significance of the objects and designs cannot be determined by isolating and decoding particular symbols depicted on the objects. These objects must be viewed within the context of the Tlingit ideological system and our ceremonial rites to understand their sacredness and importance to our culture. The objects are inseparable from the ceremonies in which they are intended to be used.

Western Scholars and Courts Substantiate Tlingit Communal Ownership

The ethnographic literature and court decisions verify the Tlingit concepts and customs of communal ownership. Anthropologists and early observers of Southeast Alaska including Emmons (1991) in his monumental study of the Tlingit and Goldschmidt and Haas (1946) who conducted a study of the possessory rights of the Tlingit and legal action and judicial decisions have uniformly recognized group property rights and the absence of individual ownership among the Tlingit. In some cases anthropologists have suggested that objects interred with deceased shamans are individual property. However, even in this instance, clan and house groups continue to assert interest in these objects.

The basic tenets of Tlingit property law are outlined in a 1994 study entitled **Principles of Tlingit Property Law and Case Studies of Cultural Objects** by anthropologist and tribal member Rosita Worl. The study was commissioned by the National Park Service. It affirms the nature of communal property ownership under Tlingit law. The study also substantiates the multiple nature of crests. For the purposes of this claim, it is significant to note that crest and spirit designs are considered

to be communal property; that they serve as title to objects; that they serve to unify clan members; that they bond present day Tlingit people to their ancestors; and that they demonstrate a special relationship to the supernatural entities depicted on clan objects.

The communal ownership of property was most recently affirmed in a Tlingit tribal court in the case known as Chilkat Indian Village, I.R.A. v. Michael R. Johnson. In this case, several members of a clan attempted to sell the "Whale House artifacts." In accordance with Tlingit property law, Judge Bowen ruled in 1993 that the Gaanaxteidi clan has the ultimate authority to exercise all custodial responsibility over the artifacts. This case affirms that individuals cannot alienate objects and that clan members who are opposed to alienation cannot be deprived of their property interest.

Anthropologists and art historians also affirm the Tlingits' claims of cultural and sacred significance of ceremonial objects. The writings of Aldona Jonaitis (1986) and Erna Gunther (1966), the noted anthropologist and recognized expert on Northwest Coast culture and art support the Tlingit assertion of the sacredness of ceremonial objects and their significance to clan members.

Right of Possession

The objects claimed under this petition were collected by Louis Shotridge. He obtained the objects from a single member of the Snail House or in some cases, a spouse of a T'akdeintaan clan member. They were not obtained with the voluntary consent of the Tlingit people or members of the clan and the Snail House. Under Tlingit law, no one individual has the right to alienate traditional property and the designs depicted on the objects. We assert that the objects identified in this repatriation petition and the designs depicted on the objects were considered to be inalienable by the Tlingit at the time they were separated from the Tlingit. Absent the approval of clan members to alienate the objects, they continue to be the property of the Snail House.

The objects and the designs depicted on the objects meet the NAGPRA definitions of "cultural patrimony." They have ongoing historical, traditional, and cultural importance central to the Tlingit society and culture and the objects and designs are not owned by an individual Tlingit and could not be alienated, appropriated, or conveyed by any individual Tlingit. We continue to adhere to our traditional property laws and practice our traditional potlatch ceremonies. The objects are vital to our ceremonial rites and central to our ideological beliefs.

Pursuant to the terms of the NAGPRA the Huna Totem Corporation reaffirms its initial repatriation claim for objects identified by The University Museum as the "Snail House Collection". This

information substantiates our claims to this collection under the requirements of NAGPRA.

As noted in our letter of September 26, 1995, this repatriation claim is for this specific collection and does not preclude further repatriation claims. We request that you act expeditiously on this matter.

Sincerely,

Albert Dick

Albert Dick
Chairman and
Snail House Member

Frank O. Williams
Vice Chairman and
Snail House Member

cc: Tim McKeown, National Park Service

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3

PETITION FOR REPATRIATION for the return of

TAAX' HIT (SNAIL HOUSE) ÁT.OOW from UNIVERSITY OF PENNSYLVANIA MUSEUM OF ARCHAEOLOGY AND ANTHROPOLOGY

February 12, 1998

All information contained herein is sacred, cultural, and intellectual knowledge. No copies, reproductions, or distribution of such information are authorized unless for the sole purpose of evaluating this repatriation claim. This authorization is void upon completion of repatriation of the Taax' Hit át.oow. Nothing in this claim shall be construed as waiving the future rights and privileges afforded the Huna Heritage Foundation or the Taax' Hit under traditional, federal, state, and local laws.

(ENCLOSURE "C")

1. Indian Tribe

The Huna Heritage Foundation submits this repatriation claim as an "Indian tribe" pursuant to the terms of NAGPRA Section 2.(3)(D)(7) [See National Park Service List of Tribal, Native Alaskan entity, and Native Hawaiian Organization Contacts List dated July 16, 1993 identifying our tribe as a Native Alaskan Entity with legal standing to file this claim].

2. Cultural Affiliation

As required under the definition of "cultural affiliation" of the NAGPRA, the petitioner has legal standing under NAGPRA and can demonstrate "a relationship of shared group identity which can reasonably be traced historically or prehistorically between members of a present-day Indian tribe . . . and an identifiable earlier group." Please note the earlier referenced resolution attesting to the relationship of the Taak' Hit Snail House of Hoonah and the Huna Heritage Foundation as an Indian Tribe and delegating the Huna Heritage Foundation to act on its behalf (see Enclosures A and B).

The Tlingit Indians have owned and occupied Southeast Alaska since time immemorial. We held exclusive aboriginal title to all of the territory within the geographic boundaries of Southeast Alaska. In the historic period, the Haida and Tsimpshian Indians migrated from Canada to the southern terminus of Southeast Alaska. Our oral traditions tell that we alone have lived in Southeast Alaska since the time of the Great Flood and that no other indigenous group lived within our boundaries or communities. The available archaeological evidence does not demonstrate that any other group lived within our territory. The unbroken line of cultural affiliation with our ancestors was also legally recognized by the U.S. Court of Claims and Congress in settling our aboriginal land claims and in recognizing a regional tribal government. Additionally, our regional, urban, and village corporations were established under the Alaska Native Land Claims Settlement Act of 1971 ("ANCSA"). The Huna Heritage Foundation established through the ANCSA village corporation--Huna Totem Corporation--can trace its cultural affiliation historically and prehistorically to our ancestors who owned and occupied the Hoonah area of Southeast Alaska, and who own the objects and crests claimed under this petition.

The Tlingit maintain a relationship of shared group identity. We are a people and culture who are indigenous to Alaska, the United States, and the adjacent interior borders of Canada. We share social customs and laws that apply to all Tlingit. We speak a common language that is mutually intelligible among all Tlingit. We conceive of ourselves as Tlingit and distinguish ourselves apart from our neighbors. We maintain a high level of intermarriage, social, and economic interactions that unify the Tlingit into a distinct social group. We are united politically at the community and regional level through our local and regional tribal governments. We are also united at the local and regional level through Native corporations, which were created under the authority of Congress.

To further substantiate our claim of cultural affiliation between the tribe and our ancestors who own the Taax' Hit át.oow, we note that the T'akdeintaan Clan of Hoonah currently consists of the T'akdein Hit (House of T'akdeintaan), Tsal-Xaan Hit/Taax' Hit (Mt. Fairweather/Snail House), Yeil Kudee Hit (Raven Nest House), X'aakw Hit (Fresh Water Sockeye House), Gaanaxaa Hit (Seagull House), Kaa Shayee Hit (Man's Head House), and the Kux Dise Hit (Half Moon House). Although most of the houses do not exist as physical structures in Hoonah today, the heritage of the people, which relates them to their respective tribal houses, is constantly adhered to in our present-day cultural identity.

For example, the following history of the Snail House is still recounted through oral tradition ensuring awareness of cultural identity through the clan's past, present, and future members. It is believed the first Snail House--which was then not referred to as the Snail House, but the Mt. Fairweather House--existed in the Glacier Bay area. Eventually its members migrated to what is now known as the Hoonah area. When it came time to erect a clan house for their new location, an observation occurred which led to an additional name for the house:

> *"When they were clearing the place for the Snail House site, some fellows were clearing the place, getting all the brush out of there and he saw when he was clearing the place, alot of snails there. And he made a remark saying, 'So many snails around here! They should name this new house the Snail House; Taax̲' Hit.' And that name stuck."*
>
> *Edith Bean, Snail House Elder - August 20, 1997*

We note that two objects of interest in this repatriation claim: #NA6844 Raven Rattle, and #NA6838 Raven/Jellyfish Headdress, appear to have been present during the occasion of the rebuilding of the Snail House. According to Louis Shotridge's notes for both items which he acquired on November 22, 1924 in Hoonah, Alaska, both items were:

> *" . . . to be used on the occasion of the call together to the rebuilding of the Snail house . . . "*

This newly erected and named Snail House, estimated to have been built in the 1800's/early 1900's, is shown in the enclosed photograph (see Appendix B). During the great fire of 1944 which destroyed nearly all of Hoonah, this clan house, along with many others, burned to the ground. The fact that one of the Clan House caretakers at the time of the 1944 fire chose to die with the Snail House as it burnt to the ground gives testimony to the significance of the house and its identity to its membership. This caretaker, known as Gei Chaa'kw (John Smith), is succeeded by the current Snail House Leader and Caretaker: Adam Greenewald.

Other examples of how important the identity of the house is to its current membership is exemplified in the action of replicating the Snail House panel (as shown in photo) in a miniature wood panel version. This panel reflects the story of Mt. Fairweather with representations of the "new" naming of the house. Again, while the physical clan house structure has not been rebuilt as of 1944, it remains as a present-day cultural identity for its members.

These houses were formerly inhabited by a group of matrilineally-linked males along with their wives and offspring. In addition nephews, who are members of their maternal uncle's (mother's brother's) clan, resided within the house. These matrilineally-linked males are members of the same clan, but their wives belong to the opposite moiety and are members of different clans. The children belong to their mother's clan. In the past, young boys left their mother and went to live with their maternal uncle when they reached the age of ten.

The clan house was formerly the basic economic unit while the clan served as the social, political, and ceremonial unit. Extended family units no longer live in these clan houses and nuclear families have replaced the traditional house groups as the economic unit. In the present period, the clan functions primarily in the ceremonial sphere.

Today the clans have united politically and economically at the community level, and all clans within a community collectively participate in ceremonial activities. While the clans persist, the Tlingit have transformed their society from strictly clan-based entities to unified communities. Today the Tlingit people are also united at the regional level through Sealaska Corporation which was created under the authority of Congress, and politically through the Central Council of Tlingit and Haida Indian Tribes of Alaska, a regional tribal government. More specific to the Hoonah Tlingit clans, unification occurs through the local ANCSA village corporation: Huna Totem Corporation, and the local federally-recognized tribal government: the Hoonah Indian Association.

The geographical, kinship, linguistic, oral traditions, historical, ethnographic, and legal evidence all demonstrate the cultural affiliation between members of the present-day Indian tribe submitting this claim; our Tlingit ancestors who have lived in Southeast Alaska since time immemorial; and our Tlingit ancestors who established the permanent community of Hoonah. Huna Heritage Foundation can trace cultural affiliation historically and prehistorically to our Tlingit ancestors who owned, identified with, and used the Taax̲' Hit át.oow which were taken from our community and which are now claimed in this petition under the terms of NAGPRA.

3. Taax̲' Hit Át.oow as "Objects of Cultural Patrimony"

The Huna Heritage Foundation asserts that the Taax̲' Hit át.oow, identified by your museum as the 39 objects noted in Appendix A, meet the definitions of NAGPRA under Section 2.(3)(D) as objects of cultural patrimony that have ongoing historical, traditional, and cultural importance central to the Tlingit people and to members of our tribe: "*. . . rather than property owned by an individual Native American, and which therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian Tribe . . .*" and the 39 objects were "*. . . considered inalienable . . . at the time object was [were] separated*" from the Tlingit people. We claim ownership of these 39 objects and the spirit designs depicted on them under our traditional Tlingit laws.

According to Tlingit traditional law, ownership of property resides within the group rather than with any individual member. The clans and houses are the basic property holding units. An individual acquires property rights through his/her birth into a group: the clan. An infant does not acquire or inherit his/her property rights from his mother or parents. Rather, a Tlingit infant acquires property rights by virtue of his/her membership in a group. Under Tlingit law no descendible or alienable rights accrue to an individual. Property cannot be transferred, conveyed, or alienated unless all members of the clan agree. If any one clan member should refuse, then he or she cannot be deprived of his/her interest by an act of others. An individual clan member has the authority to "use" clan property, but he/she cannot independently transfer or alienate this right. This privilege ends at death, and thus inheritance rights as recognized under Western law do not exist in Tlingit law. Clan property cannot be transferred or claimed by a surviving spouse because he or she is a member of another clan. Concepts of Tlingit property rights are legally recognized by our tribal governments and tribal corporations.

The concept of individual or personal property traditionally applied to relatively few objects, such as personal everyday clothing. Only in the very recent period did the Tlingit apply the concept of individual property to newly-produced ceremonial regalia and head-dresses. However, not all new ceremonial property is maintained as individually-owned property.

Within the definition of "Objects of Cultural Patrimony", clan items may be further sub-categorized according to their use and meaning. These sub-categories include: Head Gear (objects meant to be worn on the head); Masks; Ceremonial Objects; Ceremonial Regalia; and Shamanic Objects.

Head Gear

Ceremonial headdresses include Naa S'aawxw (Clan Hat), Shaadakoox' (Clan Hat with ring), Shaakee.at (Frontlet with ermine), L'aw Shaadaa (War Helmet), Guwakaan S'aax.oo (Peace Maker headdress and feathers), Shi S'aati T'aawu (Song Leader's feathers), Kaax'usyee Shaawu T'aawu (Primary Clan Women singers), L'aa S'aax.oo (Yarn Hat), Ixt' Shaadaa (Shaman headdress), Ayaan (Interior-style headdress), Ch'een (Women's hair piece), Gangoosh (Bear Ears), Giyak Kwaan S'aax.oo (Aleut-style/baseball-style cap), Yenwaa Shaa S'aax.oo (Sailor hat), Wooweitkaa S'aax.oo (young women's headdress). They are variously referred to by museums as "ceremonial headdress", "clan hat", "helmet", etc.

Ceremonial head gear and associated crest designs are objects of cultural patrimony that have ongoing historical, traditional, and cultural importance central to the Tlingit people and to members of our tribe. Ownership of all crest and spirit designs depicted on the head gear is also asserted. Rights to these crests were acquired by our ancestors, and title to them have been validated and re-validated through the generations within our ceremonial rites.

Head gear continues to be used in our ceremonies and in the present-day period, and they may also be used in secular activities. Head gear represent our clans; they serve to unify clan members and identify us as Tlingit people; they bond us to our ancestors; and they symbolize a spiritual relationship to the entity depicted on the hats and ceremonial objects. Clan ceremonial head gear, together with a crest spirit design, provide a physical form in which spiritual beings manifest their presence.

The ongoing significance and sacredness of our clan head gear and objects are manifest in the Tlingit ideological system and our ceremonial rites. The objects are inseparable from the ceremonies in which they are intended to be used, and we Tlingit are compelled to host and participate in these ceremonies for Haa Shaageina--our ancestors, the present generation, and the future generations.

Masks

Tlingit masks serve three basic functions: 1) transformation of an individual into a supernatural being; 2) clan dramatization, and; 3) conflict resolution. Masks as they are used in the first two functions allow a Tlingit to symbolically transform into the spirit depicted by the mask. In clan dramatization, the dancer re-enacts a clan legend. More often the clan mask also represents the spirit depicted by the mask. A portrait mask, commonly called a ridicule mask, was used in the conflict resolution process. However, not all portrait masks are ridicule masks.

Transformation Masks are those masks and maskettes which allow individuals who don the mask, usually within the context of a ritual or ceremonial setting, to become symbolically transformed into a supernatural being. They were primarily used by Shamans, but lay Tlingit also utilize transformation masks. Generally, the Shaman had masks that were representations of their spirits. The number of masks they employed varied. Some

Shaman had up to eight masks. They might also have additional miniature masks or maskettes which are worn on the forehead attached to a headdress or worn with a headband. Jonaitis (1986,27-28) identifies two types of Tlingit Shaman masks, "those that represent plain faces, either anthropomorphic or zoomorphic, and those that include subsidiary figures on the face." She reports that those masks that had small figures were used exclusively by Shaman. Some transformation masks were of human faces and represented clan ancestors including Shaman and warriors. Gunther (1966,129) has suggested that it was difficult to determine which masks were used in clan dramatizations and which by Shaman without specific information. Those masks which were removed by collectors (such as George Emmons) from gravesites were clearly those of Shaman. However, not all Shamanic masks were buried with the Shaman. In most cases, they were transferred to his apprentice. De Laguna (1972,686) citing Emmons' notes reports that in a number of cases he found masks that had been used by up to five generations of Shaman. A layman's transformation mask, as well as clan masks, were not buried or burned with the deceased. Transformation masks and frontlet headdresses are also used by lay Tlingit in spirit dances. In this ceremony, two individuals hold a blanket and only the mask and frontlet appear above the blanket. The dancer imitates the movement of the spirit depicted by the mask or frontlet.

Clan Dramatization Masks also continue to be used by clan members to commemorate the origin and other significant events of their clan's history. They are used in a ceremonial context with singers and dancers re-enacting the event and with clan leaders recounting the oral traditions associated with the mask. During other ceremonies, clan masks are prominently displayed for guests to view.

Conflict Resolution Masks were used by the Tlingit to resolve conflict. Liabilities may be created in a number of ways including offenses against a clan's honor. If a clan incurred a liability and neglected to pay its debt, a clan might commission a ridicule mask to persuade the liable clan to settle its debt. The ridicule mask is prominently displayed in the community to bring pressure on the offending clan to resolve the conflict.

Masks which continue to be used in general ceremonial activities allow unification with the supernatural beings and spirits associated with the origin of the mask. The mask allows the Shaman or lay Tlingit to enter the domain of the sacred. The masks used in the ceremonial context also symbolize a clan origin or an historical event. While Shamanism has all but disappeared among the Tlingit, ideologies surrounding Shamanic objects persist. Tlingits continue to believe that masks embody a spirit, and a Shaman's mask can only be handled by his clan members. The spirit embodied in the mask might cause harm to a non-clan member who handles the mask. Many Tlingit continue to adhere to the belief that they have a special relationship to the spirit depicted by the mask.

Ceremonial Objects

Ceremonial objects include (but are not limited to) rattles, drums, bentwood boxes and chests, leaders' staffs, dance staffs, pipes, feast ware (spoons, bowls, etc.), and dance accessories. Additionally pertinent to this claim are the ceremonial horns and whistles (all depicted without crests) which are considered ceremonial objects due to their necessary role in the traditional protocol of announcing clan functions, such as the potlatch.

Drums and Rattles are used by both the Shaman and the lay Tlingit. They are also more than musical instruments that accompany singing and dancing. They play a significant role

in ceremonial and religious life. They also serve an important social function which is particularly evident in the secular dances held by formally-organized dance groups. They were formerly important in warring activities and legal settlements (Worl 1994,105). Drums--including both the skin and box drums--and rattles are used in singing and dancing during potlatches and other ceremonial activities. Drums were once used to beckon people, to announce the beginning of an event and also to send symbolic messages. Drums were also used by Shaman and women during military encounters. They were used to announce the beginning of potlatches and feasts and to beckon guests to those events. They are still used to signal the beginning of ceremonies and dancing. They were also used in the past to remind individuals and clans that they owed a debt and to encourage them to make a payment before the creditor made the debt public.

Drums and rattles played an integral part in the Shamanic ritual. Spirits are reported to be pleased by the sounds of drums. The sound of the drum also accompanies the Shaman's spirit on his journey as it leaves his body. The Shaman also used the drum and rattle during healing rituals. Although many drums were taken by non-Tlingit people from the burial sites of the Shaman, they were not always buried with his remains. A Shaman's drum might be kept for his successor. Again, although Shamanism has all but disappeared among the Tlingit, many of the spiritual beliefs persist. Tlingit continue to use drums and rattles during ceremonies to beckon spirits. They are used with spirit songs and spirit dances.

Drums and rattles are also used by the Tlingit lay person during spirit songs and dances. These dances and rites which are still performed today play the same role as they did for the Shaman. They call the spirits for the Tlingit lay person. The spirits that are beckoned are not necessarily those that are depicted on the drums and rattles.

Ceremonial Staffs and Dance Staffs, such as that represented in the Raven Staff Head (Catalog #NA6843) under this claim, play a central role in Tlingit culture. Ceremonial staffs identify an individual's role and status within the clan. They are generally held by the clan leaders or prominent elders during ceremonies and other official clan activities. They may be used by the lead person bringing in his clan during the entry song of ceremonies. The Shaman also used a ceremonial staff during his rituals.

The ceremonial staff reportedly commanded such respect and honor that a headman or envoy carrying the staff could walk safely between fighting warriors. It was also held when settling internal disputes among clan members (Worl 1994,120). The animals or birds on these staffs always represent spirits or clan crests. The dance staff differs from the ceremonial staff in that it is used by the song leader in ceremonial activities. The dance staff announces the entry and identity of a clan as they dance into a ceremony. Today, they are also used in secular activities by dance groups which include both Eagle and Raven dancers. In some cases, two staffs may be used to represent the dance group members or the community as a whole. They are also used to maintain order within the dance.

Ceremonial objects are owned by clans. As outlined above, these objects were brought out during a series of ceremonial activities and validated as clan property. These objects were held by the clan and moved through the generations under the care of a clan leader or trustee. The crests on the ceremonial objects further serve to classify them as objects of cultural patrimony and sacred objects. Crests are owned by clans. The ownership of crests are validated through ceremonies with the recounting of the oral traditions associated with the origin of the crests. They are sacred in that they symbolize a spiritual relationship between clan members and their ancestors who obtained the crests and succeeding generations who held the objects. Tlingit maintain a special relationship to their crest and to

the spirits embodied by the crest. These objects play a central role in Tlingit ceremonial activities and are necessary in ceremonial rites.

Ceremonial Regalia

Ceremonial regalia and accessories include (but are not limited to) blankets (robes, capes), shirts, tunics, vests, dance aprons, bibs or collars, leggings, footwear, headdresses (including cedar rings), belts, octopus bags, and jewelry. These are worn during various formal social events and ceremonial activities. The value of ceremonial regalia is enhanced if clan crests are displayed on major pieces of regalia. They are prized possessions of the clan representing their origin, history, and status.

While ceremonial regalia is highly valued among the Tlingit, daily dress does not have the same social and sacred significance. Anthropologists (de Laguna 1971,432-436; Gunther 1966,55) have commented on the scanty clothing worn by the Northwest Coast Indians and Tlingit in their daily dress prior to Western contact. A number of factors contributed to this state. The moderate temperatures diminished the need for warm clothing which one might assume was necessary in this northern latitude. The region is warmed by the Japanese current making the temperature warmer than it might otherwise be in this latitude. In addition, cultural practices, such as bathing in the ocean waters, and the psychological training of the youth also conditioned the Tlingit to colder temperatures and diminished the need for full body coverage or clothing. Daily clothing was generally linked to a breech cloth or skirt, fur or skin capes and hats.

The Tlingit take great pride in their ceremonial regalia which represents not only the individual, but the clan itself. They also reflect the social standing of individuals within the clan. For example, clan leaders and high status persons used Chilkat blankets, sea otter, wolf, and beaver. Marten was reserved for the aristocrats while mink was a "low class skin" (de Laguna 1972,436). Traditionally, ceremonial clothing was used by hosts, guests, and performers. A grandparent might also use ceremonial regalia to demonstrate his affection for a grandchild who belongs to another clan. A grandparent might call his grandchild forward and request that he or she wear the garments and appear with them during a ceremony or dance.

Elaborately decorated ceremonial clothing was used in a variety of activities. During ceremonial rites, individuals would often change their regalia depending on the activity or dance. For example, Athabaskan style clothing was used for interior or Athabaskan style dances. The various phases of the Peace Ceremony also required specific clothing particularly for those who served as the hostage. Performers in the Spirit Dances also used different clothing and masks or hats.

The inclusion of clan crests and spirit designs on ceremonial regalia make them even more significant. It requires that the regalia be treated with care and respect. The crests and spirit designs signify that regalia are owned by specific clans. As noted earlier, crests embody the origin and history of the clan, the special relationship to ancestors and spirits, and the social bonds among clan members. They also serve as title to the clothing itself and to specific sites and locales.

For example, one of the ceremonial articles of clothing within this repatriation claim may serve as title to a specific site and locale recognized as T'akdeintaan Clan territory: Lituya Bay. This is the Ceremonial Skin Robe referred to as the "Rock of Ltú-'á" with referenced ownership to the "Snail House", UPA Catalog #NA6829 (per Louis Shotridge's notes):

"The robe is made of finely tanned hide of the caribou, fringed down the two sides, and edges trimmed with strips of fur of the martin.

The painted design: "Amidst the unmerciful waters of Ltú-'á (Latuya Bay) lies a one time honored reef--"The last hope of man". A hunter, more than once, who had been carried away by the out-rushing tide, held onto this rock as the last hold of safety. Such has been the experience of the last of our housemaster in this onrush of modern life, which incited him to adopt this rock, of our former home, as an object of reverence: The middle figure represents the rock of Ltú-'á, and on either side are shown the angry waters of the rapids."

The current oral traditions of the Snail House affirm Mr. Shotridge's documentation, and reiterates the Tlingit practice of recognizing specific sites and locales to certain clans, in this case, the T'akdeintaan Clan. The following account also shows the significance of Lituya Bay to the clan not only as a recognized traditional territory, but as a site that provides connection with the past (connection to the clan's ancestors), and the future (hunting to provide ongoing health and prosperity to tribal members):

A person that's bereaved, when they're passing through or passing by (Lituya Bay) *they holler the name of the person that has recently passed away. And when they do holler, all the seagulls would come flying and make all that noise. And they felt better. They always feel better when the gulls come out and make all the noises. That's why we still do it at parties. We still come flying and make lots of noises. . . . From this side of Cape Spencer to Lituya Bay: that's T'akdeintaan. . . . They just own it as traditional territory. . . . They've been there for years. That makes one the ownership in those days. . . . That's the way it was out there; the T'akdeintaan lived out there--out at Lituya Bay and those places around there. . . . They used to hunt sea otter there* (Lituya Bay). *That was a big thing in those days. And our tribe used to be famous for hunting; the most expensive animal in those days. . . .*

Edith Bean and Mary Wilson - Snail House Elders - August 20, 1997

Ceremonial regalia was formerly stored in wooden boxes in the clan houses. These boxes were often elaborately carved or painted with clan crests. The boxes were brought out at the beginning of ceremonies and the regalia was ritually distributed to clan members. A Naakani or in-law was selected to hand out ceremonial regalia to clan members. Members of the opposite side also assisted individuals in donning their ceremonial clothing. They were later compensated for this ritual service during a potlatch.

Ceremonial regalia also plays an important role in solidifying relationships between clans. As noted above, individuals from the opposite side assist in the distribution of regalia during ceremonial activities and assist clan members in donning their regalia. Members of opposing clans are also commissioned to make clan regalia. During the potlatches when the regalia is brought out and validated as clan property, these individuals are acknowledged and paid for their service. In recent periods, some Tlingit began to make their own ceremonial regalia. Others may purchase their ceremonial regalia from individuals who earn their living through arts and crafts production. This new form of acquiring ceremonial regalia coincided with the emergence of individual property.

However, the practice of commissioning someone from the opposite side is still practiced among many Tlingit.

Woolen materials and other commercial items which were introduced into Tlingit country with the fur trade were readily adapted to ceremonial clothing. Beads and buttons were added to create clan crest designs. Some clans adopted a particular form of Western style clothing due to encounters with foreigners. For example, the Kaagwaantaan women took naval uniforms and hats as their payment and clan property because of the lives that were lost in a battle they had with the Navy. While commercially-made material and clothing were adopted, the function of ceremonial regalia has not changed. de Laguna reports verifying that ceremonial clothing were "treasured as heirlooms" (19,439). When a clan leader dies, the regalia that he used is stored and not used for at least a year until the new leader is validated and a final memorial is held. Clan regalia not interred with leaders or Shaman are transferred from clan caretaker to caretaker through the generations.

Shamanic Objects

Shamanic objects connect the supernatural and natural. They are sacred, as defined under NAGPRA. They serve to connect the Tlingit with the spirits acquired by an ancestral spirit on his spirit quest. The spirits associate with these objects, and they are considered to be articles of great power.

Tlingit people believe that all creatures and natural phenomena have spirits. Tlingit people may call upon these spirits to assist them in time of need. They also look to them for protection during periods and events of uncertainty and stress. The spirits may enter an individual and the individual who received these spirits were formerly the Shaman. The spirits decide who will receive his spirit. Sometimes the spirits will come to someone who does not desire to receive the spirit. The individual who receives these spirits had the ability to summon these spirits and request their assistance in their spiritual healing and endeavors. While there are no practicing Shaman today, the Tlingit continue to draw on the Shaman's spirit for assistance.

As a sacred object, Shamanic objects are essential for the practice of traditional ceremonial rites. The Spirit Dance has survived as one of the major ceremonial rites once conducted by the Shaman. Today, the clan leader through his Naakani (clan brother-in-law) designates who will dance the Spirit Dance and who will assist in the dance. With the Shaman's blanket, hats, drums, rattles, masks, and the dancing and singing, the spirits are summoned.

The Tlingit have no practicing Shaman. Shamans disappeared but shamanism and the beliefs associated with this practice persist. Despite the passage of time and irrespective of the location of the shamanic objects, spirits remain associated with shamanic objects. We are obliged to seek their return because of the spirits. The shamanic objects also remain important to the Tlingit for multiple reasons. We continue to practice ceremonies which incorporate traditional rites and practices that were once conducted by the shamans and we adhere to the ideologies that were the underlying basis of shamanism. We continue to sing the songs in our ceremonies that are associated with the spirits acquired by our shamans. Those objects that remain in our possession are used in these ceremonies. We also value and continue to recognize the spiritual significance of shamanic objects that are not within our possession and that are held by museums and private collectors.

The four Shamanic objects identified in this claim (2 masks, 1 drum, and 1 headdress) have religious significance and are necessary for the renewal of spiritual ceremonies. They have

taken on an even greater dimension of significance in the present-day period. In a recent region-wide meeting, our clan leaders, clan mothers, and elders claimed that many of the social illnesses afflicting our society are due, in part, to the alienation and mistreatment of our ceremonial and sacred objects. They assert that while we may be able to heal our physical ailments with modern medicine, we are unable to resolve the wide-spread social ills afflicting Tlingit people. They express concern that we must repossess these objects to restore our spiritual balance and harmony. Likewise, the younger people attending the same region-wide meeting cried out for spiritual renewal. They yearn for the knowledge and ways of our ancestors.

Shamanic objects and spirits represented by these objects are needed by the Tlingit people of Hoonah for the practice of Tlingit ceremonial activities conducted by our traditional clan leaders who act in the capacity of religious leaders and for the present-day adherents of Tlingit people who continue to participate in these ceremonies. It is furthermore required for the ceremonial rites to be conducted on behalf of our ancestors in order to maintain our relationships with them. Furthermore, the return of the Shamanic objects are required to restore the sanctity of spirits represented on and by the objects. The spirits represented by the objects must be in physical contact with Tlingit people who can receive its spirits. Furthermore, the Shamanic objects are necessary for religious renewal. The Tlingit await the transfer of the spirits within the objects to appropriate individuals within our membership in order to renew and restore our spiritual harmony.

As reiterated in all subcategories of "Objects of Cultural Patrimony" (Head Gear, Masks, Ceremonial Objects, Ceremonial Regalia, and Shamanic Objects), the Tlingit assert an ownership interest in the crest designs depicted on the clan át.oow subject to this claim. Rights to crests were acquired by our ancestors, and title to them have been validated and re-validated through the generations within our ceremonial rites.

The Taax' Hit Crests as Property

The Taax' Hit crest designs that appear on the subject át.oow are owned by the clan house. Crests that appear on clan objects are owned by their respective clans. They are held in perpetuity by their matrilineal descendants. Clans were willing to go to war to protect their ownership of crests. Sergei Kan (1989, 69) who studied Tlingit memorial potlatches emphasized, *"The most important symbols of the matrilineal group, as well as its most jealously guarded possessions, were its crests."* To further support his assertion, he cited Emmons (1907, 347) who also acknowledged that the crest is a birthright as real as life itself.

Crests serve multiple purposes. They identify a clan and its membership. They distinguish its clan members apart from others and define relationships to other Tlingit. Crests chronicle the origin or other supernatural and significant events in the history of the clan. They serve as title to the object on which it is placed and to the site and geographic region where the event occurred. They symbolize the special relationship a clan member has to the animal depicted on the crest. The crest embodies the spirit or being depicted in the crest. Crests, the associated oral traditions, songs, and names represent intellectual property and are owned by clans. In the recent period, clans have demanded and received payment from non-tribal members for the duplication of their crests.

Only those individuals who are members of a clan are entitled to use their respective clan crests. As property, crests could be taken or granted as a liability payment. They were sometimes taken in war to satisfy a liability. Clans would, however, do everything in their

power to regain their crests. Clans could also demand payment or even the death of an individual who illegally used their clan crests.

Grandparents may extend use rights of their clan crests, but not ownership rights, to their grandchildren (who are not members of their clans). This usufruct right is granted for use on ceremonial regalia or jewelry, but does not apply for use on major objects such as screens, poles, or clan hats. This is a use right that is limited to the lifetime of the individual grandchild. The grandchild has no legal right to extend use or ownership rights to any other individual. These use rights cannot be claimed by the grandchild's offspring, nor can they be claimed by another clan to satisfy a liability payment that the grandchild or his clan may incur. The grandparent may also allow a grandchild to wear one of his/her clan objects during a ceremony, but no ownership rights are granted in this instance.

Title to property is held in trust by the head man (Shaadeihani) or House Leader (Hits'aati) of the clan and house. Tlingit law is unequivocal in that this individual acts as the trustee or caretaker and holds clan property for its membership. He or she cannot make independent decisions to dispose or alienate clan property. Anthropologists who have studied Tlingit property (Goldschmidt and Haas 1946; Olson 1967) uniformly concur that the trustee does not have the authority to sell or dispose of clan property. Emmons (1991), who conducted extensive ethnographic studies among the Tlingit, emphasizes that the clan leader is highly respected, but his authority is limited and major decisions that involve the interest of the clan are subject to clan consent. The office of Shaadeihani or Hits'aati is transferred through generations within the clan and house according to defined rules.

The Oral Traditions Validate the Ownership of the Taax' Hit Crest(s) by the T'akdeintaan Clan and Taax' Hit

As mentioned previously, the Snail House was a subsequent naming for the clan house originally referred to as the Mt. Fairweather House. The Snail House and the Mt. Fairweather House are one and the same. Oral traditions and ongoing customs affirm the recognized crests of the Snail House as the Mt. Fairweather Crest, the Seagull (Tern) Crest, and also the Raven Crest. It is not uncommon for clan houses to share mutual crests; for example, all of the clan houses within the T'akdeintaan, as well as those other clan houses within the Raven moiety, are valid owners of the Raven Crest.

However, clan houses generally possess at least one crest which is recognized as unique to their identity. In the case of the Snail House, it is the Mt. Fairweather Crest. Affirming the significance of this main clan crest is the following oral account from one of the Snail House's oldest living elders:

> *They used Mt. Fairweather to tell what's going to happen with the weather. It was an important timetable for the T'akdeintaan Clan. When a cloud is kind of settled on top of it and not moving, then the weather's pretty good. But when the mountain is clear, it's what we say 'Yaan ee neh' (phoenetic)--it means 'get ready'. When it's clear it means pretty fair weather. Before there was technology, they were able to tell if it was going to rain. Likewise, if it was clear, or if it was necessary to get ready for windy or stormy weather. The mountain was respected/revered for that.*
>
> *One of the advantages of using the mountain is when they go out to sea. The mountain sticks out pretty high and you can see it from a long ways--so even*

when they're quite a way from shore they can still see the mountain. So they can see the top of the mountain for miles and miles when they're fishing or out.

The weather changes so much at Glacier Bay; so when the weather's clear, the leader says they're going out after seal, or fish, or whatever, and they set things aside. If somebody's working on something at his house, he turns it over to somebody else in the house; they kind of gather as a group together so they can go out and get their seal or fish or whatever. And even if they have differences between people, they set those differences aside to go and get whatever it is they're going to get while the weather is good. They keep an eye on the mountain, too, so that they're able to see. That's one of the reasons why the mountain's always been of importance and of respect to the people.

They do some of the cutting--preparing of the seal. While they're out at the sea, they clean the seal. When they're out on the boat, generally the leader's in charge and they all do what they have to do. Things that could happen because of differences between people are risen above; even the preparation part of the food. When you get back to shore, people kind of disperse and get back to what they were doing as though nothing happened.

When they work together as a group (getting their game, working on cleaning it) and all these things that's food-gathering. When they come back from an event like that, there's an appreciation--in the non-Native world it's like if you have anger built up and you go out and run ten miles and work it off. If you had differences and you packed off together and set together and kind of oversaw things . . . any kind of ill feelings before, this seemed to be not-so-much forgotten, but set aside. It would be like if you and I had a difference before we went out, and we went out hunting (observing the mountain), then afterwards, after the hunt and preparation, we would come back and not mention our differences again.

About the dog from Mt. Fairweather: the T'akdeintaan have a hat referred to as 'Shaan-taa-kwaan Keit-lee'; it means Mt. Fairweather Dog Hat. It commemorates the story of Gei Chaa'kw (phoenetic)--the man known to watch the mountain. He was up on the mountain and the weather turned bad and he really couldn't see. He got lost and stuck on the mountain. As he was sitting/laying down in one place he spotted some movement and it turned out to be a dog. And when he got up to try to walk, the dog started to direct him. "Kaak doo aah" (phoenetic) the dog told him, which means "that's not the right way". And the dog began to lead him. Apparently the dog also could speak Tlingit, because the dog would say "Kaak doo aah", which would mean "don't go that way, but go this way". So pretty much the dog lead him safely off the mountain and down to the shore. There is a hat the T'akdeintaan have established, that signifies this dog. It's a hat with the dog from Mt. Fairweather and is one of the main, most important hats we have. It's used for special occasions and it is difficult to find an English word to describe how we feel about it . . . respect? It's not worship . . . more like revered. It's an important part of the T'akdeintaan clan. Probably the closest word besides 'revere', would be 'respect'. It's important enough so that we have the hat.

(Translator's Note: Mary emphasizes two things: one is the importance this mountain has in our culture. Not only as where the dog showed safety, but also as a place to read the weather. It also centers around important stories (like the dog leading Gei Chaa'kw to safety) and other oral histories. For example, there is the story of Gei Chaa'kw getting older and sicker, yet he used to try and continually go back up into the wooded area of the mountain. Tlingit people used to converse with the different animals. As mentioned earlier, weather reading was important to indicate when they could go out on the waters. Once out they usually try to keep site of the mountain. If they see the signal on the mountain that the weather's going to be bad, they immediately put their gear together and head for shore.

And secondly, it's not just the mountain itself, but the lifestyle of those days. With limited transportation and limited season time for food gathering, the Tlingit learned to work together despite hardship and differences. Because if they don't set those things aside, they don't get their food. Also, 'getting ready' meant not only the men who went out to fish or hunt, but it also meant the people (mostly women) who stayed behind to get ready and keep ongoing activities continuing while the hunters were away. They also prepared for the work that awaited them when the hunters returned. In the old days of living off the land, if the weather's clear you went out and did whatever you had to do, because when the weather's bad you didn't do it. Or if fish were running, or the seal were in, things were set aside and food gathering was done. Because you never know if it's clear today or bad tomorrow. So despite whatever the current task, or the differences of opinion, when the time is right to do it, they did it.

Also, keep in mind there was always a leader. And when a leader said it was time to do this or that, they went ahead and did it. The leader, such as Gei Chaa'kw, determined when to tell people to get ready and be equally involved.

Mary Wilson, Snail House Elder - August 20, 1997

Continuing Cultural Importance

The Tlingit continue to place great significance on their clan's objects. They continue to be used in our ceremonies, and in the present-day period, they may also be brought out in special secular events. Clan objects, like the 39 of subject, represent our clans; they serve to unify clan members and identify us as Tlingit People; they bond us to our ancestors; and they symbolize a spiritual relationship to the entity depicted on them. Clan ceremonial objects, together with a crest design provide a physical form in which spiritual beings manifest their presence. The stories associated with the origin of the clan crests and the objects themselves are re-told by the clan leader or significant elders during the potlatch, thereby re-affirming and validating clan ownership and the spiritual relationship to the beings depicted on the objects.

Ceremonial objects such as these át.oow are required in our potlatches and cycle of memorial rites. They are used to protect the clan and to defend ourselves spiritually. We are required to treat our objects and the spirits they embody according to established protocols to ensure spiritual balance and well-being. We do not describe our beliefs in terms of religious precepts or codified theologies. We express them through the use of our ceremonial objects within the context of our ongoing ceremonies.

The ongoing significance and sacredness of our ceremonial objects are manifest in the Tlingit ideological system and within our ceremonial rites. The objects are inseparable from the ceremonies in which they are intended to be used, and we Tlingit are compelled to host and participate in these ceremonies for Haa Shaageinya--our ancestors, the present generation and future generations.

4. Taax' Hit Át.oow as "Sacred Objects"

Clan objects depicting clan crests are recognized by the Tlingit as "sacred objects". In addition to identifying membership within a clan, clan crests both symbolize the spirit of the being depicted on the Clan property and embody the spirit that resides within. In addition, crests symbolize the kinship and a spiritual relationship of its clan members to the physical wildlife depicted on those objects noted as "sacred". They bond the Tlingit to their ancestors who paid for the crest(s) with their lives or deeds and to those ancestors who held the objects through the generations.

Animals play a prominent role in the founding of a clan. Clan members recognize a kinship with these animals and extend their kinship to include such animals. The living animals depicted by the clan crests are referred to as "Ax Shuká", meaning "my ancestors or relatives". The clan maintains a special relationship to such animals and clan leaders recount the supernatural event in which their relationship began during ceremonial rites. Tlingit individuals identify themselves as the crest animal. Clan members may call upon these animals and spirits to assist them in time of need. They also look to them for protection during periods and events of uncertainty and stress. Although we are not prohibited from taking an animal symbolized by our crest, we are required to treat the physical, living animal with utmost sensitivity and speak with respect about it.

The spiritual aspect of clan át.oow requires a prescribed code of conduct and behavior between the át.oow and the Tlingit. The sacredness of the át.oow must be maintained and its sanctity protected and treated with deference. In some instances, we are required to feed crest objects. Adherence to this reciprocal relationship and treatment are enforced by religious sanctions. Sergei Kan (1989, 70) references the sacred aspects of crests such as those depicted on the subject objects. He affirms that the "sacredness" of the crest was indicated by its reverential treatment by its owners.

Clan property bearing a crest is sacred. It is a living being who must be addressed by the clan members in the same manner as he or she would speak to a human being. Orators address the clan objects as if they were a human being. They speak to the object and not to the individual who is wearing the regalia or clan object. When clan objects on which the crests appear deteriorate, they were burned and mourned as if they were a human who had died and was cremated. The name of the crest was transferred to a new object or replica. According to Kan's analysis, the crest remains immortal and survives its temporary representation in the same manner as a person's spirit survives its body.

According to Tlingit religious beliefs, the display of clan crests and objects by one clan demands a reciprocal display by an opposing clan. The spirit of one object must be greeted by another. The spirits must always be in balance. When the Taax' Hit át.oow is brought out, a clan emblem from the opposite clan (Eagle moiety) must also be brought forward. The Tlingit liken it to humans saying, "It is as if the two will hold hands." An opposing clan must respond with an address and a like spirit song lest the spirit of the host clan object wander aimlessly which may then result in ill fortune.

These sacred objects are essential for the practice of traditional ceremonial rites. Tlingit ideologies and ceremonial practices require the presence of both Eagle and Raven Clan objects, each with their respective clan crest, in order to maintain the spiritual balance and the well-being of the Tlingit People. Clan objects are necessary for the continued observance, and in some instances, renewal of religious ceremonies, rituals and traditions conducted by clan leaders. Some clan leaders and clans are currently without clan objects, including these 39 objects of topic. These objects are necessary for the clan leader and clan to participate in the ceremonial rites. Other clan leaders and clans have not been able to bring out their clan objects because they are not assured that an opposing clan object from the Eagle or Raven side is available, and they are not certain that a clan leader from the opposite side can make the proper response to their object.

When the Taax' Hit át.oow are returned to their rightful owners, we know that we must apologize to the Taax' Hit Yeik (Snail House Spirits) for their mistreatment and separation from their people and place. We must attempt to explain how they came to be held in a museum rather than their Hoonah homeland. We must then assure the át.oow that we will prepare a special path for their return.

The Taax' Hit át.oow must be returned to our people in order that the sanctity of the Taax' Hit Yeik or Snail House Spirit can be restored. Furthermore, they must be returned in order to achieve spiritual balance between Raven and Eagle clans and to ensure the well beings of our clan members.

Religious Leaders and Present-Day Adherents

In the present day period the Shaadeihani--the Clan Leader--or an esteemed elder of the clan serve as the primary religious practitioners. In this capacity, they are responsible for bringing out the sacred objects, such as the 25 objects as noted, and recounting the sacred oral traditions. They must ensure that spiritual balance is maintained at all times. He or she must respond to the display of sacred objects, speeches, and songs offered by an opposing clan. The Clan Leader initiates these activities to ensure that spiritual balance is maintained during ceremonial rites and potlatches. They call upon their spirits to help those who are grieving, suffering, and in need of help. Today they are also teaching younger Tlingit about the ways in which spirits can be obtained. In this capacity the Clan Leader or esteemed elder serves and is recognized as a spiritual leader, but it is important to note that in our traditional culture and language, we have no term which translates as "religious leader." However, in his role, functions, responsibilities, behavior, activities, and practice, the Clan Leader or an esteemed elder serves in this capacity, while clan members who continue to attend the ceremonial rites and who participate in other sacred activities represent the present-day adherents.

Religious Renewal

Sacred objects (applicable to objects identified as UPA's catalog #NA6828, NA6829, NA6830, NA6831, NA6832, NA6833, NA6834, NA6836, NA6837, NA6840, NA6841, NA6843, NA6844, NA6845, NA6846, NA6847, NA6848, NA6849, NA6855, NA6862, NA6863, NA6865, NA6835, NA6842, and NA8498) are needed by the Clan Leaders serving in this capacity of religious leader. They are needed in ceremonial rites in which clan members participate and who represent the present-day adherents. They must be returned to our people in order that the sanctity of the Spirits associated with the objects can be restored. They must be returned in order to allow the Tlingit to be in association with the spirits represented by these sacred objects. They must be returned to allow the transfer

of spirits to successors and to facilitate religious renewal. Furthermore, they must be returned in order to restore spiritual harmony and healing, and to ensure the well beings of our people.

Western Scholars and Courts Acknowledge Tlingit Communal Ownership and Cultural Significance of Objects

The ethnographic literature and various court decisions verify the Tlingit concepts and customs of communal ownership. Anthropologists and early observers of Southeast Alaska including the noted scholar, de Laguna (1972), Emmons (1991) in his monumental study of the Tlingit; and Goldschmidt and Haas (1946), who conducted an extensive study of the possessory rights of the Tlingit, and historic and recent legal action and judicial decisions have uniformly recognized group property rights.

In some instances, anthropologists have suggested that objects interred with deceased shamans are individual property. However, Tlingit people dismiss this interpretation and notion since it is well known among the Tlingit that clans continue to assert an overriding interest over non-members in these objects. Only members of the clan to which a shaman belonged are allowed to handle his/her objects, and only his/her clan members can receive the spirits embodied in the objects interred with the shaman remains irrespective of the time period of the burial.

The basic tenets of Tlingit property law are outlined in a 1994 study entitled "Principles of Tlingit Property Law and Case Studies of Cultural Objects" by anthropologist and tribal member Rosita Worl. The study was commissioned by the National Park Service. It affirms the nature of communal property ownership under Tlingit law. The study also substantiates the multiple nature of crests. It is significant to note that crest and spirit designs also serve as titles to the objects on which they are depicted.

The communal ownership of property was most recently affirmed in a Tlingit Tribal Court in the case known as Chilkat Indian Village, I.R.A. v. Michael R. Johnson. In this case, several members of a clan attempted to sell the "Whale House artifacts." In accordance with Tlingit property law, Judge Bowen ruled in 1993 that the Gaanaxteidi clan has the ultimate authority to exercise all custodial responsibility over the artifacts. The court also recognized the binding force of traditional and customary Tlingit law despite the fact that it is not currently codified in the same manner as Western law, and that its legal system operates within the context of ceremonial activities. This case also affirms that individuals cannot alienate objects and that clan members who are opposed to alienation cannot be deprived of their property interest.

Anthropologists and art historians also affirm the Tlingit claim of cultural and sacred significance of ceremonial objects and their continuing importance. The writings of Aldona Jonaitis (1986) and Erna Gunther (1966), the noted anthropologist and recognized expert on Northwest Coast culture and art support the Tlingit assertion of the sacredness of ceremonial objects and their significance to clan members. Sergei Kan (1989, 3) who studied the potlatch of the nineteenth century Tlingit noted the persistence of their ceremonial life. He found that the *"mortuary/ancestral complex was the most conservative aspect of Tlingit culture, serving as one of the main links between the past and present."*

The unpublished ethnographic notes entitled "How the 'Whale' Emblem [Crest] Came Into the Possession of the Ta'qden-Ta.N" as authored by Louis Shotridge, attest to communal property law governing Tlingit culture. In this example, Shotridge notes: *"The following is an opinion, expressed by one informant, which would be general in the Tlingit world: "From time immemorial there was never such custom, where a deditician spoke for a whole clan, particularly a well established one. Had the Tika Na unanimously agreed to let go its important emblem . . . then there would have been no way in which to criticize, but they assumed a claim only on the strength of a word from a man of troubled mind."*

5. Right of Possession

Under the terms of NAGPRA and the implementing regulations, the *". . . right of possession means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object, or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object [emphasis added] is deemed to give of possession to that object."*

The Huna Heritage Foundation on behalf of the Taax' Hit of the T'akdeintaan Clan assert the "Right of Possession" to the 39 objects referenced under Appendix A under the traditional and customary Tlingit property law and under the terms of NAGPRA. The Taax' Hit has sole authority of their alienation. The Taax' Hit of the T'akdeintaan Clan did not extend its voluntary consent to alienate these 39 objects and no evidence under Tlingit property or Western law exists to demonstrate that the clan collectively gave its authority to alienate the át.oow.

The Taax' Hit's exclusive ownership has been recognized and validated through the generations by its use and presence in ceremonial clan activities and witnessed by opposing clans from the opposite moiety. The Taax' Hit át.oow and associated crests are not owned by any individual Tlingit and therefore, as established under Tlingit law, no single individual has the authority to alienate clan property and the designs depicted on the objects.

No individual clan member has the authority to alienate clan property and no evidence exists that demonstrates that the Taax' Hit of the T'akdeintaan Clan gave its authority to alienate these 39 objects. Thus the Taax' Hit assert the clan maintains the "right of possession" under NAGPRA and that the University of Pennsylvania Museum of Archaeology and Anthropology does not have the right of possession to the 39 objects noted in Appendix A.

In summary, it is our belief that we have met the criteria under NAGPRA to repatriate the Taax' Hit át.oow:

1. Cultural Affiliation. The Huna Heritage Foundation has legal standing under NAGPRA. The Taax' Hit clan, directing the Huna Heritage Foundation to act on its behalf in the matter of this repatriation claim, are the undisputed descendants of our ancestors who originally created and held these objects and crests.

2. All objects of subject are "Objects of Cultural Patrimony"; 25 of these 39 objects are also "Sacred Objects". We claim the Taax̲' Hit át.oow under our own traditional property laws and under the terms of NAGPRA as "Objects of Cultural Patrimony" and in some instances also as "Sacred Objects". We are cognizant of the fact that we could file repatriation claims under one single NAGPRA cultural object classification. However, in applying our ideological beliefs and conceptual framework to the ownership, significance, and use of the clan át.oow, the standards of "Cultural Patrimony" and "Sacred Objects" apply and overlap.

The át.oow which embody the Taax̲' Hit Crests meet the NAGPRA definition of "cultural patrimony." They (crests) are communally-owned, and they have ongoing historical, traditional, and cultural importance central to the Tlingit society and culture. We adhere to our traditional property laws which establish communal ownership; we continue to practice our traditional ceremonies. Clan objects, such as these 39, are vital to our ceremonial rites and central to our sacred beliefs.

The át.oow and the Taax̲' Hit Yeik (or Snail House Spirits) symbolized by the crest designs are sacred objects under the definition of NAGPRA. They are needed by the Taax̲' Hit Tlingit for the practice of Tlingit ceremonial activities conducted by its traditional leader, and the present day clan members. It is furthermore required for the ceremonial rites to be conducted on behalf of our ancestors in order to maintain our relationships with them. Furthermore, the return of our clan property is required to restore the sanctity of the Taax̲' Hit Yeik (or Snail House Spirits), and for them to be ceremoniously treated in order to achieve religious renewal and ensure the spiritual harmony of the Tlingit People.

3. Right of Possession. The Huna Heritage Foundation on behalf of the Taax̲' Hit of the T'ak̲deintaan Clan assert the "right of possession." Our tribal members who have sole authority as a clan to alienate ceremonial objects did not give voluntary communal consent to alienate the subject items and no evidence exists that demonstrates that voluntary communal consent was extended.

Pursuant to the terms of the NAGPRA the Huna Heritage Foundation submits this repatriation petition for the 39 items identified by the University of Pennsylvania Museum in Exhibit A. This information substantiates our claim to this collection under the requirements of NAGPRA. If you should have any remaining questions relative to cultural affiliation; the defining of these items as "Objects of Cultural Patrimony", and in some instances as "Sacred Objects"; or the right of possession, please do not hesitate to contact us. This repatriation claim is for these specific objects and does not preclude further repatriation claims.

As mandated under Public Law #101-601 and corresponding regulations, we await your reply on or before ninety (90) days from your receipt of this claim.

All information contained herein is sacred, cultural, and intellectual knowledge. No copies, reproductions, or distribution of such information are authorized unless for the sole purpose of evaluating this repatriation claim. This authorization is void upon completion of repatriation of the Taax̲' Hit át.oow. Nothing in this claim shall be construed as waiving

the future rights and privileges afforded the Huna Heritage Foundation or the Taax' Hit under traditional, federal, state, and local laws.

Sincerely,

Ronald Williams
President, Huna Heritage Foundation
Taax' Hit Member

Frank O. Williams
Chairman, Huna Heritage Foundation
Board of Trustees
Taax' Hit Member

enclosures: Appendix A - List of 39 Objects Requested for Repatriation
Appendix B - Snail House Photograph

cc: Taak' Hit (Snail House) of the T'akdeintaan Clan, Hoonah
C. Timothy McKeown - U.S. Dept. of Interior, National Park Service, Repatriation

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:Snailnag

Summary of át.oow (precious clan possessions) of the Taax' Hit (Snail House) of the T'akdeintaan Clan of Hoonah, Alaska identified as follows. Currently at the University of Pennsylvania Museum of Archaeology and Anthropology.

	Object	UPA Catalog Number	L. Shotridge Field No.	*(Classifications Under NAGPRA)* "Object of Cultural Patrimony"	"Sacred Object"
1	Drum (Shaman)	NA6828	51	Y (Shamanic Object)	Y
2	Skin Robe	NA6829	52	Y (Ceremonial Regalia)	Y
3	Dance Mask	NA6830	53	Y (Mask)	Y
4	Shaman's Mask	NA6831	54	Y (Shamanic Object)	Y
5	Dance Mask	NA6832	55	Y (Mask)	Y
6	Shaman's Mask	NA6833	56	Y (Shamanic Object)	Y
7	Frontlet	NA6834	57	Y (Head Gear)	Y
8	Headdress	NA6836	59	Y (Head Gear)	Y
9	Headdress	NA6837	60	Y (Head Gear)	Y
10	Headdress	NA6838	61	Y (Head Gear)	N
11	Headdress	NA6839	62	Y (Head Gear)	N
12	Headdress	NA6840	63	Y (Head Gear)	Y
13	Frontlet	NA6841	64	Y (Head Gear)	Y
14	Staff's Head	NA6843	66	Y (Ceremonial Object)	Y
15	Rattle	NA6844	67	Y (Ceremonial Object)	Y
16	Rattle	NA6845	68	Y (Ceremonial Object)	Y
17	Rattle	NA6846	69	Y (Ceremonial Object)	Y
18	Shaman's Headrss.	NA6847	70	Y (Shamanic Object)	Y
19	Button Blanket	NA6848	71	Y (Ceremonial Regalia)	Y
20	Blanket	NA6849	72	Y (Ceremonial Regalia)	Y
21	Cedar Ring	NA6851	74	Y (Ceremonial Regalia)	N
22	Cedar Ring	NA6852	75	Y (Ceremonial Regalia)	N
23	Head Band	NA6853	76	Y (Head Gear)	N
24	DanceCollar(Bead)	NA6855	78	Y (Ceremonial Regalia)	Y
25	Ceremonial Horn	NA6856	79	Y (Ceremonial Object)	N
26	Ceremonial Horn	NA6857	80	Y (Ceremonial Object)	N
27	Ceremonial Horn	NA6858	81	Y (Ceremonial Object)	N
28	Ceremonial Horn	NA6859	82	Y (Ceremonial Object)	N
29	Ceremon. Whistle	NA6860	83	Y (Ceremonial Object)	N
30	Ceremon. Whistle	NA6861	84	Y (Ceremonial Object)	N
31	Pipe	NA6862	85	Y (Ceremonial Object)	Y
32	Feasting Spoon	NA6863	86	Y (Ceremonial Object)	Y
33	Dance Object	NA6865	88	Y (Ceremonial Object)	Y
34	Head Band	NA6866	89	Y (Head Gear)	N
35	Shaakee.at	NA6835	58	Y (Head Gear)	Y
36	Group of 2 Ceremon. Dance Objects	NA6842	65	Y (Ceremonial Object)	Y
37	Group of 6 Ceremon. Rings	NA6850	73	Y (Ceremonial Regalia)	N
38	Group of 2 Ceremon. Rings	NA6854	77	Y (Ceremonial Regalia)	N
39	Shaakee.at	NA8498	--	Y (Head Gear)	Y

Taax' Hit (Snail House) - Hoonah, Alaska - 1938/39

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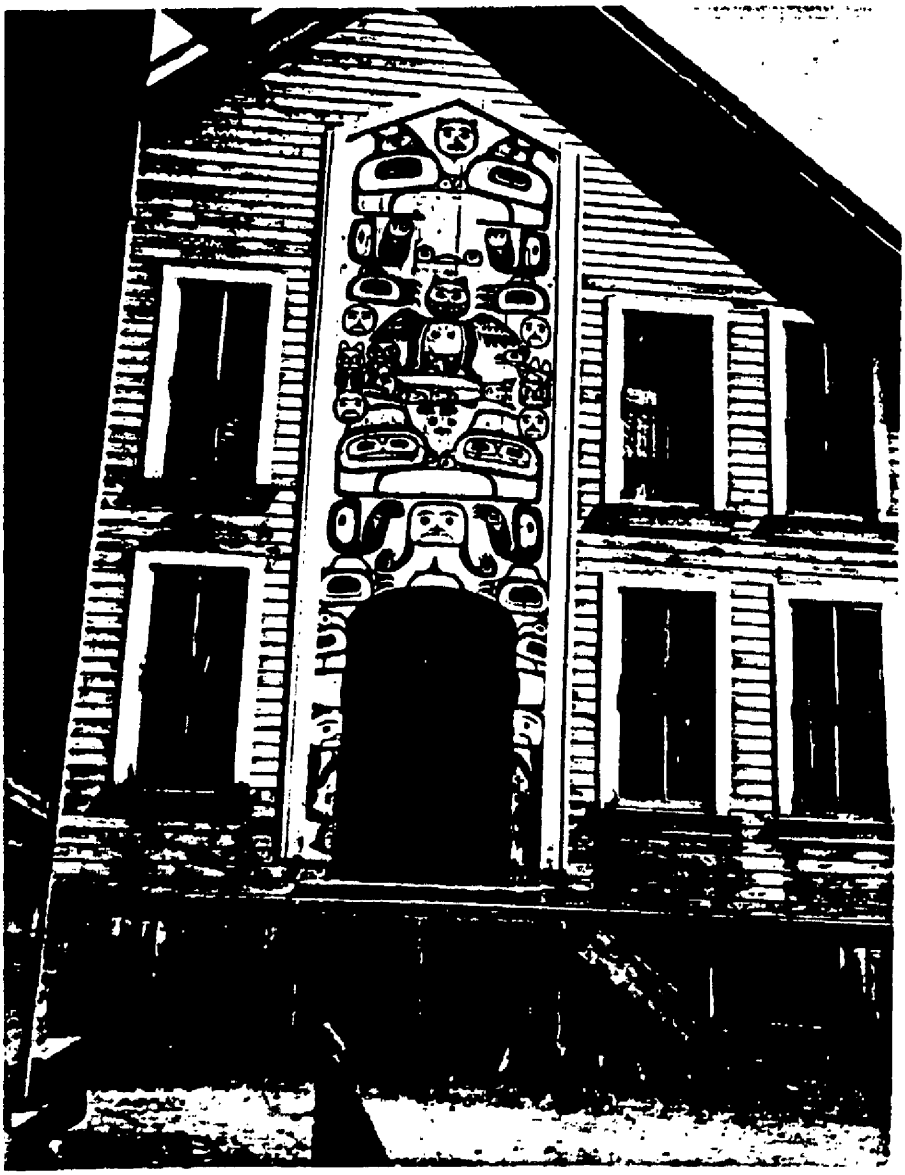
Photo Credit: Alaska State Library/Leslie Melvin Collection/#PCA 222-305



APPENDIX B

4

Hoonah Indian Association

P.O. Box 602
Hoonah, AK 99829-0602
Phone (907) 945-3545 Fax (907) 945-3703

March 23, 1998

University of Pennsylvania,
Museum of Archaeology and Anthropology
33rd and Spruce Streets
Philadelphia, PA. 19104-6324

RE: Repatriation Petition Under the Native American Graves Protection and Repatriation Act

Dear Dr. Jeremy A. Sabloff;

Please consider this a formal claim for the repatriation of the at.oow (precious clan possessions) of the Taax'Hit, Snail House of the T'akdeintaan Clan of Hoonah, Alaska identified on the enclosed list.

This claim is made pursuant to the terms of the Native American Graves Protection Act. (NAGPRA) of 1990 (PL 101-601).

(Classifications Under NAGPRA)

Object	UPA Catalog Number	L. Shotridge Field No.	"Object of Cultural Patrimony"	"Sacred Object"
1 Drum (Shaman)	NA6828	51	Y (Shamanic Object)	Y
2 SkinRobe	NA6829	52	Y (Ceremonial Regalia)	Y
3 Dance Mask	NA6830	53	Y (Mask)	Y
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7 Frontlet	NA6834	57	Y (Head Gear)	Y
8 Headdress	NA6836	59	Y (Head Gear)	Y
9 Headdress	NA6837	60	Y (Head Gear)	Y
10 Headdress	NA6838	61	Y (Head Gear)	N
11 Headdress	NA6839	62	Y (Head Gear)	N
12 Headdress	NA6840	63	Y (Head Gear)	Y
13 Frontlet	NA6841	64	Y (Head Gear)	Y
14 Staffs Head	NA6843	66	Y (Ceremonial Object)	Y
15 Rattle	NA6844	67	Y (Ceremonial Object)	Y
16 Rattle	NA6845	68	Y (Ceremonial Object)	Y
17 Rattle	NA6846	69	Y (Ceremonial Object)	Y
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37 Group of 6 Ceremon. Rings	NA6850	73	Y (Ceremonial Regalia)N
38 Group of 2 Ceremon. Rings	NA6854	77	Y(Ceremonial Regalia) N
39 Shaakee.at	NA8498	--	Y (Head Gear) Y

This claim is made pursuant to the terms of the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 (PL #101-601). We claim ownership under section 3 (a)(2)(C)(2) and Tlingit Law.

This petition replaces and supersedes all other petitions for repatriation of the above-referenced a't.oow submitted or claimed by the Huna Heritage Foundation and Huna Totem Corporation for the Taax' Hit Snail House of the T'akdeintaan Clan of Hoonah. The Hoonah Indian Association believes that the Tlingit Clans of Hoonah have the only right for this repatriation claim for the group of referenced clan objects as "objects of cultural patrimony" and in some instances, also as "sacred objects", as defined under the terms of NAGPRA.

As mandated under Public Law #101-601 and corresponding regulations, we await your reply on or before ninety (90) days from your receipt of this claim.

All information contained herein is true and within the context of traditional law or Tlingit Law. We have exclusive practices, ceremonies and traditional knowledge to maintain the peace and harmony of our Tlingit people who reside here in Hoonah. Nothing in this claim can be construed as waiving the future rights and privileges afforded by the Hoonah Indian Association.

Respectfully submitted;

Johanna K. Dybdahl
Tribal Administrator, HIA

Mary Rudolph
President, HIA

Richard Dalton Sr.
Esteemed T'akdeintaan Elder

Patrick G. Mills
T'akdeintaan Elder

Attachments, Resolution 98-08, 98-09

cc: Pete Hocson, President Huna Totem Corporation
Ronald Williams, Huna Heritage Foundation
C. Timothy McKeown - U.S. Dept. of Interior, National Park Service, Repatriation

Hoonah Indian Association

P.O. Box 602
Hoonah, AK 99829-0602
Phone (907) 945-3545 Fax (907) 945-3703

Resolution 98-08

**Authorization for Hoonah Indian Association
to represent the Huna Kaa Woo on
Huna Kaa Woo Aani
to Request for Repatriation
Under
Public Law #101-601
Native American Graves Protection and Repatriation Act**

Whereas: the Hoonah Indian Association is a federally recognized tribe in accordance with and by the authority of the Acts of Congress of June 18, 1934 (48 Stat. 984) and may 1, 1936 (49 Stat. 1250); and

Whereas: the Huna Kaa Woo is defined as the Hoonah People, these people reside in Hoonah, Alaska, and

Whereas: the Huna Kaa Woo Aani is defined as the Hoonah People's Land, and

Whereas: both have been represented by the Hoonah Indian Association since the signing of the HIA Constitution in 1939, and

Whereas: since ANSCA corporations, incorporated in 1971 they too have become entities for our people also, but the rightful place for our ceremonial objects belong here at home.

THEREFORE BE IT RESOLVED: by the Board of Directors of the Hoonah Indian Association is authorized to formally act on behalf of the Huna Kaa Woo in the repatriation process of our T'akdeintaan at.oow to be returned too its rightful place, Hoonah, Alaska. This authorization means the Hoonah Indian Association will proceed with repatriation requests under the NAGPRA of 1990.

BE IT FURTHER RESOLVED that the Huna Kaa Woo endorsement of this resolution does not waive its rights and privileges afforded under Public Law #101-601, The NAGPRA of 1990.

CERTIFICATION

As Secretary for the Hoonah Indian Association, I hereby certify the Resolution number 98- 08 was adopted at a regular meeting of the Hoonah Indian Association the 23rd day of March, 1998. Held in Hoonah, Alaska at which a quorum was present, by a vote of 6 for; 0 against; and 0 abstentions.

Mary Rudolph

Mary Rudolph, President

ATTEST:

Frank Wright Jr.

Frank Wright Jr., Tribal Secretary

Hoonah Indian Association

P.O. Box 602
Hoonah, AK 99829-0602
Phone (907) 945-3545 Fax (907) 945-3703

Resolution 98-09

Snail House, Taax'Hit
at.oow

Whereas: the T'akdeintaan Clan is one of the original Clans of Hoonah, and

Whereas: the Hoonah Indian Association is a federally recognized tribe in accordance with and by the authority of the Acts of Congress of June 18, 1934 (48 Stat. 984) and may 1, 1936 (49 Stat. 1250); and

Whereas: both Huna Totem Corporation and Hoonah Indian Association have made claim in terms of the Native American Graves Protection Act, section 2(3); and

Whereas: in section 3(a)(2)(C)(2) and Tlingit Law; the Hoonah Indian Association can show by preponderance evidence that we have the strongest demonstrated relationship to the items in question, and

Whereas: the protection of our tribe remains to this date in the hands of the Hoonah Indian Association, and

Whereas: the authorized authority is the Hoonah Indian Association as the primary caretakers of our customary and traditional resources.

THEREFORE BE IT RESOLVED: by the Board of Directors of the Hoonah Indian Association to formally act on behalf of the Huna Kaa Woo in the repatriation process of our T'akdeintaan at.oow to be returned too its rightful place, Hoonah, Alaska. This authorization means the Hoonah Indian Association will proceed with repatriation requests under the NAGPRA of 1990 per acceptance as shown by their Resolution 98-08.

BE IT FURTHER RESOLVED that the Huna Kaa Woo endorsement of this resolution does not waive its rights and privileges afforded under Public Law #101-601, The NAGPRA of 1990.

CERTIFICATION

As Secretary for the Hoonah Indian Association, I hereby certify the Resolution number 98- 09 was adopted at a regular meeting of the Hoonah Indian Association the 23rd day of March, 1998. Held in Hoonah, Alaska at which a quorum was present, by a vote of 6 for; 0 against; and 0 abstentions.

Mary Rudolph

Mary Rudolph, President

ATTEST:

Frank Wright Jr.

Frank Wright Jr., Tribal Secretary

Hoonah Indian Association

P.O. Box 602
Hoonah, AK 99829-0602
Phone (907) 945-3545 Fax (907) 945-3703

March 23, 1998

University of Pennsylvania,
Museum of Archaeology and Anthropology
33rd and Spruce Streets
Philadelphia, PA. 19104-6324

RE: Repatriation Petition Under the Native American Graves Protection and Repatriation Act

Dear Dr. Jeremy A. Sabloff;

Please consider this a formal claim for the repatriation of the at.oow (precious clan possessions) of the Taax'Hit, Snail House of the T'akdeintaan Clan of Hoonah, Alaska identified on the enclosed list.

This claim is made pursuant to the terms of the Native American Graves Protection Act. (NAGPRA) of 1990 (PL 101-601).

Indian Tribe

The Hoonah Indian Association on behalf of the Huna Tlingit Tribe, T'akadeitaan Clan of is submitting this repatriation claim as an "Indian Tribe" pursuant to the terms of NAGPRA Section 2, (3) (D) (7). We claim ownership under section 3(a)(2)(C)(2) and Tlingit Law.
[See National Park Service List of Tribal, Native Alaska entity, and Native Hawaiian Organization Contracts List, dated July 16, 1993 identifying our tribe as a Native Alaska Entity with legal standing to this claim.

Cultural Affiliation

The Hoonah Indian Association is required by law to show "cultural affiliation" within the laws of NAGPRA. We the petitioner can show legal standing and demonstrate "a relationship of shared identity which can be reasonably be traced historically between members of the present day Indian Tribe.....and an identifiable earlier group. Please note that we are the main body of our tribe, our membership exclusively resides here in Hoonah and we take on the responsibility for the existence of our people and provide for their well-being today. It is important to note that we have exclusive right to all that belongs to our clans here in Hoonah. (see Attachments, 98-08, 98-09)

We are the direct descendants of the Tlingit Indians who have owned and occupied Southeast Alaska since time immemorial. Tlingits/Huna Kaa Woo have held exclusive indigenous claim to all territory within the geographic boundaries of Huna Kaa Woo

Aani., T'akdeintaan, Kaagwaantaan, Woosh keetaan and Chookaneidee are the four main branches of Clans from whom we descend.

In past historic period, the Haida and Tsimpsian Indians migrated from Canada to the southern terminus of Southeast Alaska. Our oral histories traditionally tell that we alone have lived in Southeast Alaska since the time of the Great Flood and no other indigenous group lived within our boundaries or communities.

The available archaeological evidence does not demonstrate that any other group lived within our territory. This unbroken line of cultural affiliation with our ancestors has been legally recognized by Congress in settling our aboriginal land claims and establishing our village and regional corporations. The Hoonah Indian Association can trace our cultural affiliation historically to our ancestors who created and owned the objects and crests claimed under this petition.

We as Tlingits maintain a relationship with shared group identity. We are the people of a culture that is indigenous to this land, Southeast, Alaska. (The United States and the adjacent interior borders of Canada.) We share social customs and laws that apply to all Tlingit. We speak a common language that is mutually intelligible among all Tlingit. We are conceived as Tlingits and distinguish ourselves apart from our neighbors.

We have maintained a high level of intermarriage, social, and economic interactions that unify the Tlingit into one distinct social group.

We are united politically on the community and regional level through our local tribal government. We are also united at the local levels and on the regional level through Native corporations which were created under the authority of Congress. Hoonah Indian Association created under PL-638 has the documented history of a signed Constitution in 1939 signed officially. We can prove that we are operational before ANSCA, 1971.

Southeast Alaska's geographical, kinship, linguistic, oral traditions, historical, ethnographic and legal evidence all demonstrate the cultural affiliation between members of present-day Indian tribe submitting this claim and our ancestors who have lived in Southeast Alaska since time immemorial.

In Hoonah we have clans which remain active even today, our culture has managed to survive through countless years of western civilization. Because the Tlingit moved out of our homeland, Glacier Bay by the Ice Age we have come to call Hoonah our home. But we still hold onto our Ancestral Homeland and oral history which is so much a part of who we are and why we still exist today as a tribe. Our clan histories show that we have a heritage of people who relate to their respective tribal houses.

Eagle and Raven Moieties in Hoonah have descended from four main branches of clans today, all have numerous houses like that of the T'akdeintaan Clan whose at.oow is in question today at your museum. Houses of the T'akdeintaan Clan is the Tsal-Xaan Hit /Taax' Hit; T'akdein Hit, Yeil Kudee Hit, X'aakw Hit, Gaanaxaa Hit, Kaa Shayee Hit, Kux Dise Hit. All of these houses have clan leaders and clan mothers and caretakers this is also true with all our other clans and their houses.

The Snail House oral history can still be recounted today by our clan elders, they have the responsibility of ensuring that our cultural awareness today is to identify who we are, who our ancestors are and why our heritage is so important to pass on to our future generations to come.

Huna Heritage Foundation also shares this responsibility to our people. Although the Huna people participate with the foundation we have to travel to Juneau to be a part of them or they travel to Hoonah. All meeting are cut short to ensure that flights are met or enough time is provided to catch the ferry back to our designations.

Objects of Cultural Patrimony is defined as Taax' Hit, At. oow,

The Hoonah Indian Association asserts that the Taax' Hit, at.oow; identified by your museum and the Huna Heritage Foundation on the enclosed list which lists 39 objects are objects of cultural patrimony that have ongoing historical, traditional, and cultural importance - central to the Huna Tlingit Clans (people). Ownership of objects and the spirit designs depicted on these objects belongs to the Tlingit. All objects meet the required definitions of NAGPRA, section 2.(3)(D). We claim ownership under section 3(a)(2)(C)(2) and Tlingit Law.

Under our traditional laws, ownership of property resides within the group rather than with any individual member. Our clans and houses are basic property holding units. An individual acquires property rights through birth into one's clan. Children do not acquire or inherit property rights from our parents. Rather we acquire property rights by virtue of our membership to a clan.

Under Tlingit Law no descendible or alienable rights accrue to an individual. Property cannot be transferred, conveyed, or alienated unless all members of the clan agree. If any one clan member should refuse, then he/she cannot be deprived of his/her interest by the action of others.

Any tribal member of an individual clan has the authority to use clan property but does not have the authority to take any action regarding clan property on his/her own by transferring it. This privilege ends at death, and thus inheritance rights recognized under American Law does not exist in Tlingit Law.

Ceremonial property belonging to a clan member belongs to all clan members who still reside in the village. From where our tribe/clan have property, clan houses, etc. Our concept of Tlingit property rights are legally recognized by our tribal governments. (This property cannot be transferred or claimed by a spouse because he/she is a member of another clan.)

We as members of the Hoonah Indian Association can assert ownership to the crest and spirit designs depicted on the objects of this claim, namely the T'akdeintaan Clan of Hoonah. One of our original clan houses is the Mt. Fairweather House, Tsal-Xaan Hit this is the house that the Taax'Hit, Snail House descended from and also has the right to the clan crest. A crest can serve multiple purposes, it identifies and distinguishes clan members apart from others and defines relationships to other clans. A clan crest is the most important symbols of a matrilineal group and is guarded as a most prized possession. Today we still use our clan crests in oral traditions, stories, language, songs and dance.

Our rights to these crests have been acquired by our ancestors. Title to them has been validated and re-validated throughout our generations; this has always been done within our proper ceremonial practices; which are still practiced today.

We reserve the right to all objects of patrimony which can be defined as head gear (objects meant to be worn on the head); masks; ceremonial objects; ceremonial regalia and Shamanic objects. All can be defined and identified as having ongoing historical, traditional, and cultural importance to the Tribe of the Huna Tlingits. All serve to unify us together as clan members of one tribe and bonds us to our ancestors. Spiritual relationships symbolize the crest spirit designs which belong to us, Tlingits. Crests worn by clan members serve to identify us; as a member of the clan which is identified on the crest that we wear.

Continuing Cultural Importance

As Tlingits we continue to place great significance on our ceremonial and clan regalia/property . Our crests and spirit designs and emblems continue to be used in our ceremonies today. Our school district has placed a high importance on teaching our children customary and traditional knowledge. Secular activities are sometimes highlighted with our children showing us that all this teaching of customary and traditional knowledge has not been for nothing. Some of our ceremonies derive from tragedy within tribal events.

The importance of regalia/objects represents our clan, serves to unify clan members and most important identifies us as Tlingit People/Huna Kaa Woo. We remain bonded to our ancestors and we symbolize a spiritual relationship to the entity depicted on the hats and ceremonial objects. Our songs also serve as documents of our land and crests.

Ceremonial objects/regalia are used at our potlatches and used in the cycle of memorial rites. We are required to act according to our established protocols to ensure spiritual balance and well-being. To describe our beliefs in terms of religious precepts or codified theologies would have no meaning. We express our cultural beliefs through the use of our regalia in the context of our ongoing ceremonies.

Tlingit ideological system and our ceremonial rites hold an ongoing significance to us through these ceremonial objects/regalia. You cannot separate the regalia from the ceremonies they are inseparable. We, the Tlingit are compelled to host and participate in these ceremonies for Haa Shaageina - our ancestors, the present generation and the future generations to come.

As Clan objects/regalia take on a greater dimension of significance within our present day period we note that while social illness is affecting our society it is due to the alienation and mistreatment of our ceremonial and scared objects. It is noted that while we are able to heal our physical ailments with modern medicine, we are still unable to resolve the social ills affecting our Tlingit people. We all express the concern that we must repossess these objects to ensure that we are restored to our spiritual balance and harmony.

Taax' Hit, At.oow as Sacred Objects

The spiritual aspect of clan at.oow requires a prescribed code of conduct and behavior between the at.oow and the Tlingit. The sacredness of the at.oow must be maintained and sanctity protected and treated with deference. in some instances, we are required to feed crest objects. This is done through ceremonial rites and usually by the opposite clan or moiety. Adherence to this reciprocal relationship and treatment are enforced by religious sanctions. Sergei Kan (1989,70) references the sacred aspects of the crests such as those depicted on the subject objects. He affirms that the "sacredness" of the crest was indicated by its reverential treatment by its owners.

Although we are not prohibited from taking an animal symbolized by our crest, we are required to treat the physical, living animal with utmost sensitivity and speak with respect about it.

Clan property bearing a crest is sacred; it is a living being/spirit who must be addressed by clan members in the same manner as he/she would speck to a human being. Orators address the clan objects as if they were human being. They speak to the objects/spirits on the regalia or clan object which the individual is wearing. When clan objects on which the crests appear to deteriorate, they are burned and mourned as if they are a human who had died and was cremated. Thus the name and crest is transferred to a new object or replica. According to Kan's analysis, the crest remains immortal and survives its temporary representation in the same manner as a person's spirit survives its body.

A Tlingit believes, the display of clan crests and objects by one clan demands a reciprocal display by the opposite clan. The spirit of one object must be greeted by the other, this keeps the spirits in balance due to the fact the owner of the crest was named by name in our Tlingit language.

When the Taax'Hit, at.oow can be brought out, a clan emblem from the opposite clan (Eagle moiety) must also be brought forward. As our ancestors have taught us this symbolizes that we are always together in unison, holding hands. We must always be there together in our sorrows and happiness, supporting one another no matter what the situation is. An opposing clan must respond with an address and like a spirit song lest the spirit of the host clan object wander aimlessly which can result in ill fortune.

Tlingit ideologies and ceremonial practices require the presence of both Eagle and Raven Clan objects at the time of death. (These objects must match one another.) These sacred objects are essential to traditional ceremonial rites. Clan objects remain necessary for our continued religious ceremonies, rituals and traditions that are conducted by our Clan Leaders or Elders.

As we have progressed into modern times we have lost a great deal of our sacred objects to outside influences, such as the 39 objects we are currently trying to repossess from your museum. This is the goal of our people, we feel that these objects belong to the Huna Tlingits. We still reside here in Hoonah, maintain our cultural traditions which is customary to our people. Some clans are currently without clan objects such as mentioned above. We are responsible to return these items to our people, the T'akdeintaan who live here in Hoonah.

The Eagle and Raven moieties are prepared to receive the 39 objects and see that these objects are properly cared for. We know we must apologize to the Taax' Hit Yeik (Snail House Spirits) for the improper treatment and separation from its people and proper place here in Hoonah. To have these objects returned we will ensure our spiritual well-being and balance between the Eagle and Raven moieties who live here in Hoonah.

It is believed that the Huna Heritage Foundation is preparing a museum to house these 39 objects in question. The Hoonah Indian Association believes that the proper place for these items can only be in the Hoonah Tlingit Homeland, properly. Only with the proper permission from our clan Elders who reside here in Hoonah can we ensure the proper care for our at.oow. With this in mind we shall prepare a special path for the return of the Taax' Hit at.oow.

Religious Leaders and Present Day Adherents

Presently here in Hoonah we still have our Shaadeihani, our Clan Leader or our esteemed elder of our clan. They are the our primary religious practitioners who serve in this capacity they are responsible for bringing out the sacred objects (such as these objects noted), and recounting our sacred oral traditions and histories. The proper protocol is strictly followed; Elders ensure that spiritual balance is maintained at all times, they respond correctly to the display of sacred objects. Make proper speeches and in some ceremonies lead in special songs offered to the opposite clan.

Without our Clan Elders to ensure that the spiritual balance is maintained during ceremonial rites and potlatches, we could not call ourselves, Tlingits. Because we still practice our protocol in our native language we remain responsible to our customary and traditional traditions and are able to teach our younger generations to carry on our way of life.

The capacity that our Clan Elders serve as a recognized spiritual leader it is very important to note that we have no term in Tlingit which translates to religious leader. However our Elders have the role, function and responsibility, to the behavior and activity practiced as the Clan Leader or Esteemed Elder. Our Elders serve in this capacity to our clan members who continue to attend the ceremonial rites and ceremonies held today and take an active part in these sacred activities. As stated earlier it is very important that the sacred objects in question be returned to their ancestral homeland, Hoonah, Alaska.

Western Scholars and Courts Acknowledge Tlingit Communal Ownership and Cultural Significance of Objects

In all of the studies done by western scholars and anthropologists, they can verify the Tlingit concepts of customs of communal ownership of the Tlingit people. Federal and State courts recognize the concept of Tlingit Law and have made court decisions to favor our ways and practices that we have as Tlingit people. From all of this knowledge we have obtained as people we still practice our customary and traditional values. We have learned to live in both worlds and cross our cultures into one concept.

Right of Possession

Under the terms of NAGPRA and its implementing regulations. We the Tlingit Tribe of Hoonah have meet all requirements of NAGPRA therefore we request that the Snail House at.oow be returned to it's rightful place here in Hoonah. The T'akdeintaan Clan can assert the "Right of Possession" to the 39 objects in question and prove that we do still exist as clan members of Taax. Hit.

The T'akdeintaan Clan can claim exclusive ownership and has been rightfully recognized and validated throughout generations by their use of continued customary and traditional ceremonial practices here in Hoonah, Alaska. We have established and proven oral histories within our territories and under Tlingit law have exclusive right to our at.oow.

This right cannot be alienated from us by the University of Pennsylvania Museum of Archaeology and Anthropology.

In summary, we the Tlingit Tribes of Hoonah have the belief that we have met the criteria implemented under NAGPRA to repatriate the Taax' Hit at.oow.

The Hoonah Indian Association asserts that the Taax' Hit, at.oow; identified by your museum and the Huna Heritage Foundation on the enclosed list which lists 39 objects are objects of cultural patrimony that have ongoing historical, traditional, and cultural importance - central to the Huna Tlingit Clans (people). Ownership of objects and the spirit designs depicted on these objects belongs to the Tlingit. All objects meet the required definitions of NAGPRA, section 2.(3)(D). We claim ownership under section 3(a)(2)(C)(2) and Tlingit Law.

As mandated under Public Law #101-601 and corresponding regulations, we await your reply on or before ninety (90) days from your receipt of this claim. All information contained herein is true and within the context of traditional law or Tlingit Law. We have exclusive practices, ceremonies and traditional knowledge to maintain the peace and harmony of our Tlingit people who reside here in Hoonah. Nothing in this claim can be construed as waiving the future rights and privileges afforded by the Hoonah Indian Association.

Respectfully submitted;

Johanna K. Dybdahl
Tribal Administrator

Mary Rudolph
President

Richard Dalton Sr.
Esteemed T'akdeintaan Elder

Patrick G. Mills
T'akdeintaan Elder

Attachments, Resolution 98-08, 98-09

cc: Pete Hocson, President Huna Totem Corporation
Ronald Williams, Huna Heritage Foundation
C. Timothy McKeown - U.S. Dept. of Interior, National Park Service, Repatriation

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Marlene's

Huna Totem Corporation

9309 Glacier Hwy., Suite A-103 Juneau, Alaska 99801
(907) 789-1773 Fax (907) 789-1896 Toll Free (800) 428-8298

March 25, 1998

University of Pennsylvania Museum of
Archaeology and Anthropology
33rd and Spruce Streets
Philadelphia, PA 19104-6324

Attention: Dr. Jeremy A. Sabloff
The Charles K. Williams II Director

Re: Follow-up Repatriation Petition Under the
Native American Graves Protection and Repatriation Act (NAGPRA)

Dear University of Pennsylvania Museum of Archaeology and Anthropology:

Please consider this a formal petition for the repatriation of the clan property át.oow (clan possessions) of the Taax' Hit, which is referred to as the Snail House or Mt. Fairweather House, of the T'akdeintaan Clan of Hoonah, Alaska identified in your records as follows:

Object	UPA Catalog Number	L. Shotridge Field No.	*(Classifications Under NAGPRA)* "Object of Cultural Patrimony"	"Sacred Object"
1 Drum (Shaman)	NA6828	51	Y (Shamanic Object)	Y
2 Skin Robe	NA6829	52	Y (Ceremonial Regalia)	Y
3 Dance Mask	NA6830	53	Y (Mask)	Y
4 Shaman's Mask	NA6831	54	Y (Shamanic Object)	Y
5 Dance Mask	NA6832	55	Y (Mask)	Y
6 Shaman's Mask	NA6833	56	Y (Shamanic Object)	Y
7 Frontlet	NA6834	57	Y (Head Gear)	Y
8 Headdress	NA6836	59	Y (Head Gear)	Y
9 Headdress	NA6837	60	Y (Head Gear)	Y
10 Headdress	NA6838	61	Y (Head Gear)	N
11 Headdress	NA6839	62	Y (Head Gear)	N
12 Headdress	NA6840	63	Y (Head Gear)	Y
13 Frontlet	NA6841	64	Y (Head Gear)	Y
14 Staff's Head	NA6843	66	Y (Ceremonial Object)	Y
15 Rattle	NA6844	67	Y (Ceremonial Object)	Y
16 Rattle	NA6845	68	Y (Ceremonial Object)	Y
17 Rattle	NA6846	69	Y (Ceremonial Object)	Y
18 Shaman's Headrss.	NA6847	70	Y (Shamanic Object)	Y
19 Button Blanket	NA6848	71	Y (Ceremonial Regalia)	Y
20 Blanket	NA6849	72	Y (Ceremonial Regalia)	Y

Object	UPA Catalog Number	L. Shotridge Field No.	*(Classifications Under NAGPRA)* "Object of Cultural Patrimony"	"Sacred Object"
21 Cedar Ring	NA6851	74	Y (Ceremonial Regalia)	N
22 Cedar Ring	NA6852	75	Y (Ceremonial Regalia)	N
23 Head Band	NA6853	76	Y (Head Gear)	N
24 DanceCollar(Bead)	NA6855	78	Y (Ceremonial Regalia)	Y
25 Ceremonial Horn	NA6856	79	Y (Ceremonial Object)	N
26 Ceremonial Horn	NA6857	80	Y (Ceremonial Object)	N
27 Ceremonial Horn	NA6858	81	Y (Ceremonial Object)	N
28 Ceremonial Horn	NA6859	82	Y (Ceremonial Object)	N
29 Ceremon. Whistle	NA6860	83	Y (Ceremonial Object)	N
30 Ceremon. Whistle	NA6861	84	Y (Ceremonial Object)	N
31 Pipe	NA6862	85	Y (Ceremonial Object)	Y
32 Feasting Spoon	NA6863	86	Y (Ceremonial Object)	Y
33 Dance Object	NA6865	88	Y (Ceremonial Object)	Y
34 Head Band	NA6866	89	Y (Head Gear)	N
35 Shaakee.at	NA6835	58	Y (Head Gear)	Y
36 Group of 2 Ceremon. Dance Objects	NA6842	65	Y (Ceremonial Object)	Y
37 Group of 6 Ceremon. Rings	NA6850	73	Y (Ceremonial Regalia)	N
38 Group of 2 Ceremon. Rings	NA6854	77	Y (Ceremonial Regalia)	N
39 Shaakee.at	NA8498	--	Y (Head Gear)	Y

This claim is made pursuant to the terms of the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 (PL #101-601).

This petition replaces and supersedes the petitions for repatriation of the above-referenced át.oow previously submitted by the Taax' Hit Snail House of the T'akdeintaan Clan of Hoonah, Alaska through Huna Totem Corporation/Huna Heritage Foundation on September 26, 1995; December 15, 1995; and February 12, 1998.

Please note that Huna Totem Corporation is submitting this claim as an Indian Tribe on behalf of the T'akdeintaan Clan, Taax' Hit. Adam Greenewald is the current formally-recognized Clan Caretaker and Shaadeihani (Clan Leader). This revised repatriation claim is for the above referenced clan objects which are identified as "objects of cultural patrimony" and in some instances, also as "sacred objects", under the terms of NAGPRA. Huna Totem Corporation and the Taax' Hit believe that this petition meets the standards set forth by the repatriation law.

In accordance with the requirements of NAGPRA, the petition submits information to demonstrate the following:

1. Huna Totem Corporation is an "Indian Tribe" with legal standing under NAGPRA;

2. Cultural affiliation;

3. All the objects are "Objects of Cultural Patrimony";

4. Some objects as noted are also "Sacred Objects"; and

5. The Tlingit Rights of Possession.

This repatriation claim is for the 39 specific objects identified above and does not preclude further repatriation claims. We assert that all information contained herein is considered sacred, cultural, and intellectual knowledge. No copies, reproductions, or distribution of such information are authorized except for the purpose of evaluating and acting upon this repatriation claim. This authorization expires upon completion of this repatriation claim. Nothing in this claim shall be construed as waiving the future rights and privileges afforded Huna Totem Corporation or the Taax' Hit under traditional, federal, state, and local laws.

As mandated under Public Law #101-601 and corresponding regulations, we await your reply on or before ninety (90) days from your receipt of this claim.

Sincerely,

Pete Hocson
President, Huna Totem Corporation

Ronald Williams
President, Huna Heritage Foundation
Taax' Hit Member

Enclosure A: Snail House (Mount Fairweather House) Clan Resolution #97-01 Authorizing Claim
Enclosure B: Huna Totem Corporation/Huna Heritage Foundation Resolution #97-19 Accepting Claim
Enclosure C: Repatriation Claim
Enclosure D: Personal Letter from Taax' Hit Clan Leader, Adam Greenewald

cc: Taak' Hit Snail House of the T'akdeintaan Clan, Hoonah
Hoonah Indian Association
The Central Council of Tlingit & Haida Indian Tribes of Alaska
Sealaska Corporation
Sealaska Heritage Foundation
C. Timothy McKeown - U.S. Dept. of Interior, National Park Service, Repatriation Office

RESOLUTION 97-01
SNAIL HOUSE (MOUNT FAIRWEATHER HOUSE) OF THE T' AKDEINTAAN CLAN OF HOONAH
REPATRIATION AUTHORIZATION UNDER THE NAGPRA OF 1990

WHEREAS the TAAX' HIT the Snail House and/or (Mount Fairweather) House of the T'akdeintaan Clan of Hoonah (hereinafter referred to as "the Clan") has initiated action to repatriate clan objects alienated from its possession, under the terms of NAGPRA, and;

WHEREAS the Clan is the recognized social and ceremonial entity within traditional Tlingit culture, and ;

WHEREAS Huna Totem Corporation is an Indian entity with legal standing pursuant to the terms of the Native American Graves Protection and Repatriation Act, Section 2(3), and;

WHEREAS Huna Totem Corporation with the assistance of theHuna Heritage Foundation has been authorized, by the TAAX' HIT to pursue repatriation of the Clan's objects' and;

WHEREAS the Clan and the members of the Snail House wish to reaffirm and reauthorize, Huna Totem Corporation to continue its repatriation efforts on behalf of the TAAX" HIT.

NOW THEREFORE BE IT RESOLVED: that as the clan, we hereby authorize Huna Totem Corporation assisted by Huna Heritage Foundation to formally act on our behalf in the repatriation process of our Clan's objects with the agreement such objects will be returned to the Clan. Such authorization means Huna Totem Corporation will proceed with repatriation requests under the NAGPRA of 1990, per their acceptance as shown by their resolution No. 97-19.

BE IT FURTHER RESOLVED the Clan's endorsement of this resolution does not waive its rights and privileges afforded under traditional Tlingit Law.

ADOPTED this 13 day of September , 1997, by a Unanimous vote, in regular session held at Hoonah, Alaska.

Secretary Marlene Johnson
Marlene Johnson

Chairman Ronald Williams
Ronald Williams

ENCLOSURE A

HUNA TOTEM CORPORATION

Resolution No. 97-19
(Authorization for Huna Totem Corporation
to Represent the
Snail House (Mount Fairweather House) of the
T'akdeintaan Clan of Hoonah, Alaska
in Requests for Repatriation Under
Public Law #101-601
Native American Graves Protection & Repatriation Act)

WHEREAS, Huna Totem Corporation is an Indian entity with legal standing pursuant to the terms of the Native American Graves Protection and Repatriation Act, Section 2(3), and;

WHEREAS, the clans and clanhouses of Southeast Alaska, including the Snail House (Mount Fairweather House) of the T'akdeintaan Clan of Hoonah, are the recognized social, and ceremonial entities within our traditional Tlingit culture, and;

WHEREAS, the Central Council of Tlingit & Haida Indian Tribes of Alaska, in communication with Sealaska Corporation and the Sealaska Heritage Foundation, will assist coordination between tribes,

NOW, THEREFORE, BE IT HEREBY

RESOLVED, that as a tribal entity with legal standing pursuant to the terms of the Native American Graves Protection and Repatriation Act, Section 2(3), Huna Totem Corporation hereby agrees to submit repatriation requests to museums/federal agencies originating from and on behalf of the Snail House (Mount Fairweather House) of the T'akdeintaan Clan of Hoonah, Alaska, pursuant to NAGPRA.

FURTHER BE IT RESOLVED, that Huna Totem Corporation's endorsement of this resolution does not waive its rights and privileges afforded under Public Law #101-601, The Native American Graves Protection and Repatriation Act.

Approved this 12th day of April, 1997.

Albert W Dick
Chairman

Secretary

Aye 8
Nay 0
Abstain 0
Absent 1

ENCLOSURE B

PETITION FOR REPATRIATION for the return of

TAAX' HIT (SNAIL HOUSE) OBJECTS OF CULTURAL PATRIMONY AND SACRED OBJECTS from UNIVERSITY OF PENNSYLVANIA MUSEUM OF ARCHAEOLOGY AND ANTHROPOLOGY

March 31, 1998

All information contained herein is sacred, cultural, and intellectual knowledge. No copies, reproductions, or distribution of such information are authorized unless for the sole purpose of evaluating this repatriation claim. This authorization is void upon completion of repatriation of the Taax' Hit át.oow. Nothing in this claim shall be construed as waiving the future rights and privileges afforded the Huna Totem Corporation or the Taax' Hit under traditional, federal, state, and local laws.

(ENCLOSURE "C")

1. Indian Tribe

Huna Totem Corporation submits this repatriation claim as an "Indian tribe" pursuant to the terms of NAGPRA Section 2.(3)(D)(7) [See National Park Service List of Tribal, Native Alaskan entity, and Native Hawaiian Organization Contacts List dated July 16, 1993 identifying our tribe as a Native Alaskan Entity with legal standing to file this claim].

2. Cultural Affiliation

As required under the definition of "cultural affiliation" of the NAGPRA, the petitioner has legal standing under NAGPRA and can demonstrate "a relationship of shared group identity which can reasonably be traced historically or prehistorically between members of a present-day Indian tribe . . . and an identifiable earlier group." Please note the earlier referenced resolution attesting to the relationship of the Taak' Hit Snail House of Hoonah and the Huna Totem Corporation as an Indian Tribe, in concert with the Huna Heritage Foundation, to act on its behalf (see Enclosures A and B).

The Tlingit Indians have owned and occupied Southeast Alaska since time immemorial. We held exclusive aboriginal title to all of the territory within the geographic boundaries of Southeast Alaska. In the historic period, the Haida and Tsimpshian Indians migrated from Canada to the southern terminus of Southeast Alaska. Our oral traditions tell that we alone have lived in Southeast Alaska since the time of the Great Flood and that no other indigenous group lived within our boundaries or communities. The available archaeological evidence does not demonstrate that any other group lived within our territory. The unbroken line of cultural affiliation with our ancestors was also legally recognized by the U.S. Court of Claims and Congress in settling our aboriginal land claims and in recognizing a regional tribal government. Additionally, our regional, urban, and village corporations were established under the Alaska Native Land Claims Settlement Act of 1971 ("ANCSA"). Huna Totem Corporation, established with the ANCSA, can trace its cultural affiliation historically and prehistorically to our ancestors who owned and occupied the Hoonah area of Southeast Alaska, and who own the objects and crests claimed under this petition.

The Tlingit maintain a relationship of shared group identity. We are a people and culture who are indigenous to Alaska, the United States, and the adjacent interior borders of Canada. We share social customs and laws that apply to all Tlingit. We speak a common language that is mutually intelligible among all Tlingit. We conceive of ourselves as Tlingit and distinguish ourselves apart from our neighbors. We maintain a high level of intermarriage, social, and economic interactions that unify the Tlingit into a distinct social group. We are united politically at the community and regional level through our local and regional tribal governments. We are also united at the local and regional level through Native corporations, which were created under the authority of Congress.

To further substantiate our claim of cultural affiliation between the tribe, the T'akdeintaan Clan of Hoonah, and the cultural objects identified in this petition, we identify the other clan houses of the T'akdeintaan as the T'akdein Hit (House of T'akdeintaan), Tsal-Xaan Hit/Taax' Hit (Mt. Fairweather/Snail House), Yeil Kudee Hit (Raven Nest House), X 'aakw Hit (Fresh Water Sockeye House), Gaanaxaa Hit (Seagull House), Kaa Shayee Hit (Man's Head House), and the Kux Dise Hit (Half Moon House). Although most of the houses do not exist as physical structures in Hoonah today, they exist as social units of which other T'akdeintaan are members.

We initially lived in the Mt. Fairweather House in the Glacier Bay region; later we built a new house in Hoonah which came to be known as the Snail House. Edith Bean, Clan Mother (August 20, 1997) of the T'akdeintaan describes how our new name was adopted. It is still recounted through oral tradition ensuring awareness of cultural identity through the clan's past, present, and future members:

> *"When they were clearing the place for the Snail House site, some fellows were clearing the place, getting all the brush out of there and he saw when he was clearing the place, alot of snails there. And he made a remark saying, 'So many snails around here! They should name this new house the Snail House; Taax' Hit.' And that name stuck."*

Two objects in this repatriation claim: #NA6844 Raven Rattle, and #NA6838 Raven/Jellyfish Headdress, appear to have been present during the rebuilding of the Snail House. According to Louis Shotridge's notes for both items which he acquired on November 22, 1924 in Hoonah, Alaska, both items were:

> *" . . . to be used on the occasion of the call together to the rebuilding of the Snail house . . . "*

This Snail House was built in the late 1800's to early 1900's, and is shown in the enclosed photograph (see Appendix B). A number of our clan members who are alive today lived in the Snail House. During the tragic fire of 1944 which destroyed nearly all of Hoonah, this clan house, along with many others, burned to the ground. One of the Clan House caretakers chose to die with the Snail House as it burnt to the ground. His willingness to die with the Snail House attests to the significance of the house and its membership. This caretaker was known as Gei Chaalk (John Smith). Although the house no longer exists physically, it persists as a social unit and successive caretakers are appointed to safeguard our claim of ownership to our clan rests and ceremonial objects. The current Snail House Leader and Caretaker is Adam Greenewald.

Other examples of how important the identity of the house is to its current membership is exemplified in the action of replicating the Snail House panel (as shown in photo) in a miniature wood panel version. This panel depicts the story of Mt. Fairweather with representations of the "new" naming of the house.

These houses were formerly inhabited by a group of matrilineally-linked males along with their wives and offspring. In addition nephews, who are members of their maternal uncle's (mother's brother's) clan, resided within the house. These matrilineally-linked males are members of the same clan, but their wives belong to the opposite moiety and are members of different clans. The children belong to their mother's clan. In the past, young boys left their mother and went to live with their maternal uncle when they reached the age of ten.

The clan house was formerly the basic economic unit while the clan served as the social, political, and ceremonial unit. Extended family units no longer live in these clan houses and nuclear families have replaced the traditional house groups as the economic unit. In the present period, the clan functions primarily in the ceremonial sphere.

Today the clans have united politically and economically at the community level, and all clans within a community collectively participate in ceremonial activities. While the clans persist, the Tlingit have transformed their society from strictly clan-based entities to unified

communities. Today the Tlingit people are also united at the regional level through Sealaska Corporation which was created under the authority of Congress, and politically through the Central Council of Tlingit and Haida Indian Tribes of Alaska, a regional tribal government. More specific to the Hoonah Tlingit clans, unification occurs through the local ANCSA village corporation: Huna Totem Corporation, and the local federally-recognized tribal government: the Hoonah Indian Association.

The geographical, kinship, linguistic, oral traditions, historical, ethnographic, and legal evidence all demonstrate the cultural affiliation between members of the present-day Indian tribe submitting this claim; our Tlingit ancestors who have lived in Southeast Alaska since time immemorial; and our Tlingit ancestors who established the permanent community of Hoonah. Huna Totem Corporation can trace cultural affiliation historically and prehistorically to our Tlingit ancestors who owned, identified with, and used the Taax̲' Hit át.oow which were taken from our community and which are now claimed in this petition under the terms of NAGPRA.

3. Taax̲' Hit Át.oow as "Objects of Cultural Patrimony"

The Huna Totem Corporation asserts that the Taax̲' Hit át.oow, identified by your museum as the 39 objects noted in Appendix A, meet the definitions of NAGPRA under Section 2.(3)(D) as objects of cultural patrimony that have ongoing historical, traditional, and cultural importance central to the Tlingit people and to members of our tribe: *"... rather than property owned by an individual Native American, and which therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian Tribe ..."* and the 39 objects were *"... considered inalienable ... at the time object was [were] separated"* from the Tlingit people. We claim ownership of these 39 objects and the spirit designs depicted on them under our traditional Tlingit laws.

According to Tlingit traditional law, ownership of property resides within the group rather than with any individual member. The clans and houses are the basic property holding units. An individual acquires property rights through his/her birth into a group: the clan. An infant does not acquire or inherit his/her property rights from his mother or parents. Rather, a Tlingit infant acquires property rights by virtue of his/her membership in a group. Under Tlingit law no descendible or alienable rights accrue to an individual. Property cannot be transferred, conveyed, or alienated unless all members of the clan agree. If any one clan member should refuse, then he or she cannot be deprived of his/her interest by an act of others. An individual clan member has the authority to "use" clan property, but he/she cannot independently transfer or alienate this right. This privilege ends at death, and thus inheritance rights as recognized under Western law do not exist in Tlingit law. Clan property cannot be transferred or claimed by a surviving spouse because he or she is a member of another clan. Concepts of Tlingit property rights are legally recognized by our tribal governments and tribal corporations.

The concept of individual or personal property traditionally applied to relatively few objects, such as personal everyday clothing. Only in the very recent period did the Tlingit apply the concept of individual property to newly-produced ceremonial regalia and head-dresses. However, not all new ceremonial property is maintained as individually-owned property.

Within the definition of "Objects of Cultural Patrimony" we offer the following statements of significance for each of the categories of objects which are the subject of this repatriation

claim: Head Gear (objects meant to be worn on the head); Masks; Ceremonial Objects; Ceremonial Regalia; and Shamanic Objects.

1. Head Gear

Ceremonial headdresses include Naa S'aawxw (Clan Hat), Shaadakoox' (Clan Hat with ring), Shaakee.at (Frontlet with ermine), L'aw Shaadaa (War Helmet), Guwakaan S'aax.oo (Peace Maker headdress and feathers), Shi S'aati T'aawu (Song Leader's feathers), Kaax'usyee Shaawu T'aawu (Primary Clan Women singers), L'aa S'aax.oo (Yarn Hat), Ixt' Shaadaa (Shaman headdress), Ayaan (Interior-style headdress), Ch'een (Women's hair piece), Gangoosh (Bear Ears), Giyak Kwaan S'aax.oo (Aleut-style/baseball-style cap), Yenwaa Shaa S'aax.oo (Sailor hat), Wooweitkaa S'aax.oo (young women's headdress). They are variously referred to by museums as "ceremonial headdress", "clan hat", "helmet", etc.

Ceremonial head gear and associated crest designs are objects of cultural patrimony that have ongoing historical, traditional, and cultural importance central to the Tlingit people and to members of our tribe. Ownership of all crest and spirit designs depicted on the head gear is also asserted. Rights to these crests were acquired by our ancestors, and title to them have been validated and re-validated through the generations within our ceremonial rites.

Head gear continues to be used in our ceremonies and in the present-day period, and they may also be used in secular activities. Head gear represent our clans; they serve to unify clan members and identify us as Tlingit people; they bond us to our ancestors; and they symbolize a spiritual relationship to the entity depicted on the hats and ceremonial objects. Clan ceremonial head gear, together with a crest spirit design, provide a physical form in which spiritual beings manifest their presence.

The ongoing significance and sacredness of our clan head gear and objects are manifest in the Tlingit ideological system and our ceremonial rites. The objects are inseparable from the ceremonies in which they are intended to be used, and we Tlingit are compelled to host and participate in these ceremonies for Haa Shaageina--our ancestors, the present generation, and the future generations.

2. Masks

Tlingit masks serve three basic functions: 1) transformation of an individual into a supernatural being; 2) clan dramatization, and; 3) conflict resolution. Masks as they are used in the first two functions allow a Tlingit to symbolically transform into the spirit depicted by the mask. In clan dramatization, the dancer re-enacts a clan legend. More often the clan mask also represents the spirit depicted by the mask. A portrait mask, commonly called a ridicule mask, was used in the conflict resolution process. However, not all portrait masks are ridicule masks.

Transformation Masks are those masks and maskettes which allow individuals who don the mask, usually within the context of a ritual or ceremonial setting, to become symbolically transformed into a supernatural being. They were primarily used by Shamans, but lay Tlingit also utilize transformation masks. Generally, the Shaman had masks that were representations of their spirits. The number of masks they employed varied. Some Shaman had up to eight masks. They might also have additional miniature masks or maskettes which are worn on the forehead attached to a headdress or worn with a headband. Jonaitis (1986,27-28) identifies two types of Tlingit Shaman masks, "those that

represent plain faces, either anthropomorphic or zoomorphic, and those that include subsidiary figures on the face." She reports that those masks that had small figures were used exclusively by Shaman. Some transformation masks were of human faces and represented clan ancestors including Shaman and warriors. Gunther (1966,129) has suggested that it was difficult to determine which masks were used in clan dramatizations and which by Shaman without specific information. Those masks which were removed by collectors (such as George Emmons) from gravesites were clearly those of Shaman. However, not all Shamanic masks were buried with the Shaman. In most cases, they were transferred to his apprentice. De Laguna (1972,686) citing Emmons' notes reports that in a number of cases he found masks that had been used by up to five generations of Shaman. A layman's transformation mask, as well as clan masks, were not buried or burned with the deceased. Transformation masks and frontlet headdresses are also used by lay Tlingit in spirit dances. In this ceremony, two individuals hold a blanket and only the mask and frontlet appear above the blanket. The dancer imitates the movement of the spirit depicted by the mask or frontlet.

Clan Dramatization Masks also continue to be used by clan members to commemorate the origin and other significant events of their clan's history. They are used in a ceremonial context with singers and dancers re-enacting the event and with clan leaders recounting the oral traditions associated with the mask. During other ceremonies, clan masks are prominently displayed for guests to view.

Conflict Resolution Masks were used by the Tlingit to resolve conflict. Liabilities may be created in a number of ways including offenses against a clan's honor. If a clan incurred a liability and neglected to pay its debt, a clan might commission a ridicule mask to persuade the liable clan to settle its debt. The ridicule mask is prominently displayed in the community to bring pressure on the offending clan to resolve the conflict.

Masks which continue to be used in general ceremonial activities allow unification with the supernatural beings and spirits associated with the origin of the mask. The mask allows the Shaman or lay Tlingit to enter the domain of the sacred. The masks used in the ceremonial context also symbolize a clan origin or an historical event. While Shamanism has all but disappeared among the Tlingit, ideologies surrounding Shamanic objects persist. Tlingits continue to believe that masks embody a spirit, and a Shaman's mask can only be handled by his clan members. The spirit embodied in the mask might cause harm to a non-clan member who handles the mask. Many Tlingit continue to adhere to the belief that they have a special relationship to the spirit depicted by the mask.

3. Ceremonial Objects

Ceremonial objects include (but are not limited to) rattles, drums, bentwood boxes and chests, leaders' staffs, dance staffs, pipes, feast ware (spoons, bowls, etc.), and dance accessories. Additionally pertinent to this claim are the ceremonial horns and whistles (all depicted without crests) which are considered ceremonial objects due to their necessary role in the traditional protocol of announcing clan functions, such as the potlatch.

Drums and Rattles are used by both the Shaman and the lay Tlingit. They are also more than musical instruments that accompany singing and dancing. They play a significant role in ceremonial and religious life. They also serve an important social function which is particularly evident in the secular dances held by formally-organized dance groups. They were formerly important in warring activities and legal settlements (Worl 1994,105).

Drums--including both the skin and box drums--and rattles are used in singing and dancing during potlatches and other ceremonial activities. Drums were once used to beckon people, to announce the beginning of an event and also to send symbolic messages. Drums were also used by Shaman and women during military encounters. They were used to announce the beginning of potlatches and feasts and to beckon guests to those events. They are still used to signal the beginning of ceremonies and dancing. They were also used in the past to remind individuals and clans that they owed a debt and to encourage them to make a payment before the creditor made the debt public.

Drums and rattles played an integral part in the Shamanic ritual. Spirits are reported to be pleased by the sounds of drums. The sound of the drum also accompanies the Shaman's spirit on his journey as it leaves his body. The Shaman also used the drum and rattle during healing rituals. Although many drums were taken by non-Tlingit people from the burial sites of the Shaman, they were not always buried with his remains. A Shaman's drum might be kept for his successor. Again, although Shamanism has all but disappeared among the Tlingit, many of the spiritual beliefs persist. Tlingit continue to use drums and rattles during ceremonies to beckon spirits. They are used with spirit songs and spirit dances.

Drums and rattles are also used by the Tlingit lay person during spirit songs and dances. These dances and rites which are still performed today play the same role as they did for the Shaman. They call the spirits for the Tlingit lay person. The spirits that are beckoned are not necessarily those that are depicted on the drums and rattles.

Ceremonial Staffs and Dance Staffs, such as that represented in the Raven Staff Head (Catalog #NA 6843) under this claim, play a central role in Tlingit culture. Ceremonial staffs identify an individual's role and status within the clan. They are generally held by the clan leaders or prominent elders during ceremonies and other official clan activities. They may be used by the lead person bringing in his clan during the entry song of ceremonies. The Shaman also used a ceremonial staff during his rituals.

The ceremonial staff reportedly commanded such respect and honor that a headman or envoy carrying the staff could walk safely between fighting warriors. It was also held when settling internal disputes among clan members (Worl 1994,120). The animals or birds on these staffs always represent spirits or clan crests. The dance staff differs from the ceremonial staff in that it is used by the song leader in ceremonial activities. The dance staff announces the entry and identity of a clan as they dance into a ceremony. Today, they are also used in secular activities by dance groups which include both Eagle and Raven dancers. In some cases, two staffs may be used to represent the dance group members or the community as a whole. They are also used to maintain order within the dance.

Ceremonial objects are owned by clans. As outlined above, these objects were brought out during a series of ceremonial activities and validated as clan property. These objects were held by the clan and moved through the generations under the care of a clan leader or trustee. The crests on the ceremonial objects further serve to classify them as objects of cultural patrimony and sacred objects. Crests are owned by clans. The ownership of crests are validated through ceremonies with the recounting of the oral traditions associated with the origin of the crests. They are sacred in that they symbolize a spiritual relationship between clan members and their ancestors who obtained the crests and succeeding generations who held the objects. Tlingit maintain a special relationship to their crest and to the spirits embodied by the crest. These objects play a central role in Tlingit ceremonial activities and are necessary in ceremonial rites.

4. *Ceremonial Regalia*

Ceremonial regalia and accessories include (but are not limited to) blankets (robes, capes), shirts, tunics, vests, dance aprons, bibs or collars, leggings, footwear, headdresses (including cedar rings), belts, octopus bags, and jewelry. These are worn during various formal social events and ceremonial activities. The value of ceremonial regalia is enhanced if clan crests are displayed on major pieces of regalia. They are prized possessions of the clan representing their origin, history, and status.

While ceremonial regalia is highly valued among the Tlingit, daily dress does not have the same social and sacred significance. Anthropologists (de Laguna 1971,432-436; Gunther 1966,55) have commented on the scanty clothing worn by the Northwest Coast Indians and Tlingit in their daily dress prior to Western contact. A number of factors contributed to this state. The moderate temperatures diminished the need for warm clothing which one might assume was necessary in this northern latitude. The region is warmed by the Japanese current making the temperature warmer than it might otherwise be in this latitude. In addition, cultural practices, such as bathing in the ocean waters, and the psychological training of the youth also conditioned the Tlingit to colder temperatures and diminished the need for full body coverage or clothing. Daily clothing was generally linked to a breech cloth or skirt, fur or skin capes and hats.

The Tlingit take great pride in their ceremonial regalia which represents not only the individual, but the clan itself. They also reflect the social standing of individuals within the clan. For example, clan leaders and high status persons used Chilkat blankets, sea otter, wolf, and beaver. Marten was reserved for the aristocrats while mink was a "low class skin" (de Laguna 1972,436). Traditionally, ceremonial clothing was used by hosts, guests, and performers. A grandparent might also use ceremonial regalia to demonstrate his affection for a grandchild who belongs to another clan. A grandparent might call his grandchild forward and request that he or she wear the garments and appear with them during a ceremony or dance.

Elaborately decorated ceremonial clothing was used in a variety of activities. During ceremonial rites, individuals would often change their regalia depending on the activity or dance. For example, Athabaskan style clothing was used for interior or Athabaskan style dances. The various phases of the Peace Ceremony also required specific clothing particularly for those who served as the hostage. Performers in the Spirit Dances also used different clothing and masks or hats.

The inclusion of clan crests and spirit designs on ceremonial regalia make them even more significant. It requires that the regalia be treated with care and respect. The crests and spirit designs signify that regalia are owned by specific clans. As noted earlier, crests embody the origin and history of the clan, the special relationship to ancestors and spirits, and the social bonds among clan members. They also serve as title to the clothing itself and to specific sites and locales.

For example, one of the ceremonial articles of clothing within this repatriation claim may serve as title to a specific site and locale recognized as T'akdeintaan Clan territory: Lituya Bay. This is the Ceremonial Skin Robe referred to as the "Rock of Ltú-'á" with referenced ownership to the "Snail House", UPA Catalog #NA6829 (per Louis Shotridge's notes):

> *"The robe is made of finely tanned hide of the caribou, fringed down the two sides, and edges trimmed with strips of fur of the martin.*

The painted design: "Amidst the unmerciful waters of Ltú-'á (Latuya Bay) lies a one time honored reef--"The last hope of man". A hunter, more than once, who had been carried away by the out-rushing tide, held onto this rock as the last hold of safety. Such has been the experience of the last of our housemaster in this onrush of modern life, which incited him to adopt this rock, of our former home, as an object of reverence: The middle figure represents the rock of Ltú-'á, and on either side are shown the angry waters of the rapids."

The current oral traditions of the Snail House affirm Mr. Shotridge's documentation, and reiterates the Tlingit practice of recognizing specific sites and locales to certain clans, in this case, the T'akdeintaan Clan. The following account also shows the significance of Lituya Bay to the clan not only as a recognized traditional territory, but as a site that provides connection with the past (connection to the clan's ancestors), and the future (hunting to provide ongoing health and prosperity to tribal members):

A person that's bereaved, when they're passing through or passing by (Lituya Bay) *they holler the name of the person that has recently passed away. And when they do holler, all the seagulls would come flying and make all that noise. And they felt better. They always feel better when the gulls come out and make all the noises. That's why we still do it at parties. We still come flying and make lots of noises. . . . From this side of Cape Spencer to Lituya Bay: that's T'akdeintaan. . . . They just own it as traditional territory. . . . They've been there for years. That makes one the ownership in those days. . . . That's the way it was out there; the T'akdeintaan lived out there--out at Lituya Bay and those places around there. . . . They used to hunt sea otter there* (Lituya Bay). *That was a big thing in those days. And our tribe used to be famous for hunting; the most expensive animal in those days. . . .*

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Ceremonial regalia was formerly stored in wooden boxes in the clan houses. These boxes were often elaborately carved or painted with clan crests. The boxes were brought out at the beginning of ceremonies and the regalia was ritually distributed to clan members. A Naakani or in-law was selected to hand out ceremonial regalia to clan members. Members of the opposite side also assisted individuals in donning their ceremonial clothing. They were later compensated for this ritual service during a potlatch.

Ceremonial regalia also plays an important role in solidifying relationships between clans. As noted above, individuals from the opposite side assist in the distribution of regalia during ceremonial activities and assist clan members in donning their regalia. Members of opposing clans are also commissioned to make clan regalia. During the potlatches when the regalia is brought out and validated as clan property, these individuals are acknowledged and paid for their service. In recent periods, some Tlingit began to make their own ceremonial regalia. Others may purchase their ceremonial regalia from individuals who earn their living through arts and crafts production. This new form of acquiring ceremonial regalia coincided with the emergence of individual property. However, the practice of commissioning someone from the opposite side is still practiced among many Tlingit.

Woolen materials and other commercial items which were introduced into Tlingit country with the fur trade were readily adapted to ceremonial clothing. Beads and buttons were added to create clan crest designs. Some clans adopted a particular form of Western style clothing due to encounters with foreigners. For example, the Kaagwaantaan women took naval uniforms and hats as their payment and clan property because of the lives that were lost in a battle they had with the Navy. While commercially-made material and clothing were adopted, the function of ceremonial regalia has not changed. de Laguna reports verifying that ceremonial clothing were "treasured as heirlooms" (19,439). When a clan leader dies, the regalia that he used is stored and not used for at least a year until the new leader is validated and a final memorial is held. Clan regalia not interred with leaders or Shaman are transferred from clan caretaker to caretaker through the generations.

5. Shamanic Objects

Shamanic objects connect the supernatural and natural. They are sacred, as defined under NAGPRA. They serve to connect the Tlingit with the spirits acquired by an ancestral spirit on his spirit quest. The spirits associate with these objects, and they are considered to be articles of great power.

Tlingit people believe that all creatures and natural phenomena have spirits. Tlingit people may call upon these spirits to assist them in time of need. They also look to them for protection during periods and events of uncertainty and stress. The spirits may enter an individual and the individual who received these spirits were formerly the Shaman. The spirits decide who will receive his spirit. Sometimes the spirits will come to someone who does not desire to receive the spirit. The individual who receives these spirits had the ability to summon these spirits and request their assistance in their spiritual healing and endeavors. While there are no practicing Shaman today, the Tlingit continue to draw on the Shaman's spirit for assistance.

As a sacred object, Shamanic objects are essential for the practice of traditional ceremonial rites. The Spirit Dance has survived as one of the major ceremonial rites once conducted by the Shaman. Today, the clan leader through his Naakani (clan brother-in-law) designates who will dance the Spirit Dance and who will assist in the dance. With the Shaman's blanket, hats, drums, rattles, masks, and the dancing and singing, the spirits are summoned.

The Tlingit have no practicing Shaman. Shamans disappeared but shamanism and the beliefs associated with this practice persist. Despite the passage of time and irrespective of the location of the Shamanic objects, spirits remain associated with Shamanic objects. We are obliged to seek their return because of the spirits. The Shamanic objects also remain important to the Tlingit for multiple reasons. We continue to practice ceremonies which incorporate traditional rites and practices that were once conducted by the shamans and we adhere to the ideologies that were the underlying basis of shamanism. We continue to sing the songs in our ceremonies that are associated with the spirits acquired by our shamans. Those objects that remain in our possession are used in these ceremonies. We also value and continue to recognize the spiritual significance of Shamanic objects that are not within our possession and that are held by museums and private collectors.

The four Shamanic objects identified in this claim (2 masks, 1 drum, and 1 headdress) have religious significance and are necessary for the renewal of spiritual ceremonies. They have taken on an even greater dimension of significance in the present-day period. In a recent region-wide meeting, our clan leaders, clan mothers, and elders claimed that many of the social illnesses afflicting our society are due, in part, to the alienation and mistreatment of

our ceremonial and sacred objects. They assert that while we may be able to heal our physical ailments with modern medicine, we are unable to resolve the wide-spread social ills afflicting Tlingit people. They express concern that we must repossess these objects to restore our spiritual balance and harmony. Likewise, the younger people attending the same region-wide meeting cried out for spiritual renewal. They yearn for the knowledge and ways of our ancestors.

Shamanic objects and spirits represented by these objects are needed by the Tlingit people of Hoonah for the practice of Tlingit ceremonial activities conducted by our traditional clan leaders who act in the capacity of religious leaders and for the present-day adherents of Tlingit people who continue to participate in these ceremonies. It is furthermore required for the ceremonial rites to be conducted on behalf of our ancestors in order to maintain our relationships with them. Furthermore, the return of the Shamanic objects are required to restore the sanctity of spirits represented on and by the objects. The spirits represented by the objects must be in physical contact with Tlingit people who can receive its spirits. Furthermore, the Shamanic objects are necessary for religious renewal. The Tlingit await the transfer of the spirits within the objects to appropriate individuals within our membership in order to renew and restore our spiritual harmony.

There are three basic principles underlying the classification of Shamanic objects as objects of cultural property:

The first is based on a religious premise that recognizes that spirits are associated with Shamanic objects, and these spirits transfer through the generations within the maternal line. The spirits associated with the Shamanic objects transfer through successive generations of clan members or they may transfer laterally to another clan member. When a Shaman died, his or her clan leader called on the spirit to select and enter one of their clan members. Clan members touched the Shamanic objets in the hopes that the spirit would enter them. When the spirit enters a successor, he or she will then use the objects. If the spirit did not transfer to another clan member upon the death of the Shaman, the objects were interred with the Shaman. However, clan members visit the grave site and touch the corpse or objects in the hopes of acquiring the spirit. If one is successful then he or she retrieved the objects. Clan members are also obliged to care for the grave site and make offerings to the spirits. The spirits may also call upon clan members and direct them to make offerings at the grave site. Since Shamanic objects are associated with spirits, only its clan members may handle them. The objects could pose great harm to non-clan members and this is why non-clan members avoid the graves of Shamans who are not of their clan. Only in the recent period did spirits transfer to a father's child. This is because no eligible survivor exists in his clan.

The second premise substantiating clan ownership of Shamanic objects is that Shamanism is a communal activity rather than an individual enterprise. First and foremost, a Shaman was a member of a clan. He acted within the context of the clan and his clan membership affected his work. His practice was conducted within the Tlingit social organization and his interactions with the spirits reflected his social world.

Practicing Shamans required both specialized and generalized assistance. The Shaman had assistants who accompanied him on his spirit quests and provided specialized service. The Shaman's clansmen were required to do tasks that were forbidden to the Shaman. As many as twelve assistants accompanied the Shaman and aided him in curing ceremonies. They assisted in summoning the spirits with the drums and tapping sticks. They interpreted the spirit's message who spoke through the Shaman. They gave the Shaman the appropriate masks and other objects he needed while he was in a trance state. The sisters of the Shaman were required to make the Shaman's ritual clothing. This was a

practice in contrast to the construction of other ceremonial clothing which was made by an opposite clan. Rarely did the Shaman act alone.

Every clan formerly attempted to have its own Shaman to promote its general welfare and clan members actively participated in Shamanic activities. When a Shaman died, the entire clan called upon his spirits to enter a successor within the clan. The clan initiated a number of practices to purify themselves whenever the Shaman did so. They participated in his spirit quests, the initiation ceremonies, the winter ceremonies, and the curing ceremonies. The clansmen of the Shaman were required to learn the spirit songs in order to call the spirit and ensure it remained during the Shamanic rite. If the assistants and clansmen should make a mistake in drumming and singing the spirit would leave and the Shaman would return to his normal state. The clansmen were required to care for the grave site and respond to the spirits should they direct the clansmen to leave tobacco at the grave site.

The third principle supporting the assertion that Shamanic objects are communal property relate to the clan membership of the Shaman (and spirits) and the patient and the source of illness. A Shaman, who was not a member of the clan of the patient, was retained if the illness resulted from supernatural causes including those stemming from witchcraft. A Shaman assists his own clan only if an injury is inflicted by a human. He also works to advance the general welfare of the clan, such as hunting, fishing, or warfare. Shamanic objects and spirits can bring benefits to its clan members, but the objects and spirits could cause harm to non-clan members if the non-clan member should touch the objects independent of the Shaman using them in a curing rite. Only clan members are allowed to handle their clan's Shamanic objects. It is as if the spirit is a member of a clan and it helps its clan and causes harm to non-clan members if the objects are used without the Shaman.

The Tlingit furthermore assert an ownership interest in the spirit design and an associated relationship with the spirit as represented on the Shamanic objects subject to this claim. These representations symbolize the spirits obtained by one of their ancestors in a spirit quest. Each clan had to acquire its own spirits. Clan association with these spirits, which are represented by the designs on the Shaman objects, were initially brought out during the Initiation Ceremony of a new Shaman and re-affirmed in subsequent Initiation Ceremonies. Spirits songs associated with the spirit and objects were also sung during this ceremony which was witnessed by the opposite clan. As noted above, only clan members could handle their clan's Shamanic objects while they were taboo to non-clan members if they were not being used by the Shaman in the curing ceremony.

Some spouses who had no rights to their husband's or wife's clan possessions sold objects illegally under Tlingit law. Even the Shaman himself had no legal right under Tlingit law to alienate objects. It is inconceivable to the traditional Tlingit that Shamanic objects which contain spirits could be alienated. They were never in any case surrendered to another clan for the payment of debt like other clan property. The spirits in the Shamanic objects would harm those who were not members of the clan.

As reiterated in all subcategories of "Objects of Cultural Patrimony" (Head Gear, Masks, Ceremonial Objects, Ceremonial Regalia, and Shamanic Objects), the Tlingit assert an ownership interest in the crest designs depicted on the clan át.oow subject to this claim. Rights to crests were acquired by our ancestors, and title to them have been validated and re-validated through the generations within our ceremonial rites.

The Taax' Hit Crests as Property

The Taax' Hit crest designs that appear on the subject át.oow are owned by the clan house. Crests that appear on clan objects are owned by their respective clans and the crest designs that appear on the objects which are the subject of this repatriation claim are the property of the T'akdeintaan and the Taax' Hit. They are held in perpetuity by their matrilineal descendants. Clans were willing to go to war to protect their ownership of crests. Sergei Kan (1989, 69) who studied Tlingit memorial potlatches emphasized, *"The most important symbols of the matrilineal group, as well as its most jealously guarded possessions, were its crests."* To further support his assertion, he cited Emmons (1907, 347) who also acknowledged that the crest is a birthright as real as life itself.

Crests serve multiple purposes. They identify a clan and its membership. They distinguish its clan members apart from others and define relationships to other Tlingit. Crests chronicle the origin or other supernatural and significant events in the history of the clan. They serve as title to the object on which it is placed and to the site and geographic region where the event occurred. They symbolize the special relationship a clan member has to the animal depicted on the crest. The crest embodies the spirit or being depicted in the crest. Crests, the associated oral traditions, songs, and names represent intellectual property and are owned by clans. In the recent period, clans have demanded and received payment from non-tribal members for the duplication of their crests.

Only those individuals who are members of a clan are entitled to use their respective clan crests. As property, crests could be taken or granted as a liability payment. They were sometimes taken in war to satisfy a liability. Clans would, however, do everything in their power to regain their crests. Clans could also demand payment or even the death of an individual who illegally used their clan crests.

Grandparents may extend use rights of their clan crests, but not ownership rights, to their grandchildren (who are not members of their clans). This usufruct right is granted for use on ceremonial regalia or jewelry, but does not apply for use on major objects such as screens, poles, or clan hats. This is a use right that is limited to the lifetime of the individual grandchild. The grandchild has no legal right to extend use or ownership rights to any other individual. These use rights cannot be claimed by the grandchild's offspring, nor can they be claimed by another clan to satisfy a liability payment that the grandchild or his clan may incur. The grandparent may also allow a grandchild to wear one of his/her clan objects during a ceremony, but no ownership rights are granted in this instance.

Title to property is held in trust by the head man (Shaadeihani) or House Leader (Hits'aati) of the clan and house. Tlingit law is unequivocal in that this individual acts as the trustee or caretaker and holds clan property for its membership. He or she cannot make independent decisions to dispose or alienate clan property. Anthropologists who have studied Tlingit property (Goldschmidt and Haas 1946; Olson 1967) uniformly concur that the trustee does not have the authority to sell or dispose of clan property. Emmons (1991), who conducted extensive ethnographic studies among the Tlingit, emphasizes that the clan leader is highly respected, but his authority is limited and major decisions that involve the interest of the clan are subject to clan consent. The office of Shaadeihani or Hits'aati is transferred through generations within the clan and house according to defined rules.

The Oral Traditions Validate the Ownership of the Taax' Hit Crest(s) by the T'akdeintaan Clan and Taax' Hit

As mentioned previously, the Snail House was adopted as a new name for the clan house originally referred to as the Mt. Fairweather House. The Snail House and the Mt. Fairweather House are one and the same. Oral traditions and ongoing customs affirm the recognized crests of the Snail House as the Mt. Fairweather Crest, the Sea Pigeon Crest, and also the Raven Crest. It is not uncommon for clan houses to share mutual crests; for example, all of the clan houses within the T'akdeintaan, as well as those other clan houses within the Raven moiety, are valid owners of the Raven Crest.

The Mt. Fairweather Crest is one of the significant crests of the Snail House. According to oral traditions, an ancestor of the T'akdeintaan and Taax' Hit experienced a supernatural encounter with a Dog. At that time, animals could speak Tlingit and the Dog assisted our ancestors. The mountain was also known to safeguard our clan:

> *About the dog from Mt. Fairweather: the T'akdeintaan have a hat referred to as 'Shaan-taa-kwaan Keit-lee'; it means Mt. Fairweather Dog Hat. It commemorates the story of Gei Chaalk--the man known to watch the mountain. He was up on the mountain and the weather turned bad and he really couldn't see. He got lost and stuck on the mountain. As he was sitting/laying down in one place he spotted some movement and it turned out to be a dog. And when he got up to try to walk, the dog started to direct him. "Kaak doo aah" (phoenetic) the dog told him, which means "that's not the right way". And the dog began to lead him. Apparently the dog also could speak Tlingit, because the dog would say "Kaak doo aah", which would mean "don't go that way, but go this way". So pretty much the dog lead him safely off the mountain and down to the shore. There is a hat the T'akdeintaan have established, that signifies this dog. It's a hat with the dog from Mt. Fairweather and is one of the main, most important hats we have. It's used for special occasions and it is difficult to find an English word to describe how we feel about it . . . respect? It's not worship . . . more like revered. It's an important part of the T'akdeintaan clan. Probably the closest word besides 'revere', would be 'respect'. It's important enough so that we have the hat.*
>
> *They used Mt. Fairweather to tell what's going to happen with the weather. It was an important timetable for the T'akdeintaan Clan. When a cloud is kind of settled on top of it and not moving, then the weather's pretty good. But when the mountain is clear, it's what we say 'Yaan ee neh' (phoenetic)--it means 'get ready'. When it's clear it means pretty fair weather. Before there was technology, they were able to tell if it was going to rain. Likewise, if it was clear, or if it was necessary to get ready for windy or stormy weather. The mountain was respected/revered for that.*
>
> *One of the advantages of using the mountain is when they go out to sea. The mountain sticks out pretty high and you can see it from a long ways--so even when they're quite a way from shore they can still see the mountain. So they can see the top of the mountain for miles and miles when they're fishing or out.*
>
> *The weather changes so much at Glacier Bay; so when the weather's clear, the leader says they're going out after seal, or fish, or whatever, and they set*

things aside. If somebody's working on something at his house, he turns it over to somebody else in the house; they kind of gather as a group together so they can go out and get their seal or fish or whatever. And even if they have differences between people, they set those differences aside to go and get whatever it is they're going to get while the weather is good. They keep an eye on the mountain, too, so that they're able to see. That's one of the reasons why the mountain's always been of importance and of respect to the people.

They do some of the cutting--preparing of the seal. While they're out at the sea, they clean the seal. When they're out on the boat, generally the leader's in charge and they all do what they have to do. Things that could happen because of differences between people are risen above; even the preparation part of the food. When you get back to shore, people kind of disperse and get back to what they were doing as though nothing happened.

When they work together as a group (getting their game, working on cleaning it) and all these things that's food-gathering. When they come back from an event like that, there's an appreciation--in the non-Native world it's like if you have anger built up and you go out and run ten miles and work it off. If you had differences and you packed off together and set together and kind of oversaw things . . . any kind of ill feelings before, this seemed to be not-so-much forgotten, but set aside. It would be like if you and I had a difference before we went out, and we went out hunting (observing the mountain), then afterwards, after the hunt and preparation, we would come back and not mention our differences again.

(Translator's Note: Mary emphasizes two things: one is the importance this mountain has in our culture. Not only as where the dog showed safety, but also as a place to read the weather. It also centers around important stories (like the dog leading Gei Chaalk to safety) and other oral histories. For example, there is the story of Gei Chaalk getting older and sicker, yet he used to try and continually go back up into the wooded area of the mountain. Tlingit people used to converse with the different animals. As mentioned earlier, weather reading was important to indicate when they could go out on the waters. Once out they usually try to keep site of the mountain. If they see the signal on the mountain that the weather's going to be bad, they immediately put their gear together and head for shore.

And secondly, it's not just the mountain itself, but the lifestyle of those days. With limited transportation and limited season time for food gathering, the Tlingit learned to work together despite hardship and differences. Because if they don't set those things aside, they don't get their food. Also, 'getting ready' meant not only the men who went out to fish or hunt, but it also meant the people (mostly women) who stayed behind to get ready and keep ongoing activities continuing while the hunters were away. They also prepared for the work that awaited them when the hunters returned. In the old days of living off the land, if the weather's clear you went out and did whatever you had to do, because when the weather's bad you didn't do it. Or if fish were running, or the seal were in, things were set aside and food gathering was done. Because you never know if it's clear today or bad tomorrow. So despite whatever the current task, or the differences of opinion, when the time is right to do it, they did it.

Also, keep in mind there was always a leader. And when a leader said it was time to do this or that, they went ahead and did it. The leader, such as Gei Chaalk, determined when to tell people to get ready and be equally involved.

Mary Wilson, Snail House Elder - August 20, 1997

Continuing Cultural Importance

The Tlingit continue to place great significance on their clan's objects. They continue to be used in our ceremonies, and in the present-day period, they may also be brought out in special secular events. Clan objects, like the 39 of subject, represent our clans; they serve to unify clan members and identify us as Tlingit People; they bond us to our ancestors; and they symbolize a spiritual relationship to the entity depicted on them. Clan ceremonial objects, together with a crest design provide a physical form in which spiritual beings manifest their presence. The stories associated with the origin of the clan crests and the objects themselves are re-told by the clan leader or significant elders during the potlatch, thereby re-affirming and validating clan ownership and the spiritual relationship to the beings depicted on the objects.

Ceremonial objects such as these át.oow are required in our potlatches and cycle of memorial rites. They are used to protect the clan and to defend ourselves spiritually. We are required to treat our objects and the spirits they embody according to established protocols to ensure spiritual balance and well-being. We do not describe our beliefs in terms of religious precepts or codified theologies. We express them through the use of our ceremonial objects within the context of our ongoing ceremonies.

The ongoing significance and sacredness of our ceremonial objects are manifest in the Tlingit ideological system and within our ceremonial rites. The objects are inseparable from the ceremonies in which they are intended to be used, and we Tlingit are compelled to host and participate in these ceremonies for Haa Shaageinya--our ancestors, the present generation and future generations.

4. Taax' Hit Át.oow as "Sacred Objects"

Clan objects depicting clan crests are recognized by the Tlingit as "sacred objects". In addition to identifying membership within a clan, clan crests both symbolize the spirit of the being depicted on the Clan property and embody the spirit that resides within. In addition, crests symbolize the kinship and a spiritual relationship of its clan members to the physical wildlife depicted on those objects noted as "sacred". They bond the Tlingit to their ancestors who paid for the crest(s) with their lives or deeds and to those ancestors who held the objects through the generations.

Animals play a prominent role in the founding of a clan. Clan members recognize a kinship with these animals and extend their kinship to include such animals. The living animals depicted by the clan crests are referred to as "Ax Shuká", meaning "my ancestors or relatives". The clan maintains a special relationship to such animals and clan leaders recount the supernatural event in which their relationship began during ceremonial rites. Tlingit individuals identify themselves as the crest animal. Clan members may call upon these animals and spirits to assist them in time of need. They also look to them for protection during periods and events of uncertainty and stress. Although we are not

prohibited from taking an animal symbolized by our crest, we are required to treat the physical, living animal with utmost sensitivity and speak with respect about it.

The spiritual aspect of clan át.oow requires a prescribed code of conduct and behavior between the át.oow and the Tlingit. The sacredness of the át.oow must be maintained and its sanctity protected and treated with deference. In some instances, we are required to feed crest objects. Adherence to this reciprocal relationship and treatment are enforced by religious sanctions. Sergei Kan (1989, 70) references the sacred aspects of crests such as those depicted on the subject objects. He affirms that the "sacredness" of the crest was indicated by its reverential treatment by its owners.

Clan property bearing a crest is sacred. It is a living being who must be addressed by the clan members in the same manner as he or she would speak to a human being. Orators address the clan objects as if they were a human being. They speak to the object and not to the individual who is wearing the regalia or clan object. When clan objects on which the crests appear deteriorate, they were burned and mourned as if they were a human who had died and was cremated. The name of the crest was transferred to a new object or replica. According to Kan's analysis, the crest remains immortal and survives its temporary representation in the same manner as a person's spirit survives its body.

According to Tlingit religious beliefs, the display of clan crests and objects by one clan demands a reciprocal display by an opposing clan. The spirit of one object must be greeted by another. The spirits must always be in balance. When the Taax' Hit át.oow is brought out, a clan emblem from the opposite clan (Eagle moiety) must also be brought forward. The Tlingit liken it to humans saying, "It is as if the two will hold hands." An opposing clan must respond with an address and a like spirit song lest the spirit of the host clan object wander aimlessly which may then result in ill fortune.

These sacred objects are essential for the practice of traditional ceremonial rites. Tlingit ideologies and ceremonial practices require the presence of both Eagle and Raven Clan objects, each with their respective clan crest, in order to maintain the spiritual balance and the well-being of the Tlingit People. Clan objects are necessary for the continued observance, and in some instances, renewal of religious ceremonies, rituals and traditions conducted by clan leaders. Some clan leaders and clans are currently without clan objects, including these 39 objects of topic. These objects are necessary for the clan leader and clan to participate in the ceremonial rites. Other clan leaders and clans have not been able to bring out their clan objects because they are not assured that an opposing clan object from the Eagle or Raven side is available, and they are not certain that a clan leader from the opposite side can make the proper response to their object.

When the Taax' Hit át.oow are returned to their rightful owners, we know that we must apologize to the Taax' Hit Yeik (Snail House Spirits) for their mistreatment and separation from their people and place. We must attempt to explain how they came to be held in a museum rather than their Hoonah homeland. We must then assure the át.oow that we will prepare a special path for their return.

The Taax' Hit át.oow must be returned to our people in order that the sanctity of the Taax' Hit Yeik or Snail House Spirit can be restored. Furthermore, they must be returned in order to achieve spiritual balance between Raven and Eagle clans and to ensure the well beings of our clan members.

Religious Leaders and Present-Day Adherents

In the present day period the Shaadeihani--the Clan Leader--or an esteemed elder of the clan serve as the primary religious practitioners. In this capacity, they are responsible for bringing out the sacred objects, such as the 25 objects as noted, and recounting the sacred oral traditions. They must ensure that spiritual balance is maintained at all times. He or she must respond to the display of sacred objects, speeches, and songs offered by an opposing clan. The Clan Leader initiates these activities to ensure that spiritual balance is maintained during ceremonial rites and potlatches. They call upon their spirits to help those who are grieving, suffering, and in need of help. Today they are also teaching younger Tlingit about the ways in which spirits can be obtained. In this capacity the Clan Leader or esteemed elder serves and is recognized as a spiritual leader, but it is important to note that in our traditional culture and language, we have no term which translates as "religious leader." However, in his role, functions, responsibilities, behavior, activities, and practice, the Clan Leader or an esteemed elder serves in this capacity, while clan members who continue to attend the ceremonial rites and who participate in other sacred activities represent the present-day adherents.

Religious Renewal

Sacred objects (applicable to objects identified as UPA's catalog #NA6828, NA6829, NA6830, NA6831, NA6832, NA6833, NA6834, NA6836, NA6837, NA6840, NA6841, NA6843, NA6844, NA6845, NA6846, NA6847, NA6848, NA6849, NA6855, NA6862, NA6863, NA6865, NA6835, NA6842, and NA8498) are needed by the Clan Leaders serving in this capacity of religious leader. They are needed in ceremonial rites in which clan members participate and who represent the present-day adherents. They must be returned to our people in order that the sanctity of the Spirits associated with the objects can be restored. They must be returned in order to allow the Tlingit to be in association with the spirits represented by these sacred objects. They must be returned to allow the transfer of spirits to successors and to facilitate religious renewal. Furthermore, they must be returned in order to restore spiritual harmony and healing, and to ensure the well beings of our people.

Western Scholars and Courts Acknowledge Tlingit Communal Ownership and Cultural Significance of Objects

The ethnographic literature and various court decisions verify the Tlingit concepts and customs of communal ownership. Anthropologists and early observers of Southeast Alaska including the noted scholar, de Laguna (1972), Emmons (1991) in his monumental study of the Tlingit; and Goldschmidt and Haas (1946), who conducted an extensive study of the possessory rights of the Tlingit, and historic and recent legal action and judicial decisions have uniformly recognized group property rights.

In some instances, anthropologists have suggested that objects interred with deceased shamans are individual property. However, Tlingit people dismiss this interpretation and notion since it is well known among the Tlingit that clans continue to assert an overriding interest over non-members in these objects. Only members of the clan to which a shaman belonged are allowed to handle his/her objects, and only his/her clan members can receive the spirits embodied in the objects interred with the shaman remains irrespective of the time period of the burial.

The basic tenets of Tlingit property law are outlined in a preliminary study of Tlingit Property Law by anthropologist and tribal member Rosita Worl. The study was commissioned by the National Park Service. It affirms the nature of communal property ownership under Tlingit law. The study also substantiates the multiple nature of crests. It is significant to note that crest and spirit designs also serve as titles to the objects on which they are depicted.

The communal ownership of property was most recently affirmed in a Tlingit Tribal Court in the case known as Chilkat Indian Village, I.R.A. v. Michael R. Johnson. In this case, several members of a clan attempted to sell the "Whale House artifacts." In accordance with Tlingit property law, Judge Bowen ruled in 1993 that the Gaanaxteidi clan has the ultimate authority to exercise all custodial responsibility over the artifacts. The court also recognized the binding force of traditional and customary Tlingit law despite the fact that it is not currently codified in the same manner as Western law, and that its legal system operates within the context of ceremonial activities. This case also affirms that individuals cannot alienate objects and that clan members who are opposed to alienation cannot be deprived of their property interest.

Anthropologists and art historians also affirm the Tlingit claim of cultural and sacred significance of ceremonial objects and their continuing importance. The writings of Aldona Jonaitis (1986) and Erna Gunther (1966), the noted anthropologist and recognized expert on Northwest Coast culture and art support the Tlingit assertion of the sacredness of ceremonial objects and their significance to clan members. Sergei Kan (1989, 3) who studied the potlatch of the nineteenth century Tlingit noted the persistence of their ceremonial life. He found that the *"mortuary/ancestral complex was the most conservative aspect of Tlingit culture, serving as one of the main links between the past and present."*

The unpublished ethnographic notes entitled "How the 'Whale' Emblem [Crest] Came Into the Possession of the Ta'qden-Ta.N" as authored by Louis Shotridge, attest to communal property law governing Tlingit culture. In this example, Shotridge notes: *"The following is an opinion, expressed by one informant, which would be general in the Tlingit world: "From time immemorial there was never such custom, where a deditician spoke for a whole clan, particularly a well established one. Had the Tika Na unanimously agreed to let go its important emblem . . . then there would have been no way in which to criticize, but they assumed a claim only on the strength of a word from a man of troubled mind."*

5. Right of Possession

Under the terms of NAGPRA and the implementing regulations, the *". . . right of possession means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object, or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object [emphasis added] is deemed to give of possession to that object."*

The Huna Totem Corporation on behalf of the Taax' Hit of the T'akdeintaan Clan assert the "Right of Possession" to the 39 objects referenced under Appendix A under the traditional and customary Tlingit property law and under the terms of NAGPRA. The Taax' Hit has

sole authority of their alienation. The Taax' Hit of the T'akdeintaan Clan did not extend its voluntary consent to alienate these 39 objects and no evidence under Tlingit property or Western law exists to demonstrate that the clan collectively gave its authority to alienate the át.oow. None of the now-living clan members who were alive at the time of the appropriation of the 39 objects identified by your institution as Snail House objects gave their consent to alienate the objects, including the Clan Mother.

The Taax' Hit's exclusive ownership has been recognized and validated through the generations by its use and presence in ceremonial clan activities and witnessed by opposing clans from the opposite moiety. The Taax' Hit át.oow and associated crests are not owned by any individual Tlingit and therefore, as established under Tlingit law, no single individual has the authority to alienate clan property and the designs depicted on the objects.

No individual clan member has the authority to alienate clan property and no evidence exists that demonstrates that the Taax' Hit of the T'akdeintaan Clan gave its authority to alienate these 39 objects. Thus the Taax' Hit assert the clan maintains the "right of possession" under NAGPRA and that the University of Pennsylvania Museum of Archaeology and Anthropology does not have the right of possession to the 39 objects noted in Appendix A.

In summary, it is our belief that we have met the criteria under NAGPRA to repatriate the Taax' Hit át.oow:

1. Cultural Affiliation. The Huna Totem Corporation has legal standing under NAGPRA. The Taax' Hit clan, directing Huna Totem Corporation to act on its behalf in the matter of this repatriation claim, are the undisputed descendants of our ancestors who originally created and held these objects and crests.

2. All objects of subject are "Objects of Cultural Patrimony"; 25 of these 39 objects are also "Sacred Objects". We claim the Taax' Hit át.oow under our own traditional property laws and under the terms of NAGPRA as "Objects of Cultural Patrimony" and in some instances also as "Sacred Objects". We are cognizant of the fact that we could file repatriation claims under one single NAGPRA cultural object classification. However, in applying our ideological beliefs and conceptual framework to the ownership, significance, and use of the clan át.oow, the standards of "Cultural Patrimony" and "Sacred Objects" apply and overlap.

   The át.oow which embody the Taax' Hit Crests meet the NAGPRA definition of "cultural patrimony." They (crests) are communally-owned, and they have ongoing historical, traditional, and cultural importance central to the Tlingit society and culture. We adhere to our traditional property laws which establish communal ownership; we continue to practice our traditional ceremonies. Clan objects, such as these 39, are vital to our ceremonial rites and central to our sacred beliefs.

   The át.oow and the Taax' Hit Yeik (or Snail House Spirits) symbolized by the crest designs are sacred objects under the definition of NAGPRA. They are needed by the Taax' Hit Tlingit for the practice of Tlingit ceremonial activities conducted by its traditional leader, and the present day clan members. It is furthermore required for the ceremonial rites to be conducted on behalf of our ancestors in order to maintain our relationships with them. Furthermore, the return of our clan property is required to restore the sanctity of the Taax' Hit Yeik (or Snail House Spirits), and

for them to be ceremoniously treated in order to achieve religious renewal and ensure the spiritual harmony of the Tlingit People.

3. Right of Possession. The Huna Totem Corporation on behalf of the Taax' Hit of the T'akdeintaan Clan assert the "right of possession." Our tribal members who have sole authority as a clan to alienate ceremonial objects did not give voluntary communal consent to alienate the subject items and no evidence exists that demonstrates that voluntary communal consent was extended.

Pursuant to the terms of the NAGPRA the Huna Totem Corporation submits this repatriation petition for the 39 items identified by the University of Pennsylvania Museum in Exhibit A. This information substantiates our claim to this collection under the requirements of NAGPRA. If you should have any remaining questions relative to cultural affiliation; the defining of these items as "Objects of Cultural Patrimony", and in some instances as "Sacred Objects"; or the right of possession, please do not hesitate to contact us. This repatriation claim is for these specific objects and does not preclude further repatriation claims.

As mandated under Public Law #101-601 and corresponding regulations, we await your reply on or before ninety (90) days from your receipt of this claim.

All information contained herein is sacred, cultural, and intellectual knowledge. No copies, reproductions, or distribution of such information are authorized unless for the sole purpose of evaluating this repatriation claim. This authorization is void upon completion of repatriation of the Taax' Hit át.oow. Nothing in this claim shall be construed as waiving the future rights and privileges afforded the Huna Totem Corporation, the Huna Heritage Foundation, or the Taax' Hit under traditional, federal, state, and local laws.

Sincerely,

Pete Hocson
President, Huna Totem Corporation

Ronald Williams
President, Huna Heritage Foundation
Taax' Hit Member

enclosures: Appendix A - List of 39 Objects Requested for Repatriation
Appendix B - Snail House Photograph

cc: Taak' Hit (Snail House) of the T'akdeintaan Clan, Hoonah
C. Timothy McKeown - U.S. Dept. of Interior, National Park Service, Repatriation

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:Snailnag

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Huna Heritage Foundation

9301 Glacier Highway ♦ Juneau, Alaska 99801
(907) 790-4937 ♦ Fax (907) 789-1896 ♦ (800) 428-82

July 1, 1998

University of Pennsylvania Museum of
Archaeology and Anthropology
33rd and Spruce Streets
Philadelphia, PA 19104-6324

Attention: Dr. Jeremy A. Sabloff
The Charles K. Williams II Director

Re: Repatriation Petition of March 25, 1998

Dear Dr. Sabloff:

Thank you for your letter of May 18, 1998 addressed to the Hoonah Indian Association regarding the duplicative NAGPRA claims for the Taax̲' Hit (Snail House) at.oow of the T'ak̲deintaan Clan of Hoonah.

The Hoonah Totem Corporation/Huna Heritage Foundation (HTC/HHF) are currently preparing a full response to your inquiries on this claim and other relevant points. In the mean time, this letter is to provide immediate clarification to one of the inquiries under C.1. at the bottom of page 4: *"Have the Huna Totem Corporation and the Huna Totem Heritage Foundation agreed to withdraw their request for the repatriation of items in the collections of the University of Pennsylvania Museum? . . . "*

The answer is no. HTC/HHF retain the March 25, 1998 Repatriation Petition to the University of Pennsylvania Museum of Archeology and Anthropology for the 39 objects associated with the Snail House and still consider it active. To reiterate the HTC/HHF's authorization to act on behalf of the Snail House, we re-enclose Resolutions #97-01 and #97-19; the former being the directive from the Snail House to proceed through the HTC/HHF, and the latter HTC/HHF's acceptance to the clan's request.

We appreciate UPM's thorough approach to this sensitive issue and look forward to continued open communication between all involved parties, preferably on or before the next thirty days.

Sincerely,

Pete Hocson
President, Huna Totem Corporation

Ronald Williams
President, Huna Heritage Foundation
Taax̲' Hit Member

enclosures: Snail House Clan Resolution #97-01 Authorizing Claim
HTC/HHF Resolution #97-19 Accepting Claim

cc: Taak̲' Hit Snail House of the T'ak̲deintaan Clan, Hoonah
Hoonah Indian Association
C. Timothy McKeown - U.S. Dept. of Interior, National Park Service, Repatriation Office

RESOLUTION 97-01
SNAIL HOUSE (MOUNT FAIRWEATHER HOUSE) OF THE T' AKDEINTAAN CLAN OF HOONAH
REPATRIATION AUTHORIZATION UNDER THE NAGPRA OF 1990

WHEREAS the TAAX' HIT the Snail House and/or (Mount Fairweather) House of the T'akdeintaan Clan of Hoonah (hereinafter referred to as "the Clan") has initiated action to repatriate clan objects alienated from its possession, under the terms of NAGPRA, and;

WHEREAS the Clan is the recognized social and ceremonial entity within traditional Tlingit culture, and ;

WHEREAS Huna Totem Corporation is an Indian entity with legal standing pursuant to the terms of the Native American Graves Protection and Repatriation Act, Section 2(3), and;

WHEREAS Huna Totem Corporation with the assistance of theHuna Heritage Foundation has been authorized, by the TAAX' HIT to pursue repatriation of the Clan's objects' and;

WHEREAS the Clan and the members of the Snail House wish to reaffirm and reauthorize, Huna Totem Corporation to continue its repatriation efforts on behalf of the TAAX" HIT.

NOW THEREFORE BE IT RESOLVED: that as the clan, we hereby authorize Huna Totem Corporation assisted by Huna Heritage Foundation to formally act on our behalf in the repatriation process of our Clan's objects with the agreement such objects will be returned to the Clan. Such authorization means Huna Totem Corporation will proceed with repatriation requests under the NAGPRA of 1990, per their acceptance as shown by their resolution No. 97-19.

BE IT FURTHER RESOLVED the Clan's endorsement of this resolution does not waive its rights and privileges afforded under traditional Tlingit Law.

ADOPTED this 13 day of September , 1997, by a Unanimous vote, in regular session held at Hoonah, Alaska.

Secretary Marlene Johnson

Marlene Johnson

Chairman Ronald Williams

Ronald Williams

ENCLOSURE A

HUNA TOTEM CORPORATION

Resolution No. 97-19
(Authorization for Huna Totem Corporation
to Represent the
Snail House (Mount Fairweather House) of the
T'akdeintaan Clan of Hoonah, Alaska
in Requests for Repatriation Under
Public Law #101-601
Native American Graves Protection & Repatriation Act)

WHEREAS, Huna Totem Corporation is an Indian entity with legal standing pursuant to the terms of the Native American Graves Protection and Repatriation Act, Section 2(3), and;

WHEREAS, the clans and clanhouses of Southeast Alaska, including the Snail House (Mount Fairweather House) of the T'akdeintaan Clan of Hoonah, are the recognized social, and ceremonial entities within our traditional Tlingit culture, and;

WHEREAS, the Central Council of Tlingit & Haida Indian Tribes of Alaska, in communication with Sealaska Corporation and the Sealaska Heritage Foundation, will assist coordination between tribes,

NOW, THEREFORE, BE IT HEREBY

RESOLVED, that as a tribal entity with legal standing pursuant to the terms of the Native American Graves Protection and Repatriation Act, Section 2(3), Huna Totem Corporation hereby agrees to submit repatriation requests to museums/federal agencies originating from and on behalf of the Snail House (Mount Fairweather House) of the T'akdeintaan Clan of Hoonah, Alaska, pursuant to NAGPRA.

FURTHER BE IT RESOLVED, that Huna Totem Corporation's endorsement of this resolution does not waive its rights and privileges afforded under Public Law #101-601, The Native American Graves Protection and Repatriation Act.

Approved this 12th day of April, 1997.

Albert W Dick
Chairman

Secretary

Aye 8
Nay 0
Abstain 0
Absent 1

RCD 3-
@ HTC

Hoonah Indian Association

P.O. Box 602
Hoonah, AK 99829-0602
Phone (907) 945-3545 Fax (907) 945-3703

February 28, 2000

Jeremy A. Sabloff
The Williams Director
University of Pennsylvania Museum
of Archaeology and Anthropology
33rd an Spruce Streets
Philadelphia, PA 19104-6324

RE: Joint Repatriation Claim on behalf of the *Taax' Hit T'ak̲deintaan*
by Hoonah Indian Association and Huna Totem Corporation

Dear Dr. Sabloff,

We have joined hands in order to seek expeditious action to the above referenced claim, the Hoonah Indian Association (HIA) and Huna Totem Corporation (HTC), which are both Indian Tribes with legal standing under the terms of the Native American Graves Protection and Repatriation Act (NAGPRA), have consolidated our repatriation claims, and we are acting jointly in responding to your letter of January 26,000.

Please reference the enclosed resolutions entitled, "Repatriation Authorization under the NAGPRA of 1990," which further attests to the unified position of the HIA and HTC acting on behalf of the *Taax' Hit T'ak̲deintaan*. These joint resolutions addresses and resolves sub-paragraph designated as number 1 on page two of your letter.

We appreciate your expressed willingness to implement your legal responsibilities under NAGPRA. Likewise our repatriation petition of March 23, 1998 was drafted in accordance with the legal standards of the Act. In consideration of the legal requirement, we offer clarifications insofar as some of the references in your letter.

In your paragraphs, 3, 4, and 5, you reference "anthropological literature" and "literature." We would like to emphasize that under the terms of the NAGPRA evidence drawing from the oral traditions of a tribe are also allowable. The law, regulations and Congressional history indicate that evidence of cultural affiliation between a tribe and cultural item may be based on a preponderance of the evidence using "geographic, kinship, biological, archaeological,

anthropological, linguistics, folklore, historic, oral traditional, or other relevant information or expert opinion."

While the issue of cultural affiliation between the Hoonah tribes and the *Taax'Hit* objects are not at issue in this claim, we want to stress that oral traditions as evidence in repatriation claims are acceptable. We would further note that while we appreciate much of the anthropological writings on the Tlingit, we must note that anthropological literature is not infallible nor does it contain all of the complexities and subtleties of our culture.

The HIA and HTC would also like to clarify that our repatriation claim for the *Taax' Hit* collection is based on the assertion that they are objects of cultural patrimony. Because of the questions you pose, it would be useful to review the definition of; *Objects of Cultural Patrimony* under NAGPRA:

> ...cultural items having ongoing, historical, traditional, or cultural importance central to the Indian Tribe itself, rather than property owned by an individual Tribal members. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual Tribal member. Such objects must have been considered inalienable by the culturally affiliated Indian Tribe at the time the object was separated from the group.

Our laws and traditions are quite precise in (l) acknowledging communal property rights as opposed to individual ownership; (2) recognizing that no single individual has the right to alienate clan property; and (3) specifying that clan property is alienable.

Our claim of March 23, 1998 also indicated that these objects are also considered to be sacred under both our own ideologies and customs as well as defined under NAGPRA. Their sacredness certainly contribute to their ongoing significance which is in part the basis of our communal ownership.

Paragraph 2:

Continuing Cultural Importance

We Tlingit continue to place great significance on our cultural and ceremonial objects. Each and everyone of the 45 ceremonial regalia and objects identified in our repatriation claim continue to be physically used, ceremonially presented, and referenced in our ceremonies.

Clan regalia including robes, blankets, headdresses (frontlets, cedar rings, head bands, *Shaakee.at)* and dance collars including those in this claim are worn by clan members in our ceremonies. Ceremonial objects including drums, rattles and staffs and whistles, which are identified in this claim, continue to be practiced in our ceremonies by our clan members to beckon spirits. Masks, including those identified in this repatriation claim, are used by clan members in spirit dances during our ceremonies. Ceremonial objects, such as those identified in this repatriation claim including horns, pipes, dance objects, and pipes are also used in our

objects are not worn or used during the ceremonies, they are displayed ceremoniously at the head of the room.

These clan objects and crests represent our clans and most specifically continue to recount our clan history and honor our ancestors. They continually serve to unify clan members and identify us as Tlingit People; cultural objects, such as those in this repatriation claim will bond us to our ancestors. They symbolize a spiritual relationship to the entity, which may be depicted on the objects, and to our ancestors who collectively fashioned and used these objects in ceremonies, which we carry forth in present day events, and ceremonies. These clan ceremonial objects provide a physical form in which spiritual beings including our ancestors manifest their presence. The stories associated with the origin of clan crests are re-told by the clan leader or significant elders during our *Koo.eex* (commonly referred to as potlatches) ceremonies, thereby reaffirming and validating our clan ownership and the spiritual relationship to the beings associated with the objects including our ancestors who made or used these objects.

According to Tlingit beliefs, the display of clan objects by one clan demands a reciprocal display by an opposing clan. The spirit of one object must be greeted by another. The spirits must always be in balance. When the objects are used in ceremonial settings, a clan object from the opposite side must also be brought forward. The Tlingit liken it to humans saying, "It is as if the two will hold hands." An opposing clan must respond with an address and a like spirit song lest the spirit of the host clan object wander aimlessly which may then result in ill fortune.

Our continued ceremonial practices require the presence of both Eagle and Raven clan members and objects in order to maintain the spiritual balance and well being of the Tlingit People. Thus, the objects subject to this repatriation claim are significant, not only to our clan alone, but the community as a whole. Clan objects, including those which are the subject of this repatriation claim are necessary for the continued observance and renewal of religious ceremonies, rituals, and traditions conducted by our clan leaders.

When clan objects deteriorate, they were burned and mourned as if they were a human who had died and was cremated. The name of the object and crest are transferred to a new object or replica or replicas. Sergei Kan, who has documented some of our beliefs, was correct in his assertion that the spirit of crests remain immortal and survive their temporary representation in the same manner as a persons spirit survives its body.

These sacred objects have always been essential to customary and traditional, ceremonial rites. Clan objects remain necessary for any of our continued religious ceremonies, rituals and traditions that are conducted by our Clan Leaders or Elders.

Our ancestors have taught us this practice symbolizes that "we are always together in unison, holding hands." We must always be there together in our sorrows and happiness, supporting one another no matter what the situation is.

Today we continue to use our clan crests in our Tlingit oral traditions, such as stories, language, songs and dance. Ownership of clan object(s) and the spirit designs which are depicted on these objects belong only to the Tlingit.

Our rights to these clan crests have been acquired by our ancestors. Title to them has been validated and re-validated throughout our generations; this practice is performed within our proper ceremonial practices; these ceremonies continue today. Our traditional education is received from our Elders, just as they received their education from their Elders in the past.

Clan objects, such as those included in this repatriation claim, have taken on an even greater dimension of significance in the present-day period. In a recent region-wide meeting, our clan leaders claimed that many of the social illnesses afflicting our society are due, in part, to the alienation and mistreatment of our ceremonial and sacred objects. They contend that while we are able to heal our physical ailments with modern medicine and science, we are unable to resolve the social ills afflicting Tlingit people. They expressed the concern that we must seek to repossess these objects to restore our spiritual balance and social harmony.

When our clan objects are returned to the country of its birth, we know that we must apologize to their spirits for their mistreatment and separation from their people and homeland. We must attempt to explain how it came to be in a museum rather than its homeland. We must then assure the spirit of these objects that we will prepare a special path for their return back home.

Our cultural objects subject to this repatriation claim must be returned to our people in order that their sanctity can be restored. Furthermore, they must be returned in order to achieve spiritual balance between Eagle and Raven clans and to ensure the well-being of our clan members.

It is also necessary to recount the oral history of our people and clans. We must also explain to our youth that our ancestors created these objects for themselves as well as their children. We will use these cultural objects to educate the concept of *Haa Shagoon* that we are one with our ancestors and the future generations of our clan and people and which these objects symbolize.

We note that anthropologists and art historians have also affirmed our claims of cultural significance of ceremonial objects such as we are claiming and their continuing importance. The writings of Aldona Jonaitis and Erna Gunther support our assertion of the sacredness of ceremonial objects and their significance to clan members. Sergei Kan, who studied the potlatch of the nineteenth century Tlingit through the contemporary period, noted the persistence of their ceremonial life. He found that the "mortuary/ancestral complex was the most conservative aspect of Tlingit culture, serving as one of the main links between the past and present."

Paragraph 3:

Each of the 45 objects are important as outlined above.

Paragraph 4:

All of our crests including Raven are equally important in that they embody spirits, represent our ancestors, and for the reasons outlined in our letter of March 23, 1998 and above.

Paragraph 5:

We require the return of the objects subject to this repatriation claim for the reason outlined above. Originals and replicas both embody spirits. Please also note the reference above to *Haa Shagoon*, which makes each object significant irrespective of whether it is an original or replica of an earlier object.

Paragraph 6:

The anthropological literature errs if it indicates that the head of the clan may not have needed the clan's approval for sale of any clan object and in the reference to less important clan crest objects. The recent court decision in the famous Whale House case substantiates that no single individual or a group of the clan that does not reflect the clan membership has the right to alienate clan objects without the express approval of the clan membership. The members of the *T'akdeintaan* Clan were not aware of the sale when it took place, and no evidence exists which reveals that the members of the *T'akdeintaan* Clan concurred in this sale.

Thank you for your expression of cooperation and compliance with NAGPRA. We are extremely anxious to conclude this claim. All information contained herein is true and within the context of traditional law or Tlingit Law. Nothing in this claim can be construed as waiving the future rights and privileges afforded by the Hoonah Indian Association and the Huna Totem Corporation.

Sincerely yours,

Kenneth Grant, President
Hoonah Indian Association

Albert Dick, Chair
Huna Totem Corporation

Ronald Williams,
Huna Heritage Foundation'

Adam Greenwald
Taax' Hit
Snail House *Shaadeihani*

Taax' Hit Trustee

cc: Dr. Francis P McManamon and
Dr. Timothy McKeown
United States Department of the Interior
National Park Service
Box 37127
Washington, D.C. 20013

Hoonah Indian Association

P.O. Box 602
Hoonah, AK 99829-0602
Phone (907) 945-3545 Fax (907) 945-3703

RESOLUTION # 2000-05

TITLE: SNAIL HOUSE (MOUNT FAIRWEATHER HOUSE) HOUSE) OF THE T'AKDEINTAAN CLAN OF HOONAH REPATRIATION AUTHORIZATION UNDER THE NAGPRA OF 1990.

WHEREAS, the TAAX' HIT the Snail House and/or (Mount Fairweather) House of the T' akdeintaan Clan of Hoonah (hereinafter referred to as "the clan") has initiated action to repatriate clan objects alienated from its possession, under the term of NAGPRA; and

WHEREAS, the Clan is the recognized social and ceremonial entity within traditional Tlingit culture; and

WHEREAS, the Hoonah Indian Association (HIA) and Huna Totem Corporation (HTC are recognized Indian entities with legal standing pursuant to the terms of the Native American Graves Protection and Repatriation Act, Section 2(3); and

WHEREAS, the Hoonah Indian Association and Huna Totem Corporation are hereby authorized by the TAAX' HIT to pursue repatriation of the Clan's objects; and

WHEREAS, the Clan and the members of the Snail House wish to reaffirm and reauthorize, Huna Totem Corporation, in cooperation and coordination with the Hoonah Indian Association to continue its repatriation efforts on behalf of the TAAX' HIT; and

WHEREAS, the misunderstanding of the roles of HIA and HTC have been resolved and after meeting with the Snail House Clan Leaders, HIA and HTC have agreed to pursue a collective effort on behalf of the Clan.

NOW THEREFORE BE IT RESOLVED that the Hoonah Indian Association and Huna Totem Corporation assisted by Huna Heritage Foundation is authorized to jointly and formally act on behalf of the Clan in the repatriation process of the Clan's objects; with the agreement such objects will be returned to the Clan. Such authorization means Hoonah Indian Association and Huna Totem Corporation will jointly proceed with one repatriation request under the NAGPRA of 1990 as filed previously on September 26, 1995 and revised March 25, 1998 with the University of Pennsylvania Museum of Archaeology and Anthropology.

BE IT FURTHER RESOLVED that we respectfully urge the University of Pennsylvania Museum to proceed expeditiously on the Taax' Hit repatriation claim as referenced above.

BE IT FURTHER RESOLVED the Clan's endorsement of this resolution does not waive its rights and privileges afforded under traditional Tlingit law.

BE IF FURTHER RESOLVED that with this resolution and agreement between Hoonah Indian Association, Huna Totem Corporation, Huna Heritage Foundation and the Snail House Clan *(Taax' Hit)* as witnessed by our signatures below, removes any competing claims and one claim, previously filed is hereby jointly filed on behalf of the Clan.

The above resolution was duly adopted on this 28th day of FEB 2000, with a vote of 5 for, 0 against, 0 abstentions, 0 absent.

Frank Wright Jr. 2/28/00
Frank Wright, Jr., Vice President Date

Karen B. Paul 2-28-00
Karen Paul, Secretary Date

Stan Haldane 2/28/00
Stan Haldane, Treasurer Date

Jennie Lindoff 2-28-2000
Jennie Lindoff, Member Date

Jack M. Lee 2-28-00
Jack Lee, Member Date

Kenneth Grant, President Date

RESOLUTION 2000-01
SNAIL HOUSE (MOUNT FAIRWEATHER HOUSE) OF THE T' AKDEINTAAN CLAN OF HOONAH

REPATRIATION AUTHORIZATION UNDER THE NAGPRA OF 1990

WHEREAS the TAAX' HIT the Snail House and/or (Mount Fairweather) House of the T'akdeintaan Clan of Hoonah (hereinafter referred to as "the Clan") has initiated action to repatriate clan objects alienated from its possession, under the terms of NAGPRA, and;

WHEREAS the Clan is the recognized social and ceremonial entity within traditional Tlingit culture, and ;

WHEREAS Huna Totem Corporation(HTC) and the Hoonah Indian Association (HIA) are recognized Indian entities with legal standing pursuant to the terms of the Native American Graves Protection and Repatriation Act, Section 2(3). and;

WHEREAS Huna Totem Corporation with the assistance of the Huna Heritage Foundation and Hoonah Indian Association are hereby authorized by the TAAX' HIT to pursue repatriation of the Clan's objects' and;

WHEREAS the Clan and the members of the Snail House wish to reaffirm and reauthorize, Huna Totem Corporation to continue its repatriation efforts on behalf of the TAAX" HIT in cooperation and coordination with Hoonah Indian Association.

WHEREAS the misunderstanding of the roles of HTC and HIA have been resolved and after meeting with the Snail House Clan Leaders, HTC and HIA have agreed to pursue a collective effort on behalf of the Clan.

NOW THEREFORE BE IT RESOLVED: that as the Clan, we hereby authorize Huna Totem Corporation assisted by Huna Heritage Foundation and Hoonah Indian Association to jointly and formally act on our behalf in the repatriation process of our Clan's objects; with the agreement such objects will be returned to the Clan. Such authorization means Huna Totem Corporation and Hoonah Indian Association will jointly proceed with one repatriation request under the NAGPRA of 1990 as filed previously on September 26, 1995 and revised March 25, 1998 with the University of Pennsylvania Museum of Archaeology and Anthropology.

BE IT FURTHER RESOLVED: that we respectfully urge the University of Pennsylvania Museum to proceed expeditiously on the Taax' Hit repatriation claim as

referenced above.
BE IT FURTHER RESOLVED the Clan's endorsement of this resolution does not waive its rights and privileges afforded under traditional Tlingit Law.

BE IT FURTHER RESOLVED that with this resolution and agreement between Huna Totem Corporation, Huna Heritage Foundation, Hoonah Indian Association and the Snail House Clan *(Taax' Hit)* as witnessed by our signatures below, removes any competing claims and one claim, previously filed is hereby jointly filed on behalf of the Clan.

ADOPTED this___ day of _____, by a Unanimous vote, in regular session of the Leadership and Trustees of *Taax' Hit*, held at Hoonah.

Adam Greenwald (*Taax' Hit*)
Snail House Shaadeihani
P.O. Box 172
Hoonah, AK 99829

(Taax' Hit) Snail House Trustee
P.O. Box
Hoonah, AK 99829

Ronald Williams
Huna Heritage Foundation
9301 Glacier Highway
Juneau, AK 99801

Kenneth Grant, President
Hoonah Indian Association
P.O. Box 602
Hoonah, AK 99829

Albert Dick, Chairman
Huna Totem Corporation

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COPY

Hoonah Indian Association
Huna Heritage Foundation

P.O. Box 602, Hoonah, Alaska 99829
and
9301 Glacier Highway, Juneau, Alaska 99801

May 2, 2001

Dr. Jeremy A. Sabloff, Director
University of Pennsylvania Museum of Archeology and Anthropology
33rd and Spruce Streets
Philadelphia, PA 19104-6324

Dear Dr. Sabloff:

We are writing in response to your letter of May 10, 2000, in which you invite our cooperation to gather all evidence relevant to a decision regarding the outstanding issues of our repatriation claim. Issues of disagreement pertain to whether the requested items fit the legally mandated definitions under NAGPRA for repatriatable objects and whether the requesting tribes have a right of possession superior to that of the museum. We will discuss each of these topics below.

There seems to be a perception on your part that we have not been forthcoming with information that you have requested from us in the past. However, we would like to point out that we have answered them as best as we can, based on our traditional knowledge, in our previous submissions. In this letter, we have drawn a great deal upon the anthropological literature, in an attempt to make our evidence more accessible to you. We have compiled evidence from the literature, oral history, and the collector's notes in support of our claim that these items are indeed objects of cultural patrimony and that we have the right of possession.

We would like to point out that the mandated standard of proof for these issues is the preponderance of all the available evidence. This means that all sources of evidence must be assessed and weighed together, in their totality, before a decision can be rendered. The evidence supporting the position that you presented in your letter must be weighed against other evidence that is available in the literature, as well as that contained in other sources. We do not feel that you have considered and evaluated all

of the available evidence, and consequently we have compiled additional sources for your review. Also, we must express that the absence of a particular item of evidence does not constitute positive evidence for another (contrary) position, as you assert. The lack of evidence signifies only that the record is silent on the point under consideration; the decision must be based on the preponderance of all the evidence that is available.

We maintain that all of the items in Mr. Shotridge's "Snail House collection" have ongoing historical, traditional and cultural importance central to the Mt. Fairweather/Snail House group, the T'akdeintaan clan, and the Tlingit tribe and culture today, and that they were inalienable by an individual and in the possession of the Mt. Fairweather/Snail House group at the time they were acquired. Statements to this effect were provided in our repatriation claim of March 18, 1998, and in our letter of February 28, 2000. In this letter, we will provide further evidence on the significance of these objects based on Mr. Shotridge's notes, the published literature, and oral history. We will discuss the issue of inalienability of the items at the time they were acquired in the next section. The final section will summarize the evidence concerning the significance and the right of possession of individual objects included in this request. In the process, we will address your specific questions that remain, in your view, unanswered. We hope that you will evaluate all of the available information regarding these particular items, their acquisition, and our right of possession, and faithfully apply 'the preponderance of all available evidence' standard to this repatriation request, as required in the legislation.

Objects of Cultural Patrimony

Introduction

According to NAGPRA, cultural patrimony is defined as "an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American." In this definition, such object "... cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual was a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable at the time the object was separated from the group." As will be discussed below, the available evidence establishes that the objects in Mr. Shotridge's 'Snail House Collection' (originally known as the Mt. Fairweather House) fit this definition. The same is true for the Marmot frontlet.

The HTC/HIA strongly disagree with your assertion that the requested items "fail to rise to the standard required by NAGPRA, i.e., they do not appear comparable in significance to the Tlingit as the Zuni War Gods and the Iroquois Confederacy Belts are to those tribes" (UPM letter of 5/10/00, p. 5) Firstly, we respectfully point out that the NAGPRA standard is whether the requested items fit the definition of cultural patrimony provided in Section 2 (3) (D) of the law, which we have quoted above. The Zuni War Gods and Iroquois Confederacy Wampum Belts were brought up by tribal representatives during legislative hearings preceding the passage of NAGPRA, in which the Tlingit did not participate, and are not written into the law. Secondly, you provide no supporting evidence or analysis comparing the cultural significance of the requested ceremonial and clan objects to the Tlingit people with that of the Zuni War Gods or Iroquois Confederacy Wampum Belts to their respective tribes. We choose at this time to stay the course and discuss the cultural importance of the Tlingit objects that are the subject of this claim, and not digress into a discussion of this analytic issue.

The UPM letter then proceeds to discuss a system of ranking and ordering of crests into categories of "primary" and "secondary" crests based on a reading of the anthropological literature, and suggests that only crest objects with "primary" crests may be repatriatable as cultural patrimony. In your view, the requested objects are either "secondary crest objects" or "non-crest objects," neither of which are cultural patrimony. The implications are that the requested objects do not have ongoing historical, traditional, or cultural importance central to the Tlingit Indians, and that the items were considered to be alienable by the leader of the Mt. Fairweather/Snail House and other T'akdeintaan clan members at the time they were acquired by the collector. According to the evidence we have presented and other information available in the anthropological literature, the complexity of crest symbolism and the use of clan objects in the potlatch and other ceremonies is much greater than you represent.

For example, on page five of the March 15, 1998, claim, it is stated,

> Ceremonial head gear and associated crest designs are objects of cultural patrimony that have ongoing historical, traditional, and cultural importance central to the Tlingit people and to members of our tribe. Ownership of all crest and spirit designs depicted on the head gear is also asserted. Rights to these crests were acquired by our ancestors, and title to them have been validated and re-validated through the generations within our ceremonial rites. ... Head gear represent our clans; they serve to unify clan members and identify us as Tlingit people; they bond us to our ancestors; and they symbolize a spiritual relationship to the entity depicted on the hats and ceremonial objects. Clan ceremonial head gear, together with a crest spirit design, provide a physical form in which spiritual beings manifest their presence. The ongoing significance and

sacredness of our clan head gear and objects are manifest in the Tlingit ideological system and our ceremonial rites. The objects are inseparable from the ceremonies in which they are intended to be used, and we Tlingit are compelled to host and participate in these ceremonies for Haa Shaageina--our ancestors, the present generation, and the future generations.

The central and ongoing significance of crests and crest objects is discussed further on pages 13-16 under the sections entitled, Táax̲' Hit Crests as Property," "The Oral Traditions Validate the Ownership of the Táax̲' Hit Crest(s) by the T'ak̲deintaan Clan and Táax̲' Hit," and "Continuing Cultural Importance." Included in this material is the statement that Mt. Fairweather, Sea Pigeon and Raven are crests used by the Snail House. We are not claiming that one or more of these are "primary" T'ak̲deintaan crests, as you expressed in your letter of May 10, 2000, and our request does not utilize a distinction between "primary" and "secondary" crests in the way you infer. This request is for all the objects in the Snail House Collection, and for the T'ak̲deintaan Marmot Frontlet that was acquired earlier.

"The Snail House Collection" comprises ancestrally-owned heirlooms associated with a named house, Táax̲' Hit. This house was formerly known as the Mt. Fairweather House. Táax̲' translated as snail but actually meaning slug, is a name that was applied to the house at the time of its reconstruction in about 1912. It was the fourth Mt. Fairweather House to be built in Hoonah, and this structure burned to the ground in the Hoonah fire of 1944. There are different oral accounts as to how the name Snail House became associated with the structure, but all agree that 'Snail' became a term of reference during the construction and it is not the proper (original) name for the house. The Mt. Fairweather crest was portrayed on a screen attached to the house front, with slugs represented amidst the floral patterns on side panels (see photograph reproduced in Dauenhauer and Dauenhauer 1990:93). This crest screen is also visible in the photograph (date unknown) of T'ak̲deintaan clan members dressed in ceremonial clothing taken in front of the house (reproduced in Kaplan and Barseness 1986:201). Some of the objects that we are requesting are worn by persons in this photograph.

Evidence from the Collector, Louis Shotridge

We will first review the evidence from the collector, Louis Shotridge, which supports our position that the requested items are objects of cultural patrimony as defined under law. Mr. Shotridge, a high-caste northern Tlingit from the Klukwan Kaagwaantaan clan, acquired all but one (the Marmot Frontlet) of the requested objects at the same time. He collectively referred to the objects as the "Snail House Collection," and he stated that they were in the possession of the 'Snail House Family' at the time he acquired them (Shotridge to Gordon, January 12, 1925). He wrote, "The Snail House Family is the leading group in the "Drum-Side Town" (The town which is

now called Hooniah)." The collection included crest objects and other items used in Tlingit mortuary ceremonials, peace dances, and other celebrations. For the majority of items, he provided notes describing their historical significance to the house ("family") and clan ("division").

In an article published by the UPM, Mr. Shotridge (1913:82) explained the significance of family houses, which are distinct from "ordinary dwellings," and have heirloom objects associated with them:

> Family houses are those with names, as "Yehl Hit" or Raven House, "Hoots Hit" or Grizzly Bear House, owned by families of the classes. The occupants of a family house are the head man or "Master of the House" and his family, relatives, and sometimes distant relations. In this house also are held feasts, councils, and gatherings for all public interests. The chief's family house, although it may not be very elaborately finished, is looked to with much regard. In it are kept the old relics, such as ceremonial costumes, helmets, batons, carved and painted screens and posts, all original things that had been in the possession of the chief's ancestors. In it are also held the more important public meetings.

In Mr. Shotridge's words, the requested "Snail House Collection" are items that were "the old relics" of the T'akdeintaan lineage house of that name. The "relics" or "heirlooms" are objects received from the lineage ancestors and were held in the house master's possession on behalf of the house group and the clan of which the house is a sub-division.

In a subsequent article, Mr. Shotridge (1919:43) discussed the ownership of the objects he had been collecting throughout Southeast Alaska, placing an emphasis on crest objects. "The old pieces were obtained from chiefs of different clan divisions and house groups in Southern Alaska, who explained that their own right to use the crest objects was due to the fact that their legendary ancestors acquired them in their behalf." He continued,

> The house groups have their distinctive order of rank within the divisions of clans, and are characterized by ownership of crests. The animals of both land and sea and the birds also are used as individual house-group emblems or crests; these are usually represented in carvings and paintings on house pillars, batons, helmets and ceremonial hats. The pillars bearing the crests were placed in council houses, while the other objects of this class were used only when appropriate occasions called for so doing, such as social performances during important conventions or potlatches, peace dances, in wars and on all formal ceremonies. They are classed as communal property, and unlike personal effects, each descends from a

man to his sister's son; one's predecessor in the holding of any title or right is thus not his father but his maternal uncle.

This passage describes the nature and significance of the "Snail House Collection:" the principles he identified for judging the historical and cultural significance of the objects he collected throughout the region apply to the Mt. Fairweather/Snail House collection.

According to the collector, each object in the Snail House Collection is associated with a story of its acquisition by a member of the lineage on behalf of the group and has important cultural and historical significance to the clan and house group. In a letter to the UPM dated January 12, 1925, Mr. Shotridge wrote, "This attractive Snail House Collection is not as old as those of some other important families, yet the family have (sic.) its own story to tell relative to its possession, peculiar to its position in the region. ... So in spite of the apparent inferiority of the Snail House Collection each object in it has to offer a legent (sic.) which is characteristic of the division." In this passage, Mr. Shotridge reveals his social bias towards the Hoonah "Snail House" family. In the letter, written just after he acquired the Snail House Collection, he expressed the superiority of his own Kaagwaantaan heritage.[1]

Mr. Shotridge wrote specimen cards for most of the items in the Snail House Collection which provide additional evidence that these items were the possessions of the Mt. Fairweather House lineage. These cards document who made the object and for whom it was made, and the occasion and place of its creation or acquisition by the clan. In cases in which the object was purchased or transferred from another clan, this circumstance is noted. The recordation of the maker of the item includes their clan, and in every case the owner is documented as of the "Snail House" Family. Heirs are also noted for some items, although in most cases this space is used for additional notations.

[1] In his view, the history of Hoonah "had hardly anything to show as evidence of importance in the making of its history" until contact with Russians provided an economic opportunity for the community that spurred the creation of ceremonial objects. But due to "the lack of great deeds," most objects "likewise lacked originality, and like many other groups of the division the Snail House Family began to copy objects of some other divisions with some excuse of a former relationship, etc. This accounts for the appearance of the Snail House Collection, and with the exception of the old shaman drum and one or two masks the collection acquired had been made up of objects that had been well founded elsewhere."

The distinction between "maker" and "owner" of the item at the top of the card is important cultural and historical information, since objects that were to be brought out, used and validated in memorial potlatches (that is, that became the clan's at.óow) were (and are today) not made by a member of the T'akdeintaan clan, but were 'commissioned' from a clan member of the opposite moiety. The significance of this information is that it thus makes a record of such transactions between the Snail House lineage and other clans. His notes often describe the efforts made to acquire an object or identify the ceremony for which it was purchased or commissioned. Also, by recording the original "owner" or custodian of each object, Mr. Shotridge documented that the item was retained in the lineage and passed down within the lineage to the "heirs."

The Meaning and Use of At.óow

As described by Mr. Shotridge, the Snail House Collection was at.óow of the Mt. Fairweather/Snail House of the Hoonah T'akdeintaan clan. At.óow are the material and immaterial possessions of the deceased ancestors of the house or clan now in the hands of their living descendants. "This fundamental concept underlies all dimensions of Tlingit social structure, oral literature, iconography, and ceremonial life" (Dauenhauer and Dauenhauer 1994:15). Clan and house crests; the stories, songs, names and titles associated with their acquisition by the group; the geographical locales at which the events and encounters took place; the ancestral beings and spirits which were involved; the representational designs and the objects on which these were depicted, all are considered at.óow. Related to this are the concepts of shagoon and shuka, which refer both to the ancestors and "the yet unborn" in the clan, and combine the meanings of 'origin' and 'destiny' as "established in the past by its matrilineal ancestors and continuing to order its members' lives, generation after generation. ... In its primary sense, [shagoon] signified an individual's or a matrilineal group's ancestors, heritage, origin and destiny" (Kan 1989:68). 'Shagoon' refers to all the members of the clan and its possessions, which established the group in the past and through which it reconstitutes itself in the present and achieves immortality. "Because of the constant recycling of the names and spirits (reincarnation) as well as the material and non-material possessions (*at.óow*) of the clan's deceased members by their descendants, the living and the dead matrikin were intimately linked to each other; in theory, clans were immortal, their membership consisting of all their deceased as well as living (and the yet unborn) members" (Kan 1999:6).

The cultural use of clan possessions (at.óow) receives its highest expression during the Widow's Cry portion of the k̲oo.éex̲_ (memorial ceremony), when the invited guests speak in formal oratorical style for the removal of grief among the hosts (mourners). During the speeches, at.óow are brought out and displayed in front of the mourning family (lineage) and serve as potent images which are offered to condole the mourners. The at.óow are centrally important to the ceremony, and as explained by the Dauenhauers (1990:87) the oratory employs "the spiritual images depicted on the at.óow, including reference to the former owners, whose spirits also now accompany the at.óow."

The heart of their book, entitled *Haa Tuwunaagu Yis,* for Healing Our Spirit, was the presentation of such speeches by members of the Hoonah T'ak̲deintaan clan during the 1968 memorial, or k̲oo.éex̲_, for Jim Marks (Hoonah Chookaneidi, Brown Bear House). The central importance of these objects and images is explained well by the Dauenhauers (1990:87):

> Prior to making their speeches, the T'akdeintaan had clothed their younger members in at.óow and placed l s'aati at in their hands. The speakers then address various aspects of the spiritual images depicted on at.óow, including reference to the former owners, whose spirits also now accompany the at.óow. Central to the oratory, these objects include the following, which we have listed in the order of appearance in the text of Jessie Dalton's speech .... Some of these had already been mentioned by David Kadashan, but Jessie gives the complete inventory.

The following T'akdeintaan at.óow were brought out in this ceremony:

1. Shaatukwaan Keidli — Mountain Tribe's Dog (Hat)

2. Geesh Daax̲ Woogoodi Yeil [K'oodas'] — Raven Who Went Down Along the Bull Kelp (Shirt), also referred to in the speech as the shirt of Weiha

3. Lyeedayeik X'oowu — Lyeedayeik's Robe (Button Blanket, plain)

4. S'igeidi X'oow — Beaver Robe (Chilkat Robe with image of Beaver from the T'ak̲deintaan Raven's Nest House)

5. K̲'eik̲'w X'oow — Tern Blanket (Button Blanket with beaded design of the terns from the rookery at Gaanax̲aa, also identified as the blanket of Saayina.aat

6. Gaanxaa X'oow — Gaanxaa Blanket (Button Blanket with beaded design of the original T'akdeintaan village and tern rookery, a copy of an older blanket)

7. Yeilkudei Hit X'oow — Raven Nest House Blanket (Button Blanket with beaded design of the T'akdeintaan Raven Nest House)

8. Yaakaayindul.at X'oow — Yaakaayindul.at's Blanket (Button Blanket, plain)

9. X'ich'i S'aaxw — Frog Hat

10. Kageet Kuyeik — Loon Spirit (Hat) (Brass Hat of Yookis'kookeik (Leonard Davis, and Archie White before him))

11. Gagaan L'axkeit — Sun Mask

12. Geelak'w Shakee.at — Small Mountain Pass Headdress (Frontlet carved to represent the shoulder between the twin peaks of Mt. Fairweather)

The Dauenhauers provide an informed and in-depth explanation of the central and ongoing cultural significance of each of these T'akdeintaan at.óow, and the elaborate use of metaphor drawn from the images for addressing the mourners' grief, in their introduction and in the explanatory notes to these speeches. At.óow are also used and displayed during subsequent portions of the koo.éex_, following the Widow's Cry, including spirit dances (involving frontlets and headdresses) and dramatic dances (which most often are imitations or dramatizations of at.óow). The Dauenhauers (1990:57) state that the songs and dances were performed by the hosts and guests in turns during the 1968 memorial in Hoonah.

We would like to point out that in the memorial speeches and in the Dauenhauers' discussions of these crests, the evidence indicates that each crest and crest object has ongoing historical and cultural importance central to the T'akdeintaan clan. Each of the clan crests and objects that were used in the memorial have equal salience and function in addressing the grief of the mourners. That is to say, the so-called "secondary" crests were as important and effective as the Tern Blanket in this ceremony. Other objects were brought out and displayed with at least the same degree of cultural meaning and historical significance for the participants as the Tern Blanket. We ask, where is the evidence that the Tern Blanket is a patrimonial object whereas the others are not?

The Hoonah ceremony is different from those described for Yakutat, in which the hosts perform almost exclusively during the mourning portion of the memorial while the guests performed their dances before the potlatch and during four days of feasting afterwards. But at.óow have the same significance to the participants. De Laguna (ibid.:629, 634) describes the use of at.óow for mourning by the hosts in this way:

> ... the hosts donned their most elaborate costumes, especially those with sib [clan] crests, the named heirlooms which belonged to the lineage or to the sib as a whole. The ceremony afforded opportunities for displaying the crests and sib prerogatives in innumerable forms; in the house itself, in the names assumed by the host or given to his male juniors, in the regalia worn or otherwise displayed, in the particular songs which traditionally accompanied the exhibition of certain heirlooms, and in speeches. ...
>
> There are traditional songs (and perhaps dances) that are supposed to accompany the exhibition of each sib heirloom of this kind: hat, helmet, blanket, drum, and so forth. Sometimes the chief himself displays the emblem or calls on his nephew to do so, and sometimes he calls on his paternal grandchild. The greater the importance of the object displayed and of its song, the more wealth would be contributed when it was shown, and this in turn enhances the value of the object and the prestige of the sponsor and of the junior who exhibits the crest.

This description is another example of the use of at.óow in Tlingit ceremonials, of their importance to a clan, and how value is added to them through their display. De Laguna described that other heirloom objects, including non-crest items, are used in other portions of the ceremony.

A clan's at.óow represent the history of the clan and the past actions of its ancestors that have central and ongoing cultural significance to the clan in the present. To be a member of a clan is to hold onto and to continue using these items for the sake of the past, the present and the future generations (shagoon). All at.óow are of central and ongoing importance to the clan, and they cannot be alienated, for this reason. This applies to crest objects and non-crest objects alike which have been brought out and validated through use in a memorial. Objects which have been passed down through the house to succeeding generations are at.óow because they have been used by the ancestors in memorials, or they would not be part of the clan's possessions.

The Question of "Primary" and "Secondary" Crests and the Lack of Patrimonial Significance for the Latter

Tlingit did not (and do not today) make the distinction you claim, that each clan has only one or two "primary " or "important" crests that are patrimonial, and all others are "minor" or "secondary" and therefore are not centrally important to a clan's history. The differentiation between primary/secondary crests has appeared in English, but it does not correspond to words or analytical concepts expressed in the Tlingit language. It is not permissible for an individual to remove any of the clan possessions from the clan's heritage, except for cases in which crests and crest objects are transferred by the clan to another clan in payment for a wrongdoing by a clan member. To remove at.óow is to disown a part of the clan's unique character and history and to discredit the ancestors who contributed their efforts on behalf of the clan to acquire them and use them in clan memorials. In so doing, succeeding generations of clan members are likewise devalued.

Mr. Shotridge provides evidence that each of the Snail House objects was not owned by an individual and could not have been alienated or conveyed by any individual, and all were considered inalienable at the time they were separated from the group. The collector documented that the objects were the possessions of the "Snail House," and as pointed out above, he published an article in which he describes such collections as "the old relics ... that had been in the possession of the chief's ancestors." He wrote, "They [the objects] are classed as communal property, and unlike personal effects, each descends from a man to his sister's son..."[2] This practice was the established Tlingit custom at the time and has been documented in the

[2] This statement referred specifically to crest objects which belonged to the house group, but it also applied to non-crest objects in collections of a lineage's possessions. Mr. Shotridge indicates his belief that every object in the Snail House Collection had this significance when he notes, "... each object in it [the Snail House Collection] has to offer a legent which is characteristic of the division."

anthropological literature since the end of the 19th century (see Emmons 1991:35 (speaking about clan hats, 1880s and 1890s); Swanton 1908:415-20 (speaking about clan crests and crest objects, based on fieldwork conducted in 1904); Oberg 1973:61-2 (introduces concept of trustee, based on fieldwork in 1931-2,); Olson 1976:37-38 (uses concepts of custodian and trustee, based on fieldwork in the 1930s and '40s); de Laguna 1972:451-60 (based on fieldwork conducted in 1949-54, speaking mostly about crests and crest objects); Kan 1989:65-75, based on fieldwork conducted 1979-87); and Worl 1998. While there are some exceptions to the rule that have been documented, the principle of communal ownership of heirlooms passed down through clan and lineage ancestors is well-documented.

We have reviewed the many references to "major," "important," and "primary" or "secondary" crests in the anthropological literature and find the literature is consistent with our statements and beliefs. The distinction between 'primary' and 'secondary' crests, as they are used in the literature, does not carry the implications that you claim regarding greater or lesser importance to the clan. Swanton (1908:415), for example, reports that the Tlingit, as compared with the Haida in this respect, had fewer crests which had names and were represented in carvings, "and generally held but one or two in particular esteem." Perhaps this perspective has influenced subsequent anthropological observers. Yet Swanton points out that the incidence of crests in a particular clan was frequently a factor of the relative wealth and status of the clan, and there was substantial variability in this respect: "Some families were too poor to have an emblem, and on the other hand it is said that some of the great ones, like the Nanyaayi, that they were so rich that they could use anything." Swanton refers to the greater ability of the more wealthy clans to acquire crests and crest objects, and to augment their history and traditions.

Furthermore, Swanton gives several examples of "important" crests which had names and were represented in carvings. He (1908:417) reports that the T'akdeintaan used the whale hat, which you dismiss as a "secondary" crest. Swanton (ibid.:417-18) then gives examples of many more crests and emblematic objects used by clans including the T'akdeintaan, after writing, "Among other *possessions of like nature* are the following: ..." (emphasis added). Swanton does not suggest that these other crests are any less culturally or historically significant or important to the clan. He (ibid.:417-18, 435-6) provides specific evidence for the T'akdeintaan clan:

> The T'akdeintaan also had as emblems a mountain at Cape Fairweather called Txalxan, which was represented on a hat, and a rock, Tanaku, which was employed in various ways. The origin of the former is referred to the story of Kakeqte. An island near Cape Spencer called Ganaxa is used in the same way.
>
> Crests were a favorite subject for representation in the dances, the dancers appearing clad in appropriate clothing, masks, etc., and giving

imitations of the actions of the crest animal or object. Even crests difficult of representation, as the mountain Tsalxan and the rock Tanaku (see p. 418) were imitated. The T'akdeintaan alone had a right to use Tsalxan, represented in the manner in which clouds stopped part of the way down its sides when the weather was going to be fair or went all over it when it was going to be bad weather.

Swanton includes an illustration of a basketry design representing Tsalxan (Plate LVIIa) (see ibid.:420), which he also said was used as an emblem.

Finally, Swanton identifies a number of additional T'akdeintaan crest objects and illustrates face paintings which represent clan emblems, equivalent to those represented on hats, posts, blankets, and other objects. The following are those which belong to the Mt. Fairweather/ Snail House (Táax' Hit) and the T'akdeintaan clan:

T'akdeintaan Hats and Face Paintings Illustrated in Swanton (1908)

Items and designs specifically identified as Taql Hit:

Raven Hat: Raven that has charge of the falling and the rising of the tide (yugi'sl-kuge'k)
Dog Hat: Mountain being's dog (ca-togoa'n ke'li)
A point of land (qla), with markings for slugs
Raven's cooking place (yel xwe'xi'), with ear ornaments representing a spring salmon
Whale's tail, used by the T'akdeintaan who have the Whale hat
Slugs, are supposed to be moving about on flowers indicated by markings[3]
A potlatch painting, with representations of dishes, spoons, a raven's beak and a wood worm
Head house (qaca'yi hit), with ear ornaments representing heads on the house posts.
The Taql Hit tan owned a house bearing this name.

[3] We note that Swanton translates the word taql as slug, which is the more accurate rendering of the name for the house which has come to be known as Snail House.

Crests and Crest Objects/Designs identified as T'akdeintaan or another T'akdeintaan House:

Whale Hat, with bird facial paintings (ya'-i slaxu)
Tsalxa'n, a mountain near Cape Fairweather.
Tsalxa'n in calm weather
Ta'naku, a rock in the water
Ta'naku house (La'naku hit), includes representations of house front, boxes of food inside house, puffins which live around the rock, and trees
A mountain in Hoonah country (gela'ku), and painted on the house of Yaqxa'n (T'akdeintaan)
A cliff called Drum (gao), including markings for a cavity in this cliff in which a shaman's body was laid, and the trail by which it was taken up
Ganaxa', an island owned by the T'akdeintaan, including markings for the "holes in Ganaxa'"
Sea lion rock (tan teyi'), with representations of sea lions (two examples)
Waves that always come in at a certain place where the T'akdeintaan used to go sealing
Canoes with people in them going to Lituya Bay or Dry Bay
Half-a-person's-body post (qa-cuwu' gasl)
Raven's wings (yel ki'dji)
Raven flying out of a whale, as told in a Raven story
Raven traveling by canoe (yel daga qoxo'), referring to a time when Raven was traveling along in his canoe and made waves by jumping up and down. The markings representing the waves are called Black Raven (waves).
Raven's passage on the water (yel ya'kudeyi), representing an inlet divided into two parts with a rock permitting an entrance on each side
Puffins (xik)
Whale painting (yai q!en). Such a painting is on a house front in Hoonah.
Spring salmon
Starfish (slax)

Throughout his discussion, Swanton consistently maintains that all of these crests, emblematic objects, and designs have ongoing significance to the clan, and at no point does he describe some of them as of greater or lesser importance.

We believe that de Laguna provides a similar perspective on Tlingit crests. She (1972:455-57) classifies crests into three types: those derived from totemic animals, those which symbolize places, and those based on some unique natural feature which is not localized. As you point out, she states that crests which are derived from totemic animals are of 'primary importance.' However, her complete statement bears a review: "While there are evidently several orders of crests, those derived from the major totemic animals are of primary importance, *since they offer the most varied types of*

representation; in graphic art, in masquerade and dramatic mimicry, in cries, and in personal names" (ibid.:455, emphasis added). We noted that your letter left out the latter portion of this sentence. As can been seen, de Laguna explains that the 'primary importance' of animal crests is due to the greater potential representational repertoire of such beings. She does not say they are primary because crests derived from totemic animals are viewed as of greater cultural and historical significance to the clan compared to crests derived from places or natural features, as suggested in your letters. Nor does she suggest that animal crest objects have a use or function in Tlingit cultural and ceremonial life that is different in quality from the other types of emblematic items.

De Laguna indicates that the use of geographical crests is related to the origin of clan names from a particular locality in their history, and could be related to legal claims made by the clan over certain territories. She identifies two T'akdeintaan crests in this category including Lituya Bay and Mt. Fairweather. She also acknowledges the "variety of geographical crests" illustrated in the T'akdeintaan face paintings published in Swanton (1908, discussed above). She identified a pipe as another T'akdeintaan crest object (see Plate 123), which is described as "the Spirit of Lituya Bay as a Frog, with a Bear at the other end; they are shaking up waves at the mouth of Lituya Bay which are capsizing a copper canoe and its occupants; collected in 1888 from the Daqdentan chief of Hoonah." In addition, her Yakutat consultants recognized the T'akdeintaan claim to the Whale Hat, Devilfish Pole and the Raven Hat, but the claim is shared with the Yakutat Tluknahadi based on a common origin of the two clans (ibid.:452).

The relative importance of each of a clan's crests acquired in its history is also indicated in her discussion of the meaning and significance of crests in Tlingit culture, history and social organization. The origin of a crest can be traced to a remarkable encounter with an animal or an event associated with a place which usually occurred in the distant past, from which the crest is derived. The crests of a clan or lineage represent its distinctive history and identity, and differentiate it from other social groups. De Laguna (1972:451) describes the supreme significance of crests and crest objects as, in part, the expression of a clan's unique social character:

> The most precious rights of sib (and lineage) are those that give it its own character and that express its place in the world of men and of living begins [beings]. ... These distinctions and prerogatives are for the most part, and in the most important instances, felt to be associated with the totemic crest or crests of the sib. Indeed, these crests are, from the native point of view, the most important feature of the matrilineal sib or lineage, acquired in the remote past by the ancestors and determining the nature and destiny of their descendants. One might almost say that the members of the sib (or lineage) are the human embodiments of the totemic entities.

Crest objects are the manifestations in material form of these same entities, and therefore represent the sib, its ancestors, and their descendants. The fundamental principles of the Tlingit social system may be understood in terms of these objects and the significance of their emblems, the ways in which they are used, and the purposes for which they are employed. Crests and crest objects represent a symbolic dimension of Tlingit social life, an understanding of which can shed on the fundamental structuring of kin relationships, and social rank and class [page numbers deleted]. The history of the fundamental units of Yakutat society can be read in the history of their emblems. ... If a complete listing of all crest objects could be made for each sib and major lineage, and their histories could be traced, we should be better able to understand the importance of these objects from the native point of view as well as the nature of the social units that claim them.

In these statements, de Laguna is referring to all a clan's crests, equally; and she does not explain that only the "major" crests have this significance.

We have already discussed a similar point of view that is expressed in the Dauenhauers' (1990) presentation of T'akdeintaan at.óow and their use in a particular memorial. In fact, we are very surprised that you would quote the Dauenhauers as justification for your position that there is only one crest that could 'rise to the level of cultural patrimony' among the T'a<u>k</u>deintaan clan at.óow, because it is as if you had not read their work. The Dauenhauers state (1994:15):

> At.óow is the single most important spiritual and cultural concept introduced through the narratives published in [*Haa Shuka* (1987)], most of which record how the at.óow were acquired. This fundamental concept underlies all dimensions of Tlingit social structure, oral literature, iconography, and ceremonial life. It is the spiritual, social, and rhetorical anchor for the speeches in [*Haa Tuwunaagu Yis* (1990)], most of which show how at.óow are used. The concept is also a thread running through the present volume of biographies [*Haa <u>K</u>usteeyi*, 1994].

You have identified the following statement as support for your position: "As a result, many of the clans are increasingly referred to according to ***their popular English names***, usually derived from a translation of the major crest animal. Examples for these are ... Seagull or Sea Pigeon (T'a<u>k</u>deintaan) ..." (ibid.:7, emphasis in original). We must point out that this sentence occurs in a discussion about the growing use of common English identifiers as more Tlingit are becoming monolingual in English. Contrary to your implication, the authors are not making an analytic statement about the greater importance (as in 'central ongoing importance') of the seagull crest, as contrasted with all other crests held by the T'a<u>k</u>deintaan clan and house groups. Indeed, this sentence is a re-statement of a similar discussion appearing in an earlier publication (1990:7) by these authors, in which they employ the phrase, "... usually derived from a major crest."[4] In the more recent publication, these authors are certainly

[4] The full sentence reads, "As a result, many of the clans now also have popular English names,

not claiming that this bird crest functions any differently from the other T'akdeintaan crests in Tlingit memorials as they are described in their work. Indeed, you are taking this statement out of context in citing it to support your position regarding the definition of cultural patrimony.

Other investigators, including Kan (1989:65, 69) and Worl (1998:93, 96), use the terms "most important," "major" and "primary" crests to refer to those which were acquired during the clan's ancient past, such as during the migration of the clan's ancestors from the interior to the coast or afterwards when they emerged as distinct social groupings while living along the coast, or those for which the lives of clan members were lost. For Kan, "secondary" crests are those acquired more recently in a clan's history. However, these authors consider that all of a clan's crests (and crest objects) represent the social identity of a clan and are important in the corpus of clan at.óow and shagoon, and are used with central cultural significance in memorials and other ceremonial settings, and could not be alienable by their custodians. The cultural and historical importance of "secondary" crests and clan objects is not devalued, as you have apparently concluded was the case with the entire Snail House Collection at the time it was acquired. Kan and Worl employ these terms as descriptive, not analytic, categories, and in any case the distinction is an "etic," not an "emic," formulation. Tlingit do not today, and did not, at the time these items were acquired, conceptualize their crests and crest objects in two categories, one of which is inalienable and the other of which is for sale.

Worl (ibid.:301-2) provides a listing of 11 houses and 20 crests of the T'akdeintaan clan. In *The Spirit Within*, Harold Jacobs lists eight crests used by the T'akdeintaan (Abbott, Brown, Price and Thurman 1995:35). At the risk of being redundant, we also include the explanation of the importance of all eight of these crests as it is given in the text, and which is associated with an image of a T'akdeintaan Loon Hat, for your review:

> Ownership of specific emblems by matrilineal clans lies at the heart of the Tlingit crest art system and is the motivation for making individual objects of crest display regalia. The variety of crest emblems used by a particular clan, as the above list indicates, may include animals, birds, fish, geographic features such as mountains or rivers, or natural phenomena such as log jams, constellations or glaciers. The use and significance of each crest is based on specific historical relationships between clan ancestors and the animal or crest symbol. The emblems, in effect, memorialize the event or encounter in which clan ancestors participated.

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usually derived from a major crest."

As in the other sources from the anthropological literature, these authors do not attempt to classify these crests into "primary" and "secondary" categories when discussing their significance to the clan, and they indicate clearly that all of a clan's crests are of cultural and historical importance to the clan. None of these crests (or crest objects) could have been alienated by an individual without violating tribal customs.

Indeed, Mr. Shotridge himself describes some crests as the "main" crests of a clan, and he indicates that crests were ranked. He states that there are a variety of what he calls "mostly borrowed crests" in the collections of the leading clans, which he says are of lesser rank than "the main crests among which they are found." "Through changes of leaders with different relations, a variety of mostly borrowed crests were hoarded in the collections of some of the leading clans. Although these were taken usually for some acceptable reasons, they never occupy the same rank with the main crests among which they are found" (Shotridge 1919:43). In Mr. Shotridge's view, "the rich history of their acquisition" is what established the high rank of a crest. But Mr. Shotridge consistently indicates that these "lesser" crests were held in common along with the "main" crests, as was the case with the objects in the Mt. Fairweather/Snail House collection.

As employed by Mr. Shotridge, the distinction between a "main" crest and a "lesser" one is not always a clear one. For example, Mr. Shotridge narrates the legend of how the Klukwan Kaagwaantaan clan originally acquired the eagle moiety crest (which, in your view, is a "lesser" crest) through purchase from the Tsimshian (Shotridge 1928:354-62). In the story, a Klukwan Kaagwaantaan chief traveled down to the Tsimshian, presented many goods, requested the emblem, and came away with an eagle hat. One year later, the hat was brought out upon the dedication of a newly constructed Eagle House, and the chief who purchased it took a new name, Stuwuka. The story ends, "Now, my lad, I have conveyed to your mind the source of our pride and you [Mr. Shotridge] bear that same name [Stuwuka], the mention of which brings back to the mind of a true man the history of its origin."

So, according to the information presented by Mr. Shotridge, even though this crest (and crest hat) was purchased and thereby could not be a "main" crest, it was a centrally important possession of the Kaagwaantaan clan that had been passed down in the clan, along with the legend and the name. It would be difficult to imagine that Mr. Shotridge would not classify it as a highly significant crest object of the clan, although it in fact represents a moiety crest, since it is historically important to the Kaagwaantaan clan and, through them, to the entire moiety. The crest, or its physical representation in the hat, was not "secondary" in the sense you represent (that it was of such minor historical significance that it was regarded by the tribe as alienable by an individual at the time it was acquired).

The relative significance or ranking of various clan crests is not absolute, and a crest's prominence may change according to historical patterns in the use of crests and

crest objects within the clan. Depending on the historical period, different crests may have an increased stature and be regarded as more representative of the values and images that the clan wishes to portray. This idea is expressed in another article by Mr. Shotridge. In discussing "the once highly esteemed" Kaagwaantaan Shark, the author described the decline of the shark emblem and the ascension of the Wolf as a primary Kaagwaantaan crest. This is another story about the chief Stuwuka, who exhorted his clan members to discard the shark in favor of the wolf, which "is bold and will fight when necessary" in contrast to the "indolent" shark. Mr. Shotridge (1929:341, 343) wrote:

> The council referred to took place at Grouse Fort, long after the organization of the Kaguantan Clan, when the Wolf Emblem was in question. It was at this time when, true to its nature, the Shark quietly sank to the bottom of the chest of relics, only to make its appearance when occasion called for so doing. Thus, from the beginning of its history, the old object existed in an indifferent attitude, because of lack of interest on the part of its assumed owners. .... Even though the "Shark" had failed to maintain its rank among other emblems of the clan, it was looked upon with respect, because it represented the efforts of the men who founded the party. Therefore, like any other important object, a true Kaguantan guarded it with diligence.

This is clear evidence that other clan crests and objects are of significant importance to the clan even though they may not be regarded as a "main" crest at a particular time. Also, the account does not lend support to your contention that there was a system of absolute ranking of some crests as patrimonial and others as alienable at the time these items were acquired from clan leaders. Mr. Shotridge continues, "It is true that the modernized part of me rejoiced over my success in obtaining this important ethnological specimen for the Museum, but, as one who had been trained to be a true Kaguantan, in my heart I cannot help but have the feeling of a traitor who has betrayed confidence."

We find that your conclusion with regard to the non-patrimonial nature of the Snail House Collection is based on a faulty logical inference from descriptive terms drawn from the literature such as 'main,' 'major,' 'primary' and 'secondary,' that misrepresents the historical and cultural significance of the great number of clan crests and ceremonial objects comprising the Tlingit socioceremonial complex. Nor do we find that your inference is substantiated in the anthropological literature. The fundamental nature of all clan crests is the meaning of our statement, "all of our crests including Raven are equally important ..." in our letter of February 28, 2000, in response to your question (#4) from your letter of January 26, 2000. All of the requested objects belong to the T'akdeintaan clan and contribute to expressing its unique and collective identity which originated with our ancestors in the past, exists in the present and will continue into the future through our descendants. All of these objects, including the crest and non-crest items, were used in clan memorials by our ancestors, and were handed down

in the Mt. Fairweather House for that purpose. They were of such central importance to the lineage and clan that they could not have been alienated by an individual at the time they were acquired, without violating tribal custom. The same evidence applies to the Marmot frontlet, which is included in this request. We note with some concern that this evidence from the literature is in addition to our own evidence of the central cultural importance and inalienability for these items given largely without reference to the literature in our previous correspondence.

Question about Duplicates and Reproductions

Regarding the question you pose about our need for the return of the original objects for which copies are currently in the possession of the clan (question 5, UPM letter of January 26, 2000), we will give you an explanation. However, we must point out that we are not required to explain our need for such items that are cultural patrimony. Under the law, if an item is an object of cultural patrimony, and the tribe has the right of possession, then the item must be returned to the (eligible and culturally affiliated) requestor. There is no legal requirement for need.

Any representation of a clan's at.óow is the communal property of that clan and cannot be used or displayed by a non-clan member without permission. Each such object has a specific design that is unique, which is itself at.óow. The original object, because it was used by the clan's dead ancestors, carries more "weight." A copy of an at.óow has the same meaning and significance as the original. It is an unusual circumstance to discuss the relative significance of two identical clan at.óow, since there is no parallel in our history.

Kan (1989:338, footnote 3) wrote, "The original object is usually more valuable than its more recent duplicate," in reference to a copy of a Raven hat made by a more recently established lineage group of a Sitka clan after an older division denied them access to the original hat. In regard to the use of copies, several T'akdeintaan objects were reproduced after the 1944 fire in Hoonah and are currently used in clan ceremonies. In one instance (a shirt), the Dauenhauers (1990:392, Footnote 114) explain that Jessie Dalton expressed the belief that the copy took the place of the original destroyed by fire, when she stated, "I don't feel that it burned," when it was brought out during the 1968 memorial described in their book.

The ceremonial display of the new shirt, and Mrs. Dalton's statement about it, is comparable with evidence given by de Laguna (1972:612) from Yakutat. At the end of an object's life, when it is worn out, it is customary to make a replacement. The new object is regarded as of equal significance to the original.

In the same way, all the important crest objects exhibited at potlatches bore traditional names: *the* Killerwhale Drum, *the* Raven Hat, *the* Copper River Dance Paddle, *the* Ahrnklin River Blanket. They were made by the

opposite moiety for the hosts, who paid them at the potlatch, and they replaced the original objects which had worn out. Just as persons are reborn to carry on the line and assume the ancient honored names, so hat and drum and blanket are renewed and receive again their titles. They are the symbols of their owners' lineage and sib, and of the origin and destiny (shagoon) of the line, and their totemic crests link the living with those ancestors who long ago won for their descendants the right to use these emblems.

The Question about Shaman's Objects

The available evidence indicates that the items labeled as shaman's objects in the Snail House Collection were, at the time they were collected, part of the clan's heirloom collection and were not objects used by shamans in the clan. Some of these items were never used by shamans, while others may have been at one time but were no longer used in that way. The following objects are identified as shaman's objects in the museum's records:

NA 6828 Shaman's Drum ("Old man of war")

NA 6831 Shaman's Mask (Owl Mask)

NA 6836 Ceremonial Headdress (Raven Headcover)

NA 6845 Rattle (Loon)

NA 6847 Shaman's Brass Hat (Loon Spirit Hat)

Evidence provided by the collector affirms that the drum, the mask, the headcover and most likely the rattle were associated with a T'akdeintaan shaman that was very prominent in the early history of the clan. The warrior, the owl and the loon were the helping spirits that came into this shaman (named Xedjak'u or Xetcaku), which are themselves T'akdeintaan at.óow. The owl and loon spirits were acquired from Mt. Fairweather, a highly significant locale for the T'akdeintaan clan (and the home of numerous spirits important to the clan). Mr. Shotridge reports that the owl spirit came from Mt. Fairweather, and Mrs. Lily White recites oral history that the loon spirit also came from that place.

Furthermore, Mr. Shotridge stated that these items had become permanent possessions among the collection of this clan at the time he acquired them (as summarized above). "The old drum evidently had been the first object of heirloom in the possession of the Snail House Family." The raven headcover "became a permanent object among the possessions of the clan" after it was held by L'akakw (who attached the raven), to whom it had been passed down.

Mr. Shotridge's information about the two loon spirit objects indicate that they were created by the clan for the display of appreciation for the T'akdeintaan shaman(s), and they have continuing importance to the clan in representing their history. The loon rattle was made in response to "the desire of the T'akdeintaan to make the [shaman's] outfit imposing," indicating that the clan contributed to or even commissioned the carving of this item. The brass hat was made in the historical period to commemorate the actions of the more ancient T'akdeintaan shaman. Mr. Shotridge's notes for the hat are somewhat contradictory, since he suggests the hat was made when the owner received his (deceased) uncle's helping spirits (which would indicate the hat was part of the shaman's outfit), but follows this with a lengthy explanation of the motivations for a "nobleman" to create "an important object" for his successor to use in public (which indicated that the hat was made for display by the clan's leader). Mr. Shotridge does not explain how the 'nobleman' could have completed the hat after his death.

There is additional information that calls into question Mr. Shotridge's claim that the Loon Hat is a shamanic object. Mrs. Lily White, whose grandmother had the loon spirit as her helper, states that the hat was constructed to be brought out in memorial celebrations on behalf of the clan, and it was never part of the shaman's kit. This explains the appearance of the loon hat in the undated photograph published in *Raven's Journey* (op. cit.). The hat is worn by Archie White, sitting in front of the Mt. Fairweather House. Archie was the custodian for the house and its possessions, and he is wearing the hat (and the blanket, NA 6849) in a public display of the house's ceremonial regalia. True shaman's objects were not handled or displayed in this manner.

Another line of evidence which indicates these items were clan possessions rather than elements of a shaman's kit, is that they were acquired with the Mt. Fairweather/Snail House collection. If these items were true shaman's belongings, they would not have been kept in the house with other clan possessions. They would have been acquired from the shaman's gravesite where such items were placed upon the death of a shaman. The spiritual power associated with such items were a danger to the house members who did not have supernatural protection. Such items were only handled by an individual after the spirits have entered him or her, as a successor to the deceased shaman. Mr. Shotridge stated that these items were part of "the Snail House Collection" and were not acquired from a shaman's grave, indicating that they passed down for use by clan members in Tlingit ceremonials, and served to recall and memorialize the ancestral shamans and their spirits to the honor of the clan.

Evidence for the T'akdeintaan Clan's Right of Possession

According to the extensive documentation associated with this collection, the objects (with the exception of the Marmot Frontlet) were acquired from the Mt.

Fairweather/Snail House lineage of the T'akdeintaan Clan in Hoonah by purchase. The records of Mr. Shotridge's activity include letters to the museum director, an object list, object notes, and specimen cards; the items are consistently identified as possessions of the Snail House Family in these sources. The origin of these objects is also indicated in the museum's computer inventory (catalog), in which their provenience is listed as Snail House, Hoonah T'akdeintaan Clan. The collector's specimen cards are the only source of more detailed provenience information for each item, and these substantiate the evidence that they were possessions of the Snail House lineage. The HTC and HIA have the right of possession for these items based on the evidence that the objects consisted of possessions of the Snail House Family and that they were owned collectively by the lineage at the time they were acquired. Regardless of who sold them, the seller did not have the right to alienate the collection to Mr. Shotridge. This point will be discussed further below.

The Snail House provenience is indicated in the following sources:

Museum Records:

Sept. 29, 1924: Shotridge writes to Gordon that "a collection of old things" has been offered to him in Hoonah. "The collection is said to be of good size and to contain a number of fine old pieces."

Dec. 6, 1924: Shotridge writes to Gordon that he obtained the Hoonah collection, which he called the "Snail House Collection."

Jan. 12, 1925: Shotridge writes to Gordon that he has shipped the Snail House Collection. He provides a brief interpretive narrative about the history of the Snail House family and the significance of its collection.

March 23, 1925: Shotridge writes to Gordon reiterating that he has shipped the collection.

1925: Typewritten manuscript entitled, Brief Description of important specimens in the "Snail House" Collection, with 'L. Shotridge 1925' in handwriting on first page.

Descriptive and historical notes are provided for the following objects: Shaman Drum, Tlto-aw Robe, Sun Mask, Owl Mask, Commander of the Tide Mask, Gonakadeit Mask, Thunderbird Headdress, Gi-tlaku Headdress, Raven Headcover, Abalone Headfins Headdress, Head top stock of the Raven Headdress, Loon Spirit Hat, Diving Whale Blanket, Skeleton of Raven Spoon, Cedar Bark Material and Horns and Whistles, Human Hair Headdress (pending), Bears Ears Headdress (pending), Pipe (pending).

Undated Notes: How the "Whale" Emblem Came Into the Possession of the T'akdeintaan. This typewritten manuscript includes two narratives, the first of which is

followed by the name, Tuq'a-xawu. It would appear that this person was the source of the preceding narrative.

Object Lists: itemized list entitled, Shotridge Collection; copy of museum's ledger book identifying the collector and the 1925 Museum Expedition; object descriptions and labels (typewritten notes); catalog cards identifying the collector and the 1925 Museum Expedition; computerized inventory records listing provenience as the Snail House of the Hoonah T'akdeintaan Clan.

Records from the Alaska Historical Library:

Undated Specimen Cards (handwritten by Shotridge): Snail House provenience is documented and historical notes are provided for the following objects: Shaman Drum, Tlto-aw Robe, Sun Mask, Owl Mask, Commander of the Tide Mask, Gonakadeit Mask, Thunderbird Headdress, Gi-tlaku Headdress, Raven Headcover, Abalone Headfins Headdress, Head top stock of the Raven Headdress, Raven the Pilgrim Rattle, Loon Rattle, Loon Spirit Hat, Diving Whale Blanket, Skeleton of Raven Spoon.

In all this material, there is only one piece of information for which a source is identified by name --- Tuq'a-xawu --- and that is the story about how the whale crest came to be the property of the Mt. Fairweather/Snail House and the T'akdeintaan Clan. However, given the extensive cultural and historical details recorded in his object notes and specimen cards, it can be surmised that Mr. Shotridge had a source or sources from the Mt. Fairweather/Snail House for this information about which he presumably would not have been knowledgeable since he was from another village and clan. It is possible that his principal source could have been the person identified with the narrative about the whale crest, Tuq'a-xawu. That possibility seems more likely when that name is put together with information provided by Kan (1999:346), that his English name was Archie White, who was the Mt. Fairweather housemaster at the time. But there is no direct evidence for this supposition.

In the UPM letter of 5/10/00, it is claimed that Mr. Shotridge "apparently purchased those objects from the then-current housemaster of Snail House, Tuq'a-xawu II, also known as Archie White," without giving an explanation of the basis for the assertion. As we have reviewed the available information, there is no identification of the seller of the Snail House objects or the source of the accompanying cultural and historical information (with the one exception noted), in the museum records. If you have additional information about the collection that has not been made available to us, we request that it be provided to us for our review as required under the law. If you are following a line of reasoning to justify this conclusion, such as we have outlined above, we request the courtesy of an explanation. Finally, we point out that most of the available information is silent about the identity of the person (or persons) who was the seller of these items.

The letter then proceeds to argue that, due to the generalized changes in the traditional Tlingit social and ceremonial order as a result of culture contacts that had occurred by the time of the acquisition, the evidence is established that Archie White, in his office of housemaster, was acting in a normative and socially acceptable manner when he sold these items, which thereby invalidates the tribe's claim to the right of possession. We feel that your argument is not supported with the available evidence in this particular case, and that it ignores other evidence which demonstrates that there were persons who maintained traditional Tlingit social and cultural customs during this period and later. Archie White is remembered today in Hoonah as one of these 'cultural conservatives.'

The letter states that the Russian Orthodox Church (ROC) was a substantial influence on Archie White to give up potlatching, and cites evidence from Kan (1999) to support the contention that Archie White was a leader of the Orthodox Church in Hoonah. We must point out that the principal theme of Kan's work is that the Tlingit were able to combine adherence to their traditional customs with Christian (ROC) devotion. Indeed, as the author (1999:xxix-xxx) states in the introduction, one of his main arguments is that ".... instead of being a hegemonic ideology ... which contributed to greater Euro-American colonial domination over them, Orthodoxy became a set of beliefs and ritual practices that assisted many of the Tlingit in coping with their changing sociopolitical and intellectual environment, as well as an institution that helped them maintain their "respectability" in the eyes of the Americans *yet also enabled them to preserve key aspects of their traditional sociocultural order (particularly death-related beliefs and rituals)*" (emphasis added).

Kan specifically mentions Hoonah as among the more conservative villages in the region at several points in the book, and he states that "many of the traditionalist residents of the more isolated communities, such as Angoon/Killisnoo and Hoonah, also tended to be Orthodox" (Kan 1999:xxii). Kan's thesis is that in the early twentieth century, the negative influence of the ROC was limited because the clergy wished to maintain Tlingit membership in the church. There was never total agreement on how much criticism of the persisting practices was appropriate among the ROC clergy (Kan 1999:351-56). "Being realistic, most early twentieth-century Russian clergymen did very little to change their Tlingit parishioners' way of life... [This position] encouraged the more traditional Tlingit to remain Orthodox because it allowed them to enjoy the benefits of Church membership and yet pursue such key pre-Christian activities as potlatching" (Kan 1999:357). Thus, according to the evidence provided by Kan, Archie White's Orthodoxy *most likely did not conflict* with his cultural conservatism in the way that you suggest.

The UPM letter also discusses the Alaska Native Brotherhood (ANB) as another influence on Archie White to sell the clan objects. We agree that the ANB was active in Hoonah at the time and it was known to encourage its members to refrain from participation in potlatches and memorials, and even sell at.óow. But by the time Mr.

Shotridge made his collection in Hoonah, the ANB had shifted its emphasis away from assimilation and towards civil rights issues. We also agree with the position expressed in your excerpt from Kan (1999:466), that "The ANB alone should not be blamed for these violations of the old value system," and that other trends played a bigger role. To the trends he identified, we would add significant changes in population and economy as well. We are not disputing the fact that change occurred, and do not disagree that the cumulative effects enabled Mr. Shotridge and others to purchase objects from some people. But that fact did not mean 'the old value system' was dead, in effect, and no longer normative. Cultural traditionalists in every village maintained the old value system and customs of clan organization and potlatching. To continue with Kan, he (1999:503) made this point in the following passage,

> Despite these challenges, conservatives continued their efforts to maintain at least the core of the indigenous socioeceremonial order by giving clan-owned names to their younger relatives, sharing food with their matrikin, calling upon their "opposites" to repair lineage houses, properly dedicating new crest objects (or copies of old ones) and, most important, "putting away" their dead matrikin according to the old rules of moiety reciprocity and "respect for the dead." Even though the host of a k̲oo.éex_ could no longer count on the uniform support of a large number of his or her matrikin, potlatching continued throughout the 1940s and 1950s, and some very impressive ceremonies were sponsored by families in Sitka, Angoon, and even Hoonah (where town leaders were more "progressive").

There are numerous additional sources in the anthropological literature which provide further evidence that traditional ceremonies and principles of clan organization were not a thing of the past, at the time these items were collected, and the sale of ceremonial and clan objects was not the legitimate and sanctioned behavior of chiefs and clan leaders, as you argue.

Furthermore, there is specific evidence from oral history regarding the Hoonah T'ak̲deintaan and Archie White to support our position. Mrs. Lily White states that she does not believe that Archie White sold these items. She says that he was opposed to the sale of clan objects and tried to influence people, later in his life, to preserve clan objects; and she has letters from him in her possession which supports her statements. The ongoing cultural importance of the Mt. Fairweather House and clan objects was dramatically demonstrated at the time of the village fire in 1944 (five years after the death of Archie White). Mrs. Lily White told about this incident, when her father's oldest brother would not leave the burning house:

> ... when Hoonah burned up, they took him out of there and he went back. Its part of a culture. 'I will die with the house of my uncles .' This is the true love and deep respect he had for that house and the at.óow they had, that he gave his life with it. Never saw my father so hurt when they took him out

of the rubbish. But he told his brothers-in-law, the Chookaneidi, that 'You will see me cry once, my fathers, my brother gave his life. Everything we owned that went up with the fire. I will not cry again.'

Many clans lost their at.óow in this fire.

Furthermore, and this is an important point, the lack of evidence for objections to the sale of the objects means only that there is no evidence. It does not constitute positive evidence for the position that there was collective concurrence in or approval of the sale, as you argue. Your statements here indicate a lack of cultural knowledge. You request evidence of objections within the clan over the sale, but the evidence is unavailable, which is not surprising since the open expression of such objections is culturally inappropriate. The public expression of discord within the clan occurs very rarely in Tlingit culture, and that is particularly so when a house leader is involved as may be the case here. There are no cultural mechanisms for initiating intra-clan sanctions and there is no process of resolving intra-group disagreements, short of banishment, death, or out-migration, as exist for inter-clan disputes (the peace ceremony). Consequently, the open expression of discord is extremely rare. Intra-clan conflicts were often the basis for fission and migration out of the community, or were sometimes the motivation for founding new clan houses.

Also, the issue of objection to the sale begs the question whether Mr. Shotridge carried out the purchase openly and in public. We know that Mr. Shotridge would go to great lengths to acquire such collections. For example, he (1929:339-41) described the removal of the Kaagwaantaan shark helmet in Klukwan,

> I obtained this old piece for the Museum's collection from the last of the house group, the members of which are known as the founders of the Kaguanton Clan. When I carried the object out of its place no one interfered, but if only one of the true warriors of that clan had been alive the removal of it would never have been possible. I took it in the presence of aged women, the only survivors in the house where the old object was kept, and they could do nothing more than weep when the once highly esteemed object was being taken away to its last resting place.

Moreover, it is simplistic to make a comparison between the outward lack of response to the Snail House acquisition and the openly expressed hostility in Klukwan and Haines to Mr. Shotridge's efforts to acquire the Whale House collection. There are many differences in the two situations, the most obvious being that Mr. Shotridge did not call a public meeting in Hoonah, as he did in Haines, to discuss the purchase. Finally, to take a measure of the severity of the consequences of such open expression, we point out that Mr. Shotridge's provocations forced the two northern communities to conduct a formal peace ceremony after he retired from the scene.

Archie White's descendants say that they do not believe the statements that he sold these items. In support of their position, they refer to letters in their possession from Mr. White written shortly before his death, which condone the sale and loss of at.óow. They say that Archie White did not give up his participation in Tlingit memorials after he became a member of the ROC, and he continued to be the housemaster for the Mt. Fairweather House. Mr. Frank See, a deceased member of the house, recalls seeing the at.óow in a trunk kept on the second floor in the early 1920s. Then, one time when he returned to the house in 1925, it was gone. He could not explain its disappearance. It was not general knowledge within the clan or the community that the collection was sold.

Some clan members believe the Mt. Fairweather House collection was sold by Mrs. Archie White without the knowledge of her husband, who was away hunting at the time. This oral history is passed down among Táax̲' Hit members; it was told by Mike Wilson, and then known by Frank Wilson, Shorty Wilson and Mary Sarabia, according to Mr. Richard Dalton, Sr., leader of the Raven Nest House and Shaadeihani of the T'ak̲deintaan clan. "He became my father-in-law, Shorty Wilson. He used to tell us about that, what she did, the damage she did, from the Táax̲' Hit, they called it at that time. So, but he never did tell me the real story about, behind it, why she ..... But she sold it to the people that came, they were looking at no money, no food, nothing, so when they didn't have any money they sold it. How much she sell it to that collector, we don't know, I don't know. Only Shorty Wilson and Frank Wilson and Sarabia, Mike Wilson, because they're from the same house" (Interview with Richard Dalton, August, 2000).

Mr. Dalton also describes that there was public acknowledgment for this wrongdoing during a peacemaking ceremony held in Hoonah in 1958. Archie's son Joe White brought out a Chilkat robe and presented it to Mary Sarabia. According to the history, Joe White gave this robe to Mary, for the benefit of descendants of Táax̲' Hit, in recognition of the wrongdoing that was committed by his mother. Although Mr. Dalton was not present to hear the words that were spoken by Joe White, he (Dalton) said, "I'm pretty sure what he say, that 'I don't think that I will be able to be big enough to pay you back what my mother did,'" and "'please accept this,' like a peace offering." Mary Sarabia accepted his words and the blanket, with Frank Wilson and Shorty Wilson as witnesses. This bestowal was made in public in the ANB Hall at a peacemaking ceremony, and it meant that Joe White had already spoken with and negotiated with the T'ak̲deintaan ahead of time so he would be understood, and his offer accepted, before the principal peace making ceremony commenced.

The sale of the "Snail House Collection" was a violation of tribal custom because such ceremonial and clan objects were not alienable by an individual. Mr. White did not personally own these objects, he was merely the person responsible for caring for them on behalf of their true owners, the Mt. Fairweather House of the T'ak̲deintaan clan. Even if individuals were selling clan objects, they were doing so in violation of Tlingit law. The fact that Mr. Shotridge and other collectors acquired such items in Tlingit villages does not thereby establish that their actions were sanctioned or legitimized. The "Snail House Collection" is cultural patrimony because the law, then and now, was that Mr. White did not own and did not have the authority to alienate clan property.

While there were Tlingit individuals who adopted the principles of individual ownership and patrilineal inheritance (such as Mr. Shotridge espoused) because they believed that was the new social order, there were others who maintained the "old customs" of communal ownership and matrilineal succession (that is, the office or responsibility of custodian of at.óow for the group was transferred to a successor). The ethnographic literature beginning with Emmons, which covers the period from 1880 to the 1970s, provides substantial evidence that clan objects were held as communal property that could not be alienated by an individual. Tlingit traditions did not cease to be observed in Hoonah, as you suggest, even though some individuals offered items to collectors, and there were others who openly discouraged cultural traditions. Tlingit people may have moved out of their clan houses and adopted Christianity, but this process of acculturation did not extinguish Tlingit law and customs that continue to define objects of cultural patrimony.

Summary of Information about the Requested Objects

This section provides an object-by-object discussion of the history and significance of the item drawn largely from Mr. Shotridge's notes, as well as oral history and the anthropological literature.

Louis Shotridge's T'akdeintaan "Snail House Collection"

NA 6828 Shaman's Drum ("Old man of war")

Mr. Shotridge reports that the drum is carved to represent the "Old man of war," the helping spirit of the shaman (Xetcaku) for whom it was made when he "proved his spiritual power as a shaman." Mr. Shotridge describes the drum as an example of "an object of importance" to which the people applied an elaborate design "for the sake of sentiment," in this case, to memorialize the achievement of an important shaman from the Mt. Fairweather House. He also notes, "The old drum evidently had been the first object of heirloom in the possession of the Snail House Family" (MS 37, Shotridge Collection, Alaska Historical Library).

Summary of Evidence for Cultural Patrimony: This drum is carved with an image of a T'akdeintaan shaman's helping spirit, and it is named for that spirit. All (the drum, the spirit, and the name) belong to the Mt. Fairweather/Snail House and T'akdeintaan clan. The drum was made in honor of a renowned shaman in T'akdeintaan history, whose name was also recorded. Mt. Fairweather is a geographic feature that is an important crest of the T'akdeintaan clan; the mountain is known to be a home to (helpful) shamanistic spirits which is one of the principal reasons for its historical and cultural importance to the Mt. Fairweather/Snail House and T'akdeintaan clan. The drum is one of a number of shamanic objects in the Snail House Collection that, according to the collector, was the ancestral property of the Mt. Fairweather House at the time of its acquisition. The collector states that the drum was "the first object of heirloom in the possession of the Snail House Family." A specimen card written by the collector indicates that the drum was made by a member of another clan, which is consistent with the custom of commissioning the construction of at.óow from the opposite moiety. The available evidence indicates that the drum was not used by shamans and that it was used in clan memorials to honor this shaman (as a clan ancestor) and his helping spirit which are central in the clan's history, and that it was passed down in the Mt. Fairweather/Snail House as ancestral property. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.
Mrs. Lily White describes another historical significance of the drum. She states that the brothers-in-law (the Nakanis) used a drum from the Mt. Fairweather House to invite villagers to memorial parties when one was planned to begin, on the following day or

the day after. She remembers they would beat the drum for this purpose. She believes this could be that very drum she remembered them using in Hoonah. De Laguna (1972) reports that a drum was used similarly to notify the community in Yakutat that a potlatch was soon to begin.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card identifies four individuals as heirs to the drum at the time it was acquired, indicating that it had been passed down within the house group and that it was owned collectively. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6829 Caribou Skin Robe ("Amidst the unmerciful waters of Lituya Bay")

Mr. Shotridge reports that the previous Mt. Fairweather House Master adopted the reef represented on this robe "as an object of reverence" (crest) in witness to the immense forces of change the group experienced after contact with Europeans. The iconography of this robe skillfully alludes to a signal event in T'akdeintaan history, the tidal wave that washed them out of their original home in Lituya Bay (after which they eventually came to Hoonah). Mr. Shotridge recorded this explanation of the design:

> Amidst the unmerciful waters of *Ltu'a* (Latuya [sic.] Bay) lies a one time-honored reef - 'the last hope of a lost man.' A hunter, more than once, who had been carried away by the out-rushing tide, held on to this rock as the last hold of safety. Such has been the experience of the last of our housemaster in this onrush of modern life, which incited him to adopt this rock, of our former home, as an object of reverence. The middle figure represents the Rock of Ltu-a, and on either side are shown the angry waters of the rapids.

The design on this robe uses images from the T'akdeintaan clan's original homeland and refers to events in the early history of the clan in creating a representation of a more recent historical encounter significant in the life of the clan. For these reasons, this object has continuing historical and cultural importance to the T'akdeintaan clan.

Summary of Evidence for Cultural Patrimony: The image on this robe is of a rock in Lituya Bay, and the robe is a named object. All (the robe, the reef, and the name) belong to the T'akdeintaan clan. The rush of the tide by this rock was taken as a design by Archie White's namesake, the previous Mt. Fairweather/Snail House master (custodian), to represent the forces of rapid changes experienced following contact with non-Native Europeans. The image of being swept out to sea is important in the history of the T'akdeintaan clan, which was driven out of Lituya Bay (their former home) by a tidal wave. The object was made for and brought out by the T'akdeintaan clan on the occasion of a Kaagwaantaan memorial in Sitka. A specimen card written by the collector indicates that the robe was made by a member of another clan, which is consistent with the custom of commissioning the construction of at.óow from the opposite moiety. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card identifies two individuals as heirs to the robe at the time it was acquired, one of whom had the name of the previous house master who commissioned the item. This information indicates that it had been passed down within the house group and that it was owned collectively. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6830 Dance Mask (Sun Mask)

According to Mr. Shotridge, this mask represents an image of culture contact which combines the face of the white man ("a man of wonders") who came from the east, and around which the sun revolved, with the great sun — which he called "a unique idea." Mr. Shotridge also provides information about the origin of the mask, stating that the mask was made when the owner called together the Wooshketaan of Angoon, and that a person named Guxnawa had caused the death of a woman member, and in consideration the T'akdeintaan clan assumed ownership of the Sun emblem.

The imagery and ceremonial use of the Sun Mask as significant at.óow of the T'akdeintaan clan is evidenced in Dauenhauer and Dauenhauer (1990), who discussed its important role in the oratory of T'akdeintaan leaders David Kadashan and Jessie

Dalton during a memorial party for Jim Marks held in Hoonah in 1968. The sun was an integral part of the imagery in their speeches during the Widow's Cry portion of the ceremony (the principal segment devoted to condoling the mourning clan), and the Sun Mask was brought out and displayed as at.óow of the T'akdeintaan clan during the traditional oratory. Jessie Dalton: "At this moment this sun is coming out over you, my grandparents' mask. At this moment my hope is that your grief be like it's drying to your core." The Dauenhauers (1990:395) explain,

> Jessie has been leading up to the presentation of the Sun Mask. The sun that is drying the grief is again the at.óow. The Sun Mask belonged to Kaajeesdu.een (no English name), then to Kichxit'aa of the Head House (Kaa Shaayi Hit) also before the time of English names. It then passed to Kaakw Daa Eesh, the father of Joe White [Archie White]. From then it passed to S'ekyatoow (Frank Wilson). It then passed to Shaakwlayeix (Leonard Davis). The mask is now in the care of Katherine Mills' son, George Mills, also named Kaakw Daa Eesh.

We wish to point out that in 1968, the Sun Mask was not used as a dancing mask (as it is described in the museum's documentation), but was held in the hand for public display of T'akdeintaan at.óow during the speech (see photo on page 106). This complex act serves as a means of calling in the spirits of the past owners of the mask which through their presence increases the power of the clan to remove the grief of the mourners, and shows high regard and respect for the mourning group. The mask currently in the clan's possession is a duplicate of the original which is in the museum.

Summary of Evidence for Cultural Patrimony: This mask is carved with an image of the sun, and it is named for the sun crest which it represents. All (the mask, the crest, and the name) belong to the T'akdeintaan clan. The clan assumed ownership of the sun crest from another clan after Guxnawu caused the death of a female clan member. A specimen card written by the collector indicates that the mask was commissioned by a member of the Mt. Fairweather/Snail House named Kitcxit'a for the occasion of a memorial to which the Wooshketaan of Angoon were invited, at which the mask was brought out. The available evidence indicates that the mask was used in clan memorials and was the ancestral property of the Mt. Fairweather House at the time of its acquisition. The existence and use of a duplicate Sun Mask, which is identified as at.óow of the T'akdeintaan clan, has been described in detail (see above). This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card identifies two individuals as heirs to the mask at the time it was acquired, indicating that it had been passed down within the house group and that it was owned collectively. The item's

provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6831 Shaman's Mask (Owl Mask)

Mr. Shotridge writes that this mask, carved in the form of an owl, was called, "Owl of the heaven," for the helping spirit which appeared to a shaman of the T'akdeintaan clan which owned the mask. On the specimen card (MS 37, Shotridge Collection, Alaska Historical Library), Mr. Shotridge states that the owl spirit was one of the clan's helping spirits from Mt. Fairweather:

> After he escaped from the Tantakwan war party, Xedjak'u brought his household and lived at the headwaters of Xaku-tenka Hin, where in a domestic trouble his wife reminded him of his sister's position in captivity. Thus, the offended man retired to the forests of Tsalxaan (Mt. Fairweather) where, after prolonged fasting the spirit of the Owl-of-the-heaven entered into his being.

He also notes that "It was made at Drum-side town [Hoonah] when the Owl-of-the-heavens helping spirit came into Xedjak'u." The mask represents an owl sitting on a stump, the carved part being the stump, and on this was fixed a stuffed owl. The bird was operated by the performer to mimic the movements and sounds of a hunting owl.

Mr. Shotridge indicates that the mask was at one time a shaman's spirit mask, but that it was in the possession of the clan and was kept with the clan's heirloom objects at the time he acquired it.

Summary of Evidence for Cultural Patrimony: This mask is carved with an image of a T'akdeintaan shaman's helping spirit, and it is named for that spirit. All (the mask, the spirit, and the name) belong to the Mt. Fairweather/Snail House lineage and T'akdeintaan clan. The mask was made in honor of a renowned shaman in T'akdeintaan history, Kedjaku, for whom the drum (NA 6828) was made. The collector notes that the owl spirit came into the shaman out of Mt. Fairweather. Mt. Fairweather is a geographic feature that is an important crest of the T'akdeintaan clan; the mountain is known to be a home to (helpful) shamanistic spirits which is one of the principal reasons for its historical and cultural importance to the Mt. Fairweather/Snail House lineage and the T'akdeintaan clan. The mask is one of a number of shamanic objects

in the Snail House Collection that, according to the collector, was the ancestral property of the Mt. Fairweather House at the time of acquisition.

A specimen card written by the collector indicates that the mask was made by a member of another clan, which is consistent with the custom of commissioning the construction of at.óow from the opposite moiety. This card also indicates that the original "owner" (custodian) of the mask was the same individual who held the drum (not the shaman). The available evidence indicates that the mask was used in clan memorials to honor this ancient shaman of the clan and his helping spirit, which are central in the clan's history. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card indicates that it had been passed down within the house group and that it was owned collectively at the time it was acquired. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6832 Dance Mask (Commander of the Tides)

Mr. Shotridge states that this mask was purchased by the T'akdeintaan about 48 years ago (1876) for their use at a memorial party at Grouse Fort, and since then it has been in the possession of the clan. It was formerly owned by the Kashqueidi from the Stikine (Wrangell). The opening and closing of the "great eyes of the mask" represent the movement of the tide: opening means the flood tide and closing signals the slack tide.

The name, "Commander of the Tides" (*Yookis'kookeik*), was one of Archie White's names. Archie White was the house master of the Mt. Fairweather/Snail House at the time it was acquired, and according to Mr. Shotridge's specimen card, it was he who went to Wrangell to purchase the mask. Since that time, "the T'akdeintaan assumed ownership of it." The name *Yookis'kookeik* was passed on to Leonard Davis when he took his uncle's place (and married his wife) in the Mt. Fairweather House (see Dauenhauer and Dauenhauer 1990:394-5). It is currently held by another house member.

Summary of Evidence for Cultural Patrimony: This mask is named after the "god" (power) that controls the tides, and it represents that powerful figure. The mask was purchased in about 1876 by Archie White, the house master of the Mt. Fairweather/Snail House, who adopted the name as one of his own. The mask was acquired from a Stikine lineage to be used by the T'akdeintaan clan at a memorial held at Grouse Fort. The name was passed to Archie White's successor, Leonard Davis, and it is in use by the Mt. Fairweather house group today. Like the name, this item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card identifies that house master of the Mt. Fairweather/Snail House, Tuqaxawu II (possibly Archie White), was the original "owner," and no heirs are listed. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6833 Ceremonial Mask (Gunakadeit)

The mythical being of Gunakadeit is a well known figure in Tlingit cosmology; Mr. Shotridge says the mask was called the "Mystery of the sea." According to Mr. Shotridge's notes, "the mask was made to be worn on the occasion of a great Call-together [mourning ceremonial] which was held following a serious war." His collection notes provide additional details, that the mask was created "when the owner called together the Wooshketaan of Angoon," a reference to hosting a memorial celebration. The "owner" (custodian) was the same man from the Mt. Fairweather/Snail House who sponsored the creation of the shaman's drum and owl mask.

Mr. Shotridge's collection notes relate the following story about the T'akdeintaan acquisition of this crest: "The T'akdeintaan assumed ownership of the Gunakadeit since a man of the Kashquedi party, when granted his freedom, presented to the clan the song of the Gunakadeit. No evidence, however, that the claim had been justified by the presentation of the song." Regardless of Mr. Shotridge's reservations, he provides evidence that the T'akdeintaan commissioned and brought out this crest object at a ceremonial, with the song, which was witnessed and validated by an opposite clan. This object carries historical significance for the T'akdeintaan clan since it represents

an important event in their past, the transfer of the right to the crest to the clan in acknowledgment for the clan granting freedom to a prisoner of war, such that the item was handed down in the Mt. Fairweather House as a communal possession.

Summary of Evidence for Cultural Patrimony: This mask is carved with an image of a mythical figure, Gunakadeit, and it is named for that spirit. It was created by the clan after a song about the figure was presented to the clan by an individual who was given his freedom during a war. All (the mask, the spirit, the name and the song) belong to the T'akdeintaan clan. This mask was created under the direction of a member of the Mt. Fairweather/Snail House, the same individual who was responsible for the construction of the shaman's drum, owl mask, and the "Controller of the Tides" mask. The mask was brought out by the clan at a memorial, which validated their ownership. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card identifies the name of a former house master of the Mt. Fairweather/Snail House who had it made for use in a memorial, when the clan's possession of the object was witnessed and validated. Notes on the specimen card indicates that the item was held collectively by the lineage and clan. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6834 Ceremonial Headdress (Thunderbird at the Hunt Frontlet)

The Thunderbird is another well-known mythical being among the Tlingit that is associated with rainstorms and, according to Mr. Shotridge's notes, the prediction of a harsh or mild winter season. In this object, "the carving represents the Thunderbird tearing in two its prey the whale." Mr. Shotridge records that it was formerly owned by a Kiks.adi man from Stikine (Wrangell), the name of whom is provided in his notes. "The object was granted to the free use of the T'akdeintaan because of a maternal relationship — the mother's father." The object represents the historical relationship between the T'akdeintaan and Kiks.adi clans.

Frontlets are used at various times during memorials. A frontlet may be brought out by the guests to comfort the grieving hosts, or a frontlet may be used in a spirit dance during the second part of the memorial. Since the collector identified all the objects in the Snail House collection as heirlooms passed down by people ancestral in the Mt. Fairweather/Snail House, this object would have historical significance to the T'akdeintaan clan from this past use, in addition to their relationship with the Kiks.adi clan.

Summary of Evidence for Cultural Patrimony: This headdress is carved with an image of another mythical figure, the Thunderbird, and it is named for that spirit. The use of the object was granted to the T'akdeintaan clan by a (named) member of the Kiks.adi clan of Wrangell because of a kinship relationship with the clan (through his mother's father). The use of the headdress, the name, and the spirit were all granted to the T'akdeintaan clan. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card explains the circumstances by which the T'akdeintaan clan gained the right to use the object freely. There is no "owner" or "heirs" listed on the card, which is consistent with this information and indicating that the ownership of the prerogative lies with the clan as a whole. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6835 Ceremonial Headdress (Ravine Frontlet)

Mr. Shotridge notes that *Gi-tlaku*, "Ravine," is a name of a passage-way over a sand mount at Dry Bay near Yakutat, and the carving represents an episode in the "Raven Journey" when Raven lured the king salmon ashore which took place near the mount. "The figure at the base represents the sand mount *Gi-tlaku*;" ... It was made in Hoonah for the occasion of the rebuilding of the Mt. Fairweather/Snail House.

More accurately, Geelak'w is a specific feature of Mt. Fairweather: the shoulder or 'pass' that divides the two peaks at the summit of the mountain. This is a highly significant location to the T'akdeintaan clan and it is portrayed at the top of the design on the screen placed on the front of the Mt. Fairweather House (see photo on page 93 of Dauenhauer and Dauenhauer 1990). The story of Raven and the King Salmon that is carved on the frontlet is also represented on the Mt. Fairweather House screen, below the figure of Geelak'w. The images on the frontlet correspond to the house screen, with the exception of the "Green Jade" (the top figure on the frontlet) which the Raven personified.

Another Geelak'w headdress (frontlet) is in the possession of the clan. It was brought out by the T'akdeintaan during the Widow's Cry of the 1968 memorial ceremony for Jim Marks in a speech by Jessie Dalton, following the Sun Mask (described above): "At this moment my hope is that your grief be like it's drying to your core. Geelak'w Headdress, yes. Your father's sisters would reveal their faces from it, from Geelak'w, yes. That's the one there now. Someone is standing there with it, this headdress *Thank you indeed [Response]* my grandfather's headdress. *Thank you.*"

The ongoing central importance of Geelak'w and the headdress is described by the Dauenhauers in their explanatory notes (ibid.:396):

> Geelak'w Headdress. An ermine headdress made in the image of the frontal screen of Tsalxaan Hit (Mt. Fairweather House), better known as Tax Hit (Snail House). ...
>
> Your father's sisters would reveal their faces from it, from Geelak'w. This passage is a metaphor of how the spirits of Mt. Fairweather, who are women, would appear and come to a shaman to heal those who are ill.

Geelak'w is another name for Tsalxaan, Mt. Fairweather. Specifically, the name Geelak'w is an image of the part of the mountain where it separates into two peaks. While the name Geelak'w refers specifically to the "V" made by the two peaks, the name is also generally synonymous with Tsalxaan in referring to Mt. Fairweather as a whole. Geelak'w is the part of the mountain where Gooxk', the little boy who became a one horned goat climbed, taking all the animals with him. The One Horned Goat transformed into a powerful spirit for the T'akdeintaan shaman and is an at.óow of the T'akdeintaan. A retelling of this story is included in Cheryl Samuel's *The Chilkat*

Blanket (1982:50-51) and a version by David Kadashan will be featured in a forthcoming volume in this series.

There was a frontal screen on the Tsalxaan Hit (Mt. Fairweather House) in Hoonah. The base of the screen rested on the floor of the porch, and the top reached above the second story windows. The screen was about two feet wider on each side than the door. There was a hole in the bottom center of the screen for the entrance to the house. The Geelak'w headdress (dance frontlet) is made in the image of the frontal screen for the house. As the headdress is displayed, the spirits are metaphorically made present. Mt. Fairweather is a powerful spiritual ground and is one of the important at.óow for the T'akdeintaan.

....

My grandfather's headdress. Jessie ends her speech with the image of the Geelak'w headdress, and the women coming out on Keet Yaanaayi, the hosts, and the guests. This headdress was Frank Wilson's, and was held, not worn, during the memorial. Jessie ends her speech with the image of Mt. Fairweather and the spiritual power residing there. Willie Marks thanks her.

The "Ravine" Headdress has an equivalent significance to the T'akdeintaan clan as the Geelak'w headdress in its possession.

Summary of Evidence for Cultural Patrimony: The Geelak'w headdress is carved with an image of a geographical feature of Mt. Fairweather, and it is named for that locale. All (the place, the crest, the name, and the headdress) belong to the Mt. Fairweather/Snail House and T'akdeintaan clan. The object was created upon the occasion of the re-building of the Mt. Fairweather/Snail House in Hoonah. The design of the item corresponds to the screen attached to the front of the Mt. Fairweather House, including the images Geelak'w and the Raven, king salmon and little birds (from an episode in the Raven cycle that occurred near Geelak'w). Geelak'w is a unique feature of Mt. Fairweather, and both are geographic locations that are important crests of the T'akdeintaan clan. The mountain is known to be a home to (helpful) shamanistic spirits which is one of the principal reasons for its historical and cultural importance to the Mt. Fairweather/Snail House and T'akdeintaan clan. A specimen card written by the collector indicates that the headdress was made by a member of another clan, which is consistent with the custom of commissioning the construction of at.óow from the opposite moiety. The existence and use of a duplicate Geelak'w headdress, which is identified as at.óow of the T'akdeintaan clan, has been described in detail (see above). The available evidence indicates that the headdress was used by the clan in memorials and was the ancestral property of the Mt. Fairweather House at the time of its acquisition. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card explains that the headdress was made for the occasion of re-building the Mt. Fairweather/Snail House and indicates that it was passed down with the other objects held by the ancestors in the lineage. There are no "heirs" listed on the card, which is consistent with this information and indicating that the ownership lies with the clan as a whole. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6836 Ceremonial Headdress (Raven Headcover)

Mr. Shotridge reports that this item is named *Yeatl-Shada*, "Raven Headcover," for the carved raven attached in the front, and that it was made for Xetcaku, the first shaman to gain prominence in the T'akdeintaan clan. The shaman's drum and owl mask are also associated with this individual, who received at least one of his spirits from inside Mt. Fairweather (see above). However, the headdress originally belonged to a leading person in the clan, not the shaman, according to Mr. Shotridge's specimen card. The original headdress had a human figure attached to the front and was called "the soul of the Southeastern man Headcover." This figure was replaced with a raven and the name changed by another shaman named L'akakw after it had been passed down to him. Mr. Shotridge records that two male slaves were "given for the improvement" at this time. The magnitude of this sacrifice indicates that contributions were made by other members of the clan to increase the value of this item, which would be the practice for items owned by the clan. This conclusion is consistent with Mr. Shotridge's statement, "Since then, the *cada* [headdress] became a permanent object among the possessions of the clan." Mr. Shotridge indicates that, at the time it was acquired, this headdress had become a part of the collection of ceremonial regalia handed down through the Mt. Fairweather House.

Summary of Evidence for Cultural Patrimony: This headdress has a carved image of a raven attached to the front and it is named for the raven. Originally, the headdress had a human figure in front and was called by a different name; and it was made to commemorate a clansman named Kedjaku who became a renowned shaman in T'akdeintaan history (in whose honor the drum (NA 6828) and owl mask (NA 6831) were also made). The collector noted that after the raven was attached, objects of significant value (two slaves) were given away by the clan, signifying that the item was owned collectively, and the headdress "became a permanent object among the

possessions of the clan." The headdress is associated with prominent shamans in the clan and with Mt. Fairweather, a geographic feature that is an important crest of the T'akdeintaan clan and known to be a home to (helpful) shamanistic spirits. The headdress is one of a number of shamanic objects in the Snail House Collection that, according to the collector, was the ancestral property of the Mt. Fairweather House at the time of acquisition. A specimen card written by the collector indicates that the original headdress was made by a member of another clan, which is consistent with the custom of commissioning the construction of at.óow from the opposite moiety, and that it belonged to a clan leader rather then the shaman in whose honor it was made. The available evidence indicates that the headdress was used in clan memorials to honor the ancient shamans of the clan and their helping spirits, which are central in the clan's history. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the headdress was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family, and he provided evidence that it was owned collectively when it was first brought out (two slaves were sacrificed for it by the clan, to give it value). His specimen card indicated that it had been passed down within the house group and that it was owned collectively at the time it was acquired. Also, two "heirs" are identified on the card. The item's provenience in the museum's computer inventory is listed as the Snail House. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6837 Ceremonial Headdress ("Abalone Headfins" or Bear's Ears)

Mr. Shotridge records that this headdress was made for use in a memorial ceremony hosted by the Kaagwwaantaan at Sitka, and he notes that the valuable abalone shell in the item had been passed down in the clan as decoration on another object: "The abalone shells used in this had been a form of ornamentation on a "hair-case" owned by Tcex I, from whom it was passed to Wucqindendaat II, and again to Tdanet." He said that the abalone shell had greater value "than the gold of the present day." The original "owner" (custodian) of the Bear's Ears was the master of the Mt. Fairweather/Snail House, Archie White, according to the specimen card.

Mr. Shotridge reports that this type of headdress was customarily worn during ceremonies "only by a man of rank," and he also notes that this item seems out of place in this group, disclosing again the bias of his social position. But he adds, "[It] is a good example of those esteemed by the rich. And it is stated that this piece had been acquired by paying a handsome price." Mr. Shotridge's remarks indicate that he was impressed with the ability of the T'akdeintaan to add to their possessions.

This type of headdress is used during spirit dances, a type of special dancing which occurs at certain times during the period of "regular" dancing that follows the Widow's Cry portion of a memorial. Spirit dances and the songs accompanying them are described in Dauenhauer and Dauenhauer (1990:62-63). The dances occur behind a blanket, with only the bobbing headdress showing above the top of the blanket. The songs sung to such dances are termed 'spirit imitating songs;' they are in the language of spirits and are not intelligible to speakers of Tlingit.

Summary of Evidence for Cultural Patrimony: This headdress is decorated with abalone shell and has protruding ears known as 'Bear's Ears." The available evidence indicates that the headdress was used in clan memorials to perform special spirit dances at certain times during the memorial celebration. This headdress was made for the master of the Mt. Fairweather/Snail House. The abalone shells were acquired from a "hair case" that was owned by lineage ancestors and passed down through three named individuals before it was used by Yaku-xuan II to construct the Bear's Ears. According to the collector, the headdress was the ancestral property of the Mt. Fairweather House at the time of acquisition. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the headdress was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card indicates that it was constructed from valuable material (abalone shell) that had been passed down within the house group as part of a "hair case." He records the names of three individuals through whom the hair-case had been passed down before it was held by Yaku-xuan II, who used it to make the Bear's Ears. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6838 Ceremonial Headdress (Raven's Head-top-stock, or Octopus Hat)

Mr. Shotridge states this item was named, "Head-top-stock of the Raven." He writes that the headdress was made in Hoonah for the memorial ceremony held at the rebuilding of the Mt. Fairweather/Snail House during the early days of the town, which places it alongside the Geelak'w Headdress in age and historical significance. Like the previous item, he notes that it "was made to be worn on important occasions." He records the episode of the Raven story with which it is associated, in which Raven found himself at a feast in need of an item with which to distinguish himself and seized an octopus to place on top of his head for the occasion. His notes indicate that the item was originally made with feathers from a flicker, but these had been replaced with a duster "from the Orient," which supports his statement that the item had been in the clan's possession for some time.

Summary of Evidence for Cultural Patrimony: This headdress has a name which refers to the episode from the Raven cycle represented by the item. The headdress was originally made for use during the memorial held for the reconstruction of the Mt. Fairweather/Snail House. Subsequently, the Oriental duster was applied to replace the original feathers of red flicker, indicating that the headdress was used in clan memorials after its construction. This headdress was originally made for the same lineage member who held the sun mask, owl mask, Gunakadeit mask, and the whale blanket (according to specimen cards provided by the collector). According to the collector, the headdress was the ancestral property of the Mt. Fairweather House at the time of acquisition. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the headdress was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card indicates that it was originally constructed for use in the celebration for the reconstruction of the Mt. Fairweather/Snail House in Hoonah, and the original "owner" (custodian) also held other important at.óow belonging to the Mt. Fairweather House/Snail House. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6839 Headdress of Human Hair

Mr. Shotridge's notes indicate that he intended to provide information about the significance of this item, but he apparently did not get around to it. It is one of three such items so identified.

Summary of Evidence for Cultural Patrimony: The collector's notes indicate that this headdress was a named object that he considered to be important to the Mt. Fairweather/Snail House and the T'akdeintaan clan, but he did not provide the information about its origin and significance. According to the collector, the headdress was the ancestral property of the Mt. Fairweather House at the time of acquisition. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the headdress was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6840 Headdress (Bear's Ears)

Mr. Shotridge's notes indicate that he intended to provide information about the significance of this item, but he apparently did not get around to it. It is one of three such items so identified.

Mr. Shotridge reports (see Bear's Ears, NA 6837) that this type of headdress was customarily worn during ceremonies "only by a man of rank," and that such items were esteemed by the rich. This type of headdress is used during spirit dances, a type of special dancing which occurs at certain times during the period of "regular" dancing that follows the Widow's Cry portion of a memorial (also see Bear's Ears, NA 6837). The dances occur behind a blanket, with only the bobbing headdress showing above the top of the blanket. The songs sung to such dances are termed 'spirit imitating songs;' they are in the language of spirits and are not intelligible to speakers of Tlingit.

Summary of Evidence for Cultural Patrimony: This headdress is decorated with abalone shell and has protruding ears known as 'Bear's Ears." The available evidence for items of this type indicates that the headdress was used in clan memorials to perform special spirit dances at certain times during the memorial celebration.

According to the collector, the headdress was the ancestral property of the Mt. Fairweather House at the time of acquisition. The collector said that he intended to give information for this item, which he considered to be one of the important possessions of the Mt. Fairweather/Snail House, but he did not provide such material. Based on the information for another object of this type in the collection, this item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the headdress was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6841 Ceremonial Headdress (Beaver Frontlet)

Summary of Evidence for Cultural Patrimony: This headdress is of a type referred to as *shakee.at*, or frontlet. The available evidence for items of this type indicates that the headdress was used in clan memorials to perform special spirit dances at certain times during the memorial celebration. The Dauenhauers (1990:62-63) refer to these dances as 'imitation of the spirit' dances or *shakee.at* dances, as described briefly above for the Bear's Ears, NA 6837. The significance of the beaver frontlet can also be evaluated with the information for other objects of this type in the collection, such as the Geelak'w headdress (NA 6835). This headdress is a frontlet that was used during the Widow's Cry portion of the memorial and has central importance to the T'akdeintaan clan as an object used for condoling the mourning clan. According to the collector, the beaver headdress was the ancestral property of the Mt. Fairweather House at the time of acquisition. Based on the available information, this item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the headdress was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace

ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6842 Dance Ornament (Bear Forearms)

Summary of Evidence for Cultural Patrimony: According to the collector, the Bear Forearms was the ancestral property of the Mt. Fairweather House at the time of acquisition. Based on the available information, this item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the Bear Forearms was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6843 Staff Head (Raven)

This object is identified by the collector as the head or top ornament on a dance staff, and it bears the name, 'Raven.' According to de Laguna (1972:618), the guest clan designates two or more song leaders who are the 'masters of song' for their clan during a potlatch (also see Swanton 1909:438, who used the term, 'dance leaders'). These men carry a dance paddle, baton or pole "with which to beat time and signal the dancers and the other singers. These dance paddles were decorated with sib crests, bore traditional names, and were passed on from one song leader to the his successor." Similar objects were used by members of the host (mourning) clan singing clan songs referring to the dead or to their crests and the ancestor's adventures. De Laguna describes one pole as an heirloom of two houses of the Kwackwan clan, and says of another that it is used to direct the singing. The Raven staff head fits this description, being an heirloom of the Mt. Fairweather House of the T'akdeintaan clan. Mrs. Lily White remarks, "These are used when they're doing the crying songs.... The men hold it, when the songs are on." She is referring to the portion of the ceremony which the Dauenhauers have identified as the Widow's Cry — that part of the memorial

ritual in which the guests sing and display at.óow to erase the grief of the bereaved clan hosts.

The Raven staff, of which this figure is all that remains, was originally used by the clan for their songs, including their "crying songs" which are performed at the beginning of a memorial party during the "Widow's Cry," the mourning portion of the ceremony. It had been preserved in the "Snail House Collection" because of its ongoing importance to the house and clan for this reason, and its significance to the clan remains unchanged today.

Summary of Evidence for Cultural Patrimony: This staff head has a name and it was used by T'akdeintaan song leaders during memorials, especially during the Widow's Cry ritual. It has central importance to the T'akdeintaan clan as an object used for condoling the mourning clan. According to the collector, the staff head was the ancestral property of the Mt. Fairweather House at the time of acquisition. Based on the available information, this item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the staff head was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA6844 Rattle (Raven)

This rattle is named, "Raven the Pilgrim," according to Mr. Shotridge. Like the Geelak'w Headdress and the Raven Headdress, the item was acquired by the house master for the memorial held at the rebuilding of the Mt. Fairweather/Snail House. The specimen card stated that Yaku-xuan II (Archie White?), the master of the Mt. Fairweather House, purchased it from the Kiks.adi clan of Stikine (Wrangell), specifically from the same individual who granted the use of the Thunderbird Headdress to the T'akdeintaan.

Summary of Evidence for Cultural Patrimony: This rattle is carved with an image of the raven, and it is named for that spirit (specifically, after a particular episode in the raven cycle that has significance to the clan). The rattle, the name, and the unique element of the raven spirit to which the representation refers, all belong to the Mt. Fairweather/Snail House and T'akdeintaan clan. The rattle was purchased to use in honor of the ancestors of Mt. Fairweather/Snail House, on the occasion of the reconstruction of the lineage house in Hoonah. Raven is, of course, a moiety crest to which the T'akdeintaan clan has rights, but there are also specific episodes of the raven myth which have special importance to the T'akdeintaan clan because they took place in the vicinity of Mt. Fairweather (for example, see discussion of the *Gi-tlaku* headdress, NA 6835, above). Mt. Fairweather is a geographic feature that is an important crest of the T'akdeintaan clan; the mountain is known to be a home to (helpful) shamanistic spirits which is one of the principal reasons for its historical and cultural importance to the Mt. Fairweather/Snail House and T'akdeintaan clan. According to the collector, the raven rattle was the ancestral property of the Mt. Fairweather House at the time of its acquisition. The available evidence indicates that the rattle was used in clan memorials which are central in the house group's history, and that it was held in the Mt. Fairweather/Snail House as ancestral property. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card explains that it was purchased by the master of the Mt. Fairweather/Snail House for the occasion of the rebuilding of the house, indicating that it was brought out during the memorial and, as a result, that it was owned collectively. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6845 Rattle (Loon)

The rattle represents the loon spirit, the helping spirit of the first shaman of the T'akdeintaan clan. Mr. Shotridge wrote, "It was stated that the rattle had been made to improve the appearance of the shaman's outfit and it was the desire of the T'akdeintaan to make the outfit imposing." It is evident from these statements that the rattle had been passed down in the Mt. Fairweather House as a family heirloom, and it has significant cultural and historical importance to the clan because it is associated with the first T'akdeintaan shaman and one of the helping spirits from out of Mt. Fairweather.

Summary of Evidence for Cultural Patrimony: This rattle is carved with an image of a T'akdeintaan shaman's helping spirit, the loon, and it is named for that spirit. All (the rattle, the spirit, and the name) belong to the Mt. Fairweather/Snail House and T'akdeintaan clan. The rattle was made in honor of a renowned shaman in T'akdeintaan history. During memorials, the rattle physically represents (and calls the spirit of) that first shaman, as well as all T'akdeintaan shamans who came later and had the loon spirit and their helping spirit. The loon spirit comes from inside Mt. Fairweather. Mt. Fairweather is a geographic feature that is an important crest of the T'akdeintaan clan; the mountain is known to be a home to (helpful) shamanistic spirits which is one of the principal reasons for its historical and cultural importance to the Mt. Fairweather/Snail House and T'akdeintaan clan. According to the collector, the rattle had been passed down as the ancestral property of the Mt. Fairweather House at the time of its acquisition. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. His specimen card provides descriptive evidence about the origin of this item, indicating that it had been passed down within the house group and thus was owned collectively. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6846 Rattle (Plain)

This rattle was acquired by Louis Shotridge as part of the Snail House Collection.

Summary of Evidence for Cultural Patrimony: This rattle was included in the Snail House Collection, indicating that it was used in clan-sponsored memorials. According to the collector, the rattle was passed down (with the other items) as the ancestral property of the Mt. Fairweather/Snail House at the time of its acquisition. Although it is undecorated and does not have a name, it has salient historical significance to the clan since it was part of the Snail House Collection. The rattle is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, this item was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6847 Shaman's Brass Hat (Loon Spirit Hat)

Mr. Shotridge reports that this hat was made "when the owner became a subject to his deceased uncle's helping spirits." The owner is identified as Yakuxuan I, who would have been the predecessor of Yaku-xuan II (Archie White?). Mr. Shotridge stated that the hat was commissioned from a Russian metal smith during the early days of the Russian occupation at Sitka (Geja-Heen, Old Sitka).

Mr. Shotridge also provides information which indicates that the hat was made with the idea of display in mind. He writes that the hat had the "obvious" purpose, "to crown the equipment of the T'akdeintaan shaman." In his notes about the hat (Brief Descriptions of Important Specimens in the Snail House Collection, MS in archives of the UPA Museum), Mr. Shotridge gives a lengthy explanation about the "natural" propensity for Tlingit clans to create an important commemorative object for use by one's descendants, but he found in this instance there was an unseemly and ostentatious quality which exceeded the bounds of propriety:

> The creation of an important object fell on a modest mind like other things which had to exist. It was a natural thing indeed for a nobleman to put upon himself that the future of his successor must be provided for, —

the true side of man's history must be marked in some manner so that it may not be entirely forgotten. With this thought constantly in view objects were created, and the idea to out-class, or create things superior to that of other peoples was indeed frowned upon in view of modesty. In the days gone by every man was well aware of his social standing, and no one was ever bold enough to force a thing amidst those which had been borne through justified deeds. But along with the appearance of the Russian there came the free use of the white man's magic money. Then almost any one was in a position to create an object of some kind. This immediate change in life acted like an effective stimulant, — some men did not seem to know or care much what they did; objects flashed into existence, some of which very much regardless of the man's feeling of justice.

Such has been a general unspoken feeling about the creation of the Snail House Brass Hat. So the obvious uneasy attitude on the part of the owners has been due to this feeling when the hat was put to use in public.

This narrative discusses the hat as if it were made to be an important crest object, created by a high class person to be held and passed down within the house group, and brought out and displayed in memorials to represent an historically acquired prerogative of the clan. According to the anthropological literature, shamans do not bestow their paraphernalia on successors since they do not have the ability to pass on their helping spirits. True shamanic items are placed on the grave of the shaman who owned them, except in instances in which they are taken up by another clan member into whom the spirit has entered by its own volition. Shamanic objects are kept by the shaman and are not placed together with house and clan possession due to their spiritual power.

Although Mr. Shotridge writes that the Loon Hat was commissioned by a shaman, his explanation of its purpose as a commemorative object, with the intention to bestow it on a successor to be used for public display to the benefit of the owner's descendants, is more descriptive of an object intended to be a clan's heirloom object (at.óow). Its acquisition with the other items in the Snail House collection indicates further that it clan property and not a shaman's possession at the time it was collected. The evidence from the T'akdeintaan clan's oral history is consistent with this perspective. According to this line of evidence, the Loon Hat was made to be an object that is brought out by the clan in memorial parties (that is, at.óow, representing the loon spirit which is T'akdeintaan and who is married to Joe White's son, describes it in this way: at.óow). Mrs. Lily White (Hoonah Chookaneidi,

> The hat was built by the tribe, the uncles. The uncles are the ones that build (sic.) it. That's showing the picture, like a picture of her spirit. And this is addition to the Mt. Fairweather's people's strength. This is their ownership, this is theirs. .... The brass hat was made so the people could

carry it on, that belongs to them. Shamans' rattles could be used in ceremony, and that brass hat. And the Mt. Fairweather spirit hat could be used also and the fog hat. ...

So how would the brass hat be used?

Well, when all the ceremonial stuff comes out, they're going to call forth a grandchild. Not your maternal grandchild like we talked about yesterday, but your uncle's grandchild, will come forward. You call them out and put it on them.

Mrs. White is describing here the practice of bringing out at.óow and putting it on a grandchild for public display, and validation by the opposite side, which occurs only during memorial celebrations. Mrs. White discusses the hat after relating that her grandmother was a shaman and had acquired the Mt. Fairweather loon spirit as her helping spirit:

She became a shaman when she was 15 years old. What happens then is, you are given some kind of a warning that you are going to be a shaman. It doesn't happen to just anybody, or you don't hunt around for it. Even if she's just walking, bird will fall in front of her, a raven, or even a hawk. And the tongue comes out, it just sticks way out. And she just scream and run from it. It kept happening to her. And at night she'd see things, in the night she was telling us, and it would be coming towards her and it would disappear. She couldn't even sleep. And finally she told her mother. And her mother told her uncles, and they said, 'how long has this been going on?' And then she told her, 'That's a long time, almost a whole year.' And she was real young, she was only 15.

But they went and took her out to Fairweather. And they put her inside this cave, for three and a half weeks. And they worked on things, the way they were showed, so she could become a shaman. When they told her, 'Today is the day,' the man was standing by her. 'You will choose one of us, to become your spirit, your helpers. We're going to help you.' She said they weren't very big. They were men, they weren't very big. And she said, they were just bright. 'We're going to be your helpers, but you have to choose: which one of these you think will be the strongest to help you?' And they showed her the moon, and the showed her a boat that rows, and there was a sprit in there that was very powerful. They showed her several objects, and it took her 4 or 5 days to choose. But she could see those men they were just so big. They looked like men, she said, but they were light-complected. They said, we're going to be the ones that help you, but you have to choose one of these, will be your power. And she did.

And they said, 'All you have to do is say, 'Come forward' to your uncles. Go to the opening of the cave and say, come forward.' She walked over there and she said, "*Haat yi adei*," that means, 'come over now.' They start coming. They didn't ask her questions, they just took her down. And she became a shaman.[5]

The loon spirit is at.óow of the T'akdeintaan clan, and comes out of Mt. Fairweather. The T'akdeintaan have a tradition of shamanism from the spirits in Mt. Fairweather that is salient in their origin and history. Mrs. White describes a prominent shaman who, centuries ago, was able to protect and preserve the clan with the help of spirits from inside the mountain:

> But the happenins that's happened to them out of Mt. Fairweather, was a shaman, which happened before, centuries before that it happened. The second one came, that came from them, became the strongest shaman out of Mt. Fairweather mountain. And, this was sent to the people. He was talked to from somewhere when he was sitting by the cliff, that he was going to be given a gift because people were dying from black art and stuff. They didn't know how to fight it. He had just lost his uncle and he'd been crying, sitting there, felling bad, when a voice talked to him, "I will send you luck. You will be able to help your people. You will have strength."
>
> Knowing that our people did not understand what was being happening; he just heard this. So they called it, *ixt*, which was called black art, witchcraft, and doctoring stuff --- actually these are the words they made up for us. This gift was given to him, and he had the powers. He didn't know how he was going to acquire these powers, either.
>
> This is how it came about that they had the Mt. Fairweather woman. They call it, Shaa tu kwani [people of the mountain]. Tal xaan tu kwaan shaawu [sister of the people of the mountain]. The people that were inside the mountain. And they also had a dog. Like I told you yesterday, like a bionic dog. And they had songs to prove these things. ... because this thing that occurred to their people got the Mt. Fairweather spirits which helped their people forever. And what's very very wonderful about this is they have the songs for this, the spirit songs, that belongs only to them, not other T'akdeintaan. This is their possession.

The mountain, the spirits from inside the mountain, the songs, the names, and the brass hat are all at.óow to the Mt. Fairweather House and the T'akdeintaan clan. "That brass hat came to them with this loon. The loon was the shaman's possession, and the loon was my grandmother. Her name was Mary Johnson, and her Tlingit name was *Shkik*. And the loon was her *yeik*, the spirits. They call it, *Kagit*." The Loon Hat which Mr. Shotridge acquired with the Mt. Fairweather/Snail House collection was not a true shaman's object (that is, part of a shaman's paraphernalia), although the

[5] Mrs. White also recounted an incident in which her grandmother's spirits talked to her and informed her about two fisherm
ıt were in danger of drowning after their boat capsized, and were saved by some men who went out from Hoonah to find them at t
ɔt identified by the voices.

...oon spirit was a shaman's helping spirit. The preponderance of the evidence establishes that, at the time it was acquired, the hat was used to memorialize the shamans in the clan's history and one of their helping spirits, the loon.

Additional evidence that the Loon Hat was at.óow and not shaman's paraphernalia is available in the photograph of Mt. Fairweather House members taken in front of the Mt. Fairweather House in Hoonah, which was published in *Raven's Journey* (p. 201) alongside a photo of the hat. The photograph, which unfortunately is undated, portrays ten individuals wearing ceremonial objects including items in the Snail House Collection. Archie White is standing in the center wearing the Loon Hat and also a blanket (NA 6849), from the Snail House Collection. A shamanic object would not be worn or displayed in combination with other clan possessions.

The ongoing central importance of the hat is further indicated by the fact that a reproduction of the brass hat was made which the T'ak̲deintaan currently use in their ceremonies.

Summary of Evidence for Cultural Patrimony: This brass hat is named for a T'ak̲deintaan shaman's (helping) spirit, the loon. The hat, the loon spirit, and the name belong to the Mt. Fairweather/Snail House and T'ak̲deintaan clan. The hat was made in honor of a shaman's spirit that came into T'ak̲deintaan shaman(s) from inside Mt. Fairweather. Mt. Fairweather is a geographic feature that is an important crest of the T'ak̲deintaan clan; the mountain is known to be a home to (helpful) shamanistic spirits which is one of the principal reasons for its historical and cultural importance to the Mt. Fairweather/Snail House and T'ak̲deintaan clan. According to the collector, the hat was the ncestral property of the Mt. Fairweather House at the time of its acquisition. This view is supported y oral history and a historic photograph of the then-current house master, Archie White, wearing e hat. The available evidence indicates that the brass hat was made by the clan and used in clan memorials for public display to honor the shamanic loon spirit and the ancestral shamans the loon spirit came into, which are central in the clan's history, and that it was passed down in the Mt. Fairweather/Snail House as ancestral property. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the Loon Hat was acquired from the Snail House of the Hoonah T'ak̲deintaan Clan. He describes it as an important object belonging to the Snail House Family. The loon spirit was a shaman's (helping) spirit from inside Mt. Fairweather, both of which belonged to the T'ak̲deintaan clan. An historic photographic shows the hat being worn by the then-current house master (custodian) of the Mt. Fairweather House. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'ak̲deintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6848 Dance Blanket (Diving Whale)

Mr. Shotridge reports that this button blanket was "made for and owned by the Snail House family of the T'akdeintaan clan." He also includes a narrative by Tuq'a-xawu (Archie White?) about the acquisition of the whale crest from the Ganaxadi clan. According to this story, the crest was originally transferred to a T'akdeintaan man named Ku.huk, who was the Mt. Fairweather house master at the time, by an escaped slave who was unable to pay Ku.huk for his freedom and instead transferred a house screen with a whale crest design, and a song about the morning star. Tuq'a-xawu told Mr. Shotridge that the T'akdeintaan used the song in their most recent ceremony. Mr. Shotridge's specimen card notes the name of a woman of the Tsaagweidi clan from Kake who made the blanket, indicating that it was commissioned by the Mt. Fairweather House. The name of the original "owner" of the blanket is the same individual listed as "owning" the sun mask, the owl mask, the Gunakadeit mask, and the raven headdress.

It is helpful to note that in his statement, Tuq'a-xawu frequently employs the plural form of the personal pronoun to indicate a collective acquisition and possession of the whale crest, rather than singular as would be expected if he was claiming it as his personal possession. He begins his statement with, "Some persons wonder, and often questioned us by what means had the "Whale" came into our possession." He continued, "We have our own things, ... It was not our wish that the whale be in our possession, it was offered to us, and we had accepted." Tuq'a-xawu's language expresses the communal nature of the possession of the crest and associated crest objects.

Mr. Shotridge states that the blanket's diving whale design represents, 'The whale drawing in [its] tail,' and suggests that the image portrays the great social distance between the T'akdeintaan and the large and powerful Ganaxteidi clan of Klukwan (which happens to be Mr. Shotridge's father's clan). In his notes, Mr. Shotridge also includes commentary from an unidentified source that a permanent transfer of a crest of such importance to the Ganaxadi (that is, which showed a relationship between the Ganaxadi and the Ganaxteidi) would have been unlikely. Given Mr. Shotridge's concern with social status and his own background, we are not surprised that he devoted so much attention to an explanation of the origin of the whale crest among the T'akdeintaan, and looking out for the prerogatives of the Ganaxteidi clan.

There is another line of evidence explaining the T'akdeintaan possession of the whale crest, which suggests that the T'akdeintaan already had a right to the whale crest when the Ganaxadi man escaped. Mrs. Lily White tells the following story of the T'akdeintaan whale as part of an explanation about how clans acquire crests:

> These things [crests] like I told you yesterday is through the happenings, the perils of the people. It had to be a peril, some kind of a danger, and sometimes there's death, that when the family takes this for a crest. Like, this one man from T'akdeintaan, they're all out on hunting trip, and he was real young. He was a grandchild from Mt. Fairweather House. But he comes from T'akdein Hit, the first house that went up in Hoonah. And they

had harpoons. Then they saw this whale come up. And he grabbed his harpoon because he's young. His uncle said, 'No no no no no no, not now. There's going to be time. THEN, ok.' And he just slung it. Got the whale. As soon as it hit the whale he could tell, and he died. And they loved their grandson, they took him everywhere with them. So this is how Esther K.'s family got the whale hat song, that Yai Stak Dat Shee, they call it. Whale is yai. And it came from Mt. Fairweather House. They said goodbye to their grandson.

It was Mt. Fairweather people that sang this song. The name of the man is Kajaak' that died. And the one that made the song, too, his name. .... The end of the whale hat song says, where did it take my grandson. Maybe it took him under the Mt. Fairweather. Speaks words of song. Underneath Mt. Fairweather. That's why they had him in their possession, because they loved him. And Jake [Mrs. White's husband, Hoonah T'ak̲deintaan] will say the same thing with his grandfathers, they all loved him. .... The whale Hat story. It's a beautiful song, it almost sounds like a love song. It's slow; it's really pretty. It talks about the whale that he harpooned, you know, that he killed. As soon as he hit it, it just died, too.

Mrs. White refers to the T'ak̲deintaan Whale Hat, which is described in the anthropological literature as a recognized crest object of the T'ak̲deintaan. As already discussed, Swanton records that the T'ak̲deintaan had the right to a whale hat in Sitka in 1904, and de Laguna reports that the whale hat was recognized as a T'ak̲deintaan crest object in Yakutat (specifically, she wrote that the Yakutat Tluknahadi recognized the T'ak̲deintaan claim to the whale hat). This history of the whale crest in the Mt. Fairweather House and the T'ak̲deintaan clan is another line of evidence for the historical and cultural importance of the whale crest and Diving Whale blanket to the Mt. Fairweather House.

Summary of Evidence for Cultural Patrimony: The Diving Whale blanket is made with a crest image of the whale, and it is named for the particular representation of that animal. All (the blanket, the crest, and the name) belong to the Mt. Fairweather/Snail House lineage and T'ak̲deintaan clan. The collector records the history of the acquisition of this whale crest, which was transferred from another clan to the Mt. Fairweather house master at the time. The narrative about the clan's original acquisition of the whale crest expressed the communal nature of the transfer and possession of the crest. The blanket was made at a later date, and a specimen card written by the collector indicates that the blanket was made by a member of another clan, which is consistent with the custom of commissioning the construction of at.óow from the opposite moiety. A song that was transferred to the T'ak̲deintaan at the same time was still in use by the T'ak̲deintaan clan at the time the blanket was acquired.

There is evidence from oral history which establishes another connection to the whale as a crest animal, and a whale hat crest object, which is also connected to Mt. Fairweather. Mt. Fairweather is a geographic feature that is an important crest of the T'akdeintaan clan; the mountain is known to be a home to (helpful) shamanistic spirits which is one of the principal reasons for its historical and cultural importance to the Mt. Fairweather/Snail House lineage and the T'akdeintaan clan. The available evidence indicates that the blanket was commissioned and used in clan memorials to commemorate the former Mt. Fairweather house master and the acquisition of the crest, which are important in the clan's history. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the Diving Whale blanket was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. He provides information about the original acquisition of the crest involving a clan ancestor who was house master of the Mt. Fairweather House, the commissioning of the blanket from another clan at a later date, and the ownership of the blanket within the house group before it was acquired by the museum. The blanket's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6849 Blanket (With Strips of Chilkat Design)

Mr. Shotridge's notes do not discuss this item. It is worn by Archie White in the photograph taken in front of the Mt. Fairweather House published in *Raven's Journey* (Kaplan and Barseness 1986:201) (he also wears the Loon Hat in this photo). It is the only blanket with the woven Chilkat designs in this group. This fact, and its association with the early twentieth-century House Master, indicates that this item was, at the time, the most valued blanket in the house group collection.

Summary of Evidence for Cultural Patrimony: This blanket has side strips in a Chilkat design, which give increased value to the object. It is worn by Archie White, the then-current house master and custodian of lineage and clan at.óow, in a historical photograph taken in front of the Mt. Fairweather House in the early part of the 20th century. His status as house master indicates that the blanket is of central cultural importance to the lineage and clan. According to the collector, the blanket had been passed down as the ancestral property of the Mt. Fairweather House at the time of its acquisition. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the blanket was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6850 Ceremonial Neck Ring (Cedar Bark)

NA 6851 Ceremonial Neck Ring (Cedar Bark)

NA 6852 Ceremonial Neck Ring (Cedar Bark)

NA 6853 Ceremonial Headband (Cedar Bark)

NA 6854 Ceremonial Neck Ring (Cedar Bark)

NA 6856 Ceremonial Horn (Wood)

NA 6857 **Ceremonial Horn (Wood)**

NA 6858 **Ceremonial Horn (Wood)**

NA 6859 **Ceremonial Horn (Wood)**

NA 6860 **Ceremonial Whistle (Wood)**

NA 6861 **Ceremonial Whistle (Wood)**

NA 6866 **Ceremonial Headband (Cedar Bark)**

Mr. Shotridge writes that these items "belong to one outfit of the well familiar Tsimshian secrete (sic.) society dance." Called *Lukanaa*, the Tsimshian secret society dances were imported from the south. Swanton (1909:436) reports they were present in Sitka and Wrangell at the time of his fieldwork. It is clear from this collection that they were also adopted in Hoonah. The fact that they were acquired as part of the "Snail House Collection" indicates that they were regarded as 'ancestral objects handed down within the house group,' as Mr. Shotridge describes the collection. Further evidence that they were integrated into Tlingit potlatches (and thus were owned and passed down within the clan or house for that purpose) is provided by Swanton (ibid.:434):

> Superficially the Tlingit potlatch resembled that of the Haida, but with the former only one motive underlay the custom, regard for and respect for the dead, and there was but one kind of potlatch in consequence. The putting up of a house or pole, and *the secret society performances,* feasts, and distributions of property which accompanied it, were all undertaken for the sake of the dead members of a man's clan, and to them every blanket that was given away and a great deal of food that was put into the fire was supposed to go" (emphasis added).

Elsewhere, Swanton (ibid.:438) indicates that some of these items were directly integrated into Tlingit ceremonials and were worn together with other forms of Tlingit regalia: "After they had made ready their dancing hats, *bark rings for the neck and head*, etc., ..." (emphasis added). These cedar bark neck and head rings are well-represented in museum collections. There is additional evidence drawn from T'a<u>k</u>deintaan oral history that there was an important social and economic relationship between the clan and the Tsimshian which flourished during the Russian period, and culminated in the bestowal of at.óow on the Hoonah people (T'a<u>k</u>deintaan). These Tsimshian objects from the Mt. Fairweather House have ongoing importance to the T'a<u>k</u>deintaan clan because they recall this significant historical relationship with the southern tribe. The Tsimshian used to visit the T'a<u>k</u>deintaan in Dundas Bay, where they would be hosted and given access to natural resources which they favored. One time a party of eight canoes journeyed to Hoonah for a surprise visit to the headman of

the T'akdeintaan. Unbeknownst to the Tlingit, the Tsimshian were prepared to give a gift of a crest and associated at.óow. "So what they was going to give him is that, Raven that went down by the kelp for the shellfish, crabs, cockles, and gumboots, clams, all those. That's the first one that went down to get it, by the kelps, the Raven. They put it down on that beaded coat, and the rattle, and the song with it. That was the gift. There were other things with it, but this was the most important."

The Tsimshian chief (*Yashoot*) also gave the name *Tikata* to the leader of the T'akdeintaan; this title is handed down within the T'akdeintaan Raven's Nest House. The name is currently held by the T'akdeintaan *Shaadeihani*, Mr. Richard Dalton, Sr., who related this story. And after "... they gave it to him with respect and spiritual honor," *Tikata* got up and presented *Yashoot* with bundles of sea otter pelts, Russian muzzle loaders and axes, and other stuff including a song. "*Yashoot*, his nephews and his brothers and all of those that came on the canoe were given the song. They want them to know that song was given to them, the Metlakatla [Tsimshian] people. So *Tikita* gave them one back in place. That's pretty neat, huh? Metlakatla and Hoonah people. Beautiful. We have that song. It belongs to us, belongs to the Raven's Nest House."

Summary of Evidence for Cultural Patrimony: According to the collector, these items had been passed down as the ancestral property of the Mt. Fairweather House at the time of their acquisition. There is an important historical relationship between the Tsimshian and the Hoonah T'akdeintaan which was commemorated by the Tsimshian at one time in the past when they transferred a name and a song, and gifts to mark the value of the name, to the T'akdeintaan. These objects refer to that relationship. The items are significant at.óow of the clan, and were communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, these objects were acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes them as important objects belonging to the Snail House Family. Their provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6855 Dance Collar (Whale)

Information on the acquisition and significance of the whale as a T'akdeintaan crest is provided above in the discussion of the Diving Whale blanket, NA 6848.

Summary of Evidence for Cultural Patrimony: The Whale dance collar is made with a crest image of the whale. The collar and the whale crest belong to the Mt. Fairweather/Snail House lineage and T'akdeintaan clan. The collector provides the history of the acquisition of the whale crest, which was transferred from another clan to the Mt. Fairweather house master at the time (see discussion of the Diving Whale blanket, NA 6848). The house master's narrative about the clan's original acquisition of the whale crest expressed the communal nature of the transfer and possession of the crest. There is evidence from oral history which establishes another connection to the whale as a crest animal, and a whale hat crest object, which is also connected to Mt. Fairweather. Mt. Fairweather is a geographic feature that is an important crest of the T'akdeintaan clan; the mountain is known to be a home to (helpful) shamanistic spirits which is one of the principal reasons for its historical and cultural importance to the Mt. Fairweather/Snail House lineage and the T'akdeintaan clan. The available evidence indicates that the dance collar was passed down as an heirloom in the Mt. Fairweather House and used in clan memorials, along with the other objects in the Snail House Collection. This item is significant at.óow of the clan, and it was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the dance collar was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. He provided information about the original acquisition of the crest involving a clan ancestor who was house master of the Mt. Fairweather House and the commissioning of another object with the whale crest design (the Diving Whale blanket) in the Snail House Collection. The dance collar's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6862 Pipe

Mr. Shotridge's notes indicate that he intended to provide information about the significance of this item, but he apparently did not get around to it. It is one of three such items so identified.

Tobacco was smoked ceremonially at certain feasts and ceremonial gatherings, such as when a clan was being invited to participate in a potlatch (Swanton 1909:238), during a given feast after the construction of a house was completed (de Laguna 1972:608), or during mourning rites for the decreased just after death (de Laguna 1972:531). This pipe was, at the time it was acquired, a clan heirloom that was used by ancestors of the Mt. Fairweather House group. It has ongoing historical and cultural importance to the clan because it was handed down from the past and more likely than not was used for these purposes by their ancestors.

Summary of Evidence for Cultural Patrimony: According to the collector, the pipe had been passed down as the ancestral property of the Mt. Fairweather House at the time of its acquisition. It is significant at.óow of the clan, and was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the pipe was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6863 Feast Spoon ("Skeleton of Raven")

Mr. Shotridge records the name of this spoon and said that it was "made to be used in the "feast of refreshing," one given upon arrival of the guest from a distant towns (sic.)." The anthropological literature contains numerous references to feast implements (dishes, bowls, spoons, etc.) as crest objects; the Whale House (Klukwan Ganaxteidi) Woodworm Dish and Mother Basket are outstanding examples. This spoon is carved in the form of a crest animal that is represented on other objects in the Snail House Collection. While we are unable to explain the specific significance of this representation of the Raven, the available information indicates that this named feast

spoon belonged to clan ancestors and was used by them in memorial celebrations, and thus is a lineage heirloom.

Summary of Evidence for Cultural Patrimony: According to the collector, the raven spoon had been passed down as the ancestral property of the Mt. Fairweather House at the time of its acquisition. The name of its original "owner" (custodian) is identified as Yaku-xuan I of Snail House. It is significant at.óow of the clan, and was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the spoon was acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes it as an important object belonging to the Snail House Family. The original owner of the item is listed on a specimen card as from the Snail House Family. The item's provenience in the museum's computer inventory is listed as the Snail House. Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

NA 6865 Dance Ornament (Eagles' Tails)

This object is mis-identified as a dance ornament in the museum's catalog. Eagles' tails are an important symbol of the Peace Maker, also called the Peace Man or Peace Deer, who represents the clan as a "hostage" during a peace ceremony. Mr. Richard Dalton, Sr., was installed in this office for the T'akdeintaan clan during a peace ceremony in Hoonah in 1958. He was given two white eagle tail plumes to mark his office, which he holds for life. According to him, these eagles' tails belong to the T'akdeintaan clan and are handed down to subsequent peace makers. They are kept with other T'akdeintaan possessions.

While the peace maker was in the hands of the opposite party (disputant), he was watched carefully for any sign of anger or hostility expressed in word or gesture, from which he was expected to refrain (de Laguna 1972:598). Swanton (1909:451) also described the proper behavior for the peace maker and stated he "carried the tail feathers of eagles in each hand and wore eagle's down and quills in his hair" (also see de Laguna 1972:600). These peace maker's eagles' tails belonged to prior peace makers in the clan and represent the clan's history of peace making, and they have ongoing importance to the clan for this reason.

Summary of Evidence for Cultural Patrimony:

The peace maker was given eagle's tails to hold for life, as a mark of his special position in the clan. Such items are passed down within the clan. According to the collector, these tails had been passed down as the ancestral property of the Mt. Fairweather House at the time of its acquisition. They are significant at.óow of the clan, and was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession:

According to the collector, the eagles' tails were acquired from the Snail House of the Hoonah T'akdeintaan Clan. He describes them as important objects belonging to the Snail House Family. The item's provenience in the museum's computer inventory is listed as the Snail House.

Evidence from oral history states that Archie White did not sell these items, and that the collection was sold by his wife (a member of another clan, and who was from Klukwan, the collector's home village) while he was out hunting. Oral history also recounts that at a 1958 peace ceremony in Hoonah, Archie White's son Joe White brought out a blanket and presented it to the T'akdeintaan clan in acknowledgment of the unauthorized alienation of these Mt. Fairweather/Snail House items. The available evidence justifies the claim to the clan's right of possession.

Louis Shotridge's T'akdeintaan Marmot Frontlet

NA 8498 Ceremonial Headdress (Marmot with Bat Frontlet)

This object was collected prior to the other items described above. On a specimen card provided by the collector, the original owner of the object is identified as the T'akdeintaan clan. Mrs. Augustus Bean is listed as an "heir" on the card.

According to Mr. Richard Dalton, Sr. (Shaadeihani of the T'akdeintaan Clan), and Buster Davis, a lineal descendant of Mrs. Bean, she was a member of the Raven's Nest House of the Hoonah T'akdeintaan clan. They state that the frontlet belonged to the Raven's Nest House and was passed down within the lineage.

This object is a type of object that is used in Tlingit memorials, either during the Widow's Cry portion of the ceremony or afterwards in spirit dances. The ceremonial use and significance of such objects is described above under the Geelak'w Headdress (NA 6835) and the Beaver Frontlet (NA 6841).

Summary of Evidence for Cultural Patrimony: The collector records that the original Owner of this item was the T'akdeintaan clan, and he identifies Mrs. Augustus Bean as the Heir to the item. This information indicates that the object was passed down within the clan prior to the Heir, and its acquisition by the collector. This information is consistent with the documented ownership and use of objects of this type, which are held and used by the clan in Tlingit memorials, either during the Widow's Cry portion of the ceremony or afterwards in spirit dances. They are significant at.óow of the clan, and was communal property which could not have been alienated by an individual according to tribal custom at the time it was collected.

T'akdeintaan Clan's Right of Possession: According to the collector, the frontlet was originally in the possession of the T'akdeintaan clan and was handed down within the clan. Oral evidence establishes that the frontlet belonged to the Raven's Nest House of the Hoonah T'akdeintaan clan at the time it was acquired. The Raven's Nest House was a clan house in Hoonah at the time this item was acquired. UPM data indicates that the object was acquired by the collector in Juneau or Sitka, suggesting that it was removed from the house and sold in secret without the knowledge of the house leader or clan. Mrs. Augustus Bean did not have the authority to alienate this object at the time it was acquired. Clan-owned items cannot be sold or alienated by individuals, according to tribal custom. The available evidence justifies the claim to the clan's right of possession.

Thus, Dr. Sabloff, the Hoonah Indian Association and the Huna Totem Corporation are requesting the return of each and every one of above identified objects on behalf of the Mt. Fairweather/Snail House of the T'akdeintaan Clan. We believe that we have demonstrated that they are objects cultural patrimony subject to repatriation under NAGPRA.

Sincerely yours,

Kenneth Grant, President
Hoonah Indian Association

Albert W. Dick, Chairman
Huna Totem Corporation
Mt. Fairweather / Snail House Member

Ronald Williams, Director
Huna Totem Corporation and
Mt. Fairweather / Snail House Member

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Mail # 7000 0520 0025 2242 8353

Hoonah Indian Association
Huna Heritage Foundation
9301 Glacier Highway, Juneau, Alaska 99801
and
P.O. Box 602, Hoonah, Alaska 99829

November 27, 2001

Jeremy A. Sabloff, The Williams Director
University of Pennsylvania Museum
Of Archaeology and Anthropology
33rd and Spruce Street
Philadelphia, PA 19104-6324

Dear Dr. Sabloff,

The Huna Heritage Foundation and Hoonah Indian Association are in receipt of your letter of October 25, 2001 in which you again pose further questions one of which we find offensive in that it suggests to impugn the character of one of our clan leaders. We would not have communicated Richard Dalton's account if we did not accept it to be accurate. We would further note that for a clan leader to erroneously portray the actions of an individual who is a member of another clan particularly that which occurred within the context of a Peace Ceremony, which was held to resolve a dispute, would be highly unlikely and could negate the objective of a Peace Ceremony.

We were pleased that Mrs. Lily White, who is of the Chookaneidi clan, shared the information that we conveyed to you, but she is not inclined to release the actual letter since she does not want it become part of the public record since it contains culturally sensitive material. We would add that a body of oral traditions exists surrounding the illegal purchase of the T'akdeintaan *at.oow* by Louie Shotridge of which Mr. Dalton's and Mrs. Lily White's accounts are but two of them. Additionally, Mr. Louis Shotridge's pattern of clandestine behavior in obtaining objects from several clans in violation of Tlingit law is also well established among the Tlingit, and his covert actions have even been noted in your publications

You have suggested that you have evidence that validates the sale of the T'akdeintaan *at.oow*. Let us emphasize that the fundamental tenets of Tlingit law are that the clan owns *at.oow*, and no single individual has the right to alienate clan property without the consent of the clan. We would request that you provide this evidence to us and demonstrate that the Takdeintaan clan consented to the sale.

The cultural stress endured by the Tlingit during the first half of the 1900s brought many changes including the adoption of Christianity, but these changes did not alter our social structure, property law, or conceptions of *at.oow*. You reported in your letter of May 10, 2000 that Mr. Shotridge purchased the "Snail House" collection from Mr. White and Mrs. Bean. May we reiterate that neither individual personally owned the Takdeintaan clan objects, but rather their rightful owner was—and remains—the T'akdeintaan clan. The T'akdeintaan clan has never consented to the alienation of their *at.oow*.

We have provided you information on our traditional laws and our traditional knowledge as well as that drawn from the anthropological literature and the collector's notes. We believe that collectively all these sources of evidence support our claim for repatriation of the T'a kdeintaan *at.oow* as objects of cultural patrimony and rise to the standard required by the Native American Graves Protection and Repatriation Act.

We would again respectfully request that you act on our repatriation petition.

Sincerely yours,

Ernest W. Hillman, Jr., Chairman
HHF Board of Trustees
Acting on Behalf of the
Hoonah Totem Corporation

Kenneth Grant, President
Hoonah Indian Association

Ronald D. Williams
Snail House Member
Director, Huna Totem Corporation

Copy to: NAGPRA Review Committee
John Robbins, National Park Service
Huna Totem Corporation Board of Directors

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Hoonah Indian Association
Huna Heritage Foundation
9301 Glacier Highway, Juneau, Alaska 99801
and
P.O. Box 602, Hoonah, Alaska 99829

December 6, 2002

COPY

Jeremy A. Sabloff, The Williams Director
University of Pennsylvania Museum
Of Archaeology and Anthropology
33rd and Spruce Street
Philadelphia, PA 19104-6324

Dear Dr. Sabloff,

This letter is in response to the decision of the University of Pennsylvania Museum (UPM) dated May 21, 2002 regarding your rejection of our claims as made by the Hoonah Indian Association (HIA) and the Huna Heritage Foundation (HHF) for the Mt. Fairweather (Snail House) objects and the Marmot frontlet, consisting of 45 objects in total. We totally disagree with your determination, and find it difficult to understand without seeing the documentary evidence you base that decision on.

Our purpose in writing is to reiterate our request for a copy of your evidence, which we made pursuant to 25 U.S.C. § 3005(d), which states as follows:

> (d) SHARING OF INFORMATION BY FEDERAL AGENCIES AND MUSEUMS. —Any Federal agency or museum shall share what information it does possess regarding the object in question with the known lineal descendant, Indian tribe, or Native Hawaiian Organization to assist in making a claim under this section.

In our letter to you dated November 27, 2001, we specifically noted that you suggested you had evidence validating a sale of the T'akdeintaan at.oow and requested "you provide this evidence to us...." While your letter of May 21, 2002 references your extensive research, it provides only the summary of that research in your letter. If there is documentary evidence to support your determination, we are specifically requesting copies of the research. We presume that this documentary evidence, if it exists, is in readily duplicated form, and that it is not a burden to copy for our inspection and use. We would appreciate receiving this evidence within 30 days from the date you receive this letter in order to further our analysis of your rejection of our claim. If we have not heard

from you by then, we will presume there is no further documentary evidence and proceed with our analysis and further response.

You also stated in your letter that the Trustees of the University of Pennsylvania have authorized you to pursue further negotiations with us. We would also appreciate receiving a copy of the minutes of the meeting where that decision was made, as well as a copy of any specific resolution adopted by the Trustees.

We look forward to hearing from you.

Sincerely yours,

Ernest W. Hillman, Jr., Chairman
HHF Board of Trustees
Acting on Behalf of the
Huna Totem Corporation

Frank Wright, Jr., President
Hoonah Indian Association

Ronald D. Williams
Snail House Member
Director, Huna Totem Corporation

COPY

Copy to: NAGPRA Review Committee
John Robbins, National Park Service
Huna Totem Corporation Board of Directors

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Huna Totem Corporation

9301 Glacier Hwy. • Juneau, Alaska 99801
(907) 789-1773 Fax (907) 789-1896

COPY

February 25, 2003

Director
University of Pennsylvania Museum of Archaeology and Anthropology
33rd and Spruce Streets
Philadelphia, PA 19104-6324

Re: Hoonah Indian Association & Huna Heritage Foundation (Acting on behalf of Huna Totem Corporation) Claim for the Mt. Fairweather (Snail) House *at.óow* totaling 45 objects.

Dear Sir,

We would respectfully request that you re-consider your determination that the University of Pennsylvania has the right of possession as defined by the Native American Graves Protection Act (NAGPRA) to the referenced claim and your further assertion that none of the objects subject to this claim fit the definition of Objects of Cultural Patrimony.

After a thorough review of the position you outlined to arrive at your decision, it is our belief that we have met the standards of NAGPRA insofar as demonstrating that the referenced claim meets the classification as Objects of Cultural Patrimony and that we maintain the Right of Possession. With all due respect, we are obliged to note that your institution has erred in its understanding of Tlingit culture and consequently in its application of NAGPRA to our claim.

Right of Possession

The T'akdeintaan are the rightful owners of the referenced objects and assert that it has the Right of Possession. The fact that one individual participated in a transaction with the University of Pennsylvania or that one or more individuals violated Tlingit law does not negate Tlingit property law. A clan or house leader serves in the position as a "trustee" of clan property, and he does not have sole ownership of clan property. Neither can a spouse claim ownership of his or her spouse's clan property. The clan, or in this instance the T'akdeintaan represented by the Mt. Fairweather House, is the rightful owner of the referenced objects, and it alone has the authority to alienate property. The T'akdeintaan did not give its voluntary consent to alienate the collection and no record exists that demonstrates that the clan gave its voluntary consent.

Please advise if you should have such a document demonstrating that the T'akdeintaan relinquished their ownership to their at.óow in your possession. Tlingit law persists despite the instances in which single individuals violated Tlingit law. The basic tenets of Tlingit law have been upheld in the recent Whale House court case in Klukwan, Alaska.

Additionally, the fact that an individual may have converted to Christianity did not alter Tlingit law nor did it necessarily imply that the society as a whole abandoned their traditional values and practices. Sergei Kan's thesis in **Memory Eternal**, in fact, suggests that the Russian Orthodox Church greatly contributed to the survival of Tlingit culture.

Objects of Cultural Patrimony

Tlingit *at.óow* has been consistently recognized as meeting the standards of Objects of Cultural Patrimony under NAGPRA in all repatriation claims initiated by the Tlingit Peoples todate. Tlingit values, practices and culture provide for no means in which the status of *at.óow* may be lost. No process exists within Tlingit culture that allows for the spiritual dimensions of *at.*oow to be removed. We are certain that Dr. Nora Dauenhauer will disagree with your interpretation that the status of *at.óow* is alterable.

The spiritual dimensions of *at.*óow including those which are the subject of this claim require that our objects be treated respectfully and that they be used in our ongoing ceremonial life and in our *koo.éex*. Our *at.óow* are the tangible link to our ancestors, they are our ties to our future generations and they unify us as a clan. We maintained an active ceremonial life throughout the historical period and today we continue to use our *at.óow* and practice our ceremonies.

The use of the terms such as "major" or "main" crests by individuals such as Dr. Dauenhauer and Dr. Worl does not mean that the Tlingit have a hierarchal status of spirits or crest and that they play a different role in the centrality of our culture. The use of such designations suggests that such crests may be used in identifying clans. For example, the Shangukeidí are often called the "Thuderbirds;" the Kaagwaantaan are often called the "Wolves", etc. Their other crests or spirit designs are equally as significant to them. Again we are certain that Dr. Dauenhauer and Dr. Worl will disagree you're your characterization of their work and your suggestion that we rank our *at.óow*.

We are loathe to speak of the Tlingit individual who was in the employ of the University of Pennsylvania and who was responsible for appropriating many of our objects since his actions have already been mediated in our culture. However, because of this claim and your position, we are obligated to note that he---by his actions and words---attempted to use the Western worldview to justify his behavior which conflicts withTlingit norms and laws. We must emphasize the fact that he was a Tlingit and the role he played does not alter Tlingit law or culture nor do his reported statements or observations legitimize the appropriations.

We, of course, are compelled to continue to seek all actions to have our *at.óow* returned. As part of this effort, we request that you re-assess our claim and the full documentation we have provided you and then reconsider your determination.

Sincerely yours,

HUNA TOTEM CORPORATION
On behalf of the T'akdeintaan
Mt. Fairweather Snail House

Albert W Dick

ALBERT W. DICK
Chairman, Board of Directors

Copy to: Mt. Fairweather House
Huna Heritage Foundation
Hoonah Indian Association

02-04-12

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HOONAH INDIAN ASSOCIATION
and
HUNA HERITAGE FOUNDATION
9301 Glacier Highway
Juneau, AK 99801

December 15, 2006

University of Pennsylvania Museum of Archaeology and Anthropology
33rd and Spruce Streets
Philadelphia, PA 19104-6324

Re: Hoonah Indian Association & Huna Heritage Foundation (Acting on behalf of Huna Totem Corporation) Claim for the Mt. Fairweather (Snail House) objects, and three additional objects attributed to the T'akdeintaan clan.

Ladies and Gentlemen,

In our attempt to provide you with an increased understanding of the basis of our repatriation claims pursuant to the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) and to allow you to make an informed decision, the Hoonah Indian Association (HIA) and the Huna Heritage Foundation (HHF) have prepared the attached additional statement of claim for the "Snail House Collection" (catalog numbers 6828-6866), the Marmot Frontlet (catalog number 8498), the Octopus Tentacle Staff (catalog number 10513), and the Mt. Fairweather Deer Dancer Headdress (catalog number 8494). This information is provided in response to the suggestion that the University may consider that some of the items in your collections are important for the practice of traditional religion by the Hoonah Tlingit tribal community, which was expressed during our consultation meeting at the museum in April, 2005. We note, however, for the record that all the items in the collection are important to our religious beliefs and practices.

Sacred Objects

Under the terms of NAGPRA "sacred objects"... shall mean specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents.

The above referenced objects are claimed for repatriation under NAGPRA as "sacred objects."

The introductory information in the attached statement provides an outline of the religious ideologies and practices of the Tlingit. It further offers substantial information about the ceremonial role and function of each of the items which are needed for the practice of traditional Tlingit religion by traditional religious

leaders of the T'akdeintaan clan of the Hoonah Tlingit community, our present day adherents including our clan members and those clan members of the opposite moiety in attendance at our ceremonies.

Objects of Cultural Patrimony

Under the terms of NAGPRA "cultural patrimony"...shall mean an object having ongoing historical, traditional or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

We reiterate our claim for the "Snail House Collection" (catalog numbers 6828-6866) and the Marmot Frontlet (catalog number 8498) as objects of cultural patrimony under the provisions of NAGPRA. At this time we also add the Octopus Tentacle Staff (catalog number 10513) and the Mt. Fairweather Deer Dancer Headdress (catalog number 8494) to this claim as objects of cultural patrimony.

Historical, traditional and cultural information concerning the ongoing and central significance of these objects to the T'akdeintaan clan of the Hoonah Tlingit community is provided in the statement of claim attached to this letter.

The centrality of these objects is related to their role and function in funerals and memorial potlatches, and their representation of the most important places, events, spirits and ancestors central to the history and identity of the clan. During the ceremonies, they evoke the spirits of clan ancestors (which receive the spiritual essence of the food, gifts and money that are distributed by the mourners) and contribute to the well-being of living and future clan members through their ancestors' participation in clan ceremonial gatherings. Their ceremonial use also restores spiritual balance during memorials in response to the display of similar items by other clans, and ensures that the ceremony as a whole is in balance.

Spirits continuously remain with shamanic objects and only members of the T'akdeintaan can handle their shamanic objects. Their spiritual presence in the memorials promotes the well-being of clan members. Additionally, the objects' representations of clan history, traditions and identity are important aspects of their centrality to the tribal community, and their use during memorials provides opportunities for validating and adding value to the clan's prerogatives. During the April, 2005 visit to UPM the ancestral spirit of our last T'akdeintaan shaman made her presence known to the Tlingit in attendance. It was both a joyous and sad occasion, and we vowed to her that her spirit would be able to return home.

Right of Possession

Under the terms of NAGPRA, "right of possession" means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession of that object, unless the phrase so defined would, as applied in section 7(c) of the Act [25 U.S.C. 3005(c), result in a Fifth Amendment taking by the United States....

The T'akdeintaan are the rightful owners of the referenced objects, and we assert that the UPM does not have right of possession.

Only the clan of the T'akdeintaan has the authority of alienation of clan property and the role of a house or clan leader is to serve as its trustee. Numerous anthropological sources, which we have cited in our earlier claim, report that the prevailing custom and practice in the 19th century was that objects depicting clan crests and clan spirits were very highly valued items of communal property and heritage of the clan. Louis Shotridge's designation of the items as from the "Snail House Collection" recognizes this fact, which is also acknowledged in his use of the related term, "heirloom possessions."

de Laguna (1972) discusses the alienation of clan objects and describes several instances of the transfer of objects out of the possession of the clan. Most of these cases involved culturally sanctioned practices and were not extra-legal acts. The inter-clan transfer of objects, or their seizure, occurred when an offending clan cannot or would not make restitution to another clan whose customary rights had been violated or who suffered an injury (such as a personal injury or death of a clan member). Other culturally sanctioned transfers occurred (and continue to take place) when a grandchild of a clan was granted the "use" rights of a clan crest. Other instances included the occasional ceremonial exchange of clan prerogatives between the Tlingit and Haida or Tsimshian clans. The traditional system of rights and duties with regard to clan property incorporated such acts, and contrary to your claims these acts did not invalidate the prevailing norm that such objects were the highly valued common property of clans that remained in the clans' possession through the generations. Indeed, these behavioral norms are fundamental to the cultural system which gives value to (and a means to add value to) objects of clan possession, without which the special instances of inter-clan transfer would have no value or meaning.

Furthermore, evidence that Tlingit individuals sold objects to museums and collectors over a period of years does not legitimize such actions. Under any system of law (formal or customary), laws are violated and sanctions are applied according to the legal system in place. However, such violations do not negate the existence of laws and norms. The traditional legal system of the Tlingit did not always work perfectly and there were transgressors. The incidence increased during the late 19th and early 20th centuries as the Tlingit people were subject to extreme acculturative and assimilationist forces by external civil and religious authorities, and through the restructuring of local economies due to capitalist enterprises, which created conditions favorable for collectors employed by museums. The fact that individuals may have converted to Christianity did not alter Tlingit law, nor does it justify the claim that the society as a whole abandoned their traditional values and practices. Sergei Kan's thesis in *Memory Eternal*, in fact, suggests that the Russian Orthodox Church greatly contributed to the survival of Tlingit culture.

It should also be noted that numerous clans retained ownership of their objects throughout the tumultuous period in the late 1800s and early 1900s when traditional religious practices were under assault by both Christian and civil authorities. Even the University of Pennsylvania's collector in this case provides important evidence that communities resisted his requests for purchasing objects (the Whale House, for example, in Haines and Klukwan) or that he removed objects from clan houses when he knew he would not encounter physical resistance from clan members (in Klukwan, for example, when he took hold of Kaagwaantaan clan objects in front of weeping women). A number of cases in the present day period also substantiate the continuance of Tlingit law recognizing clan ownership of clan at.óow. Attempts to sell clan objects have been resisted in a number of contemporary instances. A clan or house leader serves in the position as a "trustee" of clan property, and he does not have sole ownership of clan property or the authority to alienate clan objects. Neither can a spouse claim ownership of his or her spouse's clan property. The basic tenets of Tlingit law have been upheld in the recent Whale House court case in Klukwan, Alaska.

HIA and HHF claim the right of possession on behalf of the T'akdeintaan clan because there is no evidence that Archie White (or the other "sellers") sold the items with the consent of the clan. Community members are at a loss to explain the acquisition of the "Snail House" items by the University of Pennsylvania since Archie White was known to have been a cultural conservative and a traditionalist in

Hoonah. He sponsored the restoration of the Tsalxáan (Mt. Fairweather) House in Hoonah before his death, and he also carved and painted the house screen that is currently in the Shangukeidí (Thunderbird Clan) House Lowered from the Sun in Klukwan. It is said that he did this in honor of his wife and he refused payment because he did this for his children and their offspring.

The clan, or in this instance the T'akdeintaan represented by the Mt. Fairweather House, is the rightful owner of the referenced objects, and it alone has the authority to alienate property. The T'akdeintaan did not give its voluntary consent to alienate the collection and no record exists that demonstrates the clan gave its voluntary consent. Tlingit law persists despite the instances in which individuals violated Tlingit law.

We appreciate that the University of Pennsylvania is prepared to consider the return of some objects that have particular historic significance outside of NAGPRA. However, we reject that approach and request the repatriation of all of these objects as objects of cultural patrimony and as sacred objects under the provisions of NAGPRA. The evidence for the right of possession provided by the University of Pennsylvania is insufficient to overcome our claim.

Sincerely yours,

Marlene Johnson

Huna Heritage Foundation Chairman
Acting on Behalf of Huna Totem Inc.

Johann K. Dybdahl Tribal Administrator
Hoonah Indian Association

Encl.

cc: Tim McKeown

Request for the Repatriation of Sacred Objects Associated with the Tsalx̲áan Hít (Mt. Fairweather House) (aka Táx̲' Hít (Snail House) Of the T'ak̲deintaan Clan, Hoonah, Alaska, In the Collections of the University of Pennsylvania Museum

Submitted by

Huna Heritage Foundation

and

Hoonah Indian Association

December 3, 2006

Section I: Introduction

The T'akdeintaan Clan, through the Huna Heritage Foundation and the Hoonah Indian Association, submits this claim for the repatriation of certain sacred objects held in the collections of the University of Pennsylvania Museum. The claim presents information establishing that the requested items are sacred objects as defined in NAGPRA: "specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents." The Huna Tlingit people consider clan and house leaders to be their 'traditional religious leaders.' For the T'akdeintaan clan, these individuals are the Clan Leader (Shàade hàni) and Keeper of the Clan At.óow (Adam Greenwald), Clan Spokesman and House Leader (Hít S'aatí) of Ganaxaa Hít (Ken Grant), and certain other clan members recognized as having a leadership role in the clan (Ron Williams). These individuals are recognized as being responsible for performing cultural duties relating to the ceremonial and religious traditions of the T'akdeintaan Clan from the village of Hoonah (Xunaa), Alaska.

Following this introduction, Section II of this claim presents information about the cultural and religious significance of Tlingit crests and the objects which represent them. This is followed by a discussion of the mortuary ceremonies to which these objects are devoted (Section III). These two sections will establish that the ceremonial practices associated with the Tlingit mortuary complex, specifically the funeral and koo.éex' (memorial potlatch), are significant components of the traditional Native American religion of the Tlingit Indian tribes, and that crest objects and other ceremonial items have a religious significance and function in the continued observance of such ceremonies. Section IV presents a general description of the traditional Tlingit funeral in the modern period, and it describes the religious practices associated with the memorial potlatch with reference to a recent (October 15, 2005) koo.éex' sponsored by the T'akdeintaan Clan in Hoonah. The purpose of Section IV is to present specific information about the religious uses and functions of crest objects and other ceremonial items in contemporary Tlingit religious practices.

Sections II-IV will provide the context and foundation for statements that each of the requested items is a specific ceremonial object that

1) was devoted to a traditional Native American religious ceremony; and
2) has religious significance or function in the continuing observance of these ceremonies within the Tlingit mortuary complex and other ceremonies; and
3) is needed by traditional religious leaders for the practice of this traditional religion.

The claim is structured in this manner to avoid the duplication of this discussion for each requested object.

The remainder of the document is comprised of individual and specific claim statements for each of the sacred objects requested for repatriation by the T'akdeintaan Clan (Section V). For each object, specific evidence is provided that the item is a "sacred object" that belongs to the T'akdeintaan clan. Further, the specific ceremonial uses and religious functions for which

the item is needed by traditional religious leaders are identified, with reference to the discussion presented in the earlier sections.

Section II. Clan Crests, At.óow (Property) and the Concept of *Haa Shagóon*

For a Tlingit person, the single most important component of her social identity is membership in a matrilineal clan, and specifically the immortal ancestral heritage passed down primarily, though not exclusively, through the maternal line. Besides centering the person in his social universe, the clan is the locus of ceremonial authority and activity in Tlingit society. The most important and sacred attributes of the clan members' collective identity, acquired by their ancestors in the ancient past, are their clan crests and the tangible representations of them depicted on objects and in legends, songs, dances, names, and other prerogatives, and which are associated with specific events that are often emplaced in certain areas or at known sites on the landscape. The most valued ceremonial objects are those that depict the multiple crests of Tlingit moieties, clans and houses. Ceremonial objects representing clan and shaman spirits are also highly valued; these differ in some respects from the spirits symbolized by crests that were acquired in the distant past by a clan ancestor (see Worl 2000:168).

Crests have been described as "the most important symbols of the matrilineal group ..." (Kan 1989:69). Crests are "a series of named entities or objects, usually referring to animals, which were owned by social groups who were privileged to represent them according to certain rules on totem poles, house fronts, ceremonial headdresses and robes, and certain other objects of material culture. Crests were jealously guarded possessions. They were a legacy from the myth time, acquired by the ancestors, and held in perpetuity by their [matri]lineal descendants" (Halpin 1984:17-18). This description, although written in the past tense about the Tsimshian (southerly neighbors of the Tlingit), represents the contemporary meaning of crests to the Hoonah Tlingit people and conveys the fundamental significance of crests and their representations to the matrilineal group.[1]

Frederica de Laguna (1960:16-23) wrote that the Tlingit classified their oral traditions into different categories. These stories were grounded in various geographical localities or sites and in personal names. Their history included the mythical period which recorded the creation of the world (the Raven cycle). A second category was represented by myths, legends and histories that described clan origins, migrations, the supernatural occurrences upon which their claims to crests and other prerogatives are based, and interrelationships with other clans. Personal names (especially those that were assumed as titles) were derived from legendary or historical events, and their stories were kept alive in succeeding generations by those who acquired the names and were believed to be reincarnations of the dead ancestors who participated in these events. Certain localities had a special meaning and quality of reality because they were the sites of clan history. Names, including personal and place names, and stories are owned by clans and are meticulously transferred through the generations. de Laguna surmises that the clan provides a unity to geography and history, a "logic," which is more important than a purely spatial and temporal framework.

[1] We also note that Kan draws heavily on this passage from Halpin in his discussion of crests in his work on the 19th century Tlingit mortuary complex (see Kan 1989:69).

Kan (1989:69) suggests that a clan's most important crests are derived from the earliest period of clan migrations when they traveled from the interior to the coast, while de Laguna (1972:453-4) indicates that significant crests may have been obtained more recently. On the other hand, numerous crests, most notably those derived from the Raven cycle, are related to an earlier time when Raven was creating the world.

The acquisition of each of the clan's crests is described and depicted in stories and legends (history), songs, dances, personal names or titles, imitative sounds and movements, emblems (designs) placed on objects, and other representational forms through which important knowledge is transmitted down through the generations. Crests were acquired by the ancestors of a clan or lineage as a result of a supernatural encounter with an animal, or through some other transformative event in the clan's history. "A sib [clan] is believed to obtain the right to a crest because of some adventure or encounter of a remarkable nature with the animal or bird, etc., from which the crest is derived. This may involve finding the creature, killing it, marrying it, or living with it. ... This supernatural adventure may entitle the sibmates of the man or woman involved not only to utilize the creature itself as an emblem, but to adopt as prerogatives other features associated with it" (de Laguna 1972:453-4).

Crests were also acquired through events and experiences associated with a specific locality. De Laguna (1972:456) suggests that the use of geographical features as crests derives from references to specific localities mentioned in clan histories and the practice of exercising territorial rights associated with the matrilineal group. But in fact, as will be seen with some of the important crests of the Tsalxáan Hít (Mt. Fairweather House), "geographical" crests are also associated with supernatural or spiritual encounters that are anchored at specific localities in the cultural landscape. The happenings associated with certain places are formative for the group and constitute important historical and geographic markers. The events memorialized in geographical crests are situated and emplaced like a feature of the land itself (see Thornton 2004). Moreover, although geographical crests differ in some respects from those acquired from animals, Tlingit regard mountains and glaciers as alive or the abodes of their own indwelling spirits in a manner similar to their animal totems (see de Laguna 1972:456, 818; Cruikshank 2005).

The foundational significance of the crest is described by de Laguna (1972:451), who writes, "these crests are, from the Native point of view, the most important feature of the matrilineal sib [clan] or lineage, acquired in the remote past by the ancestors and determining the nature and destiny of their descendants. One might almost say that the members of the sib (or lineage) are the human embodiments of the totemic entities." Crests are not merely important for their historical associations, but have continuing and ongoing significance to the clan (we shall return to this idea below). Crests are spiritual entities, and are believed to be immortal. The disposal of their material representations resembled practices associated with human funerals:

> The sacredness of the crest was indicated by its reverential treatment by its owners. When a certain object bearing the crest, for example, a canoe, began to show signs of deterioration, it had to be burned and mourned as a human being, rather than simply discarded. Its name was always transferred to a new object

> representing the same crest. Thus, the crest remained immortal, surviving its temporary representations, just as man's spiritual components survived the body. Kan (1989:70)

Lily White describes a similar occurrence involving the disposition of a T'akdeintaan crest object in Hoonah (Interview, Aug. 26, 2005). She relates that, when a carved panel or pole representing Géelák'w (the twin-peaked mountain located near Mt. Fairweather) was in danger of falling and hurting people, the clan chopped it down and put in the ocean to float away, and a T'akdeintaan mourning song was composed to memorialize the event (see below, discussion of the Sun Mask, Catalog No. 6830). These descriptions of historical occurrences reflect current Tlingit traditions and beliefs about the ceremonial and spiritual significance of crests and crest objects.

The Tlingit term *at.óow* refers to all of the clan's prerogatives, all of the tangible and intangible property claimed by a matrilineal clan or house group. At.óow consist of landscape features and geographical sites located on land and water, such as subsistence sites, territories, former villages, and prominent glaciers, bays, and mountains. It can be intangible, such as legends, songs, personal names, spirits and the designs represented on material objects or in face paintings. It can be an image of an episode taken from the Raven Journey that is depicted on a blanket, hat or shakee.át (frontlet), or it can be the object itself. It can be a clan ancestor, a legendary shaman, a shaman's spirit or the spirit of an animal. The fundamental significance of these possessions is expressed in a statement by Lukaax̲.ádi (Sockeye Clan) elder Emma Marks, "Our at.óow are our life" (in Dauenhauer and Dauenhauer 1994:16). In their work, the Dauenhauers (1987, 1990, 1994) have stressed the significance of the concept of at.óow in Tlingit social organization and religious practices. "At.óow is the single most important spiritual and cultural concept introduced through the narratives published in *Haa Shukà* [Our Ancestors, their first volume]. This fundamental concept underlies all dimensions of Tlingit social structure, oral literature, iconography, and ceremonial life. It is the spiritual, social, and rhetorical anchor for the oratory in this book" [*Haa Tuwunáagu Yís*, for Healing Our Spirit] (1994:14). Drawing on their work, Thornton (2004) extends the discussion towards the "foundation role' that these possessions play in defining and shaping personal and group identity and character.

The inclusive meaning of the term 'at.óow' (owned thing) incorporates a reference to an original acquisition ("purchase") by the clan.[2] As explained by the Dauenhauers (1994:16), "Through **purchase** by an ancestor, an object becomes **owned** by his or her descendants. The purchase and subsequent ownership may come through money, trade, or peacemaking, as collateral on an unpaid debt, or through personal action, usually involving loss of life. The at.óow ... recall the actions of ancestors whose deeds purchased them, and the at.óow are therefore precious to the Tlingit people" (emphasis in original). This statement summarizes a portion of the complex system of Tlingit group (clan) property ownership rights that encompasses property acquisition, and its occasional transfer under certain circumstances, without invalidating principles of group ownership and stewardship. That such principles are evident in the acquisition of clan crests is expressed by Lily White (Interview, Aug. 26, 2005), who explains that crests are related to misfortune or "peril" that befell a clan during its history.

[2] At.óow is a compound noun and verb stem meaning 'object' or 'thing' and 'buy,' 'own' or 'possess.'

The clan takes as a crest the image of the animal or the event that was responsible for the death of clan member(s) as a kind of payment (restitution) for the death. The misfortune may be associated with a spiritual encounter involving the death of a clan member (such as the girl who was taken away by Coho salmon after she played with a salmon's jaw bone, which is the origin of the L'uknax̲.ádi (Coho) crest), or with a tragic event befalling the clan as a whole (such as the death of many T'ak̲deintaan clan members when they were washed out of Lituya Bay by a tidal wave).[3] The Dauenhauers (1990:15-6; 1994:16) describe the process similarly. By adopting the experience as a crest and memorializing it in at.óow, the incident becomes a source of strength and unity for the clan's descendants.

In order for an object to become at.óow, certain ritual and ceremonial procedures must be followed that serve to dedicate and validate the status of the item as an "owned thing." This process is summarized by Thornton (2004:366, after the Dauenhauers (1987, 1990, 1994): "Events, beings, objects, and places typically become *at.óow* when they are crystallized as encapsulating images --- usually in artistic designs --- and consecrated through ceremonial use and formal dedication within the context of the *ku̲.éex'* (potlatch or party). Only after these representations or simulacrum become publicly invested with meaning and value through ritual is the prerogative of ownership recognized and the status of *at.óow* achieved." Shotridge employed the term "clan heirloom possessions" in recognition of the status of the objects he collected from the Táx̲' Hít, indicating that he considered they were at.óow which had been used ceremonially during clan memorials in the past.[4]

During funeral and memorial ceremonies, at.óow do not merely represent clan identity and group history, but through the expressions of oratory, song, and dance, and in the display of objects, they serve to evoke and make present the spirits of the animal, place, event or spirit depicted in the images, as well as the spirits of the clan ancestors involved in their acquisition and of those who were stewards of the object in subsequent generations. Just as calling out the names of clan ancestors ensures that their spirits are brought to the gathering, bringing out and using crest objects and other regalia serves to call and make present in the k̲oo.éex' the spirits of those clan members who have owned, held and cared for the items (stewards) in the past. In Tlingit ceremonials, at.óow symbolically mediate between the living and those who came before, but they also provide power and strength to the living, and knowledge to build character, that helps shape their future.

The relationship between crests and clan origins or history as both based on events that occurred in the past but that continue to shape the future is central to the Tlingit concept of ***haa***

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[3] Sometimes, the memory of the originating event has been forgotten (or suppressed) and only the crest remains in the clan's possession. Such may be the case if the crest (or crest object) at one time belonged to another clan, but it was appropriated sometime in the past as an indemnity for a wrongdoing perpetuated on a clan member.

[4] Today, as in the past, objects that are individually owned pass into communal ownership and become part of the clan collection held by the steward or caretaker through ceremonial use and dedication in a k̲oo.éex' (see Dauenhauer and Dauenhauer 1994:17-18). The Dauenhauers (1990:22) explain the role of the caretaker to ensure the preservation of the clan's possessions: "A person who inherits at.óow does not become the sole owner, but is the custodian or steward of property owned by the clan at large. A general responsibility is to ensure that the at.óow not be lost or sold for personal gain or to resolve personal or clan debt. The at.óow should not be sold, but should remain with the clan in the stewardship of its individuals and families for the life of the at.óow."

shagóon, which Kan (1969:58) suggests "might be called the root concept in Tlingit culture..." A clan's shagóon is translated as both its "origin" or "heritage" (referring to its ancestral past), and its "destiny" or "fate" as embodied in future generations. The term 'shagóon' encompasses the "totem" or entity from whom the right to use a crest was obtained and the clan ancestors through whom this privilege descended, but it also refers to the group's collective fortune or "fate" and implies a specific notion of future descendants.[5] Austin Hammond, the now deceased Sháadei háni of the Lukaax̲.ádi of Chilkoot, described *haa shagóon* this way: "it is what we are now, what we have been since the beginning, and everything that our children must become. Haa shagóon --- that is the way with us" (in Thornton 2004:370). In the Tlingit world view, the ancestral past and the clan's destiny are one, imbued with sacredness, and connected through living clan members and their at.óow, which bind the present generation to the past as well as the future.

Tlingit use the term 'haa shagóon' to refer to the clan's crest(s) and the totemic animal(s) or being(s) from which the crest(s) are derived. The term also embodies places that were created or endowed with significance through ancestral activities. Crest objects displayed at memorial potlatches are the symbols of the clan's shagóon. As described by de Laguna (1972: 612), all important crest objects "are the symbols of their owners' lineage [house group] and sib [clan], and of the origin and destiny (shagóon) of the line, and their totemic crests link the living with those ancestors who long ago won for their descendants the right to use these emblems." As will be discussed below, many of the items in this claim are the symbols of important shagóon of the Mt. Fairweather House and the T'ak̲deintaan Clan and link the living members with their clan origin and history, and the ancestors through whom their material representations descended. This link becomes manifest during the mortuary ceremonies, when crest objects and other prerogatives bring the clan into association with ancestral spirits through ceremonial use and ritual action.

In their presentation of and commentary on Tlingit oratory (*Haa Tuwunáagu Yis*, for Healing Our Spirit), the Dauenhauers (1994) provide an extensive description of the ceremonial roles and uses of at.óow that are fundamental to the k̲oo.éex'. This volume has particular relevance to this claim because several of the speeches, given for the removal of grief in the context of a memorial k̲oo.éex', draw heavily on at.óow owned by the T'ak̲deintaan clan. Jessie Dalton refers to (and uses images from some of) the following at.óow: the Mountain Tribe Dog Hat (a shaman's spirit), the Beaver Blanket, the Kittiwake (Tern) Robe and associated site of G̲aanax̲áa, the Raven Shirt, the Raven's Nest House Robe, the Raven Who Went Down Among the Bull Kelp Shirt, the Frog Hat, the hat of Yook̲is'kook̲éik (Raven Who Controls the Tide), the Loon Spirit (Brass) Hat (another shaman's spirit), the Sun Mask and the G̲éelák'w (a mountain pass near Mt. Fairweather) Headdress. Matthew Lawrence uses images of Tsalx̲áan (Mt. Fairweather), and David Kadashan refers to the Sun Mask.[6] These are all at.óow belonging to the T'ak̲deintaan clan. This extensive and culturally informed description develops a substantial

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[5] See de Laguna 1972: 455-56, 812-13; Kan 1969: 68-69; also see Dauenhauer and Dauenhauer 1987:28-29 and 1990:19-20; Thornton 2004:370-76. The Dauenhauers suggest that 'shagóon' refers principally to ancestors, while the related term 'shuká' is more inclusive and signifies ancestors as well as those coming after (the future descendants who will be ancestors). They also say the clan's at.óow are encompassed by the term 'haa shuká.'

[6] In a speech delivered during the Sealaska Elders Conference that also appears in the book, T'ak̲deintaan Elder William Johnson refers to X̲'eijáak'w (a shaman associated with the Trembling Mountain song) and the site of G̲aanax̲áa.

body of information that demonstrates the ceremonial role and function of at.óow owned by the T'akdeintaan clan, and readers of this claim are referred to it for that purpose. The following sections provide additional information on these issues.

Section III. Tlingit Religion: The Mortuary Cycle

The centrality of ceremonialism on the Northwest Coast is well known, and for the Tlingit, these ceremonies are essential religious practices associated with funerals and memorials for the dead. The contemporary Tlingit mortuary cycle is marked by three ceremonies, the funeral, the "Forty-Day Party" (scheduled about 40 days after the funeral), and the large memorial potlatch or koo.éex' that takes place a year or more after the funeral. Members of clans that belong to the "opposite" moiety from that of the deceased, most directly relatives in the clan of the father of the deceased, assist the mourning family at the time of death and during the funeral, and they are acknowledged for these services during the forty-day feast and most elaborately during the koo.éex' (which is often called the 'pay-off party' for this reason). The purpose of all of these ceremonies is to express honor and respect for the deceased, although in the memorial koo.éex' the spirit of the deceased is associated with the spirits of all the clan's ancestors who are believed to be present to receive the spiritual essence of food, clothing, blankets and other goods eaten or distributed during the celebration. This funerary and memorial emphasis distinguishes the Tlingit potlatch ceremonial cycle from that of the other Northwest cultures, as fundamentally a traditional religious practice.[7]

Anthropologists consistently described the Tlingit potlatch as a religious ceremony held to memorialize and express respect for the dead. de Laguna (1972:531) wrote, "For the Tlingit, death was the supreme event, providing the major occasions and themes for cultural elaboration and emphasis." Swanton (1908:434) mentioned that "only one motive underlay the custom, regard and respect for the dead," in contrast to the Haida for whom "the social idea quite overbalanced the religious." In her description of 19th and early 20th century ceremonial life in Yakutat, de Laguna (1972:606) remarked that the concern for honoring the memory of the dead was always present even when the apparent function of the potlatch is other than mortuary. "All of these purposes and functions of the potlatch were, however, conceived as memorializing the dead, either directly, or indirectly by carrying on the traditions which the ancestors had established" (de Laguna 1972:613). Olson (1976:59) also stated that "potlatches were a means of honoring and showing respect for the dead ..." and explains to the reader that he considered "these festivals as a part of the death, mourning and memorial rites, for this is the native view."[8] In her analysis of Tlingit ceremonialism, McClellan (1954:77) reported, "the fundamental core of the potlatch ... is the formal and public payment by members of one moiety to those of the opposite, in order to honor the dead and the living by recompensing individuals of the other side for duties rendered, or to guarantee their "respect behavior" in the future." More recently, Kan

[7] In Hoonah, traditional ceremonial behavior is minimal during the Forty-Day Party and it is considered to be a Christian function by traditional religious leaders. The forty day party is not discussed further in this claim because ceremonial objects and other clan prerogatives do not have a role in this context.

[8] Also see Oberg (1973:12), who characterizes Tlingit religion as "a ritual life centering around totemism, shamanism, secret societies, and the potlatch..."

(1989) devoted a comprehensive monograph to the Tlingit memorial potlatch, with a similar perspective.

To summarize the ethnographic descriptions, death initiated a series of observances which culminated in a potlatch at which the deceased was mourned and honored and those who had performed funerary services were rewarded by the maternal relatives of the deceased through feasting and the distribution of gifts (de Laguna 1972:531, 606). In his description and analysis of the 19th century Tlingit mortuary complex, Kan extended this analytical framework to integrate dead clan ancestors, "... believed to be the recipients of the spiritual essence of all the food and gifts distributed to members of the opposite moiety," which, in his words, "greatly expands and clarifies the picture of this complex ritual and forces us to deal with the interrelationship of its religious and political dimensions." Swanton (1908:431, 462-63) and McClellan (1954:80) also described the participation of clan ancestral spirits, who are believed to be present at the ceremony and receive the spiritual equivalent (or more) of the food and property given away by the clan. Swanton wrote, "In fact, it may be said that these feasts were supposed to be partaken of by men and spirits at the same time, and constituted a sort of communion."

Although these descriptions are more often of 19th century mortuary practices, the fundamental religious characteristics and functions of the ceremonies, including the traditional spiritual beliefs relating to ancestors and ceremonial uses of at.óow, are fundamental to the modern k̲oo.éex'. Contemporary statements to this effect are provided below in the statements of claims for the Mt. Fairweather House objects. As mentioned previously, in their work for the Sealaska Heritage Foundation, the Dauenhauers (esp. 1987 and 1990) provided substantive descriptions of modern k̲oo.éex' and the associated spiritual beliefs, from an emic perspective. The k̲oo.éex' continues to be the principal focus of Tlingit cultural expression. Indeed, de Laguna's (1972:607) statement about the 19th century mortuary potlatch is as true today as it was then: "the occasion [k̲oo.éex'] is magnified by ceremonial into the most important in Tlingit social life, far transcending the importance of the persons for whom it is held."

Section IV. Ceremonial Uses of Clan At.óow

The Funeral

During the twentieth century, Tlingit people adopted the Christian form of funeral with church services conducted in the community prior to cremation and burial. Contemporary funeral rites involve an ANB/ANS (Alaska Native Brotherhood/Sisterhood) Memorial service, a Traditional Memorial, and a Christian funeral. In Hoonah, the ANB service is customarily followed by the serving of sandwiches by the ANS, and then the traditional memorial. The church funeral is scheduled on the subsequent day. The ANB ceremony incorporates some traditional practices, with the deceased lying in state in a casket and the display of sacred objects. Clan at.óow, minimally including a blanket and clan hat, are draped on top of the casket along with the deceased's ANB cap, banner and pin. Additional at.óow may be placed on a table nearby, and photos of the deceased may also be placed on the coffin or nearby. The at.óow remain on the casket throughout both the ANB ceremony and the traditional memorial which

follows. In those cases in which only a funeral is held, clan at.óow are brought to the church and placed on the coffin.

The number of items on display will vary depending on the stature and role of the individual. For some persons, the clan may bring out a blanket or a crest hat, but more objects are presented for esteemed and knowledgeable individuals and clan leaders. Such items may include one or more crest hats, masks, shakee.át, robes, dance staffs, rattles, and other heirloom possessions, as well as personal property. In a recent (2006) funeral in Juneau for the Kaagwaantaan Naa Tláa (Clan Mother), a Naaxein (Chilkat Robe) and headdress were put on top of the casket and a clan hat, mask, beaded blanket and other objects were positioned on a table. In the traditional part of the memorial, members of the opposite moiety brought out four additional clan hats, as well as two more Chilkat blankets, a beaded blanket, a tinaá (copper) and a mask. Seven Raven clans were represented from the opposite moiety (Worl 2006: Personal Communication).

The memorial service is announced ahead of time, and all the members of the opposite moiety are invited. During the traditional memorial, social and spiritual balance is ensured through the participation of members of clans from the opposite moiety who bring their material at.óow, or describe them symbolically through oratory, and give condolence speeches using the emblems and stories represented in their at.óow. When a clan brings forth their ceremonial object(s), a spokesperson from the clan stands and delivers the speech on behalf of the clan, while the other clan members who are present stand along with him. The display of at.óow, and the words of condolence that accompany them, are intended to comfort and heal the bereaved clan. A religious leader of the T'akdeintaan Clan expressed the significance of this ritual act:

> the opposites get up and do their what I call the "healing" ceremony, in which they express their support and feeling the grief for the whole clan. They remove the grief or catch the tears. It's really touching, really powerful. When you experience it, you really feel it. Very powerful. I have experienced it [when a member of my family passed]. They explain their lineage, and it's not just them that are present, it's all the ancestors, the people that wore the regalia before today. It is very spiritual. And all the clans stand up.
> (Notes: Ken Grant, July 27, 2006).

The ceremonial use of at.óow shortly after the time of death has substantial continuity with earlier practices, as shown in images made by westerners since the mid-19th century that document clan leaders and shamans lying in state with at.óow placed on or near them. For example, see Kan (1989:36, drawing made in Sitka of a chief's funeral in 1844; 37, an aristocrat's funeral in Sitka from the early 1900s); Dauenhauer (2000:101, unknown leader of the Shangukeidí of Italio River, circa 1900); and Abbott et al (1995:28, unknown person in Sitka Sea Lion House, 1904[9]; 30, Chief Johnson, Taku Gaanax.ádi clan leader, circa 1895; 32, a Yanyeidí shaman, date unknown; 40, an unnamed Dakl'aweidí man in Angoon, circa 1900; and 70, Chief Shakes, leader of the Naanyaa.aayí clan of Wrangell, from 1878). Other images show the

[9] The four hats and button blanket in this photo were collected by Shotridge for the University Museum (see Kaplan and Barseness 1986:15).

integration of at.óow into Russian Orthodox funeral ceremonies around the turn of the century (Dauenhauer and Dauenhauer 1994:18; Kaplan and Barseness 1986:85).

In some communities, the memorial is followed by a meal for the guests served by the host moiety. The bereaved clan keeps a record of all who sat with the deceased through the night, and who brought food, and these individuals are recognized later at the memorial potlatch when they are remunerated for these services.

The Memorial Potlatch

The memorial potlatch or k̲oo.éex' is the culminating ceremony in the cycle of funereal rituals practiced by the Tlingit. It is usually a large-scale ceremony involving people from multiple villages and one or more years of preparation by the matrilineal group that hosts the event. In the k̲oo.éex', several complex objectives are accomplished simultaneously. Honor and respect are shown to the deceased through the display of clan prerogatives (their material at.óow, songs, stories and oratory), and the distribution of food and gifts to the opposite moiety. Of much greater importance is the honor and respect expressed towards all the host clan's ancestors, who are called into the k̲oo.éex' and receive the spiritual essence of food and dry goods that are received by the guests. Such distributions constitute formal and public payment to the opposite side for services performed in connection with the death, or "pay back." Honor also accrues to the living and future members of the mourning clan through the symbolic portrayals of their traditions (prerogatives) and distributions of wealth, which validate their rights and enhance the value of their ceremonial privileges.

The guests also present their own at.óow and make speeches or sing songs to condole and comfort the mourning hosts, and give them strength and healing. With all the members of the (guest) clan standing alongside the speaker to give him strength, the presentation of their clan at.óow evokes the spirits of their lineage ancestors who have worn the items in the past and all others represented by the crests. The reciprocal display of clan at.óow by the guests achieves what is described as a "spiritual balance," without which the unanswered spirits of the host clan would float around in discontent, and potentially causing harm or danger. At.óow are needed for display by both sides, without which proper ceremonial behavior and efficacy is constrained. Indeed, one clan leader (Lily White, Chookaneidí) reported instances in which she has had to apologize to her clan at.óow saying she could not bring them out because she was not confident that at.óow from the opposite moiety would be present (Rosita Worl 2006: Personal Communication). The balanced response by the opposite clans is necessary for the removal of grief among the mourning clan. It is an important component of the k̲oo.éex' and formally brings to a close the mourning period which has been in effect for the past year or longer. At this point, the distribution of food and gifts begins and additional presentations of clan prerogatives occur at proper intervals, eventually culminating in the final distribution of money at the end of the potlatch.

The following description is a brief outline of the k̲oo.éex' that was sponsored by the T'ak̲deintaan Clan in Hoonah in mid-October, 2005. The T'ak̲deintaan are of the Raven moiety, and their opposites are in the Eagle moiety. Before the ceremony began, the T'ak̲deintaan clan

laid out their at.óow on tables lined up across the front of the room. Three clan hats --- the Tsalxáantu Kwáan Sháawu S'áaxw (Mt. Fairweather Women Hat), the K'eik'w S'áaxw (Kittiwake Hat),[1] and the Shaatukwáan Keidlí (Mt. Tribe's Dog Hat) --- were placed on a Chilkat blanket, a shakee.át depicting Raven and the King Salmon rested on a painted deer hide robe, and alongside them two beaded tunics were arranged on the table. All of these items were decorated with crest designs.

T'akdeintaan Clan at.óow displayed during koo.éex' in memory of Charlotte Underwood, October 15, 2005, Hoonah.

At the appointed time, guests entered the ANB Hall and were escorted to their seats by a Naa Káani, who is usually a brother-in-law of the host clan (from the opposite moiety). After all of the guests arrived, the chief host welcomed them on behalf of the T'akdeintaan Clan. Then, all the Ravens gathered in the front of the room and, in preparation for the T'akdeintaan grieving songs, members of the guest moiety painted their faces with black (mourning) lines. The chief host then explained that that T'akdeintaan formerly resided on the outer coast and "owned" the sea otter there, and in recognition of this 14 sea otter skins were put on designated clan members by the opposite moiety. Canes, made of 4 foot lengths of a young tree with the bark stripped off, were also distributed to clan members.

[1] The crest has been called a Sea Pigeon, Kittiwake, Tern and Seagull. It will be referred to as kittiwake in this document.

Led by their song leader, the T'akdeintaan Clan sang four mourning songs. These are the most ancient and solemn of the clan songs, and are only performed during the initial portion of a memorial. When clan members sing these songs in the presence of their at.óow, it is as if they are seeing and experiencing the occurrences depicted in the verses alongside their ancestors. The final grieving song was entitled Teet Shí, the Wave Song, which embodies the wave that washed the clan out of Lituya Bay. Before starting to sing, the chief host explained that the song told about the T'akdeintaan people being washed out to sea by a tidal wave. The beat quickened in the final verse, symbolizing when the people tumbled underwater and drowned.

At the conclusion of this song, spokespersons for six guest clans brought out their at.óow and expressed through oratory their condolence for the death and their desire to give comfort and strength to the hosts. Crest blankets, robes, tunics and hats were displayed during their speeches, and references were made to them through metaphor to dry the tears of the mourners and to warm them in their time of sorrow. The guests addressed members of the mourning clan by name, and called out names of their own clan ancestors to join them in the condolence. The guests also named the specific T'akdeintaan crest object(s) on display at the front of the room in relation to which they brought out their own at.óow (and thereby ensuring spiritual balance, as described previously). It is said that it is as if the guests' at.óow "hold hands" with that of the hosts, during this part of the ceremony.

The Dauenhauers (1990) refer to this stage of the ritual as the removal of grief. Through the display of their own at.óow and use of metaphorical speeches, the guests bring together their clan with their relatives, the hosts, and offer comfort, healing and strength by remembering their ancestors to whom certain things happened and to whom their at.óow belonged in the past. By recalling their ancestors (making them present in the koo.éex') through the use of their names and at.óow, they add weight to these actions. During a clan conference in Hoonah, Lily White said that there is "power and strength in regalia. All the spirits are there, not just the ones holding it." For a detailed discussion and examples of Tlingit oratory and the metaphorical use of at.óow for condolence during a modern memorial potlatch, see Dauenhauer and Dauenhauer (1990:96-108, 242-55). The speaker (Jessie Dalton), an expert orator, was the T'akdeintaan Naa Tláa (Clan Mother) and drew on many crests represented on clan at.óow that were brought out at the koo.éex'.

Following the guests' oratory for the removal of grief, the hosts performed the Yaash Ga Shoo, or "End of Sorrow" ritual. Led by the chief host, and accompanied by drumming, four men cried out a specific call four times, signifying that the mourning had come to an end. Guests wiped off the black face paint and removed the black armbands that were worn by the hosts. Afterwards the Chookaneidí (Eagle Moiety) sang a song, and a grandchild of the deceased expressed thanks to all the guests in attendance. At this point the chief host announced that they were switching over to the "happy" part of the ceremony. The T'akdeintaan sang two love songs, accompanied by much laughter from the guests. Then, each of the T'akdeintaan house leaders made speeches thanking the guests for supporting them during their sorrow, and for looking at (validating) the at.óow that were on display for the ceremony. Included in these short speeches were references to the previous owners of the at.óow, from "before our time," which recalled them to the memorial.

With the Raven hosts still standing at the front of the room, a grandchild of the T'akdeintaan was called forward and the Mt. Tribe's Dog Hat was placed on his head while its song was sung. The honoring rite was significant because it represented a renewal of this ceremonial act which had not been carried out for many years. The song relates to an experience of a clan ancestor (a shaman) who was lost and was led to safety by a dog that he encountered near Mt. Fairweather. The spirit of this dog is at.óow of the T'akdeintaan clan and it is represented on the hat. This hat was named Shaatukwáan Keidlí S'áaxw and it was photographed during the mourning portion of the 1981 memorial to Jim Marks in Hoonah, when it was held by Hilda See as the T'akdeintaan clan condoled the mourners (Dauenhauer and Dauenhauer 1990:17; also see p. 121).

Afterwards, the T'akdeintaan women formed two lines across the front of the room and sang four "swaying songs." These are special songs that are associated with a gentle side to side swaying motion that itself is at.óow of the clan. The distinctive dance movement represents the bodily motions of the Mt. Fairweather spirit women as they emerged from a "crack" that had formed in the mountain and were seen in the vision of another T'akdeintaan shaman named X'eijáak'w. For these songs, the T'akdeintaan women hung ermine skins on one ear, another clan prerogative worn in imitation of the spirit women, that accentuated the swaying movements. Some dancers wore long, thick tassels of red yarn in place of ermine skins. The first song was the Trembling Mountain Song, a spirit song that depicts the women from inside Mt. Fairweather.[1] The women are depicted on the Tsalxáantu Kwáan Sháawu S'áaxw (Mt. Fairweather Women Hat) (see Dauenhauer and Dauenhauer 1990:90).

The series of yoo koonákk (swaying songs) ended with a repeat of the Wave Song. At the conclusion of the song, the chief host gave a more detailed explanation of the song and the unique motion associated with it. During the song, the women sway in concert with the beat, and as the final verse increases in tempo, the women bow down at the waist without ceasing to sway. These movements represent the climactic turmoil underwater, when their ancestors were drowning and survivors were holding onto the bodies of their relatives. At this time, the chief host also explained the crest symbolism of each of the clan hats which remained on display at the front of the room.

After a pause, several members of the host clan gathered at the front of the room and, one by one, called out all the personal names and titles that belong to the clan, including the names of deceased members of the clan. Both Tlingit and English names were called. The chief host called out each name, and it was repeated by the host clan's Naa Káanis. In this way, the host clan called to the spirits of all their ancestors, inviting them there in preparation for passing out the gan kas'íx'i (fire bowls), which marked the beginning of the distribution of food and material goods that was going to occur throughout the remainder of the memorial. On this occasion, before the fire bowls were handed out, the Chookaneidí proceeded to sing one of their clan spirit songs (after an octopus spirit associated with Inian Island) in response to the host clan's Trembling Mountain Song. Spirit songs are believed to be songs composed by shamans in the language of their helping spirits, and they have the power to evoke the spirits of clan shamans. Such songs require reciprocal performances by an opposite clan to maintain spiritual balance.

[1] "Spirit songs" are handed down from shamans and the words to these songs are unintelligible to Tlingit speakers because they are the utterances of shaman's spirits, not human beings.

By singing another song (from the opposite side) that has a similar effect, the group is protected from possible harm, disease and misfortune that might result from the spirits that are called forth.

The designation of 'fire bowls' refers to an earlier ceremonial practice in which the food was placed directly in the fire, in the belief that the spirits of the ancestors whose names had been called would receive the food that was consumed in the fire. As has been already described, the modern belief is that ancestral spirits partake of the spiritual counterpart or essence of the food and other things that are given to the invited guests. Fire bowls contain the favorite foods of the deceased and are handed out to specific individuals in recognition of their contributions to the host clan since the death of the person being honored. The name of each recipient was called out loud as each bowl was handed out. After the fire bowls were handed around, the guests were served a meal which included menu items that were favored by the deceased.

After they guests were finished with the meal, the T'ak̲deintaan gathered at the front of the room for more songs and dances. The T'ak̲deintaan crest hat representing the kittiwake was placed on the chief sponsor of the memorial, who led the Hoonah "Tern" Ladies in the singing of the song associated with the crest. This song ended with the women calling out the high-pitched call of the bird, which is another prerogative (at.óow) of the clan. The ladies provided entertainment by repeating the call three times, each one louder than the last. Blankets, many kinds of food and various dry goods were distributed between successive meals throughout the evening.

Between the second and third meals, there was a very large distribution of berries in a variety of jars and plastic containers and, after these were exhausted, in zip-lock bags filled from a giant tub that was carried into the hall on the shoulders of Ravens. Hoonah is known for its large distributions of berries, and the tub was emptied and re-filled about five or six times during the course of the evening. Each appearance of the tub was greeted with much good cheer and anticipation on the part of the guests. It was carried into the room on the shoulders of Ravens who, before lowering it to the floor, raised the tub over their heads and, while stamping their feet, turned in a circle to the cheers of the guests. Prior to one of the entrances, the chief host performed a special dance with a cane while clan members sang Yán Xwáa, the Octopus Tentacle Song. His dance movements depicted an episode from the Raven's Journey during which Raven used an octopus tentacle to reach out and haul into shore a floating storehouse of food. In the dance, Mr. Grant extended the cane and symbolically pulled a tub of berries into the hall using the cane as if it were the octopus tentacle (see photograph on next page, and below, discussion of Octopus Tentacle Staff, Catalog No. 10513). This performance was another example of ceremonial renewal, in this case of a clan song that had not been heard in a very long time.

After the last meal, final contributions of money were collected by the hosts.[12] Money was collected from members of both moieties; all of the individual contributors among the opposites were acknowledged by name as the money was brought out. When this was completed, the chief host performed a dance which is called Dáanaa Wuduwak̲á̲k̲, "Killing the Money." The dance signifies the relinquishment of all claims to the money by those who

[12] See Dauenhauer and Dauenhauer (1990:69-72) for a description of this portion of the k̲oo.éex'.

Chief Host Ken Grant dancing with cane representing the octopus tentacle during k̲oo.éex' in memory of Charlotte Underwood, October 15, 2005, Hoonah.

Chief Host Ken Grant performing a spirit dance wearing recently repatriated shakee.át depicting Raven and the King Salmon during k̲oo.éex' in memory of Charlotte Underwood, October 15, 2005, Hoonah.

contributed during the potlatch. This ceremony has substantial spiritual significance. "All of the money is in it, and all of the spirits are in it" [a reference to calling the names of clan ancestors, which occurs prior to the distribution of the money] (Ken Grant Notes, July 27, 2006). A shakee.át is customarily used for this dance. On this occasion, the chief host danced behind a blanket wearing a shakee.át that had been recently repatriated to the clan (see photograph on previous page). The shakee.át depicted Raven and the King Salmon, the episode from the Raven Journey in which Raven tricks the king salmon to come to onshore where Raven catches and cooks it for a meal. This story is also depicted on the historical house front panel of the Tsalxáan Hít (see Dauenhauer and Dauenhauer 1990:93), and is represented in the Géelák'w Shakee.át ("Ravine" Headdress), Catalog No. 6835A-B). The dance behind the blanket is modeled after shaman's dances that used to be performed, and they are accompanied by a clan spirit song as was the case here.

Following this ceremony, the clan performed naming ceremonies (also referred to as adoptions). Each of the individuals who were to receive T'akdeintaan names was introduced and their names bestowed upon them in a brief ceremony. About twelve individuals were honored at this time. The hosts then prepared for the major distribution of the cash money that had been collected earlier in the memorial. First, the clan leader called out all the clan names, as was done earlier in the evening, which again called forth the clan ancestors, this time to receive the spiritual essence of the money to be distributed. When this was completed, the clan leader called out the names of each recipient and their specific contribution for which payment was being made. "The host clan honors and pays those of the opposite side who supported them in their time of loss and who worked during the funeral as pall bearers; honorary pall bearers; night watchers who remained with the casket through the night until the first cry of the Raven in the morning; grave diggers; helpers in placing the cement and headstone at the burial site; and speakers at the funeral are now paid" (White and White 2000:135). Many other services to the clan and the community were also honored at this time. After all the money (about $16,000) was distributed, the chief host thanked all of the guests who came to the memorial, and the Ravens stood as the Eagles danced out of the hall.

Discussion

The display of at.óow continues to be central to Tlingit mortuary ceremonies and particularly to the rituals associated with the funeral and the mourning portion of the koo.éex'. Such objects represent the most highly valued symbols of the clan and its heritage, the crest animals, spirits, and places that are associated with its origin, history and identity. The objects memorialize those who acquired the crest (or the spirit) on behalf of the clan and all of the deceased clan members who have "owned" and used the associated at.óow in the past and contributed to their present-day esteem and value, as well as their matri-kin. Collectively, the clan's at.óow represent the clan's shagóon, its ancestors, origin and heritage, and also its fate and destiny, expressed through the traditions laid down in the past and through which the group will maintain itself in the future. At.óow are collectively displayed by the mourning clan and are essential to their expressions of grief. Such objects have an equivalent role and function for the opposite clans who express condolence and comfort to the mourners through the display of their own at.óow and their expressions of oratory that depend upon them. The reciprocal display of

at.óow by the opposite moiety is necessary to ensure there is spiritual balance during the mortuary ceremony for the well-being of all participants. The display of the crests and the singing of mourning songs are ceremonial acts and are not done on ordinary occasions. Crest objects and other ceremonial objects are stored away out of view when not used in the mortuary cycle. Although some items are now used occasionally on civic occasions, such as in the biannual Celebrations sponsored by the Seaslaska Heritage Institute, their primary function and use continues to be as ceremonial objects in funerary rites.

Tlingit crest objects and certain other ceremonial items are sacred objects as defined in NAGPRA regulations, that is, "objects that were devoted to a traditional Native American religious ceremony or ritual and which have religious significance or function in the continued observance or renewal of such ceremony." In addition to the specific accounts of Tlingit people included in this claim, there are numerous citations in the anthropological literature to support this statement. For example, de Laguna (1972: 531) wrote, "The most treasured material possessions and the most cherished sib and lineage prerogatives were valued because they were memorials to the dead, made or displayed and validated on occasions connected with death." McClellan (1954:80) described the host chief and other clan members making long speeches referring to their dead ancestors and wearing their most honored crest hats and other paraphernalia as they sing songs and recite oratory at the core of the ceremony. Oberg (1973:120), emphasizing the importance of totemic emblems and crests in the potlatch, stated, "These clan and house crests are the objects to which potlatch goods give value and are, therefore, central to the whole process of potlatching." Evidence from more recent ceremonies, such as the speeches for the removal of grief from the memorial for Jim Marks in Hoonah in 1968, particularly the words spoken by the T'akdeintaan Clan Mother Jessie Dalton formed around the display of several of her clan at.óow, demonstrates the continuity in religious significance and function of such objects in contemporary memorial potlatches (see above).

In the specific claims for individual objects in the University Museum's collection that are presented in the next section, references will be made to the role and function of crest objects in Tlingit mortuary ceremonies as described above. Each discussion will make a case that the requested item is a *specific* ceremonial object that fits the NAGPRA definition of sacred object. The items requested for repatriation by the T'akdeintaan Clan are needed by clan leaders for ceremonial use in their funerals and in memorial potlatches, and for the renewal of certain crests and songs, as described herein.

Section IV: Repatriation Claims

Box Drum, Catalog No. 6828

Box drums were used in clan ceremonies (memorials) and shamanic performances, and their importance was evidenced by their designation as named objects. Shotridge described this drum as the oldest and most venerated of all the items in the Mt. Fairweather House collection: "the old drum evidently had been the first object of heirloom in the possession of the Snail House Family." He provided the name of the drum, "Anyadi" (Aanyádi, the Tlingit word

meaning noble, for a noble or high caste person), which also suggests the high regard in which it was held. Krause saw the drum during his visit to Hoonah in 1882 and also reported it was a named object, "a-niáti bigan," which he translated 'chief's drum.' The similarity with the name given by Shotridge is clear. Krause made a drawing of it on April 12, 1882, which he later included in his monograph on the Tlingit (see Krause 1970:167). He noted that it belonged to the "first chief of Hoonah," whose name was Kin-tu-ka [Kintukáa] (Krause 1993:166). This individual most likely was the head of the principal (most wealthy) clan of the village, which would have been the clan with the exclusive right to hunt sea otters (the principal source of wealth during the early historic period). Krause wrote that only one clan had this right, and it was named *Taknitan*, which is most likely a reference either to the clan name, T'akdeintaan, or to the people of the leading house of the clan, Táx' Hít Taan. The T'akdeintaan owned the territory extending from Dundes Bay around Cape Spencer and northward as far as Cape Fairweather, in which sea otter-hunting was productive (Goldschmidt and Haas 1998). The T'akdeintaan continue to claim this prerogative, as evidenced in the display sea otter skins during clan memorials (see above, description of the T'akdeintaan koo.éex' in October, 2005).

Krause (1970:142, 166-7) described the drum as having a carved front and painted side walls representing crest figures. Shotridge reported that it was originally a shaman's drum, and it commemorates the time that a T'akdeintaan shaman "proved his spiritual power as a shaman." It was carved to represent his helping spirit, which Shotridge called Adawulcan [Adawulshán], "Old Man of War." This name occurs in a Raven story told to Swanton (1909:80) in Wrangell by Katishan; it is the name of an old man who lived with Raven at the head of the Nass River a long time ago when the world was still dark. His name was Adawulcanaku [Adawulshánaagu], 'Old Man who foresees all trouble.' This facility, the ability to see impending misfortune, is one of the special characteristics of a shaman (Anna Katzeek Interview, August 31, 2005). Besides predicting the future, shamans had the ability to "feel" bad luck approaching (de Laguna 1972:670).

Box drums were named possessions of a clan and were used for the singing of songs during memorial ceremonies. de Laguna (1972:632) described the ceremonial uses of large wooden box drums decorated on their sides with clan crest designs, and noted that all decorated drums were named. During a discussion of at.óow and clan-owned crest objects, Robert Blake of Wrangell told Shotridge that box drums were owned by clans (Shotridge notes, Box 6, July 26 Robert Blake (informant)). Blake explained that the crest paintings and carvings must be made by a person from the opposite moiety, and when the drum is finished, he "brings it out" at the next party and "says e.g. "kitganis mine""[13] and would give blankets to all of the opposite moiety." These notes indicate that the box drum was commissioned, brought out and 'paid for' at a memorial potlatch, and validated by the opposite clans.

Lily White said that Naa Káanis would Hít the drum to announce a party (potlatch), which served as an invitation for people to come to the host clan's house a day or two later. "You are invited to come, bring your tools for your food, and container to have something..." (*Lily White Interview, January 31, 2001*). She said, "they used to use a drum from Mt. Fairweather House for this, years ago, and that could be the one." During the 2005 consultation at the museum, Lily White said that this drum was taken outside into the middle of the street and

[13] In this example, the word 'kitganis' is probably, kéet gaaw (killerwhale drum)

struck, to signify that there was going to be a k̲oo.éex' at the Mt. Fairweather House. She said that two Naa Káanis would do this, after they put on a headband and placed feathers in it. "And they stand in the middle of the street and Hít the drum." When it was suggested that the drum was painted in the shape of a bear, she answered that this was consistent with the association of the drum with Naa Káanis, since there is a Raven story about the first Naa Káani (who was made by Raven). The first Naa Káani was a bear.

The use of drums for notification purposes is an ancient custom. Swanton (1909:53) recorded the practice as part of the myth entitled, The Woman Taken Away by the Frog People: "Finally they gave her up, and her father had the drums beaten for a death feast." The association between a drum and the announcement of a k̲oo.éex' was reported by McClellan, who wrote that when a Tlingit chief uses the phrase that he and his clan are going "to pick up the drum," it signified that they are going to hold a k̲oo.éex'. The Dauenhauers (1990:44) stated that the term for the mourning section of the k̲oo.éex', Gaaw Wutaan, means "Taking up the Drum" (or "to pick up the drum,' or "to bear or carry the drum"). This is a reference to the performance of mourning songs by the grieving clan that occurs during this segment of the ceremony.

The available evidence indicates that this box drum has been in the possession of the T'ak̲deintaan Clan since at least the 19th century. Shotridge reported that "it had been the first object of heirloom in the possession of the Snail House Family" and it was associated in the past with one of the T'ak̲deintaan shamans. Box drums were named possessions of a clan and were devoted to performances of ceremonial songs and dances during the memorial k̲oo.éex' (as well as formerly in shamans' performances). This drum was also used by designated Naa Káanis to announce the start of a funeral or memorial potlatch sponsored by the T'ak̲deintaan Clan in the village of Hoonah.

This named box drum is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to represent the clan's shamanic (helping) spirit associated with it, and to evoke (make present) the spirits of clan ancestors. It will call forth the spirits of the T'ak̲deintaan shaman(s) who owned and used it in the past as well as those clan ancestors who used it in clan memorials and were its caretakers, so they can be honored and receive the spiritual counterpart of the food and material goods that are distributed to the guests. It is needed for drumming to accompany the singing of mourning and spirit songs during the memorial potlatch. The decorated box drum is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Lituya Bay Robe, Catalog No. 6829

This robe is an important crest object of the T'ak̲deintaan clan that memorializes a formative event in the early history of the clan, when a large tidal wave swept them out of their homeland in Lituya Bay and into the ocean where many clan members drowned. Referring to the design depicted on the Robe, Lily White (Interview, August 26, 2005) said, "This is the

beginning of them." Lituya Bay is recognized as the first home of the clan, and they claim several important crests associated with this event. The faces depicted in the design represent the landscape of Lituya Bay where this event happened and the wave itself that carried away the people; and it evokes the spirits of the T'ak̲deintaan people who perished there. During the consultation at the Museum, Lily White emphasized this point, "So when they do Lituya Bay, they will always have a face. They will have a face on it, because it makes it real. They have it on both sides because when the wave came, it took them out." Later on, she explained that the faces of the design represent spirits of the people who perished. Her father (J.C. Johnson) told her when Lituya Bay was put on a pattern, they gave it a face because it's where the people washed out. They gave the waves a face, too (claiming them in spiritual form).

Lily White said that the clan also adopted the Pacific Ocean as a crest. "On account of that [event], the T'ak̲deintaan took the ocean that took them out, they called it 'the Black Raven' [the Pacific Ocean]. It belonged to them too because it took a lot of lives (UPM Consultation Notes)." 'Yéil T'ooch' is the Tlingit phrase for Black Raven, the Pacific Ocean. Swanton (1908:Plate LIII a) acquired an image of a face painting of Raven traveling by canoe that represents waves called Black Raven, that was used by the T'ak̲deintaan. Lily White described the geographical association of this crest during an interview in 2001, saying "The Pacific Ocean was named 'the Black Raven.' ... This is what they had, outside of Mt. Fairweather --- they're homesteading in Lituya Bay, that's where they were living." Tsalx̲áan (Mt. Fairweather) identifies the mountain of that name, but it also refers to the surrounding region including Lituya Bay and the "outside" waters (ocean), the territory exclusively associated with the T'ak̲deintaan clan (Goldschmidt and Haas 1946). This T'ak̲deintaan crest, 'the Black Raven,' has a geographical association with Mt. Fairweather, which is located only eleven kilometers from the head of Lituya Bay. The T'ak̲deintaan have a personal name, *Shaak'w layeix*, "which came from the waters out of Mt. Fairweather: when the tide is going to get strong and changing, it looked like little mountains all over the place. So they called him *Shaak'w layeix* .... That belongs to you guys [T'ak̲deintaan]. The translation is 'the waters outside of Mt. Fairweather'" (Lily White Interview, January 31, 2001). This name is another symbolic representation of the geographical relationship of the Black Raven (waves) with the mountain.

Lituya Bay is the geographical origin of the T'ak̲deintaan Clan; it is the first place associated with them in their history. "This is where everybody lived, out there then. ... And the stories they used to tell were that it was easy for them to get what they really wanted to get, living way out there. They were just in one [unit] there, living there. Nobody expected anything to happen. In fact, generation through generation they lived out there. So, they came from way out there. They had nothing to do with the inside waters. They were always out, the ocean people" (Lily White Interview, August 26, 2005). It was not until later, after the washout, that they came down to Cape Spencer, and then into inside waters. This point was reinforced later when Lily White talked about the relationship between the T'ak̲deintaan and the L'ukn̲ax.ádi: "In the beginning of history everybody was together there [in Lituya Bay]."

The bay is situated in a geologically active region and has a history of catastrophic waves that have cleaned out everything in their paths as they swept down from the head of the bay. Earthquakes, glacier movements and breaches of glacier "dams" account for the waves. The inner bay lies

directly along the Mt. Fairweather fault, where two enormous continental plates meet in constant tension and periodically shift. Because of its contours, this bay has been repeatedly subjected to giant and devastating waves generated when huge portions of the mountain, possibly dislodged by earthquakes, fall into the head of the bay. ...scientists using dates from forest regrowth have dated catastrophic giant waves that occurred in 1853, 1879, 1899, and 1936. The most destructive wave accompanied a 1958 earthquake, sweeping down the bay to maximum heights of 525 metres, destroying ten square kilometers of ancient forest, and erasing any archaeological evidence of human habitation. "All the inhabitable area around the shoreline of the bay has been swept clean as if by a giant hand," archaeologist Robert Ackerman reported a decade later.
(Cruikshank 2005:131).

The T'ak̲deintaan clan has preserved the story associated with the wave and the grieving song, named 'Teet Shí' ("Wave Song"), which goes with it. It is the oldest and most solemn of the clan's grieving songs. The T'ak̲deintaan sang it as the fourth (and final) mourning song in their October 2005 memorial potlatch, and they sang it during their consultation visit to the Museum in April of that year. Lily White explained the origin of this song:

It wasn't made right when they got washed out. They got separated, his people did, Cape Spencer, wherever they were gonna be saved, they were just floating. I don't know how they kept together. And it took a while, for many generations, then they said, 'Why don't we make a song about the wave that washed us out. We will do it for the young generation, so that they don't lose what they own.' So that's what the song was, tells of it, that they knew they were never gonna see it again. So they sang about that place. I listen for the songs of my uncle, that "I'll never see our tribal houses again." And the beat and the tempo of the song is something I always think about, the way it was made. It talks about when the waves were washing over them. It beats so, when the bodies were washing, floating, holding each other. That's the way the women danced, too; they made them dance that way [referring to unique dance movements]. Whoever thought it up was a real wise man.
(Lily White Interview, August 26, 2005)

The Wave Song is translated as follows:

We are washing out into the ocean.
Thoughts of my uncle come to me.
I listen for the songs of my uncle's house.

(These words are repeated and there is chanting.)

During the T'ak̲deintaan memorial potlatch in October, 2005, after the song was performed by the clan, the chief host explained its significance to the gathering:

> A long time ago our people lived up in Lituya Bay, got washed out by a large tidal wave. People were out there, all scattered out. All their houses, all their at.óow, were scattered out there. And those that survived, were hanging on to the dead. And when you see our Hoonah women curl downwards, that signifies our people drowning. It's a heavy song.

The song is performed by women who stand side by side at the front of the room, moving from side to side to the beat of the song in a distinctive swaying motion. The women wear red yarn ear pendants that swing and accentuate the swaying movement, which represents the wave that washed them out of Lituya Bay. The swaying also signifies the people floating in the water, bobbing around holding on to their loved ones. Towards the end of the song, the beat changes and becomes faster, and the sway quickens. For the last verse, the women bow downward at the waist, lowering their upper bodies and looking towards the floor, as they continue to sway from side to side. This distinctive movement symbolizes the final moments when people are drowning, and is itself at.óow of the T'ak̲deintaan clan. Lily White explained the meaning of these motions during an interview in 2001:

> When they do it at a party, you know, they sway. And when it comes to a certain part, when the drum's getting faster and faster, they just go all the way down. My father said, this is when the bodies were drifting on the waves, and some of them were already gone and still they're holding on so they won't drown. They're holding on to their dead family.

The mourning song expresses immense grief for their ancestors who did not survive the calamity.

According to Lily White, the T'ak̲deintaan were known as strong fighters and good providers because they prospered under the harsh conditions of the outer coast and, in particular, emerged and restored themselves after the giant wave took them out to sea. Their strength and ability to withstand powerful forces in a different context --- after contact with Euro-Americans -- is a metaphorical reference that Louis Shotridge uses in his own explanation of the meaning of the Lituya Bay design ("The Rock of Lituya"). This sentiment was echoed by Ken Grant during consultations at the Museum. This seems to be a shared expression of the fate and destiny of the clan. However, the specific symbolic meaning of the robe is multivocal and represents Lituya Bay, the wave that long ago washed the clan out of its home, the Black Raven (Pacific Ocean), and all of those who perished.

Another story of Lituya Bay is depicted on a carved wooden pipe that represents the Spirit of Lituya Bay (Kah Lituya) [K̲aa Ltu.áa] as a frog, sitting opposite a bear. Between them, they are shaking up the waters of Lituya Bay and capsizing a canoe with its occupants, which is depicted as giant waves that tower over a smaller canoe and its occupants. According to Emmons' description, "Humans drowned in this manner are enslaved by Kah Lituya [K̲aa Ltu.áa], who transforms them into bears and sends them to watchtowers on Mt. Fairweather to look for approaching canoes. Then, "with their master they grasp the surface of the water and shake it as if it were a sheet, causing the tidal waves to rise and engulf the unwary"" (in Cruikshank 2005:134-5). Emmons collected the pipe from the T'ak̲deintaan chief of Hoonah in

1888 (de Laguna 1972:1040, Plate 123); and he reported the pipe was used in clan memorial ceremonies to honor the dead or when important policy issues were being deliberated. What is of interest here is Cruikshank's discussion of Emmons' account which elaborates on the theme of "first contact" (in this case, with La Perouse) associated with the drowning of members of a Tlingit party entering the bay. Cruikshank points out that in the Tlingit histories, what is salient is the drowning of their people that occurred just prior to the encounter. Curiously, Shotridge also develops the theme of "first contact" in his story of the Lituya Bay robe; in his collection notes he suggests that the crest was adopted recently by Archie White to represent the "onrush of modern life."[14] As described above, his statements are not in agreement with the information provided by the Hoonah Tlingit.

The Lituya Bay Robe is a specific ceremonial object of the Hoonah T'akdeintaan clan that was used by the Tsalxáan Hít in Tlingit mortuary ceremonies. It is an important crest object that memorializes a significant event in the early history of the clan, in memory of which the clan adopted as a crest the geographical locale of Lituya Bay and the wave that washed their ancestors out to sea there. To memorialize this event in their history, the clan composed a song, Teet Shí, and retained the story associated with it. The Robe is an important representation of the clan's identity and the spirits of its ancestors who perished there. This was expressed by Lily White (Lily White Interview, August 26, 2005) when she recalled her visit to the Museum: "And when we were down there this blanket really moved me. I don't know how I stood it but to cry. I mean that's them. When you look at it, that's them. The ownership is right there."

The robe represents the spirits of clan ancestors who drowned in the waters of Lituya Bay, and it continues to have this historical and spiritual significance for the T'akdeintaan clan. The robe is a named object that is directly associated with other at.óow relating to this crest, including the Wave Song (a very important T'akdeintaan mourning song that is sung during the sacred portions of memorial potlatches), the distinctive downward swaying movements representing the turmoil of the wave drowning clan ancestors, the story associated with this experience in the early history of the clan, and other material representations of the event (such as a clan house named Teet Hít, "Wave House"). All of these possessions are expressions of honor and respect for the ancestors who died when the tidal wave came over them.

The Lituya Bay Robe is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors who drowned and those who commissioned the robe or preserved it in subsequent generations (so they can be present and receive the spiritual counterpart of the food and material goods that are distributed to the guests). It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Lituya Bay Robe is an object that was specifically devoted to traditional Tlingit funerary ceremonies and which has religious significance or function in the continued observance of these ceremonies. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

[14] Shotridge would have had the benefit of reading the description by Emmons, which was published in 1911.

Sun Mask, Catalog No. 6830

The sun is an important crest of the T'akdeintaan clan which, according to Lily White, was formerly represented on a large carved image that hung on a wall in the Mt. Fairweather House (Tsalxáan Hít) and functioned as a house screen. In a telephone conversation on August 21, 2006, Ms. White referred to the object as the Sunshine Plaque, saying "It had a significant meaning of peace and love." This image resembled the design of the Sun Mask in that the face was surrounded by a flat border or frame, which distinguishes it from the sun image used by the House Lowered from the Sun (Shangukeidí clan) that depicts pointed rays emanating from it.

During the consultation meeting at the Museum, Lily White described certain events in the history of the Tsalxáan Hít related to the Sunshine Plaque, and which are also represented by the mask. She said that there was once a large carved board or pole (named Géelák'w, "The Mountain Behind Mt. Fairweather") that stood next to the Mt. Fairweather House. The design on the pole represented Géelák'w, a mountain located near Mt. Fairweather that is distinguished by its twin peaks separated by a pass or ravine, and it also includes images from an episode from the Raven's Journey (Raven and the King Salmon). This description matches the design depicted on the house front panel of the Tsalxáan Hít in the historic photograph published in Dauenhauer and Dauenhauer (1990:92-93, 396).[15] The pole was so old that it was leaning over and in danger of falling down and injuring someone in the village, and the clan reluctantly decided they had no choice but to take it down. "They were hurt about it because it had a significant meaning to the tribe, why it's there. It's their story" (Lily White Interview, August 26, 2005).

At this time they had a "real big" sun image in the Mt. Fairweather House. Lily White explained that the sun image was displayed in a special way to signify that clan members were going to sacrifice a slave during a memorial ceremony, to communicate the decision made by clan leaders. If the image was arrayed with rays and a kind of "mist" around it, then it signified that a slave will be sacrificed; whereas if the sun appeared without rays there would be no sacrifice (Consultation Notes). And a young slave saw it and he said, 'How come there is this sun with [beams] around it? What does this mean?' And they had a meeting about it, and finally they told him what was going to happen.

The clan members proceeded to chop down the pole and they took it down to the beach where they released it into the ocean. And in their grief, they put a log over the slave's neck and killed him. It was said that the slave was screaming at the time, and the whole town got quiet. Lily White said, "It [the final disposition of the pole] broke everybody's heart." Although people were told not to feel bad about it, "... one of them did, his name was [Tlingit]. At night he cried, and he made the song." The song was called, "Géelák'w Shíyi" (Remembrance of Géelák'w), the last goodbye song to their totem pole. This song is sung today at memorial potlatches." *This is a mourning song composed to memorialize the passing of the Géelák'w pole.* Lily White explains this further:

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[15] The Dauenhauers say that Géelák'w is another name for Tsalxáan (Mt. Fairweather) as a whole, and refers specifically to the "V" made by the two peaks.

They said, no one feels bad about cutting that pole and putting it in the water. But one did, [he] couldn't sleep at night and then composed a song. "I think of my uncle's totem pole floating out. I think it goes to Ground Hog Bay, to the Kaagwaantaan." This is where they lived after Glacier Bay, the land of their fathers' people. He prayed that it would go to the land of his fathers. The Kaagwaantaan were their fathers.

As if it were a funeral, in which the body is tended and disposed of by close relatives from the opposite moiety (particularly the clan belonging to the father of the deceased), the song expresses the man's yearning for the pole to end up with his fathers' people, who would properly care for it and dispose of it with honor and respect. Sometime later, when the Mt. Fairweather House got too big and they built another house, the elders suggested that it be named Kaa Shaayí Hít (Head House), after the slave who was sacrificed by the clan. The Sunshine Plaque was moved to the Head House.

According to Lily White, the Sun Mask memorializes this story about the Géelák'w pole. The clan has a replica of this mask (Gagaan L'axkeit) that they use in funerals and memorials. This replica was used by the T'akdeintaan guests during their expressions of comfort and condolence to the Lukaax.ádi mourners in the memorial koo.éex' for Jim Marks in Hoonah in 1968 (see Dauenhauer and Dauenhauer 1990). The photo on page 106 shows Jake White (Archie White's grandson) holding the Sun mask during the display of T'akdeintaan at.óow in honor of the deceased, in response to the mourning songs of the host clan. The Sun was a particularly important image in the oratory of two guests, David Kadashan and Jessie Dalton, in their condolence speeches (see pp. 236-39 and 254-57). Their words direct the attention of the mourners to the mask and metaphorically draw on the image of the sun's rays to warm the mourners and to dry their tears of grief.

The Sun Mask is an important at.óow that recalls a screen-like image that was formerly located in the Mt. Fairweather House. It is also associated with a specific historical event in the life of the clan related to the disposition of an important crest object (the Géelák'w pole), about which a mourning song was composed that continues to be performed in clan memorials. The name of the song is 'the Remembrance of Géelák'w.' The song honors the clan ancestors who, in disposing of the pole, sacrificed a slave to signify the high value they placed on it; it is this event that is specifically memorialized in the name of a T'akdeintaan house, Kaa Shaayí Hít (Head House). It is directly associated with Archie White, the previous caretaker of the mask who was living in Kaa Shaayí Hít at the time he sponsored the restoration of Tsalxáan Hít, Mt. Fairweather House. It is an item that was in the collection of the Mt. Fairweather House at the time it was acquired by the Museum.

The Sun Mask is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so it can be held by a grandchild of the clan during a

memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Sun Mask is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Owl Mask, Catalog No. 6831

According to Shotridge's notes, this mask represents the "owl of the heavens," which was a spirit of a T'akdeintaan shaman named X'eichaak'w (corrected orthography by John Marks). Shotridge wrote that this man went to Tsalxáan (Mt. Fairweather) to seek a spirit, and he succeeded in acquiring the "owl of the heavens" from there. Lily White (Interview, January 31, 2001), also identified the mask as a shamanic object, and suggested that it came from a burial. She affirmed that the name was an ancient name belonging to a T'akdeintaan shaman. Based on this information, the owl spirit is another shaman's spirit associated with the T'akdeintaan clan and specifically with this mask in the collection of at.óow associated with the Mt. Fairweather House.

There are numerous shaman spirits associated with Tsalxáan that are important at.óow of the T'akdeintaan clan. These include the Mountain Women, the dog, and the one-horned mountain goat. The Mountain Women emerged from the mountain itself when it opened, in the vision of a shaman, and the occurrence is memorialized in the Trembling Mountain song. The dog is a shaman's helping spirit obtained by a man who got lost in the fog near the mountain and was guided to safety by a dog; this protective spirit is represented in the Mountain Tribe's Dog Hat and the associated spirit song. Another spirit associated with Tsalxáan is that belonging to a shaman who turned into a goat with one horn named Gooxk'asaakw (a version of this story is found in Samuel 1982:50-51). Further, Lily White told of the experience of her grandmother (a T'akdeintaan shaman named Shkík), who when it became evident that spirits were coming to her, was taken to the Tsalxáan area from which she acquired the loon spirit (see below, discussion of Loon Spirit Rattle, Catalog No. 6845). We note here that she encountered many spirits during her experience on the mountain, and she eventually acquired more helping spirits during her life. All of the spirits of Tsalxáan provided spiritual aid to the clan in the past. For example, it is related that the Mountain Tribe's Dog Hat would bark when an enemy was approaching, and thereby give advance warning to the clan.

Shamans' spirits were inherited from a predecessor in the maternal line, although sometimes shamans acquired their own (de Laguna 1972:670). Shamanic spirits were associated with the shaman's body and his paraphernalia, through which they could be transmitted to a successor. Shotridge noted that insects had destroyed parts of this mask by the time he acquired it. The condition of the mask suggests that it may have come from a grave, as believed by Lily White. It is well documented that items belonging to a shaman's kit or his paraphernalia were commonly placed on the grave after death, from which his successor may acquire them for use. Further evidence that the owl was a shaman's spirit, and the mask might be from a shaman's grave, is suggested by another owl mask formerly in the American Museum of Natural History, and recently repatriated to the Hoonah Indian Association. According to collection records, this

owl mask was acquired from a "dilapidated gravehouse not too distant from Gaudekan" [Gaawt'ak̲aan] (Drum-side Town, another name for Hoonah and a reference to the cliff named 'Drum' located there).

Shamanic objects are incorporated into memorial ceremonies and are used for display and other purposes, but they are recognized as associated with the clan shamanic spirit that they represent. They are used in memorial songs and dances, and in the performance of spirit dances known as Yéik Ootí ("Imitating the Spirit"), which resemble the performance of shamans during their curing rituals. This ceremony is sometimes referred to as the Dance Behind the Blanket, in reference to the position of the dancer who wears a hat or headdress and situates himself behind a blanket so that only the object is visible to the assembled guests. "Special dancers don ceremonial regalia and use hats and/or masks that were once used by shamans ... and imitate the spirit represented on the objects. Clan members sing the same spirit songs once sung by their ancestors in shamanic rites to call on these spirits" (Worl 2000:171). In the T'ak̲deintaan memorial held in October 2005, the spirit dance was performed after all the money had been collected and just prior to its distribution. This special dance was referred to as Dáanaa Wuduwajá**k̲**, "Killing the Money," and signified the relinquishment of all claims to the money by those who contributed during the potlatch, as well as the gathering of all the ancestral spirits to receive the spiritual counterpart of the cash. The "Killing the Money" dance is a very sacred part of the ceremony.

The Owl Mask is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to represent the clan's shamanic (helping) spirit associated with it, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed for the performance of spirit dances in imitation of shamanic performances in which the mask had been used in the past. The Owl Mask is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Master of the Tide (Yook̲is'kook̲éik) Mask, Catalog No. 6832

Yook̲is'kook̲éik is the name of Raven that has charge of the falling and the rising of the tide. This crest is taken from an episode in Raven's Journey that occurred when Raven was creating the world. The story relates how Raven wanted to gather food resources such as clams and cockles that were under water all the time because, in that era, there were no tides and the water level was perpetually at 'high tide.'

> The tide never went down for how many years, for a long time. And then there [were] two birds. One was a Raven and the other, I can't remember the name, ... that goes down, dives in the water. He came up and told the Raven, "You know

there's so much food, when the tide goes down there's a lot of food." But the tide never goes down and if the tide went down ... there's a little lady, who's in charge of the tide down there, [Tlingit name], the little old lady in the middle of the sea. "But if somebody came down and just be nice to her," this bird told this Raven, "and you go down there and just be nice to her. And tell her that I heard about you, and that's why I came down to see you."

And that dear lady told them, "This is where I stay." And so this Raven starts tickling her, he starts ticking her, and she was laughing and laughing and laughing. And she screamed out, "Stop that or the tide might go down." [Tlingit words] She was saying that. This is the story --- and he tickled and tickled her, and finally the bird that was on the beach told him, "The tide has already gone down so you don't need to be down there, come back up." So the Raven came up and the tide was low.

... So that's how the tide went down. And the tide came back up. And it never used to go down, they said it was just up all the time. ... And from there on, they always got to eat the seafood and the other different things.[16]
(Anna Katzeek Interview, August 31, 2005)

Archie White was given the name *Yoo<u>k</u>is 'koo<u>k</u>éik* at the dedication of the Mt. Fairweather House, which was restored under his sponsorship (Lily White Interview, August 26, 2005). According to this account, Archie and some others moved out of the Mt. Fairweather house when it became crowded. They built a new house named Head House, where they took up residence. However, the people who stayed behind in the Mt. Fairweather House eventually died out, leaving it completely empty. It was boarded up and there was no one to look after it.

And Archie White felt bad. He cried. He said, "I'm not gonna have this! I'm gonna go back." His nephews, young like these boys [gesturing across the table], he said, "You guys come with me. We are gonna go over there and open it up. I won't have it." So they pried the boards off and he said, "I'll stand out there. Fix fire, I want to see the smoke come up. Turn on the lights, I want to see the lights turn on." And then he cried. They rebuilt it. And that's when they gave him that name, at the first party they had there, that Master of the Tide. The people looked upon him with a lot of respect, because if it wasn't for him, it could have just fell down...
(Lily White Interview, August 26, 2005)

When the first potlatch was held in the newly renovated house, the T'a<u>k</u>deintaan clan "brought him out" before the guests and bestowed the name on him. In the words of Lily White (Interview 2001), "This name was given to him for his greatness, the work he ever done among his tribe." He continued to live in the Mt. Fairweather House until his death.

Swanton (1908:Plate XLIXb) obtained a drawing of a raven hat called *Yoo<u>k</u>is 'koo<u>k</u>éik* during his fieldwork in Sitka in 1903-4, "said to be the raven that has charge of the falling and

[16] This Raven story is well known and references to it are readily available in the published literature on the Tlingit.

the rising of the tide." The raven's wings were positioned to cover the face, but when struck they would fly open to reveal the face of the wearer. Swanton reports that it was used by the Táx̲' Hít, which indicates that the crest had been in the possession of the house since at least the 19th century.

Although all the crests associated with Raven are the common property of everyone in the moiety, certain emblems from Raven's Journey are associated with specific Raven clans and lineages (houses). Swanton (1908:416), for example, described special claims to the Raven crest, or to certain features or characteristics of Raven, that are asserted by different Raven clans. There is a kind of "specialization" among Raven clans and houses such that certain crests or designs are associated with one or more clans or houses, usually in different kwaans. Such instances are acknowledged by other Raven clans, to the extent that in some cases specific crests may be claimed by more than one clan without resulting in conflict. This principle can be seen in the operation of personal names. "Where different clans have the same emblem their names referring to it may nevertheless differ, and this distinction runs through all of their other personal names as well, so that wherever a man goes his social position is known by his name" (Swanton 1908:422). A personal name, one of the most important prerogatives of a lineage, often served to identify the clan, house affiliation and status of the individual carrying it (Oberg 1976:16, 38, 48). Such is the case with the name *Yoox̲is 'koox̲éik*, which is associated with the T'ak̲deintaan Tsalx̲áan Hít even though it is associated with an episode from the Raven story that belongs to all Ravens. The validity of the T'ak̲deintaan claim to the story and name associated with this crest is acknowledged by other clans (Lily White [Chookaneidí] Interview, August 26, 2005; Anna Katzeek [Shangukeidí] Interview, August 31, 2005).

The multiple at.óow representing this crest --- the mask, the associated story and the name *Yoox̲is 'koox̲éik* --- were held by the head of the Mt. Fairweather House of the T'ak̲deintaan clan in the early twentieth century. The name was formally bestowed on Archie White during a memorial potlatch attended by members of opposite clans, who witnessed, accepted and validated the conveyance, before the mask was acquired by the Museum. The name was transferred down through successive generations in the clan and is held today by living clan members. The last caretaker of this mask was Archie White, and as such his ancestral spirit, like those of all clan ancestors who held the mask (and the title) before him, is represented by the mask.

The Yoox̲is'koox̲éik Mask is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so it can be held by a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Yoox̲is'koox̲éik Mask is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Gunakadeit Mask, Catalog No. 6828

The crest represented by this design is that of a wealth-bringing sea monster, which according to de Laguna (1972:820) is the most important sea monster of the Tlingit people. It was believed that good fortune would fall to the person who caught sight of this being. Swanton (1909, Myths 33 and 34) recorded stories of this being at Wrangell, and de Laguna (1972:420-21) included narratives of sightings near Yakutat. The crest has been represented in various forms including as a house post in the Whale House at Klukwan, on the end of a carved wooden feast dish, as an element in a face painting in Angoon, and on a Naanyaa.aayí mortuary pole in Wrangell (see Emmons 1991:63, 208, 250, 287). Although Gunakadeit is a crest of the Eagle moiety, it was also used by Raven clans (the Gaanaxteidí in Klukwan and Deisheetaan in Angoon) in particular instances. Such is the case with this crest object, as well, which is from the collection of the T'akdeintaan Tsalxáan Hít, a Raven moiety clan house. Shotridge did not shed light on this issue. Instead, he indicated that the T'akdeintaan were given rights to the Gunakadeit crest in recognition for their role in manumitting a member of the Wrangell Kaasx'agweidí clan (another Raven clan). According to Shotridge, the freed person gave the song of Gunakadeit to the T'akdeintaan. Shotridge did not say that the mask itself was involved in the transaction, indicating that the object was commissioned by the clan sometime in the past to memorialize this event in the clan's history.

The Gunakadeit Mask is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so it can be held by a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Gunakadeit Mask is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Thunderbird at the Hunt Headdress (Shakee.át), Catalog No. 6834

The T'akdeintaan clan does not claim the Thunderbird crest represented by the object. Shotridge reports that this object became at.óow of the T'akdeintaan clan through a bequest; he writes that "free use" of the object was granted to the T'akdeintaan clan by a member of the Wrangell Kiks.ádi clan "because of a maternal relationship --- mother's father." The actual relationship is unclear, however, because the Thunderbird is not a Kiks.ádi crest, and a transfer from a MF is not the usual and customary relationship through which such rights may be bestowed as an expression of honor and respect to one's patrilineal relatives, so it is difficult to interpret this information.[17] This is most likely an instance in which the grandchild of a clan is

[17] In a relationship honoring the paternal connection (a "grandchild" of the clan), a man would select his son's son (the person honoring him would be his mother's father-in-law).

given the use of a crest, but the crest itself is not transferred. In this case, the T'akdeintaan was the grandchild of the Thunderbird.

The Thunderbird is not a recognized crest of the Kiks.ádi, but in Wrangell, Robert Blake told Shotridge that the Wrangell Kaasx'agweidí claim the Thunderbird (Shotridge notes, Box 6, July 26). Shotridge noted that the Kaasx'agweidí (Katishan's family) claimed xeLLukkugas [Xetl Lóox'u Gaas'] (Thunderbird's urine corner post) and owned a corner post depicting the Thunderbird on top and rain running down the post (rain being Thunderbird's urine). Blake told him that "once a Thunderbird was seen on a high peak, sitting down eating a whale." This might be a reference to Thunderbird hunting. Swanton (1908:434) described the figure of Thunderbird on another totem pole erected in Wrangell by Katishan's brother and said it represents the son of a mythical being that also is depicted on the pole. The Eagle Shangukeidí (Thunderbird) clan is identified by this crest, but their Naa Tláa (Anna Katzeek, Interview on August 31, 2005) stated they do not have a story about Thunderbird hunting. It is possible, from this partial account and that of the previous item (the Gunakadeit Mask, Catalog No. 6828), that at some time in the past there was some sort of formal relationship between the T'akdeintaan and Kaasx'agweidí clans that resulted in the transfer of the shakee.át to the T'akdeintaan.

The Thunderbird at the Hunt shakee.át is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is regarded as a very important ceremonial object that is needed by religious leaders for the dance called Dáanaa Wuduwaják, "Killing the Money," performed at the end of the koo.éex', which signifies the relinquishment of all claims to the money contributed during the potlatch and represents the spiritual unity of all those present and the ancestors whose names were called during this portion of the ceremony. The Thunderbird shakee.át is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Géelák'w "Ravine" Headdress, Catalog No. 6835A-B

About this object, Shotridge wrote:

> Gi-Tlaku [Géelák'w] "Ravine" is a name of a passage-way over a sand mount at Dry Bay near Yakutat. The carving represents the episode in the "Raven Journey" which took place near the mount: When the crafty Raven, in a clever manner, lured the king salmon ashore. The figure at the base represents the sand mount Gi-Tlaku [Géelák'w]; next to this is the Raven with the king salmon "in the clutches of his ever-present wit," and the top figure is the Green Jade which

> the Raven personified, and around this are arranged small effigies, representing the small animals and birds which were also included in the legend. The episode itself represented the beginning of deception in man. To appreciate the arrangement the episode of this most popular legend must be presented in detail.

This statement is only partly correct. The headdress is a representation of the image on the painted panel that was on the front of the Mt. Fairweather House. The T'akdeintaan have a newer headdress with the same name that was featured in the condolence speech delivered by Jessie Dalton during the 1968 koo.éex' in Hoonah for Jim Marks (see Dauenhauer and Dauenhauer 1990:256-57). Because of the similarities with the Géelák'w "Ravine" Headdress, Catalog No. 6835A-B, the explanatory notes provided by the Dauenahuers are reproduced here:

> [The modern] Géelák'w Headdress [is] an ermine headdress made in the image of the frontal screen of Tsalxáan (Mt. Fairweather). ... Géelák'w is another name for Tsalxáan (Mt. Fairweather). Specifically, the name Géelák'w is an image of the part of the mountain where it separates into two peaks. While the name Géelák'w refers specifically to the "V" made by the two peaks, the name is also generally synonymous with Tsalxáan in referring to Mt. Fairweather as a whole. Géelák'w is the part of the mountain where Gooxk', the little boy who became a one horned goat climbed, taking all the animals with him. The One Horned Goat transformed into a powerful spirit for the T'akdeintaan shaman and is an at.óow of the T'akdeintaan. A retelling of this story is included in Samuel's *The Chilkat Dancing Blanket* (1982:50-51) and a version by David Kadashan will be featured in a forthcoming volume in this series.
>
> There was a frontal screen on the Tsalxáan Hít (Mt. Fairweather House) in Hoonah. The base of the screen rested on the floor of the porch, and the top reached above the second story windows. The screen was about two feet wider on each side than the door. There was a hole in the bottom center of the screen for the entrance to the house. The Géelák'w headdress (dance frontlet) is made in the image of the frontal screen for the house. As the headdress is displayed [referring to the 1968 koo.éex'], the spirits are metaphorically made present. Mt. Fairweather is a powerful spiritual ground and is one of the important at.óow for the T'akdeintaan.
> (Dauenhauer and Dauenhauer 1990:396)

The house front panel was called Géelák'w and it was known by the Raven story (Raven and the King salmon) represented on it. It was painted by a Chookaneidí man named [Tlingit name] (Lily White Interview, August 26, 2005). Swanton (1908:Plate LI a) was referring to this panel, or a similar image painted on an earlier house, in relation to an image put on the face during a koo.éex', of a mountain called Géelák'w. "It is used by the T'akdeintaan, and was painted on the house of Yaquâ'n [Yaa Kwáan] of that family by Dāxugē't, a Chookaneidí chief." Yaa Kwáan was *Archie White's older brother.*

At the top of the panel was an image of Géelák'w, that part of Mt. Fairweather that separates into two peaks separated by mountain pass or notch, which is represented on the panel by an animal figure with two ears. The name "Géelák'w" refers specifically to the "V" made by

the two peaks. If the top figure of the requested item (Catalog No. 6835A-B) depicts this feature, the name Shotridge used for this object, "Gi-Tlaku "Ravine" Headdress," would be an accurate designation. Further, the down at the top of the headdress probably represents the clouds that are associated with Mt. Fairweather (as a predictor of weather conditions), and the two small "horns" could stand for the twin peaks of Géelák'w (corresponding to the ears on the house panel). The blue background coloring and light grey of the down also resemble the image of the mountain on the Mt. Fairweather "Deer Dancer" headdress when it is closed (see below, Catalog No. 8494). The figure or face at the top of the "Ravine" headdress, like that of the panel, depicts the mountain in spiritual form, representing its importance as "a spiritual ground" for the T'akdeintaan.

The small images above and to the side of the top figure are associated with the next lower figure, that of Raven and the King Salmon. This episode was also depicted on the house front panel. Dekinaku told Swanton (1909:5-6) a more full and complete version of this legend than was provided by Shotridge. In this rendition, Raven picks up a piece of jade and uses it to trick the spring (king) salmon into coming to shore where it can be killed; in this account jade was not "personified" by Raven. Anna Katzeek (Interview, August 31, 2005) related a similar version of the story; and she said the green rock was located near Hoonah (at Point Adolphus). The small figures carved at the top of the headdress represent the little birds that Raven also deceived into flying away over two mountains while he ate the fish. The bottom figure has not been identified, but it corresponds to the lower image in the house front.

Indeed, this headdress is substantially more elaborate, complex and significant than Shotridge was aware. It combines images of Géelák'w, specifically the notch between two peaks on or near Mt. Fairweather which is a foundational crest of the T'akdeintaan, with others drawn from the Raven Journey that are also central to the iconography of the clan. Géelák'w was depicted on the top of the house panel that adorned the front of the Tsalxáan Hít, the Mt. Fairweather House. The image is related in a fundamental sense to the spirits inside the mountain, including the Mt. Fairweather Women (Tsalxáantu Kwáan Sháawu) that were in the shaman's vision, as well as shaman's spirits that are associated with the mountain (such as the Mt. Tribe's Dog and the One Horned Goat), that are at.óow of the T'akdeintaan. The Dauenhauers (see above) also emphasized the spiritual qualities of Géelák'w.

Further, the T'akdeintaan claim the Raven who deceived the king salmon as one of their important prerogatives. Swanton (1908:Plates LII i and LIV i) obtained drawings of two face paintings representing this story that were used by the clan. One is identified as Raven's cooking place, which is attributed to the Táx' Hít (the Mt. Fairweather House, identified by Swanton as the Slug House). During the T'akdeintaan koo.éex' in Hoonah in October, 2005, a shakee.át carved with the image of Raven and the king salmon was worn by the chief host in a spirit dance (in this case, the Dáanaa Wuduwaják ("Killing the Money") dance). Also called the behind the blanket dance, the performer was hidden behind a beaded blanket held so that only the moving shakee.át was visible. The dancing was accompanied by a spirit song handed down from one of the T'akdeintaan shamans. The ceremonial use of this particular Raven crest was witnessed and validated by the opposites who were in attendance.

This headdress, correctly named the Géelák'w Headdress, is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Géelák'w Headdress is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Raven Headcover (Yéil Shádaa), Catalog No. 6836

This item was in the collection of at.óow of the Mt. Fairweather House, T'akdeintaan clan. Shotridge provided many details about the history of this object. He stated that it was originally made for Xetcaku (X'eichaak'w), a well-known T'akdeintaan shaman, for use in curing rituals. This is the same shaman that had the owl spirit (see above, Owl Mask, Catalog No. 6831) as his spirit helper. Shotridge said the object was named after the spirit it represented, "The soul of the Southeastern man Headcover." If indeed the object's name was that of the shaman's spirit, it would not be intelligible to ordinary humans. When asked to translate the term, John Marks (Tlingit language specialist, Sealaska Heritage Institute) was unable to give its meaning, suggesting that Shotridge fabricated the translation.

Shotridge indicated that after the death of X'eichaak'w, the object continued to be used in curing rituals by T'akdeintaan shamans. He reported that a carved figure in the form of a man (the shaman's spirit) was formerly attached to the head cover, and he noted that it was passed down to at least one other shaman who replaced the human figure with the raven image, and says that "two male slaves [were] given in consideration for the improvement." This payment provides a measure of the high value placed on this object by its owner at the time, who according to Shotridge was named L'aakak'u, or 'Little Dress." John Marks, who translated the name, noted it was given to him during the rebuilding of the Raven's Nest House (another T'akdeintaan clan house). Finally, Shotridge indicated that after the passing of this shaman, the headcover became "a permanent object among the possessions of the clan." This information establishes that the object, once part of a shaman's paraphernalia, was later used in memorial koo.éex' along with other at.óow belonging to the clan, which is not unusual (see Worl 2000).

The head cover is fashioned from a corner piece of a Chilkat blanket that most likely was cut up during a memorial potlatch, when the pieces would have been distributed to the guests. A Chilkat blanket was cut up this way when a relative of the deceased had strong feelings for their loved one, and would give the pieces to closely related individuals of the opposite side so they could have it in memory of the deceased (Anna Katzeek Interview, August 31, 2005). Although the memory of the specific memorial is lost, it nevertheless signifies that the shaman received

this part of a Chilkat blanket in memory of an individual at a potlatch which occurred long ago. The re-fashioning of the cover with a carving of the raven (and probably some of the other attributes such as the red felt border) is an indication of the high value that was placed on this item by succeeding generations of the T'akdeintaan people.

The Raven Headcover is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to represent the clan's shamanic spirit associated with it, and to evoke the spirits of clan ancestors associated with it. It will call forth the spirits of the T'akdeintaan shamans who owned and used it in the past as well as those clan ancestors who subsequently used it in clan memorials and were its caretakers. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is needed for use in performances of spirit dances (Dances Behind the Blanket). The Raven Headcover is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Bear's Ears (Gangoosh), Abalone, Catalog No. 6837

Shotridge listed three previous T'akdeintaan owners through whom this item was passed down to Archie White. The "pedigree" is a demonstration of the status of the object as highly valued at.óow of the clan, as well as a record of named individuals whose ancestral spirits are associated with it. He also noted that abalone was more valuable at that time than gold is during the modern period, indicating the high value of this object. He recorded that the abalone shells used in the construction of the headdress were taken from a "hair case" in the possession of the first owner of this item. The presence of holes drilled into the shells seems to confirm that the pieces had been used previously in some manner.

Bear's ears are associated with shamanic practices that formerly were common, and they are used in contemporary Tlingit mortuary ceremonials in the performance of spirit dances associated with the distribution of money. Anna Katzeek (Interview, August 31, 2005) stated that gangoosh are used ceremonially in spirit dances that resemble the use of gangoosh by shamans during curing rituals. "Bear's ears were worn when the shaman was battling hostile spirits, presumably those causing illness to a patient or those of another shaman hoping to weaken his rival" (Iliff 1994:96). The use of gangoosh was not restricted to shamans. Non-shamans made use of gangoosh when going to war or when giving away great wealth at a potlatch (de Laguna 1972:591). Swanton described the ceremonial use of gangoosh in which both of these functions are combined. During the ceremonial reception of their Kaagwaantaan guests from Sitka for a large scale potlatch, the first man out of the house of the Klukwan Gaanaxteidí was Yelxák who was wearing gangoosh and brandishing a bow and arrows in his hands. "He did this because he was about to spend a large quantity of money and wanted to

show how brave he was" (Swanton 1908:439). De Laguna described a similar instance of the use of bear ears (see Emmons 1991:255).

As described above, a spirit dance was performed by a religious leader of the T'akdeintaan near the end of their koo.éex' in October, 2005. This performance, called Dáanaa Wuduwajáx ("Killing the Money"), occurred prior to the final (and largest) distribution of wealth at the potlatch. Gangoosh would be used for this important ceremonial act. An additional social function associated with the use of gangoosh in a spirit dance was described by Anna Katzeek (Interview, August 31, 2005):

> They used a Chilkat blanket, and they dance behind it. And they chose my grandsons. Like [my father-in-law] would choose my son David, because he was [his] son's son. Or they would choose my daughter, dance behind there. And also if he had another son, that person would be chosen, too, his son. So that's when they used to dance behind it, and they'd hold it. And they gave money out to the people who did it. In the olden days, they didn't have money. It was fur seal, gopher robe; so it was already sewed.

A child or grandchild of the clan may be called forward to dance with the gangoosh, which honors the individual in the manner occurring earlier in the koo.éex' during the mourning portion of the ceremony, when a ceremonial object (at.óow) is placed on a grandchild while a song is performed. This practice may occur with hats, headdresses, masks and blankets, as described above, but a special honor is accorded to those who "dance behind the blanket."

The Abalone Bear's Ears, Gangoosh, is a very important ceremonial object that is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to evoke the spirits of clan ancestors associated with it. It will call forth the spirits of the T'akdeintaan shamans who owned and used it in the past as well as those clan ancestors who subsequently used it in clan memorials and were its caretakers. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is needed for use in performances of spirit dances, such as Dáanaa Wuduwajáx ("Killing the Money") near the end of a memorial potlatch just prior to the distribution of money, and so that a grandchild may be called up to dance using the gangoosh, showing special respect and honor to that individual. The Abalone Bears Ears is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Raven Headdress, "Head Top Stock of the Raven" or Jellyfish Headdress (Taakw Aanási Shadaakóox̲'), Catalog No. 6838

Shotridge reported that this headdress represents another episode in the Raven cycle. He related how Raven, looking for something distinguished to wear to a great feast, saw a jellyfish clinging to a rock and decided that he would look noble if he wore it on his head. Shotridge also stated that the headdress was brought out at the dedication of the Mt. Fairweather House when it was first erected in Hoonah "during the early days of the present town," indicating that it was commissioned and presented at a potlatch in honor of the clan ancestors in whose memory the house was built (see specimen card). It thus has special significance associated with an important event in the clan's history, and it has been in the possession of the clan for multiple generations. The collection notes associate the headdress with the Raven Journey, with the earliest Mt. Fairweather House to be built in Hoonah, with the leader of that house and with the line of successors down through whom the headdress was passed during the history of the village.

The Taakw Aanási Shadaakóox̲' (Jellyfish Headdress) is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Jellyfish Headdress is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Human Hair Headdress, Catalog No. 6839

This human hair headdress was most likely made from the hair of a deceased member of the clan who was a specially beloved or respected person, which explains why it is in the collection of Tsalx̲áan Hít at.óow (Anna Katzeek Interview, August 31, 2005). According to Ms. Katzeek, the hair was intentionally cut and made into a headdress, to be preserved and brought out for memorials to remember the individual. Sometimes these headdresses were also put on a hat. It represents the spirit of the ancestor from whom it was removed on their death.

This headdress is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The

Human Hair Headdress is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Bear's Ears (Gangoosh), Fur, Catalog No. 6840

The important role and function of gangoosh during memorial koo.éex' has been described above in relation to the Abalone Bears Ears, Catalog No. 6837, and so this paragraph serves as a brief summary of that discussion. Bear's Ears, Gangoosh, are worn by clan leaders during memorial koo.éex' for entrances, when greeting guests, as well as during songs and oratory associated with the grieving portions of the rite. They are also historically associated with shamanic curing rituals and are used during the koo.éex' for spirit dances, such as the dance behind the blanket near the close of the memorial koo.éex' known as Dáanaa Wuduwaják, "Killing the Money," that resemble shamanic performances. A grandchild of the clan is sometimes called up to dance behind the blanket to show special honor and respect to that individual, and his grandfather brings him out before the guests and places the ears on his head for that purpose.

The Fur Bear's Ears, Gangoosh, is a very important ceremonial object that is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to evoke the spirits of clan ancestors associated with it. It will call forth the spirits of the T'akdeintaan shamans who owned and used it in the past as well as those clan ancestors who subsequently used it in clan memorials and were its caretakers. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is needed for use in performances of spirit dances, such as Dáanaa Wuduwaják ("Killing the Money") near the end of a memorial potlatch just prior to the distribution of money, and so that a grandchild may be called up to dance using the Gangoosh, showing special respect and honor to that individual. The Fur Bears Ears is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Beaver Frontlet (Shakee.át), Catalog No. 6841

The Beaver Shakee.át is an important at.óow belonging to the clan. The T'akdeintaan claim to the beaver crest is documented by the existence of other at.óow in the beaver design in the clan's possession, and their use in memorial koo.éex'. For example, during the memorial for Jim Marks held in Hoonah in 1968, the Beaver Chilkat Robe was brought out and displayed (worn) by Alice Hinchman, along with the Sun Mask, the Frog Hat and other clan at.óow (see

photo in Dauenhauer and Dauenhauer 1990:106). This occurred during the mourning portion of the ceremony, when the T'akdeintaan guests were delivering oratory for healing, comfort and the removal of grief of the mourners.

The Beaver Shakee.át is a very important ceremonial object because it is used in spirit dances that resemble the shamanic performances associated with clan ancestors who practiced curing ceremonies. Such a performance occurred during the T'akdeintaan memorial that was held in October 2005. A shakee.át was used near the end of the koo.éex', after the collection of money, for the spirit dance referred to as Dáanaa Wuduwajáx, "Killing the Money." At this point, all of the money had been collected from everyone in attendance and, through the calling of clan names, the spirits of all the ancestors were brought into it. As explained by the chief host Ken Grant (Notes, 2006), the dance represented the unity of all who contributed money and who have relinquished their claim to it, and it has significant spiritual significance. Following the performance, the money was distributed to the guests and the koo.éex' was brought to a close.

The Beaver Shakee.át is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to evoke the spirits of clan ancestors associated with it. It is needed by clan members when they are guests at traditional funerals and memorials for use in oratory to express comfort to the grieving clan and to evoke the spirits of its previous stewards. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is a very important ceremonial object that is needed by religious leaders for the dance called Dáanaa Wuduwajáx ("Killing the Money") performed at the end of the koo.éex', which signifies the relinquishment of all claims to the money contributed during the potlatch and represents the spiritual unity of all those present and the ancestors whose names were called during this portion of the ceremony. The Beaver Shakee.át is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Bear's Forearms Dance Ornament, Catalog No. 6842

The Bear's Forearms are important ceremonial objects in the possession of the T'akdeintaan clan at the time they were collected. The forearms are needed by traditional religious leaders to be worn during the entrance of the clan at the beginning of the koo.éex', and they are needed by clan and song leaders during the performance of clan mourning songs. They are needed so they can be worn by clan members during the performance of clan mourning songs, as the sea otter skins were worn by the clan during the T'akdeintaan koo.éex' in October 2005. The Bear's Forearms were in the collection of the Tsalxáan Hít and serve the ceremonial function of representing the identity of the clan and of the spirits of clan ancestors who owned and used them in the past during the koo.éex'.

The Bear's Forearms are needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with the object. They are needed for the performance of mourning songs

and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. They are needed so that a grandchild can be invited to wear them during a memorial potlatch to honor that individual and the clan ancestors who owned the objects in the past. The Bear's Forearms are objects that were specifically devoted to a traditional Tlingit religious ceremony and which have religious significance or function in the continued observance of the ceremony. They are needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Raven Staff Head, Catalog No. 6843

Ceremonial staffs and canes were used by chiefs and song leaders in the funerary rite and during the performances of songs in memorial potlatches (see de Laguna 1972:618-19). Sometimes these objects were shaped in the form of long, oar-like paddles and batons with painted figures on the blades, but they were also made as staffs and canes carved to represented clan crests. Throughout Southeast Alaska, with the possible exception of Yakutat, canes (and crest hats) "seemed to have been [the] most highly prized" of the clan's heirlooms (de Laguna 1972:636, after Swanton 1908:436). A Stikine (Wrangell) clan used the name of a cane taken from the Tsimshian in war and applied it to a house (Swanton 1908:403). In Yakutat, the host chief introduced "the most important potlatch songs" himself, and he carried an ornamental cane for this purpose (de Laguna 1972:619). She also called these objects "chief's staffs," and believed they were used by chiefs and other prominent men to emphasize important points in their speeches. In addition, song leaders from among the guest clans used such staffs and paddles to direct the singing of their fellow clan members when they were responding to the hosts' mourning songs. De Laguna (1972) provided many illustrations of these staffs (Plates 162, 163, 210-15).

Describing the specific ceremonial role and function of staffs in the contemporary period, Lily White (Interview, August 26, 2005) stated that ceremonial canes and staffs are used in memorial potlatches to "hold up" the singers and give them strength during the performance of mourning songs. When a clan sings its mourning songs, the singers bring up before themselves the experiences of their ancestors memorialized in the song, as well as the spirits of deceased clan ancestors. Mourning songs are described as "heavy" for this reason, and the "weight" of these songs is sometimes felt as an external force acting on the singing group. The ceremonial use of staffs provide special support to the clan or song leader that contributes significantly to his ability to perform his ceremonial role.

When Lily White was asked about the ceremonial uses of the Raven Staff Head, she described the role of "singing sticks" held by clan members during the performance of mourning songs in memorial potlatches. She related how, during her youth, her father (J.C. Johnson) explained when they are used, and why:

> [You use them] when you're doing crying songs for a family. Sometimes you just start falling from feeling bad. That's why they hold the stick, to hold themselves

up. .... When they're feeling real bad, they use those singing sticks. Some of them get too carried away feeling bad; they just start falling. Just hold the stick. (Lily White Interview, August 26, 2005)

During the memorial k̲oo.éex' hosted by the T'ak̲deintaan in October, 2005, a dozen or more singing sticks were used by clan members during the performances of mourning songs. The longevity of this traditional ceremonial practice among the Tlingit is indicted by Krause (1970:163) who, citing Veniaminof, reported that after the deceased is cremated, staffs are carried in the hands of the hosts when they enter the house and perform grieving songs, prior to the funerary feast ("feeding the dead").

Anna Katzeek (Interview, August 31, 2005) provided additional information about the ceremonial role and function of staffs and canes. She said that the Tlingit have a specific term for ceremonial batons, staffs and canes which means the 'Song Leader's Cane.' She also used the common word, "stick," when referring to the ceremonial staff or cane. Seeing a photograph of the Raven staff head, she commented that it functions as a crest object: "They bring it out and that shows who they are." She also described how clan grandchildren are honored using a cane: as with a hat or a blanket, clan leaders will tell a grandchild to hold the cane and to come out with it before the guests. She said that the Raven head could also be a spiritual (shamanic) cane, and that shamans used to come out with them.

The Raven Staff Head is one of many Raven images that have been adopted as a crest by the T'ak̲deintaan clan and reflects their membership in the Raven moiety. The image represents the mythical Raven who was responsible for creating the world and making it inhabitable for human beings. The close association between Mt. Fairweather and the Raven originated very early in T'ak̲deintaan history while they were residing on the outer coast in Lituya Bay, and both are represented in the painted house front of Tsalx̲áan Hít, illustrated in Dauenhauer and Dauenhauer (1990:93). As already described, the top figure of this house front represents G̲éelák'w, the twin peaks of a mountain near Tsalx̲áan, or Mt. Fairweather, and immediately below this figure are those of Raven, King Salmon, and the little birds tricked by Raven to go over the mountain while he ate the cooked fish (Raven and the King Salmon). This crest is also represented on the G̲éelák'w "Ravine" Headdress (Shakee.át), Catalog No. 6835A-B, discussed above. It was also carved on a pole or board that was in the yard of an earlier Tsalx̲áan Hít (see description by Lily White in the claim for the Sun Mask, Catalog No. 638, above), which resembled the house front associated with the historic Tá x̲' Hít in Hoonah.

The numerous representations of Raven that appear in the clan's history and prerogatives demonstrate the close association between the T'ak̲deintaan clan and the Raven figure. The T'ak̲deintaan have adopted several episodes of the Raven Journey as important crests; these crests are identified with the T'ak̲deintaan by other clans. Numerous other crest objects in this house's collection are related to the Raven's Journey, including the Jellyfish hat (Catalog No. 6838), the Whale blanket (Catalog No. 6848), and the Octopus Tentacle staff (Catalog No. 10513), as are other prerogatives including songs, names and stories that are described in this claim. All of these are derived from Raven emblems and are associated with the T'ak̲deintaan clan.

The Raven Staff Head would be placed on the top of a ceremonial cane or "stick" which served a ceremonial role and function in clan memorials for the public display of clan identity during an entrance into a k̲oo.éex' and in singing mourning songs, the most sacred portion of the ceremony. It would serve to represent the identity of the clan before the assembly and to provide strength and support to clan and song leaders during performances of the most sacred songs of mourning.

The Raven Staff Head is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be held by grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Raven Staff Head is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Raven Rattle (Yéil Sheishóox), Catalog No. 6844

This rattle represents Raven which, like the other T'ak̲deintaan crest objects associated with the Raven Journey, reflects their right to claim ownership of this crest. The rattle would have been commissioned or purchased and then brought out at a potlatch, after which it would belong to the clan's collection of at.óow. Shotridge stated that the rattle was purchased by Yaquan [Yaa K̲wáan] (Archie White's elder brother) for the dedication of the reconstructed Tsalx̲áan Hít, which explains how it came into the possession of the Tsalx̲áan Hít. As described above, Archie White was a principal sponsor of the restoration, and he is holding the rattle in the historical photograph taken in front of Tsalx̲áan Hít sometime afterwards (see Kaplan and Barseness 1986:201). Swanton (1908:464) referred to this type of rattle as a "chief's rattle," the design of which originally came from the south (Haida).

Rattles are used by clan leaders and song leaders in the performance of clan songs, and they have special functions in the singing of the most sacred clan songs, the mourning songs. When performing their crying songs, the singers evoke the experiences of their ancestors memorialized in the song. Mourning songs are described as "heavy" for this reason, which are believed to carry the "weight" of their deceased ancestors. In this part of the memorial ceremony, a rattle gives strength to the clan or song leader that contributes significantly to his ability to perform his ceremonial role. Lily White described this function of the rattle as it was explained to her by her father, Johnny C. Johnson:

> *And I asked, too, why do they use rattle? What does it mean? [Her father* replied,] "It's your strength, when you're holding it. It gives you strength." He used to, when he was leading his people, when he saw it going down. He said, "I really needed this. My brothers are gone, I'm by myself." He told me, "I'm the

last one. That's why I have this rattle. It's as though they are standing there with me."
(Lily White Interview, August 26, 2005)

This particular rattle that Lily White discussed was passed down from his mother to his brothers, and it is evident that Lily White's father was acutely aware that he was the sole surviving brother while he performed the ceremonial role of clan or song leader. Using the rattle gave him strength; it was as if his brothers were standing by his side. This is how the Tlingit express the spirituality of their memorial ceremonies in which certain objects, in this case a rattle, are used.

The Raven Rattle is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches to give strength to the clan's religious and song leaders, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. The Raven Rattle is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Loon Spirit Rattle (Kagit Yéik Sheishóox), Catalog No. 6845

This rattle represents the loon spirit, a helping spirit of a T'akdeintaan shaman named Mary Johnson, *Shkik*, who practiced in Hoonah during the early twentieth century. Shaman's spirits have helped the T'akdeintaan people and given strength to the clan throughout its history, and there are many shamans in the history of the Mt. Fairweather people. One of the first, reputed to be the strongest shaman from Mt. Fairweather, was given the gift at a time when the clan was vulnerable to the effects of witchcraft and people were dying. He had just lost his uncle, and he received the powers of a helping spirit so he would have strength and be able to help his people (Lily White Interview, January 31, 2001). Swanton (1908: Explanation of Plate LIb) described a facial painting that represents a burial site of another T'akdeintaan shaman located near the present town of Hoonah. The design depicts "A cliff called Drum (gao) [gaaw]. The red spot on the right cheek is a cavity in this cliff in which a shaman's body was laid, and the inclined blue and red lines represent the rail by which it was taken up. Used by the T'akdeintaan." Other T'akdeintaan shaman spirits include the mountain tribe's dog and the one-horned mountain goat.

Shaman spirits are at.óow, along with the spirit songs and other material representations of them. The T'akdeintaan have the loon spirit song that is a shaman's song associated with this spirit. Lily White stated that this rattle (and the Loon hat, see below) represented one of the spirits that belonged to her grandmother, who was "the last T'akdeintaan shaman." "The loon was the shaman's possession, and the loon was my grandmother. Her name was Mary Johnson, and her Tlingit name was *Shkik*. ... And the loon was her *yéik*, the spirits. They call it, *Kagit*

(voice of the spirits)." Lily White (Interview January 31, 2001) described how her grandmother acquired the loon spirit:

> She became a shaman when she was 15 years old. What happens then is, you are given some kind of a warning that you are going to be a shaman. It doesn't happen to just anybody, or you don't hunt around for it. Even if she's just walking, bird will fall in front of her, a raven, or even a hawk. And the tongue comes out, it just sticks way out. And she just scream and run from it. It kept happening to her. And at night she'd see things, in the night she was telling us, and it would be coming towards her and it would disappear. She couldn't even sleep. And finally she told her mother. And her mother told her uncles, and they said, 'how long has this been going on?' And then she told her, 'That's a long time, almost a whole year.' And she was real young, she was only 15.
>
> But they went and took her out to Fairweather. And they put her inside this cave, for three and a half weeks. And they worked on things, the way they were showed, so she could become a shaman. When they told her, 'Today is the day,' the man was standing by her. 'You will choose one of us, to become your spirit, your helpers. We're going to help you.' She said they weren't very big. They were men, they weren't very big. And she said, they were just bright. 'We're going to be your helpers, but you have to choose: which one of these you think will be the strongest to help you?' And they showed her the moon, and they showed her a boat that rows, and there was a spirit in there that was very powerful. They showed her several objects, and it took her 4 or 5 days to choose. But she could see those men they were just so big [gestures]. They looked like men, she said, but they were light-complected. They said, we're going to be the ones that help you, but you have to choose one of these, will be your power. And she did.
>
> And they said, 'All you have to do is say, 'Come forward' to your uncles. Go to the opening of the cave and say, come forward.' She walked over there and she said, "*Haat yi.aa dei*," that means, 'come over now.' They start coming. They didn't ask her questions, they just took her down. And she became a shaman.

When she was a child, Lily White witnessed her grandmother's abilities, and she related the following story:

> And I saw it when she was in one of those sessions. I was spending the night with Aunt Betty, Betty Govina, we were upstairs. She's Grandma Johnson to me; we heard her calling Betty in Tlingit, *Dáanaa waa<u>k</u> Tláa*. And she said, Grandma's calling. She said, 'My spirits are calling to me, I'm going to need your help.' This is when I saw it, the spirits are singing in her. Aunt Betty was holding two sticks [Lily taps with both hands on the table, like a drumming]. I was sitting in the steps watching. And when the song stopped, Aunt Betty was singing. I taped it for Ron [Williams], he's got it. I heard a voice talking. I can hear it today I make sign of the cross. I heard the message coming in Tlingit, but her mouth

wasn't moving. He said, "A boat rolled over at Flynn Cove. The men, two of them are sitting on the bottom of the boat, saying 'Master, Master. Send help, or they'll drown.'" This is all in Tlingit. It's God's will I think, I witnessed this; I don't know why it stayed with me.

When she came out of it, she told Aunt Betty, "Take the flashlight and go run to Lily's father." We were a long ways from Grandma, she lived below the Orthodox Church. And there we ran. Hoonah didn't have street lights. We were just scared, but it was like four in the morning, it was dark. Banging down Papa's door and he opened it; we were both singing like choirs telling him what happened and what we saw, Grandma. He didn't question it; he just woke his nephews, Ben Jackson, David Kadashan, Pat Austin, Jack Austin. They all went to my Dad's boat, pulled up the anchor, and they took off.

When they were coming to Flynn Cove, the moon was out on that side. They saw the men sitting on the boat, it was turned over. One end was already going down. Like radars, they went over there and they picked them up. As God is my witness, I saw this. They call Flynn Cove Gunáxsa.aa in Tlingit. And if my grandson heard that today, they would have died --- don't understand Tlingit anymore. My father said they couldn't believe it when they saw the boat, ready to go down. And they were Eagles, they were my father's brothers-in-law, Chookaneidí. So there was thanksgiving to them, you know, during the party you're going to thank the people that saved your life. ...

The Loon Spirit Rattle is associated with Mary Johnson, who acquired the loon spirit as one of her helping spirits. According to Lily White, she was the last of the T'akdeintaan shamans to practice her craft. It is possible that she was one of two shamans that were practicing among the northern Tlingit in 1934 as reported by Olson (1976:112) (also see Worl 2000:160).

The Loon Spirit Rattle is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity and to represent the clan's shamanic spirit associated with it, and to evoke the spirits of clan ancestors associated with it (including Mary Johnson). It is needed to accompany the singing of mourning and spirit songs during the memorial potlatch, particularly for the T'akdeintaan loon spirit song performed in memory of clan shamans associated with the loon spirit. The Loon Spirit Rattle is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Plain Rattle (Sheishóox), Catalog No. 6846

This oval rattle does not have a crest depicted on it. It is of the sort that was once used by shamans (Swanton 1908:464). There were many shamans in T'akdeintaan history, and it is probably associated with one or more shamans from the Tsalxáan Hít (Mt. Fairweather House).

The ceremonial uses, roles and functions of this rattle are similar to those described above for the Raven Rattle. Rattles are used by clan leaders and song leaders in the performance of clan songs, and they have special functions in the singing of the most sacred clan songs, the mourning songs, to give strength to the clan or song leader, which contributes significantly to his ability to perform his ceremonial role.

The plain, oval rattle is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches to give strength to the clan's religious and song leaders, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. The Plain Rattle is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Loon Spirit (Brass) Hat (Kagit Yéik Shadakóox̲'), Catalog No. 6847

The Loon Spirit Hat represents the loon, a helping spirit of T'ak̲deintaan shamans. Lily White's grandmother Mary Johnson had the loon as one of her spirits, as described above. Lily White (Interview January 31, 2001) said, "the loon was my grandmother ...her yéik [spirit]." "This was the loon people that she accepted" (Interview August 26, 2005). The hat was made in honor of this spirit. Lily and Jake White said that Yaa K̲wáan had the hat made while Mary Johnson was alive; "they copied it from her stories" about the loon. Yaa K̲wáan also had the song that goes with it; Lily said that her father and David Kadashan used to sing the loon spirit song at T'ak̲deintaan memorial ceremonies. Yaa K̲wáan passed the hat on to his brother Archie when he was dying.

Lily White provided an explanation for the creation of valued objects such as the hat, describing how a clan member would commission an object after a supernatural encounter or a misfortune happened to the clan, which represents a claim of ownership. As explained by Lily White,

> ... out of that happening they tell the story, and the hat will make it right. If they make it into hat or make into mask or whatever, put it on a blanket, that's ownership --- that's like putting a stamp on it. Nobody else can take it, it belongs to them. That's what tribes are. Ownership. All these things that we have is out of peril happening to people, that's what they took. And it tells a story and the songs 'til they die. That's what kept it going.
> (White 2005)

This is a brief explanation of the Tlingit system of crests, from the origin of a crest when some misfortune befell a clan member, to making a representation that becomes an everlasting symbol of the clan's identity along with the associated story and song. In the case of the Brass Hat, the

object was made to commemorate the loon spirit, one of the helping spirits (yéik) of T'akdeintaan shamans, which assisted the clan during times of misfortune and bad health. Shotridge referred to this association in his notes about the brass hat, although he was apparently unaware of the connection with a then contemporary T'akdeintaan shaman.

In the case of the Loon Spirit Hat, Lily and Jake White state that it was commissioned by Yaa Kwáan, the original owner of the hat, and that upon his death it passed to his younger brother Archie White (the clan leader). The hat is worn by Archie White in the historic photograph taken in front of the Mt. Fairweather house appearing in *Raven's Journey* (Kaplan and Barseness 1986:201, plate 235). He is wearing the blanket with Chilkat strips and the Loon Hat, and he is holding the Loon Rattle. The hat is a specific ceremonial object that was used in memorial koo.éex' by its previous owners/stewards. The hat is associated with a named shaman, Mary Johnson, whose helping spirit is represented by the hat. Her granddaughter, Lily White, has preserved the knowledge about her spiritual life, some of which is included in the previous section (Loon Spirit Rattle). The notes on Shotridge's catalog card suggest that there may have been clan ancestors from the more distant past who also had the loon as a helping spirit.

The Loon Spirit Hat represents a helping spirit of T'akdeintaan shamans and is directly associated with known individuals of recent ancestry within the clan. The Loon Spirit Hat is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Loon Spirit Hat is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Whale Robe, Catalog No. 6848

The whale is claimed by the T'akdeintaan clan. "An old woman of the T'akdeintaan" living in Sitka in 1904 gave Swanton a crayon drawing of the whale hat (see Swanton (1908) Plate XLIXc, which also shows a bird (Raven?) facial design) and three additional face paintings (Plates LIIf, LIVc and d) depicting the whale crest used by the clan. Swanton notes that one of the whale images (Plate LIVc) is painted on a house front at Hoonah (possibly this was T'akdein Hít which had a house screen in the whale design). The images in two other facial paintings are associated with different T'akdeintaan houses. One represents "Raven flying out of a whale" and was used by the T'akdeintaan Raven's Nest House (Plate LIIf). These images are related to the story from the Raven cycle in which Raven flies down the blow hole of a whale and brings it to shore. A different design, which Swanton identifies as "Whale's tail," was used by the Táx' Hít (Mt. Fairweather) people "who also have the whale hat" (Plate LIVd). This is probably the whale hat observed by Krause (1993:165; 1970:139) during his visit to Hoonah in 1882, which

"was very beautifully made with a whale design carved on the front" and a spruce root cylinder on top. "The hat was regarded as especially valuable and was worth more than two hundred dollars." Krause determined that the hat was not for sale.

As a member of the Raven moiety, the T'akdeintaan claim to the whale crest originates in the episode of the Raven Journey in which Raven flies into the blow hole of a whale and the whale dives under water before it dies and is brought to shore by Raven. This moiety right is also noted by Katishan, in Swanton (1908:417), when explaining the origin of the T'akdeintaan whale hat. The association of this crest with the Raven Journey would explain why it was used by more than one house group within the clan. Shotridge's long explanation for the appearance of this crest among the T'akdeintaan, which is credited to Tuk'axaaw (Archie White, Shotridge orthography), is unlikely given the widespread use of the crest among multiple T'akdeintaan houses. His explanation is also inconsistent with the customary practice associated with those crests acquired as payment for a wrongful action perpetrated by one clan against another. In the system of Tlingit crest rights, an aggrieved clan that has a claim against another and for which compensation has not been paid, may resort to taking a crest (or some other item of clan property) as an indemnity against the (future) reparation that is owed, with the expectation that the other clan will eventually redeem it. According to Lily and Jake White, the object would not be used or displayed by the clan who has taken possession of it, as if it were theirs. "But the family [that] received it, they won't use it. The just put it away. They don't put it on anybody to dance or anything. They just keep it" (Lily White Interview, August 26, 2005). The story of the acquisition of this crest provided by Shotridge is inconsistent with its widespread distribution among multiple T'akdeintaan houses. We note that even Shotridge himself questions the plausibility of the story.

There is a likely connection between the design of the whale's tail in the face painting (Plate LIVd) and that of the whale blanket in which the tail is featured prominently, both of which are associated with the Mt. Fairweather House. The diving whale is a different image from the whale crest associated with the Raven story, which is usually depicted in full body form. Lily White (Interview, January 31, 2001) provided a specific narrative about how the Mt. Fairweather House adopted the diving whale as a crest (or, as an elaboration of the full body crest image). She begins her account with a reminder that people adopt crests after some misfortune or death has occurred to a clan member:

> These things like I told you yesterday is through the happenings, the perils of the people. It had to be a peril, some kind of a danger, and sometimes there's death, that's when the family takes this for a crest. Like, this one man from T'akdeintaan, they're all out on hunting trip, and he was real young. He was a grandchild from Mt. Fairweather House. But he comes from T'akdein Hít, the first house that went up in Hoonah. And they had harpoons. Then they saw this whale come up. And he grabbed his harpoon because he's young. His uncle said, "No no no no no no, not now. There's going to be time. THEN, ok." And he just slung it. Got the whale. As soon as it Hít the whale he could tell, and he died.
>
> And they loved their grandson, they took him everywhere with them. So this is how Esther K.'s family [T'akdein Hít] got the whale hat song, that Yáay S'áaxw

Daat Shí, they call it. Whale is yáay. And it came from Mt. Fairweather House. They said goodbye to their grandson. It was Mt. Fairweather people that sang this song. The name of the man is Kajaak', that died. And the one that made the song, too, his name. I have it written down on the song, and the story. ....

The end of the whale hat song says, 'where did it take my grandson?' Maybe it took him under the Mt. Fairweather. [Lily speaks words of song.] Underneath Mt. Fairweather. That's why they had him in their possession, because they loved him. ... It's a beautiful song, it almost sounds like a love song. It's slow; it's really pretty. It talks about the whale that he harpooned, you know, that he killed. As soon as he Hít it, it just died, too.
[Emphasis in original]

This description provides substantial evidence for the significance of the diving whale crest to the T'akdeintaan clan, and particularly to the Mt. Fairweather House, that is specifically related to the ancestors of two clan houses. The young man who died was mourned by his maternal relatives (grandparents) in the Tsalxáan Hít and they composed a song memorializing his death that was associated with a hat in the whale design. The young man was born from another house, and his maternal relatives sang the mourning song and also used the whale crest on other at.óow, including the house itself. The diving whale, as Shotridge refers to this blanket design from the Mt. Fairweather House, may actually represent the action of the whale immediately after it was harpooned by the young man, when its spirit left the body upon its death. In the story, it is significant that the young man's spirit left him at the same time that the whale's spirit left it, which cements a spiritual linkage between the two.

The significance of the whale crest in the Mt. Fairweather House collection is further evidenced by one of Archie White's names, Tú x̲'a x̲aaw ('hair inside the mouth'). This name probably refers to baleen, the hair-like material inside the mouth through which some species of whales filter seawater to feed on plankton. The name is another representation of the whale crest, and it is at.óow of the T'akdeintaan clan. The name was given to Archie by his grandfathers, who were from Haines (specifically, Klukwan G̲aanax̲teidí, one of whose houses is the famed Whale House). This name was bestowed on him to honor his paternal relationship with the G̲aanax̲teidí clan (Lily White Interview, August 26, 2005).[18]

The Diving Whale Robe memorializes the loss of a clan ancestor during a whale hunt, whose death is also represented in a mourning song used by the clan originating in the Tsalxáan Hít. The whale is also depicted in the name bestowed on the clan leader (Sháadei Háni) in whose collection the blanket was stored at the time it was acquired by the Museum; the name remains in use today. The Diving Whale crest refers to a deceased clan ancestor, and it also may relate to the story of Raven and the whale. The Diving Whale Blanket is an important at.óow of the Tsalxáan Hít that recalls the spirit of the ancestor and of the crest animal with which his death is connected. The blanket also represents the spirits of those who mourned and composed

[18] Shotridge, in his object notes, ridiculed the claims of the T'akdeintaan to the whale crest in comparison with the G̲aanax̲teidí, which shows both the influence of his aristocratic roots and his bias in favor of his home village, Klukwan. It also indicates his ignorance of the history of the T'akdeintaan.

a song in his memory, and those who commissioned and used the blanket up until it was acquired by the museum.

The Diving Whale Robe is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is also needed for specific ceremonial use in spirit dances that are performed "behind the blanket." The Diving Whale Robe is an object that was specifically devoted to traditional Tlingit funerary ceremonies and which has religious significance or function in the continued observance of these ceremonies. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Blanket with Strips of Chilkat Weaving, Catalog No. 6849

This blanket is worn by Archie White in the historic photograph taken in front of the Mt. Fairweather house appearing in *Raven's Journey* (Kaplan and Barseness 1986:201, plate 235). He is wearing the blanket and the Loon (Brass) Hat, and he is holding the Loon Rattle. This group portrait indicates the high value that was placed on this blanket by the clan, since Mr. White was Shàadei Háni, or Clan Leader. The borders of the blanket are made from strips cut from a Naaxein (Chilkat Robe). The origin of the blanket is most likely from a koo.éex' during which strips of Chilkat weaving were distributed to the guests. On such occasions, the sponsors of a memorial potlatch bring out a Chilkat Robe for this purpose and cut it into strips or small pieces which they distribute to close patrilineal relatives of the deceased who are seated among the guests. This would be done when the deceased was so loved by her matrilineal relatives that they wanted to express their feelings in this way. It was an honor to receive the pieces given in memory of the deceased, which increased the value of the blanket (Anna Katzeek Interview, August 31, 2005).

The Blanket with Strips of Chilkat Weaving is closely associated with the memory of a deceased clan relative of the opposite side, and the high tribute to that person expressed by their clan. It also represents the honor that was expressed to an ancestor of the T'akdeintaan clan on whom the strip was bestowed. This blanket was passed down in the collection of heirloom objects that was held in the possession of the clan leaders of the Tsalxáan Hít, until the time it was acquired by the Museum.

The Blanket with Chilkat Strips is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a

memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is also needed for specific ceremonial use in spirit dances that are performed "behind the blanket." The Blanket with Chilkat Strips is an object that was specifically devoted to traditional Tlingit funerary ceremonies and which has religious significance or function in the continued observance of these ceremonies. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Cedar Bark Neck Ring (Kaséik'w), Catalog No. 6850A-F
Cedar Bark Neck Ring (Kaséik'w), Catalog No. 6851
Cedar Bark Neck Ring (Kaséik'w), Catalog No. 6852
Cedar Bark Head-Band (Kaséik'w), Catalog No. 6853
Cedar Bark Neck Ring (or Head-Band?) (Kaséik'w), Catalog No. 6854A-B

Kaséik'w (Cedar bark neck rings and head rings or bands) are important items of ceremonial clothing worn by the bereaved clan (hosts) during the koo.éex'. The rings are thick cords of spun or woven cedar bark, and the neck rings are worn around the neck or over the shoulder (for example, see photograph of Sitka guests at a koo.éex' in Klukwan (in Emmons 1991:303); also Stewart 1984:159). They are used during songs and oratory, and at other times when clan members are standing at the front of the room wearing their regalia. Lily White (Interview, January 3, 2001) said that during a koo.éex', a special dance is performed by the hosts using the neck rings. They dance with bark rings around their necks. "And when the dance ends, they throw it; and whoever of the guests catches it, [he] gets [a larger share of] money when they're paying out. They do it at the party for the guests." The rings may be head bands, which are worn like crowns, or larger. The larger rings are worn around the neck like a Hawaiian lei, or they are placed over the shoulder. When the dancing ends the dancers make a circle and grab onto the rings. Then, they stamp their feet in a circle and they throw it.

The Cedar Bark Neck Rings and Head Bands are T'akdeintaan at.óow that were held in the collection of heirloom objects by Archie White before they were acquired by the Museum. These items are specific ceremonial objects devoted to religious ceremonies in the past, and they are important for their association with clan ancestors who used them.

The Cedar Bark Neck Rings and Head Bands are needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with them. They are needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. They are needed so they can be placed on grandchildren of the clan during memorials to honor that individual and the clan ancestors who owned them in the past. The Cedar Bark Neck Rings and Head Bands are objects that were specifically devoted to a traditional Tlingit religious ceremony and which have religious significance or function in the continued observance of the ceremony. They are needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Beaded Dance Collar (UPM: Whale), Catalog No. 6855

The beaded dance collar with the crest design is another important item of ceremonial clothing worn by the bereaved clan (hosts) or invited guests during the k̲oo.éex'. "Over the blankets, coats, jackets, and shirts, men and women often wore cloth bibs at the neck, with crest beadwork, or one or two "octopus finger bags" ..." (de Laguna, in Emmons 1991:255). Two men are wearing beaded collars in the portrait photograph of clan members in their regalia taken in front of the Mt. Fairweather house (Kaplan and Barseness 1986:201, plate 235; also see the photograph of men wearing regalia from the Sea Lion House, Sitka, on p. 192). This collar or bib is made with a whale design, a widely used crest of the T'ak̲deintaan originating from the whale episode in the Raven Journey, and which has a special significance to the Mt. Fairweather House (see above, Diving Whale Blanket, Catalog No. 6848). Further, the whale crest is associated with a mourning song that was composed by a house member, and a title that was bestowed on Archie White, the steward of the Mt. Fairweather at.óow in the early twentieth century with whose collection the bib was acquired by the Museum.

The Whale Collar is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Whale Collar is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

Ceremonial Horn (Tóoxs'eit), Catalog No. 6856
Ceremonial Horn (Tóoxs'eit), Catalog No. 6857
Ceremonial Horn (Tóoxs'eit), Catalog No. 6858
Ceremonial Horn(Tóoxs'eit) , Catalog No. 6859
Ceremonial Whistle (Akoo.éikw), Catalog No. 6860
Ceremonial Whistle (Akoo.éikw), Catalog No. 6861

These Ceremonial Horns and Whistles are musical instruments that, like drums, were used in T'ak̲deintaan memorial ceremonies for the performance of songs and dances. Anthropologists have referred to such items as "imports" from the south because they are elements from certain secret society performances that have been incorporated into Tlingit rituals. Swanton (1908:436), for example, suggests that these items can be connected to the Kwakwak̲a'wakw Lukoala ceremony: "As was the case farther south, whistles were essential concomitants of the secret society dances."

Such "imports" probably involved an exchange of ceremonial prerogatives between clan leaders at some time in the past. Richard Dalton described such an exchange between a Hoonah

leader from the T'akdeintaan Raven's Nest House and a visitor from Metlakatla (Yashootz), who bestowed rights to a Raven crest (Raven that went down to the Bull Kelp), a rattle and a song that went with it to the T'akdeintaan leader named Tikita. This was done with honor and respect, and Tikita gave sea otter skins and muzzle loading rifles in return to acknowledge the honor. The use of the crest memorializes the T'akdeintaan ancestors that acquired and owned the crest down the generations, but also acknowledges the history of the relationship with the southern group and the person who bequeathed the honor to the clan. It is very likely that these ceremonial horns and whistles were acquired in a similar manner, and passed down among clan members through the Mt. Fairweather House.

The Ceremonial Horns and Whistles are T'akdeintaan at.óow that were held in the collection of heirloom objects by Archie White before they were acquired by the Museum. These items are specific ceremonial objects devoted to religious ceremonies in the past, and they are important for their association with clan ancestors who used them.

These Ceremonial Horns and Whistles are needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with them. They are needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. They are needed so they can be held by grandchildren of the clan during memorials to honor that individual and the clan ancestors who owned them in the past. The ceremonial horns and whistles are objects that were specifically devoted to a traditional Tlingit religious ceremony and which have religious significance or function in the continued observance of the ceremony. They are needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Pipe (S'ikdaakeit), Catalog No. 6862

This large carved pipe was used as part of the funeral rite for the deceased, when guests were given tobacco and the pipe to smoke it in. It was believed that the deceased would receive the spiritual counterpart of the tobacco. Emmons provided a description of the smoking ceremony:

> Both men and women came in after dusk, bringing their pipes with them, although the host served out pipes to the most honored guests as long as the supply lasted. The *Na-ka-nee* [Naa Káani] told them where to sit. ...[After all the guests were seated, the host delivered a short welcoming speech, which was answered by each of the principal chiefs who wore their lineage headdresses.] Then the *Na-ka-nee* separated the bunches of tobacco leaves, and as pieces were put into the fire, the names of the dead were called. After this, the pipes of the guests were filled, and lighted by the *Na-ka-nee* with coals from the fire. For at least half an hour to an hour, they smoked in silence [while leaves or bundles of

tobacco were distributed by the *Na-ka-nee.*] ...[Then the host invited them to a potlatch on the morrow.]
(Emmons 1991:314)

Krause (1970:157-8) described a ceremony that took place on four successive nights after the death of an individual in 1881 in Klukwan. In addition to a large amount of cloth, woolen blankets and other goods, berries, sugar and tobacco were distributed to the invited guests. "... the tobacco was passed around in a large carved pipe which was smoked by the guests, one by one." These distributions were followed by oratory which was answered by a shaman on behalf of all the guests. The deceased was removed and cremated on the third or fourth day. Swanton (1989:430) reported that tobacco was smoked in the pipe prior to the removal of the body of the deceased from the house, and was accompanied by speeches. In Yakutat, people related descriptions of "a smoking feast for the dead person," but de Laguna (1972:533-34) said she was unable to determine whether this occurred before or after cremation. The smoking ceremony was accompanied by a small feast and the distribution of gifts to the guests.

The carved pipe is an important ceremonial object that was held in the collection of T'a<u>k</u>deintaan heirloom objects by Archie White before it was acquired by the Museum. It is a specific ceremonial object that was devoted to specific religious ceremonies in the past, and it is important for its association with clan ancestors who used and preserved it.

The Pipe is needed by T'a<u>k</u>deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it including those in whose honor it was used in the past and those who owned and used it during the smoking feast that was formerly part of the funeral rite. The pipe also represents the spirits of those ancestors who are believed to have received the spiritual essence of the tobacco that was consumed in it during mortuary ceremonies. Ceremonial use (display) of the pipe will serve to bring forth the spirits of these clan ancestors for participation in the <u>k</u>oo.éex', so they will receive the spiritual essence of the food and goods that are distributed. The pipe is needed so that it can be held by a grandchild during a memorial potlatch to honor that individual and the clan ancestors associated with it. The Pipe is an object that was specifically devoted to traditional Tlingit funerary ceremonies and which has religious significance or function in the continued observance of these ceremonies. It is needed by traditional religious leaders of the T'a<u>k</u>deintaan clan for the continued practice of their traditional religion by the present day adherents.

Feast Spoon (Sheen), Skeleton of Raven, Catalog No. 6863

This large spoon (Sheen), carved in a Raven design, was a ceremonial object used for the distribution of food during the feasts associated with the memorial to the dead (<u>k</u>oo.éex'). Krause (1970:143) said the very large spoons were not used for eating but were used as serving spoons or plates. *A spoon of this size would be used in a very important part of the <u>k</u>oo.éex', that* portion of the memorial in which food, material goods and money is distributed to the guests. It functioned as a dish used in ceremonial feasts for serving food to the guests, and like feast dishes this spoon is carved with a crest design and is named for a crest animal, "Skeleton of the Raven."

Such dishes were very valuable (de Laguna 1972:418). It is believed that the spirits of clan ancestors receive the spiritual essence of the food and wealth that is distributed by the hosts, who are symbolically "feeding the ancestors." The feast spoon thus performs the symbolic function of mediating between the physical and spiritual worlds.

The Raven Feast Spoon is an important ceremonial object that was held in the collection of T'akdeintaan heirloom objects by Archie White before it was acquired by the Museum. It is a specific ceremonial object that was devoted to specific religious ceremonies in the past, and it is important for its association with clan ancestors who used and preserved it.

The Raven Feast Spoon is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed by traditional religious leaders for the distribution of food to the guests during the meals that are part of the memorial koo.éex', and in which clan ancestors are believed to receive the spiritual counterpart of the food. It is also needed for use in the spirit ceremony performed near the close of the koo.éex' in which all of the money is put into a container known as the Gan kas'íx'i, or "fire dish" (a large ceramic bowl symbolically holding the wealth that was formerly put into the fire for the benefit of the ancestors). This ritual action occurs during a very sacred part of the memorial koo.éex' associated with a spirit song, known as Dáanaa Wuduwaják, "Killing the Money." The Raven Feast Spoon is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Dance Ornament, Eagle Tail Fans (Ch'ák' Koowú), Catalog No. 6864

Ch'ák' Koowú (Eagle Tails) were used by the Peace Deer, Guwakaan, in a peace dance to signify his role as a peacemaker between two clans. A person who was acting as a "deer" carried eagle tail feathers in each hand (Swanton 1908:451). Eagle tail fans, which are symbolic articles of peace, were given to the peace deer by their attendants. An honorific name and clothing were also given to the deer by the opposite clan. In Yakutat, the deer also wore eagle plumes on his head, arranged in a "V," during the nightly dances that were part of the peace ceremony (de Laguna 1972:600). At the conclusion of the peace ceremony, which sometimes lasted for ten days, the person serving as Guwakaan retained the eagle feathers so he could make peace whenever circumstances warranted, "for henceforth he was dedicated to peace" (de Laguna 1972:602).

Besides reaching a settlement in which both sides agreed that parity had been achieved and appropriate restitution for any outstanding inequality had occurred, making peace involved holding a peace ceremony "with elaborate symbolism to testify that grudges were buried and with magico-religious sanctions to guarantee amicable behavior" (de Laguna 1972:592). The ceremony involved religious symbolism and practices, which is a point made by Austin (2000:155): "It should be emphasized that the Peace Dance was a ceremony with ritual and religious, and thus sacred elements, while the negotiations leading up to the ceremony were

secular in nature." In the nineteenth century, the ceremony involved the singing of songs by the peace deer, which continued for eight nights before the two sides come together for the final dance. "The "tribal songs" sung by the 'deer' would be the solemn, ancient songs about the sib totem, usually sung by the mourning hosts at a potlatch in memory of the dead" (de Laguna 1972:601-602).[19] The peace ceremony is another type of religious ritual which used elements that are central to the k̲oo.éex', including the singing of mourning songs and the presentation of at.óow.

In 1958, William Johnson was made a Peacemaker (G̲uwakaan) for the T'ak̲deintaan, and Joseph Pratt, Jim Martin and John James were his co-peacemakers (Dauenhauer and Dauenhauer 1994:320). In a peace ceremony conducted in the early 1970s, William Johnson (T'ak̲deintaan) and George Dalton, Sr. (Kaagwaantaan, T'ak̲deintaan yádi) were "peace deer" and performed the dance with eagle tail feathers in hand (Ken Grant Notes, 2006). It is believed that the eagle tails help the peacemakers enter the spirit world and talk with spirits for the purpose of ensuring that peaceful relations would ensue. A name (title) was also given to the G̲uwakaan during the ceremony; George Dalton received the name, Tsalx̲áan G̲uwakaan (Mt. Fairweather Peace Deer). The peace names are considered to be very important and, as in this case, are derived from a crest or some valued possession belonging to the donors (also see de Laguna 1972:599-600). At this ceremony, the deer wore regalia and held eagle tail fans in their hands while they danced. George Dalton wore a Chilkat robe with tassels attached to it.

The Eagle Tail Fans are important ceremonial objects of the T'ak̲deintaan clan that were used by clan peacemakers (Peace Deer) during ceremonial practices carried out to resolve disputes between clans and ensure that amicable relations will follow, in which ancestral spirits and living clan members participated. The fans were specifically devoted to a traditional Tlingit religious ceremony, the peace ceremony, and were used during the performance of clan mourning songs, the oldest and most sacred of the clan songs.

The Eagle Tail Fans are needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with them. They are needed to pay respect to and bring forth the spirits of clan ancestors who were peacemakers in the past. They are needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches. They are needed so they can be held by a grandchild of the clan during a memorial potlatch to honor that individual and the clan ancestors who used the objects in the past. The Eagle Tail Fans were specifically devoted to a traditional Tlingit religious ceremony, the peace ceremony, and were used during the performance of mourning songs, and they have religious significance or function in the continued observance of the memorial k̲oo.éex'. They are needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

[19] See also Olson (1976:81-2), who describes a peace ceremony in Klukwan.

Dende Wooyaa Shakee.át (Marmot Frontlet), Catalog No. 8498

According to Shotridge's catalog card, this object was made by a Chookaneidí man for the T'akdeintaan clan, which is listed as the owner. He also stated that it was acquired from Mrs. Augustus Bean, a T'akdeintaan clan member, but the circumstances of her possession are not explained. There is no indication that the crest object is related to the marmot crest claimed by the Naanyaa.aayí (see Swanton (1908:436), who listed the marmot as one of the crests of the Naanyaa.aayí clan). Swanton also recorded a Tlingit marmot song but he did not identify the individual or the location where he obtained it (Swanton 1909:392, Song 11). A Yakutat woman told de Laguna (1972:367) that groundhog (hoary marmot) hunters had to be ritually "clean" and there was a song to the dead groundhog. A man from Yakutat remembered the first line of the groundhog song, which resembled that collected by Swanton. Krause (1970:59) reported that two species of marmot are found in the coastal mountains, and he remarked on their distinctive whistle. The characteristic sound of the marmot is associated with the song recorded by Swanton, since the performer holds up a marmot skin and makes the cry of the marmot while he sings. These two sources (de Laguna and Krause) indicated that the marmot ranged in the homeland of the T'akdeintaan clan along the outer coast.

Shotridge's collection notes provide evidence that the Dende Wooyaa Shakee.át (Marmot Frontlet) was owned by the clan and thus acknowledged to be a clan possession (at.óow). He also identified the named individual from the opposite side that made the item for the clan, which would be appropriate for at.óow since they are customarily commissioned by a clan member who "hires" an opposite to make the item. Shotridge documented that the shakee.át was in the clan's ownership and possession at the time he acquired it, which also indicates that the item had been brought out and used at a memorial potlatch during which its ownership was witnessed and validated by the opposite side. This information, collectively, establishes that the item was at.óow of the T'akdeintaan clan.

The Marmot Shakee.át is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. It is regarded as a very important ceremonial object that is needed for the dance called Dáanaa Wuduwajáḵ ("Killing the Money") performed at the end of the ḵoo.éex', which signifies the relinquishment of all claims to the money contributed during the potlatch and represents the spiritual unity of all those present and the ancestors whose names were called during this portion of the ceremony. The Marmot Shakee.át is an object that was specifically devoted to a traditional Tlingit religious ceremony and which has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Octopus Tentacle Staff, Catalog No. 10513

This ceremonial cane has a role and function similar to that described above for the Raven Staff Head (Catalog No. 6843). It represents a clan crest that is a statement of clan identity. It was used by previous clan and song leaders during memorial potlatches to bring before the assembly to show who they were and to give them strength ("hold them up") while they led songs as mourning hosts, or during oratory when they were invited guests. They used it to emphasize their points while they delivered speeches, and it was used to honor their grandchildren by having them hold the cane when they are brought out before the guests. In addition, the Octopus Tentacle Staff has specific significance to the clan that arises from the crest, which is associated with a song and a special ceremonial dance that is performed with the staff that depicts an episode in the Raven's Journey from which the crest is taken. The octopus is also emplaced at a well-known locale belonging to the clan.

According to clan traditions, a giant octopus resides at Ganaxaa, a site on the outer coast to the south of Lituya Bay which is important to the clan as the site of the kittiwake rookery from which the kittiwake crest is derived.[20] Ganaxaa itself is another crest; it was recorded by Swanton (1908:418; Plate LIc) who provides a drawing of a face painting representing Ganaxaa "used by the T'akdeintaan who own the island." Round spots on the cheek "are called "the holes in Ganaxaa,"" which may be a reference to the open space underneath a great natural stone arch located there. The octopus comes into the T'akdeintaan stories with this arch, under which the octopus lives. There is a clan house named for the site, Ganaxaa Hít, and the leader of the house, Ken Grant, employs the imagery of the octopus tentacle in a special dance in which a staff represents the giant tentacle that was used by Raven in the story. In this episode, Raven throws out a huge octopus tentacle from shore to grab onto and pull in a floating craft (frequently called a "food canoe" or an "ark") that holds many kinds of animals and fish, which from this time forward become available to humankind as a source of food. In the octopus tentacle dance, Ken Grant enacts the part of Raven, holding the cane pointing outward with his arms extended, before he moves his arms in towards his body as if he were hauling something in with the stick.

During the T'akdeintaan memorial held in Hoonah in 2005, Ken Grant presented the Octopus Tentacle dance while the singers performed the associated song. This occurred during the distribution of food, when the T'akdeintaan men brought a large tub of berries into the hall from outside. Using a wooden cane, Ken Grant moved across the front of the room towards the door in the dance motion, holding the stick out as he moved. Then, as he pulled it in, four T'akdeintaan men appeared at the door and entered the room with a large tub of berries on their shoulders. To represent the octopus tentacle, Ken Grant used a cane that was made from a young tree from which the bark had been peeled. It was one of the canes used by the clan during the performance of mourning songs. These canes bear a close resemblance to Swanton's (1908:430) description of canes held by clan members during a funeral in Sitka, which were held out towards the setting sun and then moved up slowly to keep the sun up a little longer.

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[20] The significance of the kittiwake crest is well known and is represented in a clan hat, blanket and other at.óow that are used by the clan (see above, description of the memorial koo.éex' in 2005). Also see the discussion of tern (kittiwake) imagery in the speech given by Jessie Dalton and numerous references to the Sea Gull Ladies in Dauenhauer and Dauenhauer (1990:84-85, 100-101).

In 1992, Ken Grant performed the Octopus Tentacle dance during a public demonstration in Bartlett Cove at the entrance to Glacier Bay National Park, when the village of Hoonah was asserting their traditional ownership rights to Glacier Bay in front of the national park headquarters. At the time, the Hoonah people were alienated from their traditional homeland in Glacier Bay because federal regulations prohibited some of their traditional subsistence activities (fishing, hunting and gathering) within the park. The entire community was involved in an effort to restore traditional practices in Glacier Bay. In the demonstration, members of the community were positioned on the shore while a skiff approached from the direction of Hoonah. In the skiff was a large screen painted to represent the people and clans of Hoonah. As it approached, Ken Grant danced on the beach holding a staff carved in the form of an octopus tentacle, while all the clans represented on the beach sang a song, led by the T'akdeintaan Shaadeihani Richard Dalton. Mr. Dalton introduced the performance by telling the story of the Raven pulling the barge of creatures into shore, and after the singing began, Ken Grant danced and, symbolically, gradually hauled the skiff representing the people of Hoonah into Glacier Bay. Although this performance did not take place in a traditional ceremonial context, the presentation was regarded by the participants as of sufficient "weight" that a song from an opposite clan was performed to provide balance as would take place in a memorial.

The T'akdeintaan have the octopus tentacle as one of their crests along with the associated story, song, dance and crest object (the staff). Their claim to the octopus is emplaced in their homeland at the site named Ganaxaa, which is the home of a giant octopus. Their song, which was recently recovered from a tape, was performed by the clan in a memorial in 2005 and represents an act of religious renewal.

The Octopus Tentacle Staff is needed by T'akdeintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to give them strength and "hold them up." It is needed for the performance of the octopus tentacle song and the associated dance, which are associated with the mythological event depicted by the staff. It is needed so that a grandchild of the clan can be invited to hold the staff and dance with it, to honor that individual and the clan ancestors who owned the object in the past. The Octopus Tentacle Staff was specifically devoted to a traditional Tlingit religious ceremony and has religious significance or function in the continued observance of the ceremony. It is needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Tsalxáan (Mt. Fairweather) Deer Dancer Headdress, Catalog No. 8494

This Tsalxáan (Mt. Fairweather) Headdress combines multiple images of the mountain that is a major crest of the T'akdeintaan clan and of the first house of the clan, the Mt. Fairweather House. Representing the entire mountain itself, it depicts a major landmark in the T'akdeintaan homeland around which the clan's identity was formed. Clouds are associated with crest images of the mountain; the specific placement of these clouds around the mountain

indicate the state of the weather that is, or will be, prevalent in the area. Clouds are represented in the designs of two facial paintings depicting Mt. Fairweather that were drawn for Swanton (1908) by an old T'akdeintaan woman in Sitka (Plates Le and Lf). Clouds are also depicted on this headdress; when the doors of the headdress are closed, clouds are visible covering the highest peaks. However, a closer examination indicates that the shape of the headdress, when its two doors are closed, embodies two peaks separated by a gulch that comprise the mountain top: each door depicts one of the peaks. This is the design of Géelák'w, which is represented at the top of the house front panel of the Tsalxáan Hít (see Dauenhauer and Dauenhauer 1990:93) and on the Géelák'w (Ravine) Frontlet; this design is discussed in detail above in relation to the Géelák'w Frontlet, Catalog No. 6835.

When the doors of the headdress are opened, a large face is revealed that is not easily identified. This could represent the spirit of the mountain itself, since certain mountains are believed to have indwelling spirits. Swanton refers to the T'akdeintaan dog spirit as "Mountain-being's Dog," and this image might represent the Mountain-being, from inside the mountain. However, when the teeth are taken into consideration, the design can be seen to represent the dog itself (Mountain Tribe's Dog) that was a helping spirit of a famous shaman from the Tsalxáan Hít who acquired it near the mountain. The action of the opening doors strongly suggests an image of the mountain "cracking open" to reveal or release some living being or beings. This recalls the vision of another T'akdeintaan shaman, memorialized in the song called the Trembling Mountain, during which an opening appeared in the mountain out of which spirit women emerged from inside. As described previously, the Trembling Mountain is an important at.óow of the T'akdeintaan clan, and the women themselves, along with their swaying motions, ermine ear pendants, and the song, are also at.óow. The iconography of this headdress suggests Trembling Mountain, and it may also embody other spirits associated with the mountain such as the one-horned mountain goat, the loon, and the other spirits that visited Lily White's grandmother during her shamanic vision. The beauty and power of the headdress is that all of these crest images (the mountain, the two peaks known as Géelák'w, and the spirit or spirits inside the mountain, such as the Dog and the Trembling Mountain Women) are represented in it.

Louis Shotridge included a note that the Mt. Fairweather headdress was associated with a "deer dancer," the central figure in the traditional Tlingit inter-clan peace ceremony (see above, Eagle Tail Fans, Catalog No. 6864). He indicates that it was used in peace ceremonies in the past, suggesting that it was placed on the peace deer by a clan leader. The opposite clan is responsible for dressing the "peace deer," or Guwakaan, and giving him a name, eagle tail fans and other prerogatives during his seclusion. In the past, the peace deer (hostages) danced for their hosts on consecutive nights; de Laguna (1972:601-602) said that in Yakutat this continued for eight nights before the two sides come together for the final dance (compare with Olson (1976:81-2) who describes four nights of dancing in Klukwan). "The "tribal songs" sung by the 'deer' would be the solemn, ancient songs about the sib totem, usually sung by the mourning hosts at a potlatch in memory of the dead." In the recent (early 1970s) peace ceremony performed by the T'akdeintaan in Hoonah, the dancing took place on one evening. This object may represent the clan's involvement with peace ceremonies in the past, and be associated with those clan ancestors that participated in these ceremonies.

The Tsalx̲áan (Mt. Fairweather) Headdress is an important crest object of the T'ak̲deintaan clan. Shotridge reported that it was formerly used in inter-clan peace ceremonies which involved religious practices for resolving disputes between clans and ensuring that amicable relations will continue, and in which ancestral spirits and living clan members participated. His information indicates that the headdress was specifically devoted to a traditional Tlingit religious ceremony, the peace ceremony, and was used during the performance of clan mourning songs, the oldest and most sacred of the clan songs. During this portion of the ceremony, the headdress would be placed on the "peace deer," or G̲uwakaan, and used for performances of clan mourning songs and associated dances.

The Tsalx̲áan (Mt. Fairweather) Deer Dancer Headdress is needed by T'ak̲deintaan religious leaders for their use in funerals and memorial potlatches for the display of their identity, and to evoke the spirits of clan ancestors associated with it. It is needed for the performance of mourning songs and oratory presented at T'ak̲deintaan funerals and memorial potlatches, and when they are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. It is needed also for performances of the spirit songs associated with the mountain, such as the Trembling Mountain song, because such mountain spirits are depicted in the headdress. It is needed so that it can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. The Tsalx̲áan (Mt. Fairweather) Headdress was specifically devoted to traditional Tlingit religious ceremonies involving the performance of clan mourning songs and associated dances, and has religious significance or function in the continued observance of these practices in memorial k̲oo.éex'. It is needed by traditional religious leaders of the T'ak̲deintaan clan for the continued practice of their traditional religion by the present day adherents.

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Hoonah Indian Association
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AND

Huna Totem Corporation
9301 Glacier Highway
Juneau, AK 99801

December 8, 2008

Dr. Richard Hodges, Williams Director
University of Pennsylvania Museum of Archaeology and Anthropology
3260 South Street
Philadelphia, PA. 19104

Re: Hoonah Indian Association and Huna Totem Corporation Repatriation Claim

Dr. Hodges,

We are writing to request an update on the progress of our joint repatriation claim for the 45 "Snail House" items taken from Hoonah by Louis Shotridge.

In your letter of September 5, 2008, you stated that the Museum Committee on Repatriation should be completing its review of this claim by late fall. We do appreciate your explanation of the repatriation processes within your museum that was contained in this letter.

Thank you also for your acknowledgment of our request to keep the claims for items NA8494 and NA10513 independent of our original claim for the above 45 items.

We hope for a response by the end of this year.

Sincerely,

Russell Dick, Chairman
Huna Totem Corporation

Frank Wright, Jr. President
Hoonah Indian Association

cc: Huna Heritage Foundation
Marlene Johnson, HHF Chairman
Kenneth Grant T'akdeintaan Clan Spokesperson
Adam Greenwald, House Leader

Hoonah Indian Association
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AND

Huna Totem Corporation
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July 10, 2008

Dr. Richard Hodges, Williams Director
University of Pennsylvania Museum of Archaeology and Anthropology
3260 South Street
Philadelphia, PA. 19104

Re: Hoonah Indian Association and Huna Totem Corporation Repatriation Claim

Dr. Hodges,

We are in receipt of your letter of November, 2007 in regard to our joint repatriation claim for Tlingit objects in your collection in which you advise us that 1) the Museum's Committee on Repatriation is still reviewing our initial claim for "Snail House" items catalog #'s NA 6828-6866 and NA 8498; and 2) requesting additional documentation from us to support our cultural affiliation to the Mount Fairweather Peace Hat (NA 8494) and the Octopus Tentacle staff (NA 10513).

We respectfully request that a) the University of Pennsylvania Museum first move forward on our initial 1995 repatriation claim for the "Snail House" items identified in the attached list, and b) that the Mount Fairweather Peace Hat (NA 8494) and the Octopus Tentacle Staff (NA 10513) in our December 2006 modified claim letter be dealt with as independent and separate repatriation claims from each other and from our original "Snail House" claim.

First, our initial repatriation claim for the "Snail House" items dates back to 1995 and we have diligently responded to your ongoing questions with the information necessary to provide a preponderance of the evidence, as NAGPRA mandates, to substantiate our repatriation claim to these objects. Through the oral histories and songs relayed during our museum visit and through the additional documentation we have sent to you since your 2002 denial of this claim we have directly addressed your concerns about our right of possession and about the validity of our claim of these items having ongoing cultural significance.

Secondly, we assert ownership of the Peace Hat and we dispute your claim that all Tlingit peace ceremony objects are held as personal property. However, we will provide you additional information at a later time. Additionally, we are in consultation with the L'uknax̲ádi as how we will proceed with the repatriation claim for the Octopus Staff.

We therefore request that you act on our repatriation claims as outlined above.

Sincerely,

Russell Dick, Chairman
Huna Totem Corporation

Frank Wright, Jr. President
Hoonah Indian Association

cc: Huna Heritage Foundation
Marlene Johnson, HHF Chairman
Kenneth Grant T'akdeintaan Clan Spokesperson
Adam Greenwald, House Leader

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Philadelphia, PA 19104-6324

Facsimile 215 898-0657

NOV - 6 1995
HUNA TOTEM CORP.

THE UNIVERSITY MUSEUM
of Archaeology and Anthropology

October 26, 1995

Frank O. Williams
Vice-Chairman
Huna Totem Heritage Foundation
9309 Glacier Highway, Suite A-103
Juneau, Alaska 99801

Dear Vice-Chairman Williams:

I have received your Repatriation Request of September 26 for the return of 34 objects which comprise the University of Pennsylvania Museum's Snail House Collection from the T'akdeintaan Clan of Hoonah, Alaska. The request has been forwarded to the Museum's Repatriation Committee. That Committee will be in contact with you shortly with a revised Findings Form which will ask you to substantiate your claim.

Sincerely,

Jeremy S. Sabloff
The Charles K. Williams II Director

cc: Pamela Hearne Jardine

JS:lfw

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UNIVERSITY OF PENNSYLVANIA MUSEUM
of Archaeology and Anthropology

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February 21, 1996

Mr. Albert Dick, Chairman
Mr. Frank. O. Williams, Vice Chairman
Huna Totem Corporation
9309 Glacier Highway, Suite A-103
Juneau, Alaska 99801

RECEIVED
FEB 26 1996
HUNA TOTEM CORP.

Dear Mr. Dick and Mr. Williams:

Thank you for your letter of December 15, 1995, in which you provide information in support of the request submitted by the Snail House (Mount Fairweather House) of the T'akdeintaan Clan of Hoonah for the return of the objects detailed in your letter of September 16, 1995. We appreciate the information you have provided; however several issues that are important to our evaluation of your claim have not yet been addressed. We ask that you consider each of the questions listed below carefully and provide as complete documentation as possible to substantiate your claim. In answering these questions, please address each object in the claim, and, where appropriate, give page citations for your written authorities.

We are enclosing a list of questions that we have recently developed regarding objects requested as cultural patrimony. This list is beings sent out to groups filing claims under this category. We recognize that you have already answered some of the questions on this list, but the following areas require clarification:

In your statement, you refer to only two types of objects in relation to the law, objects bearing clan crests and objects used in shamanic activities. Do you consider that all of the requested objects belong to either or both of these categories? Can you specify how you would classify each object in the claim, in terms of these or any other object categories?

Also, please supply more specific information as to how the objects are used. You refer to "potlatches and memorial rites" (p. 3), but please explain more precisely what is the central importance of these ceremonies in your culture, and what is the central importance of the objects within these ceremonies. You further state that the significance of the objects must be understood "within the context of the Tlingit ideological system" (p. 3). Please elaborate (briefly) on the nature of the ideological system and the place of the objects within it.

Regarding shamanic objects, please clarify your statements about the clan "interest" in the objects, as opposed to ownership, giving your sources and citing examples. Also, as you have requested shamanic objects as cultural patrimony, please discuss (without divulging any esoteric information) how shamanic objects are used today, and what their ongoing importance has been since the period in which these particular objects were alienated.

You mention that some of the objects were purchased from a member of the Snail House, and some from the spouse of a T'akdeintaan clan member. Please provide the names and identities of such persons with respect to the specific objects that were purchased from them. Also, please elaborate on the issue of who ordinarily controls or has custody of such objects in Tlingit culture. You refer

to the "individual's authority to 'use' clan property" but not to alienate it; do all clan members share equal rights as far as use or handling of the objects is concerned?

You state that you are filing this claim on behalf of the Snail House (Mount Fairweather House). Please discuss the relationship between the two houses. Are there Snail House members who are not part of the Mount Fairweather House? If so, are you acting on their behalf as well?

Finally, please address the issue of exclusivity. Do any other individuals or groups outside of the Hoonah T'akdeintaan Clan and/or Snail House possess any rights of ownership or use to these objects, or to the crests or designs portrayed on them? If so, discuss the relationship between your group and the other ones, including how the rights are distributed between the various parties.

We appreciate your taking the time to respond to these questions, which will give us the information we need to evaluate your claim.

Sincerely,

Jeremy A. Sabloff
The Charles K. Williams II Director

JAS/cms
encl.

CULTURAL PATRIMONY

Since you have stated that the objects are considered to be objects of cultural patrimony, please discuss how each has ongoing historical, traditional, or cultural importance central to your culture. Specifically, please address the following issues with respect to each object:

1. Origin and use. For what purpose was the object originally made or used? Was the object ever owned or used by an individual? If so, please explain how the object passed out of individual use or ownership and into communal or clan use or ownership. How was the object used by the community or clan? What was the significance of the object to the community?

2. Traditional custody. Discuss the nature of traditional ownership or care-taking of this object. What individuals or groups within your community held physical or non-physical custody of the object? What other individuals or groups, if any, maintained a right of possession or right of use to the object?

3. Exclusivity of ownership. Is the historical, traditional, or cultural importance of this particular object exclusive to your community, clan or house group? In other words, does this object have similar importance or stand in a similar relationship to any other group? Further, does your group have any traditional exclusive right of possession to the type of object, to the design on the object, or to any non-physical aspect of the object?

4. Alienation. Please discuss your cultural traditions that establish that the object could not properly or rightfully have been sold or given away by any individual. What evidence do you have to substantiate this claim?

5. Transfer of object. Please discuss the history of how this object passed out of your group's hands. Did the person or persons involved in its transfer possess any traditional rights of use or ownership, or serve any traditional custodial role, in relation to the objects?

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APR 25 1996
HUNA TOTEM CORP.

THE UNIVERSITY MUSEUM
of Archaeology and Anthropology

April 18, 1996

Mr. Albert Dick, Chairman
Mr. Frank O. Williams, Vice Chairman
Huna Totem Corporation
9309 Glacier Hwy., Suite A-103
Juneau, Alaska 99801

Dear Mr. Dick and Mr. Williams:

On February 21, 1996, we sent a letter requesting further documentation of your claim for the return of objects to the Snail House (Mount Fairweather House) of the T'akdeintaan Clan of Hoonah. In responding to our questions, please be aware that you may include tapes or transcriptions of oral testimony by elders as part of your documentation. If you choose to do so, please supply the date, location, and circumstances of the testimony as well as the name and clan affiliation of the elder, interviewer, or others present during the event or conversation.

Sincerely yours,

Jeremy A. Sabloff

Jeremy A. Sabloff
The Charles K. Williams II Director

17

26 1998

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May 18, 1998

Mary Rudolph
President
Hoonah Indian Association

Johanna K. Dybdahl
Tribal Administrator
Hoonah Indian Association

Richard Dalton, Sr.
Esteemed T'akdeintaan Elder

Patrick G. Mills
T'akdeintaan Elder

Hoonah Indian Association
P.O. Box 602
Hoonah, Alaska 99829-0602
Re: Repatriation Request

Dear Ms. Rudolph, Ms. Dybdahl, Mr. Dalton and Mr. Mills:

On behalf of the University of Pennsylvania Museum of Archaeology and Anthropology ("UPM" or "the Museum"), we acknowledge receipt of your two letters dated March 23, 1998, with attached resolutions Nos. 98-08 and 98-09 of the Hoonah Indian Association ("HIA").

As you know, the Native American Graves Protection and Repatriation Act ("NAGPRA") and its implementing regulations require museums to obtain a great deal of information from tribes making claims under that Act before they may properly make decisions regarding transfer of objects from their collections. This is to ensure that claims are valid and claimants have the required "right of possession" under NAGPRA.

In this regard, I would like to inform you that based on the documentation accompanying your claim, UPM is not able to make a determination regarding the applicability of NAGPRA. UPM is in the process of preparing a set of questions in

regard to your claim, the answers to which will help us better understand the significance of the objects in relation to the law. Before proceeding with these detailed questions, however, UPM would very much appreciate your response regarding the issues outlined below.

A. Request by the Huna Totem Corporation
and the Huna Totem Heritage Foundation

In conformity with its obligations under NAGPRA, UPM wrote to Jim Austin, President of the HIA, on November 15, 1993, to inform him of collections held by it which may contain unassociated funerary objects, sacred objects, or objects of cultural patrimony that are, or are likely to be, culturally affiliated with the HIA. In that letter, UPM noted that its ethnographic holdings include approximately forty (40) catalogue numbers specifically identified as being manufactured or used by members of the Tlingit tribe and collected at Hoonah Village.

On September 26, 1995, a representative of UPM presented videotapes and discussed the Museum's documentation of crest objects from a number of Tlingit clans at the Native Brotherhood Hall in Juneau, Alaska. Included at this meeting was a videotape of objects from Hoonah. At that meeting, the Museum's representative received a written repatriation request from the Huna Totem Corporation ("HTC") for thirty-four (34) of those objects. In its request, HTC stated that it was acting on behalf of the Snail House (Mount Fairweather House) of the T'akdeintaan Clan of Hoonah. That September 26, 1995 claim (the "HTC Repatriation Claim," a copy of which I enclose) was submitted on letterhead of the Huna Totem Heritage Foundation (the "Heritage Foundation") and signed by Frank O. Williams, HTC Vice-Chairman and Snail House Member, and Snail House Members Ron Williams and Marlene Johnson.

By letter dated October 26, 1995, UPM wrote to Mr. Williams c/o the Heritage Foundation, acknowledging Mr. Williams' September 26, 1995 letter and noting that UPM's Repatriation Committee would require some information in substantiation of the HTC's claim.

By letter dated December 15, 1995, Mr. Williams (this time writing on HTC letterhead, and joined by HTC Chairman and Snail House Member Albert Dick) acknowledged receipt of UPM's October 26, 1995 letter. In their letter, Messrs. Dick and Williams provided information regarding the HTC's status as an "Indian tribe" under Section 2(7) of NAGPRA, 25 U.S.C. §3001(7), and noted the HTC's position that the 34 items sought are objects of "cultural patrimony" as defined under Section 2(3)(D) of NAGPRA, 25 U.S.C. §3001(3)(D).

By letter dated February 21, 1996, I wrote to Messrs. Dick and Williams of the HTC, thanking them for the information provided and inquiring further into several issues important to UPM's evaluation of the HTC's repatriation claim. Among those issues — which included critical questions concerning the origin and use of the requested

objects, their traditional custody, any exclusivity of ownership, their alienation, and their historical transfer — I noted the following:

> "You state that you are filing this claim on behalf of the Snail House (Mount Fairweather House). Please discuss the relationship between the two houses. Are there Snail House members who are not part of the Mount Fairweather House? If so, are you acting on their behalf as well?"

Not receiving a response to my letter of February 21, I wrote again on April 18, 1996 to Messrs. Dick and Williams of the HTC, referring to UPM's February 1996 request for further documentation of the HTC's claim. In so doing, I also noted that the HTC was free to include tapes or transcriptions of oral testimony by tribal elders as part of its documentation.

By letter dated May 6, 1996, Messrs. Dick and Williams (writing on HTC letterhead and again identifying themselves as Snail House Members and Chairman and Vice-Chairman, respectively, of the HTC) acknowledged my letters of February 21 and April 18, 1996 regarding the HTC's repatriation claim. Messrs. Dick and Williams further requested access to information regarding the acquisition and accession of UPM's T'akdeintaan collection.

By letter dated June 21, 1996, I responded to the HTC's letter of May 6 and provided all documentation in UPM's possession regarding the relevant objects (approximately 70 xerox pages in total). I also noted the existence of relevant documentation at the Alaska Historical Library in Juneau which is controlled by that institution.

By letter dated June 16, 1997, Ron Williams, President of the Heritage Foundation wrote to me (on Heritage Foundation letterhead) requesting further information about the documentation and additional Museum objects associated with the Snail House T'akdeintaan Clan. On August 12, 1997, I acknowledged receipt of this letter and enclosed additional information and copies of Museum records.

Since the Heritage Foundation's letter of June 16, 1997, UPM heard nothing further from either the HTC or the Heritage Foundation until a letter dated February 12, 1998, which included a revised repatriation petition for 45 objects (39 catalogue entries) and accompanying documentation. On March 11, 1998, I acknowledged receipt of this revised claim.

On March 25, 1998, UPM received a further revised repatriation claim from HTC which stated that "this petition replaces and supersedes" previous claims from the Huna Totem Corporation/Huna Heritage Foundation. This second received petition

claimed the same 45 objects (39 catalogue entries) previously requested in the claim dated February 12, 1998.

B. Request by the Hoonah Indian Association

UPM first heard from Mr. Patrick Mills via telephone when he contacted the Assistant Director of Museum Services, on January 30, 1996. In that conversation he indicated that his older brother, Mr. George Mills, had a better claim to the position of clan leader than Mr. Adam Greenwald, who has identified himself as the Head Clansman of the Snail House Clan. Mr. Mills also spoke against the HTC claim and indicated that he did not believe the HTC was the appropriate claimant to the objects. The Assistant Director encouraged Mr. Patrick Mills to put his claim in writing.

UPM first heard in writing from the HIA in your recent letters of March 23, 1998, in which you assert a claim for the "at.oow (precious clan possessions) of the Taax'Hit, Snail House of the T'akdeintaan Clan of Hoonah, Alaska." The 45 objects (39 catalogue entries) claimed by the HIA are the same as those listed in the last 2 repatriation requests put forth by the HTC and the Heritage Foundation.

We note the HIA's acknowledgment in Resolution 98-09 that "both Huna Totem Corporation and Hoonah Indian Association have made claim in terms of [NAGPRA]" for the items in question. We also note the statement in one of your March 23, 1998 letters that "[t]his petition replaces and supersedes all other petitions for repatriation of the above-referenced at.oow submitted or claimed by the Huna Heritage Foundation and Huna Totem Corporation for the Taax' Hit Snail House of the T'akdeintaan Clan of Hoonah." Finally, we note that the last HTC petition is dated March 25, 1998, two days after the HIA petition of March 23, 1998.

C. The University of Pennsylvania Museum's Obligations

Where there exist multiple requests for repatriation of any Native American cultural item, Section 7(e) of NAGPRA requires UPM to attempt to "clearly determine which requesting party is the most appropriate claimant" 25 U.S.C. §3005(e); see also 43 Code of Federal Regulations §10.10(c)(2) (requiring museums to attempt to "determine by a preponderance of the evidence which requesting party is the most appropriate claimant").

In light of the obligations placed by NAGPRA upon UPM, we would appreciate your response to the following inquiries:

1. Have the Huna Totem Corporation and the Huna Totem Heritage Foundation agreed to withdraw their request for the repatriation of

items in the collections of the University of Pennsylvania Museum? If so, please provide us with written evidence of such withdrawal.

2. If the HTC and the Heritage Foundation have not withdrawn their repatriation request — and thus competing requests for the same items exist — please explain the basis for your statement in HIA Resolution 98-09 that "the Hoonah Indian Association can show by preponderance evidence that we have the strongest demonstrated relationship to the items in question."

3. To the extent not addressed in your response to Question #2 above, please explain why the Hoonah Indian Association is a more appropriate claimant than either the HTC or Heritage Foundation for the items in question.

By copy of this letter, we invite the HTC and Heritage Foundation to respond to our inquiries on this or any other relevant points.

In closing, let me stress that the University of Pennsylvania Museum's goal in this matter continues to be full cooperation with Native peoples and compliance with the legal obligations dictated by NAGPRA. Once this issue of competing claims is addressed, I will forward to the appropriate party a set of questions requesting additional information necessary for the substantiation of that party's claim under NAGPRA. We look forward to working with you, the Huna Totem Corporation and the Huna Totem Heritage Foundation to resolve this matter as expeditiously as possible.

Sincerely,

Jeremy A. Sabloff
The Charles K. Williams II Director

Enclosure

cc: Pete Hocson, Albert Dick, Frank O. Williams, Jr.
and Ronald Williams
Huna Totem Corporation and
Huna Totem Heritage Foundation

Dr. Francis P. McManamon and
Dr. C. Timothy McKeown
United States Department of the Interior
National Park Service

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January 26, 2000

Mary Rudolph, President
Richard Dalton, Sr., Esteemed T'akdeintaan Elder
Patrick G. Mills, T'akdeintaan Elder
Johanna K. Dybdahl, Tribal Administrator
Hoonah Indian Association
P.O. Box 602
Hoonah, Alaska 99829-0602

Albert Dick, Chairman, Board of Directors
Pete Hocson, President
Huna Totem Corporation
9309 Glacier Highway, Suite A-103
Juneau, Alaska 99801

Ronald Williams, President
Huna Heritage Foundation
9309 Glacier Highway, Suite A-103
Juneau, Alaska 99801

Adam Greenwald
Shaadeihani, Taax'Hit
P.O. Box 172
Hoonah, Alaska 99829

Re: Repatriation Requests

Dear Ms. Rudolph, Mr. Dalton, Mr. Mills, Ms. Dybdahl, Mr. Dick, Mr. Hocson, Mr. Williams and Mr. Greenwald:

On behalf of the University of Pennsylvania Museum of Archaeology and Anthropology ("UPM" or "the Museum"), I write once again to request additional information from your organizations in order to appropriately assess and determine the competing repatriation claims made by the Hoonah Indian Association ("HIA") and the Huna Totem Corporation, also known

as the Huna Heritage Foundation ("HTC/HHF"). Your response to UPM's inquiries is absolutely essential in order for us to carry out our legal responsibilities under NAGPRA and its accompanying regulations.

As stated in my May 18, 1998 letter to HIA and its representatives (copied to HTC/HHF and its representatives), the information accompanying HIA's claim of March 23, 1998 is insufficient for the Museum to make a determination regarding the applicability of NAGPRA to the claimed objects. Similarly, the information accompanying the HTC/HHF's claim of March 25, 1998 is not sufficiently complete for the Museum to accurately determine HTC/HHF's asserted right to those same objects. As a result, UPM is unable to make a decision with respect to repatriation to either group at this time.

In evaluating your claims, the Museum is required by law to consider all available information with regard to NAGPRA's definitions of "sacred objects" and "objects of cultural patrimony." (*See* 25 U.S.C. §3001.) In so doing, the claims by HIA and HTC/HHF are to date incomplete for the following reasons:

1. As stated in my letter of May 18, 1998, we require additional information addressing which of HIA or HTC/HHF is the more appropriate claimant for the objects in question. (*See* 25 U.S.C. §3005(e).)

2. HIA's claim does not discuss the significance of any individual Snail House object in the Museum's collection as either an "object of cultural patrimony" or a "sacred object," while HTC/HHF's claim discusses the significance of only four out of 45 total objects claimed. To allow UPM to comply with the law, every repatriation claim must address the importance of *each* individual object in specific terms.

3. The relevant anthropological literature suggests that certain kinds of objects may occupy a special position or rank among the T'akdeintaan clan's possessions. These objects may include such objects as clan hats, house screens and house posts. (HTC's claim, for example, mentions the importance of the Mount Fairweather hat.) No clan hats, house screens or house posts, however, are represented in the Museum's Snail House collection. Do your organizations consider any of the Museum's Snail House objects to be as important as, or more important, than the Mount Fairweather hat? If so, please explain.

4. The literature indicates that Mount Fairweather and the Seagull are the principal T'akdeintaan clan crests. There are no objects containing these crests in the Museum's Snail House collection. The HTC/HHF claim indicates that the "recognized crests" of the Snail House include the Mt. Fairweather crest, the Sea Pigeon crest, and the Raven crest. As a "moiety" crest shared with other clans, do you consider the T'akdeintaan

Raven crest to be as important as the Mount Fairweather and Seagull crests? Please explain. And what is the relative importance of the other crests represented in the objects in the Museum's Snail House collection?

5. The anthropological literature also indicates that members of the T'akdeintaan clan possess copies of some objects in the Museum's Snail House collection, including the Ravine frontlet, the Sun Mask and the Loon spirit hat. Since these objects are apparently in the possession of members of your clan, and used by your clan — and some anthropological sources state that the copies are more important than the originals — we would appreciate an explanation of your organizations' need for return of the original objects.

6. UPM's documentation indicates that Louis Shotridge purchased the claimed objects from Tuqaxawu, the Snail House caretaker of the day. Anthropological literature indicates that, at that time, the head of the clan may not have needed the clan's approval for sale of less important crest objects, and in any event we know of no evidence that members of the T'akdeintaan clan objected to the sale when it took place. Are your organizations aware of any such evidence?

UPM urgently needs your responses to these questions so that we can move forward toward a final determination of your repatriation claims. It is our hope that the HIA and HTC/HHF can work together to resolve the competing claims, which would facilitate your requests.

In closing, let me stress that UPM's goal in this matter continues to be full cooperation with both of your organizations and compliance with our obligations under NAGPRA. We look forward to working with you to conclude this very important matter.

Sincerely,

Jeremy A. Sabloff
The Williams Director

Enclosure

cc: Dr. Francis P. McManamon and
Dr. C. Timothy McKeown
United States Department of the Interior
National Park Service

19

UNIVERSITY OF PENNSYLVANIA MUSEUM
of Archaeology and Anthropology

33rd and Spruce Streets • Philadelphia, PA 19104-6324 • Telephone 215.898.4000 • Facsimile 215.898.0657

May 10, 2000

Kenneth J. Grant, President
Hoonah Indian Association
P.O. Box 602
Hoonah, Alaska 99829

Ronald D. Williams, Trustee
Huna Heritage Foundation
9301 Glacier Highway
Juneau, Alaska 99801

Dear Mssrs. Grant and Williams:

On behalf of the Museum, let me reiterate how pleased we are that the Hoonah Indian Association ("HIA") and the Huna Totem Corporation, also known as the Huna Heritage Foundation ("HTC"), have resolved the competing claim issue. We also want again to invite and encourage representatives of your organization to visit us later this summer. We believe that this visit will be mutually beneficial in many ways, including advancing the resolution of outstanding issues regarding your claim.

Please know that we are making every effort to respond to your March 6, 2000 joint claim. We do, however, respectfully disagree with your suggestion that the Museum must transfer the requested objects to your organizations within ninety days of March 6. As you correctly quoted in your letter of April 20, the federal regulations implementing NAGPRA state that:

> "Repatriation must take place within ninety (90) days of receipt of a written request for repatriation *that satisfies the requirements of paragraph (a)(1) of this section* from a lineal descendant or culturally affiliated Indian tribe or Native Hawaiian organization, provided that the repatriation may not occur until at least thirty (30) days after publication of the notice of intent to repatriate in the *Federal Register* as described in §10.8."

43 Code of Federal Regulations ("CFR") §10.10(a)(3) (emphasis supplied).

In turn, paragraph (a)(1) of §10.10 states that the Museum need not repatriate cultural objects to a requesting tribe or organization until "all the following criteria are met":

(i) The requested objects meet the definitions of "sacred objects" or "objects of cultural patrimony" set forth in §10.2(d)(3) and (d)(4);

(ii) The cultural affiliation of the objects is established;

(iii) The requesting tribe or organization "presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that" the Museum does not have "a right of possession to the objects" as defined in §10.10(a)(2) — *i.e.*, "possession obtained with the voluntary consent of an individual or group that had authority of alienation;"

(iv) The Museum is unable to present evidence to the contrary proving that it does have "a right of possession" as defined in §10.10(a)(2); and

(v) None of the specific exceptions listed in §10.10(c) apply.

The Museum seeks your cooperation, as it has repeatedly in the past, in attempting to gather all evidence relevant to a determination of items (i), (iii) and (iv) above. Unless and until the Museum — the party charged by NAGPRA with that initial responsibility — determines that all of the criteria set forth in §10.10(a)(1) have been met, there is no legal requirement that repatriation occur within ninety days of March 6, 2000.

We are enclosing a detailed discussion of our analysis of issues presented by your claim, including a summary of the anthropological literature and other information available to us. As you will see in this documentation, several outstanding issues remain regarding the joint claim by the HIA and the HTC. These are primarily the result of apparent discrepancies between the information presented in your recent joint claim and the HTC claim of March 25, 1998, as well as between those claims and the anthropological literature, especially the work of native Tlingit authorities including Louis Shotridge and Nora Dauenhauer. Our analysis of your claim, in light of available information, suggests that your claim does not satisfy the requirements for "objects of cultural patrimony" or "sacred objects," as defined by NAGPRA. Until these issues are appropriately resolved, we cannot recommend repatriation.

We regret that you perceive that the Museum has engaged in unjustified delay in this matter. Please understand that the Museum takes its responsibilities under NAGPRA

extremely seriously, and is working assiduously to meet its statutory obligations as conscientiously and efficiently as possible.

Sincerely,

Jeremy A. Sabloff
The Williams Director

Enclosure

cc: Dr. Francis P. McManamon and
Dr. C. Timothy McKeown

Historical Context: Louis Shotridge's Purchase

In order to respond to your joint claim, it is crucial to establish the historical context at the time of the sale to Louis Shotridge of the Museum's Snail House collection. The documentation we sent you indicates that Mr. Shotridge purchased 44 of the 45 objects in the claim for $500.00 on November 22, 1924. He apparently purchased those objects from the then-current housemaster of Snail House, Tuqa-xawu II, also known as Archie White. Mr. Shotridge purchased the 45th object, the Marmot frontlet (NA8498), in 1918 in Juneau from Mrs. Augustus Bean. Based on the evidence currently available to us, we consider that object to have been the individual property of Mrs. Bean and thus appropriately alienated by her. Given our current understanding of the terms "objects of cultural patrimony" and "sacred objects" (see below), we consider the sale of the remaining 44 objects also to have been a legitimate conveyance.

Substantial evidence indicates that Mr. White was a strong supporter of Russian Orthodox Christianity at Hoonah. Kan (1999) states by 1912 "a prominent local leader, Dimitrii Tukk'axaaw or Archie White (ca 1857-1939), the head of the Mt. Fairweather/Snail House, the highest-ranking house of the T'akdeintaan clan of the Raven Moiety, who had lived in Sitka and learned a fair amount about Orthodoxy, became a major supporter of the Church. It was on the land belonging to Archie White's lineage that the Russian Orthodox Church was finally built. By 1917, Hoonah had about 100 Orthodox members out of the total population of about 450" (Kan 1999: 346.) Mr. White remained the president of the Holy Cross Brotherhood until his death in 1939, and it was at his house (the Mt. Fairweather House), the highest ranking house of his clan (the T'akdeintaan), or at a closely related house next door (Raven House, headed by William Johnson) that the Church society usually held its testimonial meetings and choir practice, and where visiting clergy would often stay (Kan 1999: 490). Later difficult years for the Orthodox Church in Alaska were caused by the 1917 Russian Revolution and the ensuing civil war, coinciding with the rise of the Alaska Native Brotherhood (ANB) and the fight for Native economic and civil rights that this organization spearheaded.

Established in Juneau in 1912 as a native organization modeled after various Presbyterian church-affiliated societies (Dauenhauer and Dauenhauer 1994: 76-83), the ANB had as one of its central goals the promotion of citizenship for Native peoples. In order to eradicate divisive tribal practices that in several cases led to violence (for example, the conflict between the Kiks.adi and the Luknax.adi of Sitka over the display of a Frog hat, de Laguna 1972: 454), the ANB waged a vigorous campaign against the display of clan crests. Kan states that the majority of early ANB leaders refused to participate in traditional ceremonies, and particularly the koo.éex'. Those who did own any at.oow, sold or donated them to museums. In Hoonah, according to several elderly informants, the ANB encouraged the Native people to get rid of their at.oow and stop performing the old customs and ceremonies (Kan 1999: 466).

Kan continues,

> The ANB alone should not be blamed for these violations of the old value system. The gradual weakening of the matrilineal group, and the growing disagreement between the elders and a certain segment of the younger generation about the "old customs" definitely played a bigger role here. Some traditionalists sincerely believed their younger relatives were not going to continue carrying out their clan obligations and perform memorials, and thus sold the regalia, preferring to receive some badly needed cash for them than to have the regalia deteriorate without use or fall into the wrong hands (Kan, 1999: 467).

Based on the evidence currently available to us, it is likely that these combined influences encouraged Mr. White to sell the T'akdeintaan Snail House objects. The historical record shows that, at the time of Mr. Shotridge's collecting activities, there was a clear and established practice of "headmen," "housemasters," "and "chiefs" selling ceremonial and clan objects to museums in recognition of changes in Tlingit society associated with the adoption of Christianity and the move to modernization. Mr. Shotridge's acquisition of the Snail House collection was thus neither especially remarkable nor caused controversy within the Native community, in the way that his attempts to purchase the Klukwan Whale House collection did. Indeed, the contrary seems to be the case, since another individual from Hoonah later offered Shotridge the "Frog hat" for sale (UPM Archives, Letter, Shotridge to Gordon, July 19, 1926).

Objects of Cultural Patrimony

"Objects of cultural patrimony" are defined by NAGPRA as "objects of such central importance that they may not be alienated, appropriated, or conveyed by any individual tribal or organization member," and "such objects must have been considered inalienable by the culturally affiliated Indian tribe or Native Hawaiian organization at the time the object was separated from the group." NAGPRA regulations (43 CFR) provide as examples the Zuni War Gods and the Confederacy Wampum Belts of the Iroquois.

Our current understanding, which we base on statements in your claim and our interpretation of the anthropological literature, is that the objects in the Museum's Snail House collection cannot be considered "objects of cultural patrimony." This is because they fail to rise to the standard required by NAGPRA, i.e., they do not appear comparable in significance to the Tlingit as the Zuni War Gods and the Iroquois Confederacy Belts are to those tribes.

Our research indicates that Tlingit society ranked crests and crests objects in gradations of importance during the early 20th century and, indeed, the objects are still ranked in that fashion today. In our letter of January 28, 2000, we asked you to respond to the issue of crest rank. While your letter of February 28, 2000 responded that, "[a]ll of our crests including Raven are equally important in that they embody spirits [and] represent our

ancestors" (p. 5), this statement appears to be contradicted by both the HTC claim and the anthropological literature.

Thus, the HTC text reads, "[o]ral traditions and ongoing customs affirm the recognized crests of the Snail House as the Mt. Fairweather Crest, the Sea Pigeon Crest, and also the Raven Crest" (HTC Claim, March 25, 1998 p.14). The anthropological literature states that the main crests of T'akdeintaan clan are either Mt. Fairweather or Sea Pigeon (also called Seagull). For example, Swanton (1908: 418) says that the T'akdeintaan clan had as its emblems a mountain at Cape Fairweather called Tsalxaín, which was represented on a hat. The distinguished Tlingit scholar Nora Dauenhauer (Dauenhauer and Dauenhauer 1990:7), has identified the Seagull as the primary crest of the T'akdeintaan clan.

The issue of crest rank is of considerable significance, since objects with your primary crest may be appropriate candidates for the category "objects of cultural patrimony." We base this view on our understanding of the anthropological literature. For example, de Laguna (1972: 453) states "(o)f paramount importance is the particular totemic crest which each sib (clan) assumes as its chief emblem or as its own exclusive prerogative." There are no objects in the Museum's collection that possess either the Mt. Fairweather Crest or the Sea Pigeon Crest.

We are aware of no anthropological source that mentions Raven as a primary T'akdeintaan crest. We do of course recognize that the T'akdeintaan clan is a member of the Raven moiety and thus is entitled to use the crest, as are all other clans of the Raven moiety. De Laguna (1972: 453) states "although moiety crests, and some others, are shared by several sibs (clans), what is far more important for the Tlingit is the distinctive emphasis which each sib tends to give to the common emblem." She also states, "while there are evidently several orders of crests, those derived from the major totemic animals are of primary importance" (de Laguna 1972: 455). There are five objects in the Museum's Snail House collection that may possess the Raven crest (NA 6863, N6843, NA6836, NA6835, NA6838).

There are apparently a number of other secondary crests represented by objects in the Museum's collection. An example is the Whale crest. According to Archie White (Tuqa-xawu II), the whale is the crest of the Chilkat Ganaxtedi and its "exclusive ownership is not to be disputed." The T'akdeintaan acquired the crest (in the form of a wooden house screen with the whale crest) in payment for a slave's freedom. The Museum's collection contains two objects with the Whale crest, a blanket (NA6848) and dance collar (NA6855).

Another example of a secondary crest is the Lituya Bay Rock crest. While Edith Bean's and Mary Wilson's account provided in the HTC claim of March 25, 1998 supports the significance of Lituya Bay to your clan (p.9), the HTC claim also states that the Lituya Bay Rock robe (NA6829) "*may* serve as title to a specific site and locale recognized as T'akdeintaan Clan territory" (p. 8, our emphasis). Because the statement by Bean and Wilson provides only partial evidence - any link between the robe, rock, and bay is not

explicitly discussed - we are not convinced that this object meets NAGPRA's definition of an "object of cultural patrimony."

Finally, some objects do not appear to be crest objects at all. Some of these are objects associated with specific ceremonies. For example, the cedar bark objects and the flutes and whistles associated with the Tsimshian secret society (Lukanaa) (NA 6850-5, NA 6856-61) do not appear to be as important as primary or even secondary crest objects. We understand that these ceremonies are no longer performed. In addition, some objects bear crests that seem to be associated with other clans entirely, for example, the beaver frontlet (NA 6841). Other objects claimed are associated with shamans. These objects apparently bear representations of the shaman's helping spirit, not clan crests. The anthropological literature states that these objects are the personal property of an individual shaman (de Laguna 1974). Numerous sources indicate that shaman's objects were considered dangerous and that only a shaman's assistant who shared similar taboos might safely come into contact with them (de Laguna 1972:685). Can you explain the process of how objects belonging to shamans became communally owned?

To conclude, it is unclear to us whether Mt Fairweather or Seagull is the primary T'akdeintaan crest. We consider the other crest objects, including the Raven crest - a moiety crest - to be secondary crests. Based on the evidence currently available to us, we do not consider these secondary crest objects, or the non-crest objects, to be "objects of cultural patrimony." We request clarification from you on these points, and encourage you to provide us with oral history or any other evidence related to the specific objects in the Museum's collection.

Sacred Objects

"Sacred objects" are defined by NAGPRA as "specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents." NAGPRA regulations note that these regulations "are specifically limited to objects that were devoted to a traditional Native American ceremony or ritual and which have religious significance or function in the continued observance or renewal of such ceremony."

In our letter of January 26, 2000, we asked you to provide information on the "sacred" character of the 25 objects claimed within this category. To date, you have not fully stated the specific need for each object claimed. In fact, the HTC claim of March 25, 1998, simply lists the 25 objects by number and states that they are needed by the Clan leaders as part of religious renewal (p. 18). You have noted no specific religious ceremonies in which these objects are used. As required by NAGPRA, we request that you provide a discussion of each individual object's sacred character. As part of that discussion, please indicate the need for each specific object, the specific religious ceremony or ritual in which each object played(s) a role, and any evidence that the performance of that ceremony or ritual is being conducted or renewed.

As one example, you claim the tobacco pipe, NA 6862, as a "sacred object" under NAGPRA. However, the HTC claim of March 25, 1998 provides no specific information about the sacred character of pipes, and simply lists this pipe as an object, among others, "needed in ceremonial rites in which clan members participate (HTC claim, March 25, 1998, p. 18). The HTC claim states that you need the pipe so that the spirits associated with it can be restored, and so that the Tlingit can be associated with the spirits represented in the pipe (HTC claim, March 25, 1998, pg. 18). Again, you have unfortunately provided no evidence to demonstrate that the pipe is devoted to a particular ceremony or ritual, or that this particular ceremony is being renewed.

We note that, you have provided (under the heading of "objects of cultural patrimony") some specific information in the case of shamanic objects, identifying the ceremony in which four shamanic objects are used as the Spirit Dance (NA6828, NA 6831, NA 6847, NA 6833). The HTC claim indicates that the clan leader, through his Naakani (clan brother-in-law) designates who will dance and who will assist in the dance (p. 10).

Regarding the Spirit Dance (or Yeikootee), anthropological sources state that Shaman's songs are not always reserved for serious shamanic purposes, but may be sung for dramatic masked dances at potlatches, in which the spirit (yek) of the hosts' sib [clan] is imitated" (de Laguna 1972: 571). "The...spirit was one that belonged to an ancestor [of the dancer], probably his mother's father" (de Laguna 1972: 629). This indicates a commemorative rather than shamanic purpose. Another writer suggests the dance was performed for entertainment - "Occasionally they [shamans] would put on exhibitions of their skills at potlatches but this is not very common, and the 'spirit dances,' performed by laymen at potlatches, are intentionally humorous imitations of shamanic performances"(McClellan 54:95). We would welcome your comments on these statements that the Yeikootee was not shamanistic, religious, or perhaps even commemorative.

The HTC claim further indicates that the four shamanic objects claimed are necessary for the renewal of spiritual ceremonies (HTC claim, March 28, 1998, pg. 10), suggesting that there is more than one such ceremony. For these reasons, and based on the evidence currently available to us, these objects do not appear to fit the definition of "sacred objects" under NAGPRA. We welcome additional information from you on these points.

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UNIVERSITY OF PENNSYLVANIA MUSEUM
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October 25, 2001

Ronald D. Williams, Trustee
Huna Heritage Foundation
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Juneau, AK 99801

Kenneth J. Grant, President
Hoonah Indian Association
P.O. Box 602
Hoonah, AK 99829

Dear Mssrs. Grant and Williams:

The University of Pennsylvania Museum of Archaeology and Anthropology (UPM) Committee on Repatriation has been working diligently through the spring and summer in an effort to respond to your claim of May 2, 2001. However, before we can complete the process, we respectfully request additional information regarding two pieces of evidence discussed in your May 2, 2001 claim.

1. In your claim you mention letters in the possession of Mrs. Lily White and Archie White's descendants that indicate that Archie White did not sell the objects claimed.

   "[S]he [Lily White] has letters from him [Archie White] in her possession which supports her statements." (May 2, 2001 Claim: 26)

   "In support of their [Archie White's descendants] position, they refer to letters in their possession from Mr. White written shortly before his death, which condone [sic] the sale and loss of at.óow." (May 2, 2001 Claim: 28)

Can you please provide UPM with copies of these letters.

2. In your letter you mention a Peacemaking Ceremony of 1958 at which Joe White gave a Chilkat blanket to Mary Sarabia. Because Richard Dalton was not present, it is unclear how to weigh his statements, noted below:

"According to the history, Joe White gave this robe to Mary, for the benefit of descendants of T'áax̲' Hit, in recognition of the wrongdoing that was committed by his mother. Although Mr. Dalton was not present to hear the words that were spoken by Joe White, he (Dalton) said, 'I'm pretty sure what he say, that "I don't think that I will be able to be big enough to pay you back what my mother did'" and '"please accept this,'" "like a peace offering". (May 2, 2001 Claim: 29)

Can you provide us with specific information regarding what took place at the ceremony and whether or not you believe that the ceremony sheds light on who sold the objects.

We believe this information will enable us to make a decision regarding your claim.

If you have any questions, please do not hesitate to contact us. We are committed to working with you to resolve this important matter.

Sincerely,

Jeremy A. Sabloff
The Williams Director

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May 21, 2002

VIA FACSIMILE &
FIRST CLASS MAIL
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Executive Director
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RECEIVED
MAY 30 2002
HUNA TOTEM CORP.
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Ernest W. Hillman, Jr. Chairman
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Dear Gentleman:

The University of Pennsylvania has completed its careful and thorough evaluation of the Hoonah Indian Association (HIA) and the Huna Heritage Foundation (HHF) claim for the Snail House objects and the Marmot frontlet, totaling 45 objects.

On the basis of the evidence provided by your claim and the results of our extensive research, the University has determined that it has the right of possession as defined by the Native American Graves Protection and Repatriation Act (NAGPRA). The University has also determined that none of the objects claimed fits the definition of

Objects of Cultural Patrimony. However, in the process of evaluating the objects and the claim, the University Repatriation Committee identified certain objects that appear to hold particular historical significance to the T'akdeintaan clan. While not required by NAGPRA, out of respect for the clan and Tlingit culture, and in an effort to reach out to the T'akdeintaan to resolve this claim, the University is willing to consider the return of some of these objects, and the extension of other accommodations to make the remainder of the collection accessible to the clan. The reasons for the University's decision are outlined below.

1. The University has determined that the evidence regarding the sale and acquisition by the Museum of the 44 Snail House objects demonstrates that the University has the right of possession to these objects. The right of possession is defined by NAGPRA as "possession obtained with the voluntary consent of an individual or group that had authority of alienation."

   - Seller: A review of all of the evidence, including the detailed records of Louis Shotridge and other documentation, clearly supports the conclusion that Archie White sold the Snail House objects to Louis Shotridge in 1924 for $500.00.

   - Authority: Archie White had the authority to sell the collection in his capacity as House Master at the time of alienation. There is no evidence that the community objected to the sale at the time or sanctioned Archie White because of the sale, and he did not lose standing within the Hoonah community as a result of the sale. He was "chief of the local tribe and president of the Orthodox Brotherhood" when he died in 1939 (Kan 1999:492).

   - Alienation: At the time these objects were sold, there was a well-documented practice of house masters and chiefs selling these types of objects to Shotridge and other collectors. There is substantial historical documentation that the Tlingit society was changing due to the influences of the Alaskan Native Brotherhood, the Russian Orthodox Church, and the Protestant Church in ways that encouraged the sale of these objects. This appears to have been the case at Hoonah. According to Sergei Kan, "the biggest supporter of the Hoonah Orthodox was Dimitri Tukk'axaaw (Archie White). He remained the president of the Holy Cross Brotherhood until his death in 1939, and it was at his house (the Mt. Fairweather House), the highest ranking house of his clan (the T'akdeintaan), or at the closely related house next door (Raven House, headed by William Johnson) that the church society usually held its 'testimonial' meetings and choir practice." (Kan 1999:490).

2. The University has determined that the 44 Snail House objects do not meet all of the criteria set forth in the definition of Objects of Cultural Patrimony. The NAGPRA regulations define Objects of Cultural Patrimony as objects (1) "having ongoing historical, traditional or cultural importance central to the Indian tribe...," (2) "of such central importance that they may not be alienated...," and (3) that were "considered inalienable by the culturally affiliated Indian tribe...at the time the object was separated from the group." While some of the claimed objects may meet certain of these criteria, none fits all the statutory requirements. Below is a brief summary of the Repatriation Committee's evaluation of how the objects relate to the statutory criteria.

   - Status: Your claim identifies all 45 objects as T'akdeintaan clan "*at.oow,*" and you have argued that since the objects are *at.oow*, they meet the definition of Objects of Cultural Patrimony under NAGPRA. According to the Tlingit scholar Nora Dauenhauer (1995:25), *at.oow* can be translated as "an owned or purchased thing or object." The University does not dispute that some of the objects were once clan *at.oow*. However, the University regards *at.oow* as a necessary, but not sufficient, condition for an Object of Cultural Patrimony. Dauenhauer (1995:26) provides a valuable description of the process of how objects become *at.oow* in which objects are first used in ceremonies as *ash koolyát kanaa.ádi* "play clothes" and then are "brought out" in the memory of a deceased relative. Significantly, she states that "*at.oow* may increase in value" and "money brought out in a ceremonial in the name of an *at.oow* in memory of its owner increases the value of the *at.oow* both monetarily and spiritually." This demonstrates that there is a ranking of objects within the category of *at.oow*. For example, we believe that the Mt. Fairweather Dog hat and the Mt. Fairweather Women hat (neither of which is in the collection) occupy a higher rank or status than any of the objects in the collection of the University. For these reasons, the fact that some objects were once *at.oow* does not mean that they meet the statutory definition of Objects of Cultural Patrimony.

   - Ongoing significance: The University recognizes that some of the objects may have ongoing significance to the T'akdeintaan clan today since similar objects are used today in potlatches and other ceremonies.

   - Centrality: The Huna Totem Corporation identified three "recognized crests": Mt. Fairweather Crest, Sea Pigeon Crest, and Raven Crest. Tlingit scholars Rosita Worl (1998:304) and Nora Dauenhauer (1994:7) identify the Sea Pigeon/Seagull/Tern as the main or major crest of the T'akdeintaan clan. None of the claimed objects display the Sea Pigeon crest, although one has a Mt. Fairweather crest association, and seven are possibly related to the Raven crest. The objects are generally not

"primary" object types identified by Shotridge (1919:43), de Laguna (1972:452), and elsewhere in the anthropological literature. There are no clan hats, helmets, house posts, or batons in the group of objects. Moreover, while the University is aware of historical information with respect to some objects, with respect to other objects, we have not found or been provided with any historical information (e.g., the human hair headdress) and thus their historical significance is unknown.

- Communal ownership: While some of the claimed objects may have once been communally owned, this does not mean that they were considered to be communal property at the time of the sale. On the contrary, Shotridge wrote to George Byron Gordon ten months before the Snail House collection was acquired (1/7/1924), "I have been shown a number of other collections of fine old things, the immediate disposition of which is at present difficult for the owners who in some cases, hold a claim only that of a custodian, but such men are fast becoming sole owners." Some house masters felt justified in claiming objects as their own and selling them if, for example, they felt the objects would no longer be properly cared for or to forestall conflict over the objects (de Laguna 1972).

- Alienation: For reasons discussed above under Point 1, (Right of Possession), the University has determined that the objects were not considered inalienable at the time of the sale.

3. The University has determined that the evidence regarding the sale of the Marmot frontlet demonstrates that the University has the right of possession to this object.

   - Seller: Mrs. Augustus Bean, a member of the T'akdeintaan clan and wife of Augustus Bean of the Kagwantaan clan and living in Sitka, sold the frontlet to Louis Shotridge in 1918 for $60.00.

   - Authority: The University determined that Mrs. Bean had the authority to sell the frontlet as it was her personal property. The basis for this conclusion is further explained in Point 4 (Communal Ownership).

   - Alienation: There is no evidence that Mrs. Bean did not voluntarily sell the Marmot frontlet or that it was considered to be inalienable at the time of the sale.

4. The University has determined that the Marmot frontlet does not fit the statutory definition of Object of Cultural Patrimony.

   - Ongoing significance: There is no basis to conclude that the frontlet has ongoing significance beyond the claim's general assertion.

- Centrality: The Marmot is not a known T'akdeintaan clan crest. Moreover, Shotridge writes that the Marmot frontlet, "like most headdresses of this style, was made more for show than for its history" (1919:48).

- Communal Ownership: There is no evidence that the frontlet was communally owned at the same time of sale. Our documentation suggests otherwise. Shotridge notes that this object was made for show and "hence it may not necessarily be classed as a possession of the house group" (1919:48). Sergei Kan states that by the second half of the nineteenth century frontlets had become gift items and were in the process of becoming personal property (1989:130).

- Alienation: For reasons discussed above, the University concludes that the frontlet was not considered inalienable at the time of sale.

In the process of evaluating your claim, the University worked diligently to ensure a fair and respectful evaluation of the claim with regard to each of the 45 objects. The Repatriation Committee reviewed not only the evidence the Museum had and all of the evidence that you provided, but also other scholarly evidence that the Museum could identify and obtain. As a result, evidence found in various sources, some not cited in your claim, was useful to us in understanding the ongoing significance of some of the claimed objects.

From our careful review of all the evidence, some objects emerged as having particular historical significance. Some objects are associated in some way with individual house masters or leaders of the Snail House family. Some were commissioned or owned by early house masters and one was commissioned by Archie White, the house master whom we believe sold the collection in 1924. We are aware that the T'akdeintaan clan possesses copies of three of these objects (Brass hat, Sun mask, Ravine frontlet) and uses the ancestral name associated with one of the objects (Commander of the Tides mask). Some of the objects were named in history, and were associated with one or more known historical events. And some objects were associated with major clan crests.

We understand that in Tlingit culture, strong artistic and oral traditions link past and present, and objects embody history, mythology, belief, and memory. Because of their histories and associations, objects are revered and are actively used in many community events. These occasions bring to life and renew the meanings and associations that each object entails. The use of objects, and the oral histories that tell about them during their use at commemorative events, marks the identity of Tlingit members and simultaneously reenacts and reconfirms the history of the Tlingit people.

With this understanding, the University of Pennsylvania is prepared to consider the return of some objects that have particular historic significance. In making this offer we recognize our historical and ongoing relationship with the Tlingit people that begins with the collector, Louis Shotridge, himself a Tlingit native. One of the earliest Native Americans to be employed in an American Museum, Shotridge held the position of Assistant Curator at the Museum from 1915-1932. While Shotridge is a controversial figure today, he was regarded highly enough during his lifetime to have been elected Grand President of the Alaska Native Brotherhood in 1930. He was a respected and professionally trained anthropologist and the first indigenous transcriber and translator of Tlingit oral literature. His documentation of the histories, associations, and meanings of Tlingit objects is among the finest available among the Museum's collections and is a rich source of history about the Tlingit people.

While the University is not required by NAGPRA or otherwise to return any of these objects, in recognition of their importance to the T'akeintaan clan at this time, the University is prepared to return certain objects, as mutually agreed. We make this offer to demonstrate our commitment to the preservation of Native American cultures and to show our respect for the clan and its heritage. Moreover, in addition to considering returning certain objects, the University is eager to explore other ways of making the remaining objects available to the Hoonah community by supporting collaborative and mutually beneficial programs. Examples of collective efforts may include loans, traveling exhibitions, educational programs, and/or visiting artists and internship programs.

The Trustees of the University of Pennsylvania have authorized us to pursue these avenues with you, subject to their final approval. We hope to be able to work cooperatively and constructively with you to resolve this claim in a way that furthers the preservation of Tlingit culture while supporting the educational and scholarly mission of the University.

Sincerely,

Jeremy A. Sabloff

Jeremy Sabloff
Williams Director

cc: Robert Stearns, Program Manager, National NAGPRA Program
Judith Rodin, President
Robert Barchi, Provost
Peter Conn, Deputy Provost
Wendy White, General Counsel

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Received
FEB 07 2003
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December 18, 2002

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Dear Gentlemen:

I am writing in response to your letter of December 6, 2002, requesting documentary evidence to support the Museum's determination regarding your claim—specifically, copies of the research. While we believe that some or all of our available research has already been provided, we are working to ensure that we provide what we can that is responsive to your request. Given the holidays and the University's winter break, we hope to provide this information by the end of January.

Sincerely,

Jeremy A. Sabloff
Williams Director

cc: John Robbins

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May 19, 2005

VIA FACSIMILE &
FIRST CLASS MAIL

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Ronald Williams, Vice-Chairman
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Dear Ken, Marlene, Albert, and Ron:

It was a great pleasure hosting all of you here at the Museum in April. I was very pleased to meet each of you, as well as Lily and Jake White, Mike See, Gordon Greenwald, Chuck Smythe and Rosita Worl and to participate in at least some of the conversations and events held during your visit. I hope the trip was as useful for all of you as it was for us, and I look forward to our continued conversations regarding your repatriation claim and to developing long-term interactions with you and our Museum.

As we discussed on April 28, I am writing to put forth a proposed plan of action regarding your request.

It is our understanding that the joint claim you submitted on May 2, 2001 will be revised. Once we have received the revised claim, the Repatriation Committee will begin the re-evaluation process right away. The Committee is committed to putting your claim at the top of its agenda and anticipates the evaluation to take approximately six months.

The Repatriation Committee will make a recommendation regarding your revised claim to me. I, in turn, will meet with the University's Provost and President to inform them of the Museum's recommendation regarding your claim. As I mentioned during your visit, a new Provost will start at the University on July 1, and I hope to begin working to educate him on repatriation-related issues. In collaboration with the University's President, the Provost will ultimately present the Museum's recommendation regarding your claim to the Board of Trustees of the University. Assuming we receive your revised claim within the next few months, this process will likely take us into late spring of 2006. We will keep you informed of our progress as this process moves forward.

On behalf of the Museum, I would like to express my gratitude to each of you for your willingness to work together with us on this important matter. We hope that this is the beginning of a productive relationship that may evolve into loans, internships, and other joint projects. Please do not hesitate to contact Stacey Espenlaub, NAGPRA Coordinator, at 215.898.0937/staceye@sas.upenn.edu, should you have questions of any kind. We look forward to hearing from you.

Sincerely yours,

Richard M. Leventhal
The Williams Director

RML/soe

RECEIVED
4/3/05

24

Penn Museum
UNIVERSITY of PENNSYLVANIA MUSEUM
of ARCHAEOLOGY and ANTHROPOLOGY

September 5, 2008

RECEIVED
SEP 12 2008
HUNA TOTEM CORP.

Russell Dick, Chairman
Huna Totem Corporation
9301 Glacier Highway
Juneau, AK 99801

Frank Wright, Jr., President
Hoonah Indian Association
PO Box 602
Hoonah, AK 99829

Dear Chairman Dick and President Wright,

Thank you for your letter dated July 10, 2008 which relates to your joint claim for objects currently held in the University of Pennsylvania Museum of Archaeology and Anthropology (Penn Museum).

As stated in your letter, we understand that you wish to consider the repatriation requests for the Mount Fairweather Peace Hat (NA8494) and the Octopus Tentacle Staff (NA10513) as independent and separate claims from each other and also from the original claim for 45 objects including the Snail House collection (NA6828-NA6863, NA6865 & NA6866) and the Marmont frontlet (NA8498). We support and understand the need to move ahead in this way. We look forward to receiving any additional information that you may be able to provide related to the Peace Hat and the Octopus Staff.

In regard to your request that we move forward on the original repatriation request, since our last correspondence. the Museum Committee on Repatriation has begun its re-evaluation of your claim for the Snail House objects. The Committee anticipates that it will complete its review by the late fall, at which time it will present a recommendation regarding your revised claim to me. I, in turn, will meet with the University's Provost and President to inform them of the Museum's recommendation regarding your claim, and they will pursue appropriate input from the University's Board of Trustees. We hope to get through the entire process by early winter; however the Board's meeting schedule is not in our control.

We will keep you informed of our progress as this process moves forward. Please do not hesitate to contact Stacey Espenlaub, NAGPRA Coordinator, at 215.898.0937/staceye@sas.upenn.edu, should you have questions of any kind.

Sincerely,

Richard Hodges
The Williams Director

RML/soe

cc: Marlene Johnson, Chairman, Huna Heritage Foundation
Kenneth Grant, T'akdeintaan Clan Spokesperson
Adam Greenwald, Head of Snail House

Penn Museum
UNIVERSITY of PENNSYLVANIA MUSEUM
of ARCHAEOLOGY and ANTHROPOLOGY

March 30, 2007

VIA FACSIMILE &
FIRST CLASS MAIL

Marlene Johnson, Chairman
Huna Heritage Foundation
Acting on Behalf of Huna Totem Corporation
9301 Glacier Highway
Juneau, Alaska 99801
907-789-1896 fax

Mr. Frank Wright, Jr., President
c/o Johanna Dybdahl
Tribal Administrator
Hoonah Indian Association (IRA)
P.O. Box 602
Hoonah, AK 99829-0602
907-945-3703 fax

RECEIVED
APR - 6 2007
HUNA TOTEM CORP.

Dear Marlene and Johanna,

Thank you for your letter of February 5, 2007 in which you asked how long it will take us to respond to the Hoonah Indian Association and Huna Heritage Foundation (on behalf of Huna Totem Corporation) joint revised repatriation claim for 47 Tlingit objects in the Penn Museum's collection.

The Museum Committee on Repatriation has begun its review of your claim. Among other things, at this initial stage, the Committee will determine whether it needs any more information to make a full determination regarding your claim. The Committee's hope is to complete its review by the summer and to bring the claim forward to the University's Board of Trustees in the fall. You should know that the Provost of the University is presently conducting a search for a new Director of our Museum. The timing of this appointment could affect the timing of a decision on your claim as it is the Director that brings recommendations on claims forward to the University level.

With all of this said, please know that the staff you and your Tlingit colleagues worked closely with when you visited us here in April of 2005 is working diligently on your claim.

Thank you so much for your patience. We all look forward to our continued conversations and to a resolution to your repatriation claim.

Sincerely yours,

Jeremy A. Sabloff
Interim Director

JAS/soe

25

UNIVERSITY OF PENNSYLVANIA MUSEUM
of Archaeology and Anthropology

3260 South Street • Philadelphia, PA 19104-6324 • Telephone 215.898.4000 • Facsimile 215.898.0657

16 January 2009

Russell Dick, Chairman
Huna Totem Corporation
9301 Glacier Highway
Juneau, AK 99801

Frank Wright, Jr., President
Hoonah Indian Association
PO Box 602
Hoonah, AK 99829

Dear Chairman Dick and President Wright,

Thank you for your letter dated 8 December 2008 in which you requested an update on our progress regarding your joint repatriation claim for 45 Tlingit objects in the Penn Museum's collection.

Since our last correspondence, the Museum Committee on Repatriation has completed its review of your claim for the 44 Snail House objects and the Marmot Frontlet headdress and is in the process of finalizing its recommendation. I expect to receive this recommendation within the next few weeks.

We will keep you informed as this process moves forward. Please do not hesitate to contact Stacey Espenlaub, NAGPRA Coordinator, by telephone at 215.898.0937 or via email at staceye@sas.upenn.edu, should you have questions of any kind.

Sincerely,

Richard Hodges
The Williams Director

RML/soe

cc: Marlene Johnson, Chairman, Huna Heritage Foundation
Kenneth Grant, Takdeintaan Clan Spokesperson
Adam Greenwald, Head of Snail House

Received
JAN 20 2009
Huna Heritage Foundation

26

Huna Heritage Foundation

From: Kathy Miller
Sent: Monday, January 26, 2009 8:45 AM
To: 'Stacey O. Espenlaub'
Subject: RE: Letter to U Penn

Importance: High

Good morning, Stacey

We are in receipt of your letter dated 16 January 2009. Thank you for the update on the progress of our claim for the 44 "Snail House" items and the Marmot Frontlet. Although we realize that there is a complicated process for your museum to go through on these matters, the Snail House members of the T'akdeintaan clan are preparing for a meeting to discuss what actions to take next.
They would like to know if there is a chance that they will have a definitive answer before the end of February?

Thanks, Stacey-
Kathy

Kathy Miller, M.A.
Executive Director
Huna Heritage Foundation
kmiller@hunatotem.com
Phone: 907.523.3682
Fax 907.789.1896
www.hunaheritage.org

From: Stacey O. Espenlaub [mailto:staceye@sas.upenn.edu]
Sent: Tuesday, January 20, 2009 6:05 AM
To: Kathy Miller
Subject: RE: Letter to U Penn

Hi Kathy,

Happy New Year!

I mailed the letter on Friday, January 16. You should receive it soon. Please let me know if it does not arrive within the next week and I will resend.

Thank you,
Stacey

PS: I just saw a fax number on your signature. I'll fax it to you today.

At 06:20 PM 1/19/2009, you wrote:

od afternoon, Stacey-

Hoonah Indian Association
PO Box 602
Hoonah, AK 99829

AND

Huna Totem Corporation
9301 Glacier Highway
Juneau, AK 99801

January 28, 2009

Dr. Richard Hodges, Williams Director
University of Pennsylvania Museum of Archaeology and Anthropology
3260 South Street
Philadelphia, PA. 19104

Re: Hoonah Indian Association and Huna Totem Corporation Repatriation Claim

Dr. Hodges,

We are in receipt of your letter dated 16 January 2009. Thank you for the update on our claim for the 44 "Snail House" items and the Marmot Frontlet. Although we realize that there is a complicated process for your museum to go through on these matters, the Snail House members of the T'a<u>k</u>deintaan clan are preparing for a late February meeting to discuss what actions to take next. We hope to have a definitive response from your museum by then.

Sincerely,

Russell Dick, Chairman
Huna Totem Corporation

Frank Wright, Jr. President
Hoonah Indian Association

cc: Huna Heritage Foundation
Marlene Johnson, HHF Chairman
Kenneth Grant T'a<u>k</u>deintaan Clan Spokesperson
Adam Greenwald, House Leader

Huna Heritage Foundation

From: Stacey O. Espenlaub [staceye@sas.upenn.edu]
Sent: Wednesday, February 04, 2009 6:45 AM
To: kmiller@hunatotem.com
Cc: staceye@sas.upenn.edu
Subject: RE: Letter to U Penn

Dear Kathy,

Thank you for your email. In response to your question, we will not be able to provide a definitive response to the T'akdeintaan by the end of February. We are working to get this item on the agenda of the University's Board of Trustees meeting in June.

With many thanks,
Stacey

Quoting Kathy Miller <kmiller@hunatotem.com>:

> Good morning, Stacey
>
> We are in receipt of your letter dated 16 January 2009. Thank you for
> the update on the progress of our claim for the 44 "Snail House" items
> and the Marmot Frontlet. Although we realize that there is a
> complicated process for your museum to go through on these matters,
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> meeting to discuss what actions to take next.
> They would like to know if there is a chance that they will have a
> definitive answer before the end of February?
>
> Thanks, Stacey-
> Kathy
>
>
> Kathy Miller, M.A.
> Executive Director
> Huna Heritage Foundation
> kmiller@hunatotem.com<mailto:kmiller@hunatotem.com>
> Phone: 907.523.3682
> Fax 907.789.1896
> www.hunaheritage.org<http://www.hunaheritage.org>
>
>
> From: Stacey O. Espenlaub [mailto:staceye@sas.upenn.edu]
> Sent: Tuesday, January 20, 2009 6:05 AM
> To: Kathy Miller
> Subject: RE: Letter to U Penn
>
> Hi Kathy,
>
> Happy New Year!
>
> I mailed the letter on Friday, January 16. You should receive it soon.
> Please let me know if it does not arrive within the next week and I
> will resend.
>

28

Hoonah Indian Association
PO Box 602
Hoonah, AK 99829

AND

Huna Totem Corporation
9301 Glacier Highway
Juneau, AK 99801

February 22, 2009

David Tarler, DFO
National NAGPRA Program
National Park Service
1201 Eye Street, NW (8th Floor)
Washington, D.C. 2005

Re: Dispute Between Huna Totem Corporation/Hoonah Indian Association and the University of Pennsylvania Museum relative to the "Snail House Collection" and the Marmot Frontlet

Dear Mr. Tarler,

Pursuant to 25 U.S.C. 3006 (c), Huna Totem Corporation (HTC) and Hoonah Indian Association (HIA), both federally-recognized tribes for the purposes of Native American Graves Protection and Repatriation Act, jointly and respectfully request the NAGPRA Review Committee to facilitate the resolution of a dispute between them and the University of Pennsylvania Museum (UPM).

Since initially making the request for repatriation for items in the "Snail House Collection" in 1995, the HTC or its non-profit arm, the Huna Heritage Foundation (HHF), and the HIA have submitted information and documentation in support of its claim on seven occasions, most recently on Dec. 15, 2006. As of the date of this letter, we have been informed that the decision of the University trustees on the 2006 submission is not expected until June of this year. The UPM has continually found that NAGPRA standards of proof are unmet with regard to the definitions of repatriatable items (objects of cultural patrimony and sacred objects), and the right of possession. Since the claim is entering its 14th year, and in order to meet your office's deadline to address dispute cases for the May 2009 NAGPRA Review Committee meeting, we are requesting that the Review Committee hear this dispute.

The following is a brief summary of the major issues of this case. Should you and the NAGPRA Review Committee deem that the case is worthy for a hearing, we will submit additional information in support of our claims including a summary discussion of facts for each requested item, as well as a more detailed discussion of interpretation of the facts of the case as a whole.

A. Statement of Relevant Facts

The Snail House (*Tax̲' Hít*) is another name for the Mt. Fairweather House (*Tsalx̲áan Hít*) of the T'ak̲deintaan Clan of Tlingit Indians from Hoonah, Alaska. The house was the principal house of the T'ak̲deintaan Clan and its master, Archie White, was the *Shaadeihani* (Clan Leader) at the time the "Snail House Collection" was acquired. The items in the "Snail House Collection" were in the possession of the 'Snail House Family' at the time they were acquired by Louis Shotridge, a Tlingit Indian from Klukwan, AK, in the employ of the museum. In notes and published articles, the collector described such items as "heirloom possessions," "old relics," "original things that had been in the possession of the chief's ancestors," and "ancestral objects handed down within the house group."

Huna Totem Corporation (HTC) and Hoonah Indian Association (HIA) are Indian tribes with standing to bring claims for the repatriation of objects under NAGPRA (43 CFR Part 10, Sec. 10.2(b)(2)). The Huna Heritage Foundation (HHF), a non-profit arm of HTC, often served as representative of HTC during the conduct of this claim and continues to do so. The term 'HHF' shall be used to signify both HTC and HHF in the following discussion.

HHF initiated a repatriation claim for 34 items in the UPM "Snail House Collection" as objects of cultural patrimony in 1995 under 25 U.S.C. 3001 Section 2(3)(D). This claim was later (1998) expanded to all 44 items in the Snail House Collection and one additional item, the Marmot Frontlet, after receipt of additional information from UPM. This claim was denied on May 18, 1998, because the tribes' information was inadequate to support a finding that the items fit NAGPRA definitions of objects of cultural patrimony, and because there were competing clams between the two tribes. On Feb. 28, 2000, the tribes informed UPM that from this date forward they will be acting jointly in the request, and requested that UPM act on the claim.

On May 10, 2000, UPM denied the claim because the UPM has right of possession and the items were not objects of cultural patrimony. The UPM invited the tribes to answer a set of questions which they would take into consideration in further evaluation of the claim. On May 2, 2001, the tribes submitted a response to the list of issues and a detailed and extensive item by item claim, including additional information about right of possession under 25 U.S.C. 3001 Section 2 (13). This claim was denied on May 21, 2002.

A consultation meeting was held at the museum in April, 2005, at which the requested objects were viewed by clan members and elders from Hoonah. Acting upon the

suggestion of UPM staff, an extensive compilation of addition information was submitted on Dec. 15, 2006, in support of a claim for the items as sacred objects under 25 U.S.C. 3001 Section 2 (3) (C). It is this claim for which a decision of the University trustees is expected in June, 2009.

The items in the "Snail House Collection" are *at.óow* (clan possessions, the material and immaterial possessions of the deceased ancestors of the house or clan now in the possession of their living descendants). Such items are passed down to the house leader from his clan ancestors, represent individually and in total the unique history and identity of the clan and house group, and are used in Tlingit mortuary ceremonies and other celebrations. Such highly valued items are conserved under the custodianship of the house leader for ceremonial use by present and future generations of the clan, and would not be sold under customary and traditional practices. The custodian did not have the right to sell or give away such items except under certain special circumstances, and in no case would the transfer of an entire collection of *at.óow* ever occur.

The sale of clan-owned items to a museum collector is an individual act that is outside of customary and traditional Tlingit practices and law. Just as clan custodians cannot acquire clan-owned property as individuals, they do not sell or otherwise "alienate" such property as individuals. They are only entitled to conduct such transfers as a representative of the clan, and with transparency, on behalf of the entire clan. Legitimate transfers are extremely rare and unusual. In this case, there is no evidence that the sale was done transparently, with the knowledge and consensus of clan members. The preponderance of the evidence indicates that it was done in secret, without the knowledge of the clan, and resulted in shame for which the seller's son later made a very large contribution in a traditional ceremony.

Throughout this claim, UPM has maintained that the evidence submitted by the tribes is inadequate to support a claim for repatriation under NAGPRA, specifically that the UPM has right of possession and the items are not objects of such central significance that they fit the definition of cultural patrimony under NAGPRA. The UPM has set an extremely high standard of proof, and has requested responses to a detail list of issues and questions based mainly on their reading of the anthropological literature. The tribes have attempted to comply with these demands, but at the same time we are moving forward with this request for consideration of the dispute because the longevity of this claim (now in the 14th year) is indicative of an unsatisfactory resolution. During this time one clan leader has died (Richard Dalton, Sr., former member of the Smithsonian Institution Repatriation Review Committee), and knowledgeable elders are much older and growing more infirm as time passes. This is an intolerable situation to us.

To summarize, the tribes have submitted written information on the following dates:

Dec. 15, 1995
Feb. 12, 1998
March 25, 1998
Feb. 28, 2000

May 2, 2001
Nov. 27, 2001
Dec. 15, 2006

These submissions provide, in great detail, the available information about the history, significance and ceremonial use of these items in the context of Tlingit culture and traditions. This information is derived from oral history, traditional knowledge, museum records and the anthropological literature. Later submissions include item by item discussions. This material, in its totality, provides a preponderance of evidence that the requested items are objects of cultural patrimony and sacred objects, and that the right of possession belongs with the tribes.

B. Copies of Primary Documents

This material will be submitted at a later date; see attached.

C. Statement of Requesting Party's Interpretation of Facts

All of the items in the Snail House Collection are important *at.óow* of the T'akdeintaan clan that were owned and inherited as a single collection of clan possessions. They relate to specific historical events or spiritual encounters in the history of the clan, as described in HIA/HHF letters dated May 2, 2001 and Dec. 1, 2006. All crests, crest objects, and other items in a clan's collection have ongoing significance to a clan. All of the requested items are associated with clan ancestors, and all of them have been inherited through clan ancestors. All of them are associated with the clan's history and identity, and were preserved for use in Tlingit funerals, memorial potlatches and other ceremonies. While every crest, crest object and non-crest object is unique depending upon the history of its acquisition, its continued importance to the clan is signified by the stewardship that has preserved it through generations. Each of the requested items is of such central importance that they were passed down to the head of the Snail House/Mt. Fairweather House (and the T'akdeintaan Clan) as their custodian on behalf of all clan and house members.

All of these items are associated with the spirits of the clan ancestors who have acquired, used, preserved and passed them on to their descendants. These spiritual associations are evoked when objects are brought out (displayed or presented) at specific stages of funerals and memorial potlatches. The presence of spirits associated with clan *at.oow* is a fundamental characteristic of Tlingit ceremonials, for it is believed that their presence "give weight" to the words of grief, or of condolence and comfort, expressed to the opposite side. Indeed, the ceremonial use of canes and staffs is explained as an aid to hold up the orator, who is weighed down by the presence of these entities, when delivering his or her words to the other side. When the spirits have been evoked, they are able to receive the spiritual essence of the food and material goods that are distributed by the bereaved clan to members of the opposite side who have assisted them in their time of mourning.

The requested items were used by members of the house and clan in religious ceremonies and were preserved for that purpose. They are needed by T'akdeintaan religious leaders for their continued use in funerals and memorial potlatches to display their unique identity and history, and to evoke the spirits of clan ancestors who were involved in the acquisition of the item (and its crest, if applicable), of those who commissioned the item as a memorial to these ancestors, and of those who preserved and used it in subsequent generations. The ceremonial use of these objects calls forth the spirits of these ancestors so they can be present and receive the spiritual counterpart of the food and material goods that are distributed to the guests. They are needed for the performance of mourning songs and oratory presented at T'akdeintaan funerals and memorial potlatches, and when clan members are guests at traditional funerals and memorials for display and oratory to express comfort to the grieving clan and to "give weight" to their words. They are needed so that they can be placed on a grandchild during a memorial potlatch to honor that individual and the clan ancestors who owned the object in the past. These items were specifically devoted to traditional Tlingit funerary ceremonies and which have religious significance or function in the continued observance of these ceremonies. They are needed by traditional religious leaders of the T'akdeintaan clan for the continued practice of their traditional religion by the present day adherents.

Right of Possession

The items in the "Snail House Collection" were in the possession of the 'Snail House Family' at the time they were acquired by the museum's collector. In Tlingit culture and traditions, both in the past and continuing in the present, clan possessions (*at.oow*) are highly valued items used to represent the unique history and identity of the clan and house group during funerals, memorial potlatches and other ceremonies. These items are under the care and protection of the clan or house leader, and they are not transferred out of the clan's possession except under certain exceptional circumstances. These included both involuntary and voluntary situations: 1) as booty taken in war, 2) as indemnity for injuries or as part of a peace settlement, and 3) as a gift. These transfers were very rare and most often occurred as transactions between clans, as for example in response to causing injuries to a member of another clan for which the entire clan is held responsible.

Shotridge kept records of his expenditures related to the acquisition of the Snail House Collection, but there is no bill of sale and the identity of the buyer cannot be established with the museum's documentation as claimed by UPM. Although Shotridge recorded details about the ownership and origin of some items, and a story associated with the crest of a blanket which he attributes to the house leader, much of this information is superficial or inaccurate. The available evidence indicates that Archie White was a strong advocate for retaining Tlingit traditional customs and practices for much of his life. Some individuals have suggested that either he or his wife may have sold the collection, but no one knows; this understanding is based mainly on the fact that Archie's son Joe contributed very lavishly to a memorial (or peace) celebration at a later date, which they believe was a public act made in response to his father's (or his mother's) sale of T'akdeintaan and/or Shangukeidí items. Whatever occurred, it was done in secret by an individual without the knowledge or participation of the clan, which is clearly outside

of Tlingit customary law and practice. This is the extent of the available evidence that exists with regard to the loss of these items.

It is well-known that Louis Shotridge went to great lengths to acquire objects for the UPM. He believed that the old ways were past, and felt justified in acquiring clan heirlooms and treasures for the museum against tribal norms. In an article he wrote for the Museum Journal, he relates going into one of his own clan's houses in his native village, Klukwan, to remove a shark helmet. The only witnesses were aged women who wept while he removed the object. He admits that the removal would never have been possible if one of the true warriors of the clan were alive. The wife of Archie White, who some believe was responsible for selling these items, was a Shangukeidí from Klukwan, and it is possible that it was she who contacted Shotridge about the sale of the collection. According to oral history, Archie White was a strong traditionalist who rebuilt the Snail House/Mt. Fairweather House in Hoonah. He also painted the house panels that still stand in the Shangukeidí House in Klukwan, and when the time came for the clan to pay him, he refused it out of love and respect for his wife's people. It is difficult to conclude that he sold the clan's possessions with the available evidence.

D. Interested Parties

Huna Totem Corporation
Huna Heritage Foundation (representative of HTC)
Hoonah Indian Association
University of Pennsylvania Trustees
University of Pennsylvania Museum

Statement of Requesting Party's Understanding of the Other Party's Interpretation of Facts

The key to this case is the right of possession, which the UPM claims. The museum will argue that their agent, Louis Shotridge, "apparently" purchased the items from the house leader. The museum will argue that at the time the items were acquired, normative and traditionally sanctioned codes of behavior no longer operated through a combination of factors including the influence of the Russian Orthodox Church, of which Archie White was a leader in Hoonah, and the Alaska Native Brotherhood, which advocated for discarding old ways. These forces were associated with a weakening of the traditional culture and growing differences between older and younger generations with regard to fulfilling ceremonial obligations, and the belief among some traditionalists that it was better to sell ceremonial items than have them deteriorate unused.

UPM has also stated that the requested items are not objects of cultural patrimony because they do not rise to the level of Zuni War Gods or Iroquois wampum belts. According to UPM, only crest objects might rise to this level of importance. However, according to their reading of the anthropological literature, there are differences in rank and the issue of crest rank is of considerable significance. They will bring up distinctions

such as "primary' and "secondary" crests, "recognized crests," and the fact that some of the claimed objects are not crest objects at all. They have written, "we do not consider these secondary crest objects, or the non-crest objects, to be objects of cultural patrimony." Since none of the crest objects have been offered for repatriation, the tribes conclude that, in the view of UPM, the entire "Snail House Collection" falls into this category.

The UPM has stated that each item claimed as a sacred object must be devoted to a particular kind of ceremony specific to the type of objects it is, such as a pipe or a shamanic object, which was performed in the past and for which it is needed in the present. Their position is that items requested as sacred objects are not needed for specific ceremonies.

Note: The tribes have responded directly to some of these issues and allegations in their claim materials submitted on May 2, 2001, and Dec. 15, 2006. For example, one discussion may be briefly summarized as follows: Over time, some crests may be perceived as having grown in importance, while others may be viewed as having less centrality now than in the past. Although scholars and Tlingit people use terms such as "major" and "minor," "primary" or "secondary," "important," etc., in relation to crests, this does not signify that some crests or crest objects have less importance or significance to the clan and are thereby available for alienation by individuals, in a NAGPRA sense. Similarly, the fact that some crests are widely recognized as identifiers for the group as a whole, while others are less widely known, does not mean that the latter are less important or significant to the clan.

E. See Attachment

F. Statement of Efforts to Resolve Dispute

UPM acknowledges that certain objects hold particular historical significance and is willing to consider returning some of the items outside of NAGPRA and make the remainder accessible to the clan. This is not acceptable to the tribes. UPM has made it a practice to lend clan possessions to clans for their use in mortuary ceremonies, and then take them back to the museum in Philadelphia. The tribes do not agree with this activity.

G. Proposed Solutions

Repatriate requested items.

Sincerely,

Robert Wysocki, President & CEO
Huna Totem Corporation

Frank Wright, Jr. President
Hoonah Indian Association

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

TAKE PRIDE IN AMERICA

APR 0 2 2009

Richard Hodges
The Williams Director
University of Pennsylvania Museum of Archaeology and Anthropology
3260 South Street
Philadelphia, PA 19104-6324

Received
APR 0 7 2009
Huna Heritage Foundation

Dear Mr. Hodges:

On February 22, 2009, the Huna Totem Corporation and Hoonah Indian Association sent me a request asking that, pursuant to the Native American Graves Protection and Repatriation Act (25 U.S.C. 3006(c)(3) & (4)), the Native American Graves Protection and Repatriation Review Committee review and make findings, and facilitate a dispute related to the request of the Huna Totem Corporation and Hoonah Indian Association for the repatriation of certain items in the possession and control of the University of Pennsylvania Museum of Archaeology and Anthropology. The 46 individual items in question are identified by the Museum in 39 Catalog Numbers (NA6828-6863 (thirty-six numbers); NA6865-6866 (two numbers); and NA8498 (one number)).

The Huna Totem Corporation and Hoonah Indian Association assert that, taken together, the information they provided to the University of Pennsylvania Museum in twelve written requests dating between 1995 and 2006, more likely than not satisfies the criteria for a repatriation request, as set out at 43 C.F.R. 10.10 (a)(1)(i), (ii), and (iii). By contrast, the University of Pennsylvania Museum asserts, in written responses dated May 10, 2000, and May 21, 2001, that no item requested by the Huna Totem Corporation and Hoonah Indian Association meets the definition of "cultural items," as the term is defined at 25 U.S.C. 3001 (3). Further, the University of Pennsylvania Museum asserts that it has presented evidence proving that, more likely than not, it has a right of possession to all the items requested by the Huna Totem Corporation and Hoonah Indian Association, as the term "right of possession" is defined at 25 U.S.C. 3001 (13) and 43 C.F.R. 10.10 (a)(2).

Upon the request of any affected party, the Review Committee is responsible for reviewing and making findings related to the identity of cultural items or the return of such items (25 U.S.C. 3006(c)(3)). In addition, the Review Committee is responsible for facilitating disputes among Indian tribes and museums relating to the return of NAGPRA items, including convening the parties to the dispute (25 U.S.C. 3006 (c)(4)).

There appear to be issues of material fact between the Huna Totem Corporation and Hoonah Indian Association, on the one hand, and the University of Pennsylvania Museum, on the other, regarding the identity of the items in question and whether or not

the University of Pennsylvania Museum presented evidence proving that it has a right of possession to all the items requested by the Huna Totem Corporation and Hoonah Indian Association. Based on the existing written record, the Native American Graves Protection and Repatriation Review Committee has determined that a dispute exists, and has decided to convene the Huna Totem Corporation, Hoonah Indian Association, and the University of Pennsylvania Museum of Archaeology and Anthropology in order to make findings of fact and facilitate the resolution of the dispute. Consequently, the Review Committee will hear the dispute on Saturday, May 23, 2009, in Seattle Washington, and will consider the following questions:

1. **In their written request to the University of Pennsylvania Museum of Archaeology and Anthropology for repatriation of 46 individual items identified by the Museum in 39 Catalog Numbers (NA6828-6863 (thirty-six numbers); NA6865-6866 (two numbers); and NA8498 (one number)), did the Huna Totem Corporation and Hoonah Indian Association show that, more likely than not, some or all of the items were either "sacred objects," or "cultural patrimony," or both, as defined at 25 U.S.C. 3001 (3)(C)-(D) and 43 C.F.R. 10.2 (d)(3)-(4)?**
   a. **If yes, but only with regard to some of the items, which items were not shown to be sacred objects, cultural patrimony, or both.**

2. **If the answer to Question #1 is yes, then, in their written request to the University of Pennsylvania Museum of Archaeology and Anthropology for repatriation of the items shown to be sacred objects, or cultural patrimony, or both, did the Huna Totem Corporation and Hoonah Indian Association present evidence which, standing alone before the introduction of evidence to the contrary, would support a finding that, more likely than not, the Museum does not have a right of possession to those items, as the term "right of possession" is defined at 25 U.S.C. 3001 (13) and 43 C.F.R. 10.10 (a)(2)?**

3. **If the answer to questions #1 and #2 is yes, then, in their response to the written request from the Huna Totem Corporation and Hoonah Indian Association for the items shown to be sacred objects, or cultural patrimony, or both, did the University of Pennsylvania Museum of Archaeology and Anthropology present evidence proving that, more likely than not, it has a right of possession to the items, as the term "right of possession" is defined at 25 U.S.C. 3001 (13) and 43 C.F.R. 10.10 (a)(2)?**

I am enclosing with this letter a copy of the materials submitted to me by the Huna Totem Corporation and Hoonah Indian Association in support of their request. If the University of Pennsylvania Museum of Archaeology and Anthropology wishes to provide the Review Committee with information relevant for answering the questions presented, please do so on or before April 23 (electronic format is appreciated). If you have any questions about this matter, please contact me (202/354-2108; david_tarler@nps.gov).

Sincerely,

David Tarler

David Tarler
Designated Federal Officer
Native American Graves Protection and Repatriation Review Committee

cc: Robert Wysocki, President and CEO, Huna Totem Corporation
Frank Wright, Jr., President, Hoonah Indian Association
Kathy Miller, Executive Director, Huna Heritage Foundation
Dan Monroe, Chair, Native American Graves Protection and Repatriation Review Committee

enclosure: Huna Totem Corporation and Hoonah Indian Association request for the NAGPRA Review Committee to consider a dispute and appended exhibits

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Penn

Office of the General Counsel

Received
APR 28 2009
Huna Heritage Foundation

PENN Medicine

Wendy S. White
Senior Vice President and General Counsel

April 23, 2009

David Tarler
Designated Federal Officer
Native American Graves Protection and Repatriation Review Committee
United States Department of the Interior
Office of the Secretary
Washington, D.C. 20240

Re: NAGPRA Review of December 2006 Huna Totem Corporation and Hoonah Indian Association Repatriation Claim

Dear Mr. Tarler:

I am writing in response to your letter of April 2, 2009, informing us of the NAGPRA Review Committee's intention to review the December 2006 Huna Totem Corporation ("HTC") and Hoonah Indian Association ("HIA") repatriation claim for 45 Tlingit objects in the University of Pennsylvania Museum at the upcoming Review Committee meeting on May 23, 2009 in Seattle, Washington. You have also asked for us to supply whatever written documentation we choose to offer to the Review Committee by April 23, 2009.

The University of Pennsylvania Museum has worked collaboratively and diligently to address the new December 2006 claim presented by the HTC and HIA. We assure you that we understand the importance of this claim and are respectful of the concerns it raises. Nevertheless, we believe that now is not the time for the Review Committee to attempt to facilitate a resolution of the 2006 claim. As we have informed the HTC and HIA, the decision as to how to respond to the claim for the repatriation of 45 Tlingit objects is a decision that needs to be made by the Trustees of the University of Pennsylvania. We expect the Trustees to reach a decision at their meeting on June 18 – 19, 2009. Under these circumstances, and as discussed further below, we believe that it is premature for the Review Committee to define the claim as a dispute at this time. We believe that rather than facilitate resolution, it may only serve to impede the collaborative process that is contemplated by NAGPRA.

As reflected in the attached timeline, the current claim was presented to the Museum in December 2006. This claim represented a revision of a previous joint claim by the HTC and HIA, presenting a new argument that all of the objects fit the definition of sacred objects under NAGPRA. As a result of the revised position, the Museum Committee on Repatriation commenced a careful object-by-object evaluation of this revised claim. That process has only recently been completed and the Museum Committee is preparing to present its recommendation to the Museum Director and the University Provost. After this presentation, the matter will be scheduled for the June Trustee meeting.

The questions presented by the claim for repatriation of 45 objects are both factually and legally complex. The University has taken these issues very seriously and has worked hard to evaluate the revised claim in light of the evidence presented by the claimants, the factual background,

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Office of the General Counsel

PENN Medicine

Wendy S. White
Senior Vice President and General Counsel

scholarly research, expert review, and legal analysis. In responding to the prior claim of the HTC and HIA for the repatriation of the 45 objects as "cultural patrimony," the University concluded that the objects did not meet the statutory requirements for repatriation under NAGPRA (see letter of May 21, 2002 from UPM to HIA/HHF). Nevertheless, while the University concluded in response to that claim that the NAGPRA standards had not been met, the University made it clear that, out of respect for the claimants, their history and tradition, the University was prepared to enter into a dialogue which would allow for the loan and/or repatriation of the objects of greatest significance. In April of 2005, the Museum supported a consultation visit of eleven T'akdeintaan clan associates. At that meeting, the Museum agreed to reconsider their repatriation request pending the submission of a revised repatriation claim. We received the new claim in December of 2006. It is this revised claim, which now requests the objects as sacred objects and objects of cultural patrimony, and which presents new information, that we are currently in the process of addressing.

Accordingly, we ask that you defer your review to give the collaborative negotiation process adequate opportunity to resolve this matter. We believe this is consistent with the NAGPRA statute and with the role contemplated by NAGPRA for the Review Committee.

Because it is important for the Committee to have all relevant correspondence, we will also be providing some additional correspondence between the University and the claimants with this letter. This correspondence was not provided to you with the claimant's February 22, 2009 letter.

Should you determine not to remove us from the May Review Committee agenda, we request and expect that this letter will be read aloud in full and recorded into the public record to make it clear that the University is respectful of the process and has responded appropriately.

Sincerely,

Wendy S. White
Senior Vice President and General Counsel

cc: Robert Wysocki, President and CEO, Huna Totem Corporation (w/o enclosures)
Frank Wright, Jr., President, Hoonah Indian Association (w/o enclosures)
Kathy Miller, Executive Director, Huna Heritage Foundation (w/o enclosures)
Dan Monroe, Chair, Native American Graves Protection and Repatriation Review Committee (w/o enclosures)

Enclosures

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CLAIM HISTORY

1995 - 2001

The Tlingit T'akdeintaan Clan claim was initiated in September 1995 when the University of Pennsylvania Museum of Archaeology and Anthropology (the Museum) received a claim for 34 objects as Objects of Cultural Patrimony from the Huna Totem Corporation (HTC) on behalf of the T'akdeintaan clan, Snail House. These objects consist of 34 objects from the Snail House collection, purchased by Louis Shotridge in 1924. Our research indicates that he purchased these objects from Mr. Archie White, the housemaster of Snail House, also known as Mt. Fairweather House.

After receiving the claim on September 26, 1995, the Museum commenced an iterative process with the HTC, which included a series of letters designed to focus and clarify the basis for the claim. The process resulted in three revised and superseding claims over the next three years as follows:

- In December 1995 HTC submitted additional information in support of their claim.

- In February 1998 the HTC submitted a revised repatriation claim for 45 objects claimed as Objects of Cultural Patrimony and/or Sacred Objects. These objects consist of 34 objects initially claimed in 1995, as well as 10 additional object from the Snail House collection, and one object (the Marmot Frontlet) purchased by Shotridge in 1918 from Mrs. Augustus Bean of Sitka.

- On March 23, 1998, the Museum received a competing claim for the same objects from the Hoonah Indian Association (HIA), another federally recognized entity from the same town.

- On March 25, 1998 HTC resubmitted their repatriation claim of February, 1998.

After research and consultation, the Museum's Repatriation Committee concluded that it was unable to determine which of the two organizations was the appropriate claimant. Both groups had genealogical ties and appropriate clan connections to the Snail House. It was determined that the decision regarding the dispute over cultural affiliation needed to be resolved within the Huna community itself and not arbitrarily by the Penn Museum. Moreover, the Committee considered both the HTC and HIA claims to be incomplete since they failed to meet the basic minimum standard required for all repatriation claims. Specifically, both parties claimed the objects using a general approach of identifying object type categories, and did not discuss each individual object with respect to the definitions put forth in the Native American Graves Protection and Repatriation Act (NAGPRA).

2001

In May 2001, the two claimants resolved their dispute and submitted a joint repatriation claim by the Huna Heritage Foundation (HHF) for 45 objects (44 objects from the Snail House collection and one additional object, the Marmot Frontlet) as Objects of Cultural Patrimony. No objects were claimed as Sacred Objects in this submission. This claim met the basic minimum requirements, as the claimants provided pertinent information for each object requested.

In May 2002, the University's Board of Trustees determined that none of the 45 objects claimed fit the NAGPRA definition of Object of Cultural Patrimony and, moreover, asserted that it had the right of possession as defined by NAGPRA. In the process of evaluating whether the claim met the legal requirements, the significance of each individual object was evaluated. The University concluded that some of the objects were of particular historical significance to the Snail House and the T'akdeintaan Clan. In recognition of this finding, out of respect for the Clan and its culture, and in the spirit of NAGPRA, the University offered to make the objects accessible to the Clan, including loan arrangements with the claimants for some or all of the claimed objects, and/or the return of certain objects of particular historical significance to the claimants.

2004 - 2005

In 2004, HHF contacted the Museum requesting a letter of support for its grant proposal to the National Park Service requesting funds to visit the Museum in order to consult with us on their repatriation claim. We supplied this.

In April 2005, eleven representatives of Huna visited the Museum and formally asked the Director to reopen their claim. The Director agreed pending the submission of a revised repatriation claim.

2006 - 2009

In December 2006, HIA and HHF (on behalf of HTC) submitted a new repatriation claim for 47 objects as both Objects of Cultural Patrimony and Sacred Objects. This new claim included the Snail House collection and the Marmot frontlet headdress, as well as two additional objects, the Octopus Tentacle Staff (NA10513) and the Mt. Fairweather Peace Hat (NA8494). The 2006 claim included substantial revisions, incorporated new data (including oral testimony), and discussed each object claimed.

Following the Museum's research about the new objects and discussions between the Museum and the Clan, by letter dated July 10, 2008, the claimants separated out the two additional objects from the 2006 claim. One factor that contributed to this was a competing claim for the Octopus Tentacle Staff from the Sitka L'uknax.ádi Clan. Also, the Museum requested clarification regarding clan affiliation of the Mt. Fairweather Peace Hat.

The Museum Committee on Repatriation recently completed its evaluation of the 45 objects that remained in the December 2006 repatriation claim, and is now in the process of advising the Museum Director and the University Provost in preparation for the spring full Board of Trustees meeting on June 18 & 19, 2009.

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Hoonah Indian Association
PO Box 602
Hoonah, AK 99829

AND

Huna Totem Corporation
9301 Glacier Highway
Juneau, AK 99801

April 30, 2009

David Tarler, DFO
National NAGPRA Program
National Park Service
1201 Eye Street, NW (8th Floor)
Washington, D.C. 20005

Re: Dispute Between Huna Totem Corporation/Hoonah Indian Association and the University of Pennsylvania Museum relative to the "Snail House Collection" and the Marmot Frontlet

Dear Mr. Tarler,

Pursuant to 25 U.S.C. 3006 (c), Huna Totem Corporation (HTC) and Hoonah Indian Association (HIA), both federally-recognized tribes for the purposes of Native American Graves Protection and Repatriation Act, recently requested the NAGPRA Review Committee to facilitate the resolution of a dispute between them and the University of Pennsylvania Museum (UPM).

We would like to thank the NAGPRA Review Committee for scheduling a hearing relating to the facts of the case on their meeting agenda for May 24th in Seattle, Washington.

We would like to inform you that as of April 27, 2009, HTC and HIA are in communication with the UPM about the issues in this dispute. After careful consideration of the recent communication, and on behalf of the Mount Fairweather/Snail House leadership and the T'akdeintaan Clan, we request that the hearing be deferred until the October 30-31, 2009 meeting of the NAGPRA Review Committee.

Sincerely,

Russell Dick, Chairman
Huna Totem Corporation

Frank Wright, Jr. President
Hoonah Indian Association

cc: Huna Heritage Foundation
Marlene Johnson, HHF Chairman
Kenneth Grant T'akdeintaan Clan Spokesperson
Adam Greenwald, House Leader

Hoonah Indian Association
PO Box 602
Hoonah, AK 99829

AND

Huna Totem Corporation
9301 Glacier Highway
Juneau, AK 99801

April 30, 2009

Dr. Richard Hodges, Williams Director
University of Pennsylvania Museum of Archaeology and Anthropology
3260 South Street
Philadelphia, PA. 19104

Re: Hoonah Indian Association and Huna Totem Corporation Repatriation Claim: May 2009 NAGPRA Review Committee Hearing

Dr. Hodges,

We are writing to inform you that after our conversation Monday April 27th with Wendy White, Lucy Williams and Stacy Espenlaub, in which Ms. White requested that we postpone the scheduled hearing before the NAGPRA Review Committee until after the deliberation of the University's Board of Trustees in the matter during their June meeting, the leadership of the Mount Fairweather/Snail House and the T'akdeintaan Clan carefully considered the issues and have decided to delay further action in this case until after the June meeting of the Board of Trustees. The leadership has instructed us to contact the Designated Federal Officer of the NAGPRA Review Committee and request that our hearing be taken off the agenda for the May 2009 meeting.

We look forward to learning of the decision that your University's Board of Trustees reach in this matter at their June 18th and 19th meeting.

Sincerely,

Russell Dick, Chairman
Huna Totem Corporation

Frank Wright, Jr. President
Hoonah Indian Association

cc: Huna Heritage Foundation
Marlene Johnson, HHF Chairman
Kenneth Grant T'akdeintaan Clan Spokesperson
Adam Greenwald, House Leader

UNIVERSITY OF PENNSYLVANIA MUSEUM
of Archaeology and Anthropology

3260 South Street • Philadelphia, PA 19104-6324 • Telephone 215.898.4000 • Facsimile 215.898.0657

June 19, 2009

Kathy Miller
Executive Director
Huna Heritage Foundation
9301 Glacier Highway
Juneau, Alaska 99801
Fax 907-789-1896
Phone 907-523-3682

Dear Kathy,

Thank you for talking with us here at Penn today. The Resolution we've discussed on the phone is attached. We will be in touch next week to schedule a follow up phone conversation to answer any questions you may have regarding this document.

With many thanks to all of you, and our best wishes,

Lucy Williams.

Lucy Fowler Williams
Jeremy A. Sabloff Keeper
Penn Museum
215-898-4048
wfowler@sas.upenn.edu
cc: Stacey Espenlaub, staceye@sas.upenn.edu

Resolution to Repatriate Clan Objects and Establish a Partnership between the Tlingit T'akdeintaan Clan of Huna, Alaska, and the University of Pennsylvania Museum of Archaeology and Anthropology

Intention:

The Trustees of the University of Pennsylvania have received a claim from the Huna Indian Association and Huna Heritage Foundation representing the Tlingit T'akdeintaan Clan of Huna, Alaska, under the Native American Graves Protection and Repatriation Act (PL 101-601) (NAGPRA), for the repatriation of 45 T'akdeintaan clan objects known as the "Snail house collection" in the Penn Museum as objects of "cultural patrimony," or "sacred objects," or both.

The Penn Museum NAGPRA committee has carefully and thoroughly analyzed this claim on an object-by-object basis to determine whether the objects meet the statutory definitions. As part of that review, the committee sought the advice of expert anthropologists, welcomed members of the T'akdeintaan clan to visit the Museum to discuss the claim, traveled to Alaska to observe Tlingit ceremonies and living traditions, and sought the advice of the University General Counsel.

As a result of the Committee's review, the Museum recommends, with the administration's support, the response provided below. In short, the Museum recommends repatriation of eight objects to the T'akdeintaan Clan. In addition, with respect to the remaining objects, the Museum recommends creating a partnership between the University of Pennsylvania and the T'akdeintaan Clan, enabling the Clan to use these objects in ceremonies and display them in their museum or cultural center, and promoting future collaboration in the core missions of the museum, including education, cultural preservation, and community building in the 21st century. President Gutmann and Provost-Designate Price support this recommendation.

RESOLVED as follows:

1. The University has determined that eight objects claimed for repatriation by the Clan meet the NAGPRA definitions of cultural patrimony and/or sacred objects. Although the University believes that it holds right of possession to these eight objects, it will repatriate these objects to the Clan as soon as arrangements can be made to do so.
The objects are:

Shaman's box drum NA6828
Lituya Bay robe NA6829
Owl of Heavens shaman's mask NA6831
Commander of the Tides mask NA6832
Ravine frontlet headdress NA6835
Raven head cover NA6836
Loon spirit shaman's rattle NA6845
Pipe NA6862

2. The University has determined that the remaining 37 objects claimed for repatriation by the Clan do not meet the specific NAGPRA definitions for cultural patrimony or sacred objects. However, in recognition of their historical significance to the Clan, and in an effort to provide for continued collaboration with the T'akdeintaan Clan, the University will consider entering into an arrangement with the T'akdeintaan Clan, including the possibility of a joint curatorial and custodial structure, that allows for these objects to be re-situated in Alaska at a mutually agreeable and secure cultural facility (such as the Alaska State Museum, a National Park Service facility at Glacier Bay or elsewhere, or the Sealaska Heritage Institute), identified appropriately as the T'akdeintaan and University of Pennsylvania Snail House collection, and made available to be used by the Clan to offer strength and healing to the Tlingit people, while also being made available to the Museum for specific exhibits, as mutually agreed. This proposal parallels the 1995 agreement between the Huna Indian Association and the National Park Service committing both organizations to work cooperatively on all matters associated with the Huna Tlingit's ancestral homeland in Glacier Bay National Park.

3. The Penn Museum further will consider the creation of a leading community-museum partnership with the T'akdeintaan Clan that builds on the legacy of NAGPRA and Louis Shotridge's vision to preserve Tlingit clan history and art. With this new partnership, the Museum would provide the framework for a collaboration that will continue long into the future and will serve to further mutual interests and goals. The Museum may thus be presented with unique opportunities to exhibit or acquire additional objects, allowing the Museum to educate its students and the public about T'akdeintaan Clan history and contemporary issues in ways that would otherwise be impossible. In implementing this proposal, the University would seek guidance from Clan elders in identifying appropriate artists and objects to best represent their history and identity.

4. In short, in responding to the T'akdeintaan claim, the University commits to serve its missions of education, scholarship, and service in new, creative, and strategic ways that support living Native American communities. The specific projects will be the subject of further discussion and agreement with the T'akdeintaan Clan. A description of the kinds of projects to be explored appears in Exhibit A.

EXHIBIT A

PROPOSED PROJECTS FOR CONSIDERATION

When possible, the Museum wishes to offer its support and service to projects initiated by the T'akdeintaan Clan, and to invite Clan members to participate in priority projects at Penn. Penn Museum proposes six specific initiatives for discussion and consideration:

A. Penn Museum proposes to help raise funds to support the development of the new Huna Cultural Heritage Center. Specifically, we propose to collaborate on a grant proposal to the Institute of Museum and Library Services (IMLS) in Washington, D.C. IMLS is currently funding our initiative to create the Louis Shotridge Digital Archive here at Penn, and has expressed interest in supporting additional projects that engage with Native American communities. A collaborative proposal to support the future Huna museum offers an extraordinary opportunity for Huna and the Penn Museum to come together as leaders in the American Museum, Native American, and educational arenas, to establish a collaborative model founded on the legacy of NAGPRA and to foster the educational and cultural needs of future generations of Tlingit and Penn students.

B. As Huna develops its new Cultural Heritage Center and Museum, the Penn Museum would like to consider offering professional training in the form of internships and workshops on the care, conservation, and exhibition of museum collections and archives. The workshops could be designed and team-taught by Museum staff and Tlingit elders to maximize their relevance for the Tlingit community, while at the same time providing learning opportunities for the Penn Museum. Through hands on experience, Tlingit students would learn the practical aspects of the care and conservation of museum collections and archives, digital photography, and exhibition techniques such as label preparation, mounts, and lighting.

C. The Museum is eager to work with the Clan to commission and acquire outstanding contemporary Tlingit art to revitalize its Tlingit collection. When possible, we hope to bring Tlingit artists to Philadelphia to share their work with the Penn community and to study our collections from around the world.

D. The exhibition of Tlingit art and culture for our east coast and world audiences is a continued priority at the Penn Museum, where we have strived for over a century to educate and challenge stereotypes about indigenous Americans. We would like to invite Tlingit people to serve as co-curators, advisors, and curatorial interns in developing new exhibitions in Philadelphia, and traveling exhibitions that could tour Alaska and around the world. These projects could offer opportunities for Tlingit elders and students to develop skills and ideas surrounding the presentation of their own cultural heritage, create forums for issues of contemporary concern in the Tlingit and Native American community, and help train and empower the next generation of Tlingit leaders. These projects could offer educational opportunities for curriculum development in the Huna elementary and high school, for Tlingit language revitalization, and incorporate new

technologies.

E. When possible, Penn Museum would like to share its anthropological resources in support of priority projects determined by the Tlingit people. Projects may include helping to design an archaeological investigation in Huna, workshops on documenting living clan histories and clan art, support in developing a study of Tlingit tourism, Tlingit language, or a focus on Tlingit health concerns. Biological anthropologist Tad Schurr of Penn Museum is already working with Huna, Yakutat, and Hydaburg on a collaborative study of Tlingit genetic ancestry and heritage. Penn Museum would like to support more projects that serve the Tlingit community and our joint interests in understanding and preserving the Tlingit legacy.

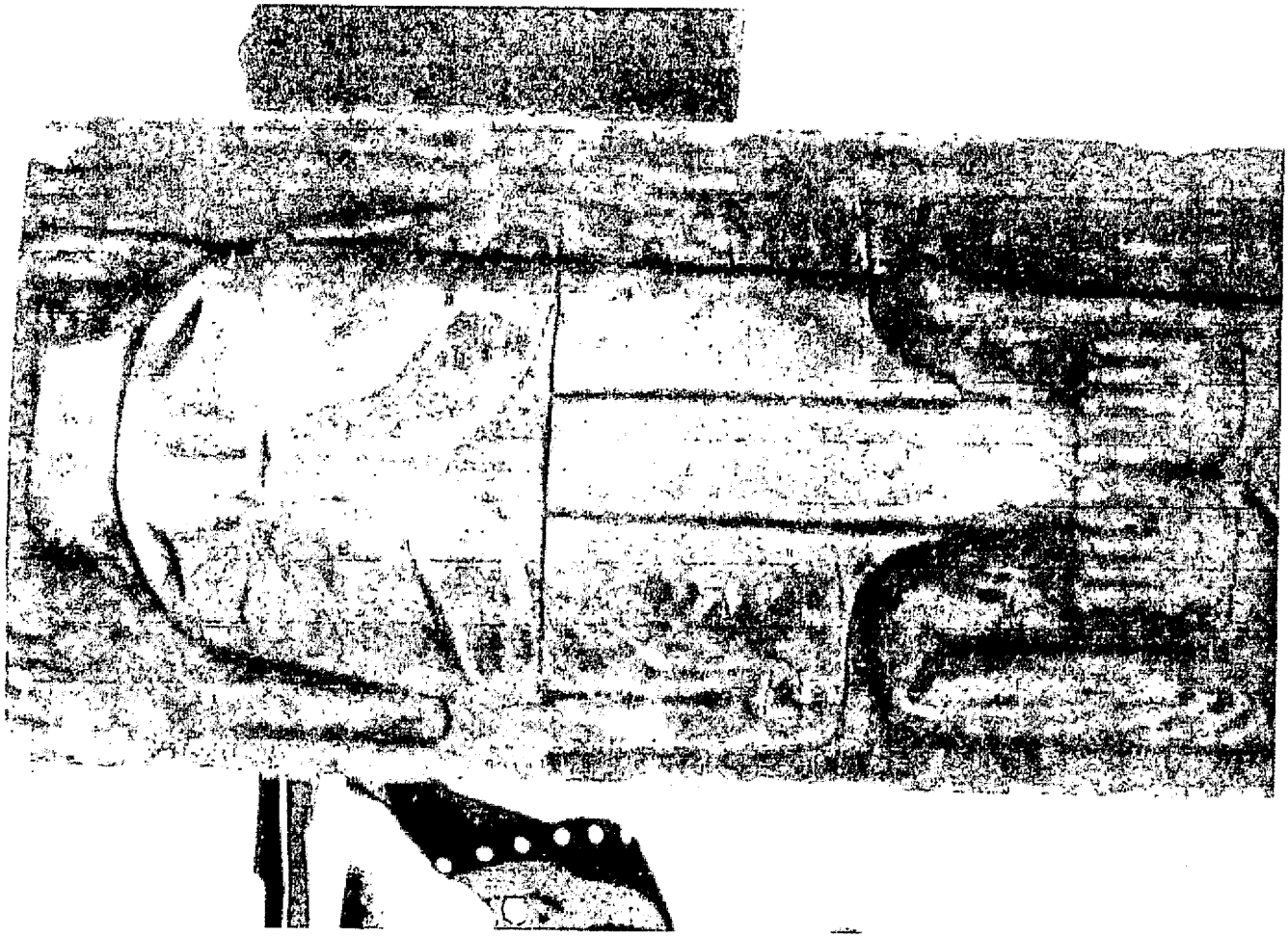
F. Penn wishes to actively conduct outreach to Southeast Alaska and recruitment of Tlingit undergraduate and graduate students and encourage them to come to the University of Pennsylvania. The University has identified minority recruitment as a key part of increasing access to education in the Penn Compact outlined by President Amy Gutmann and has a number of financial aid packages.

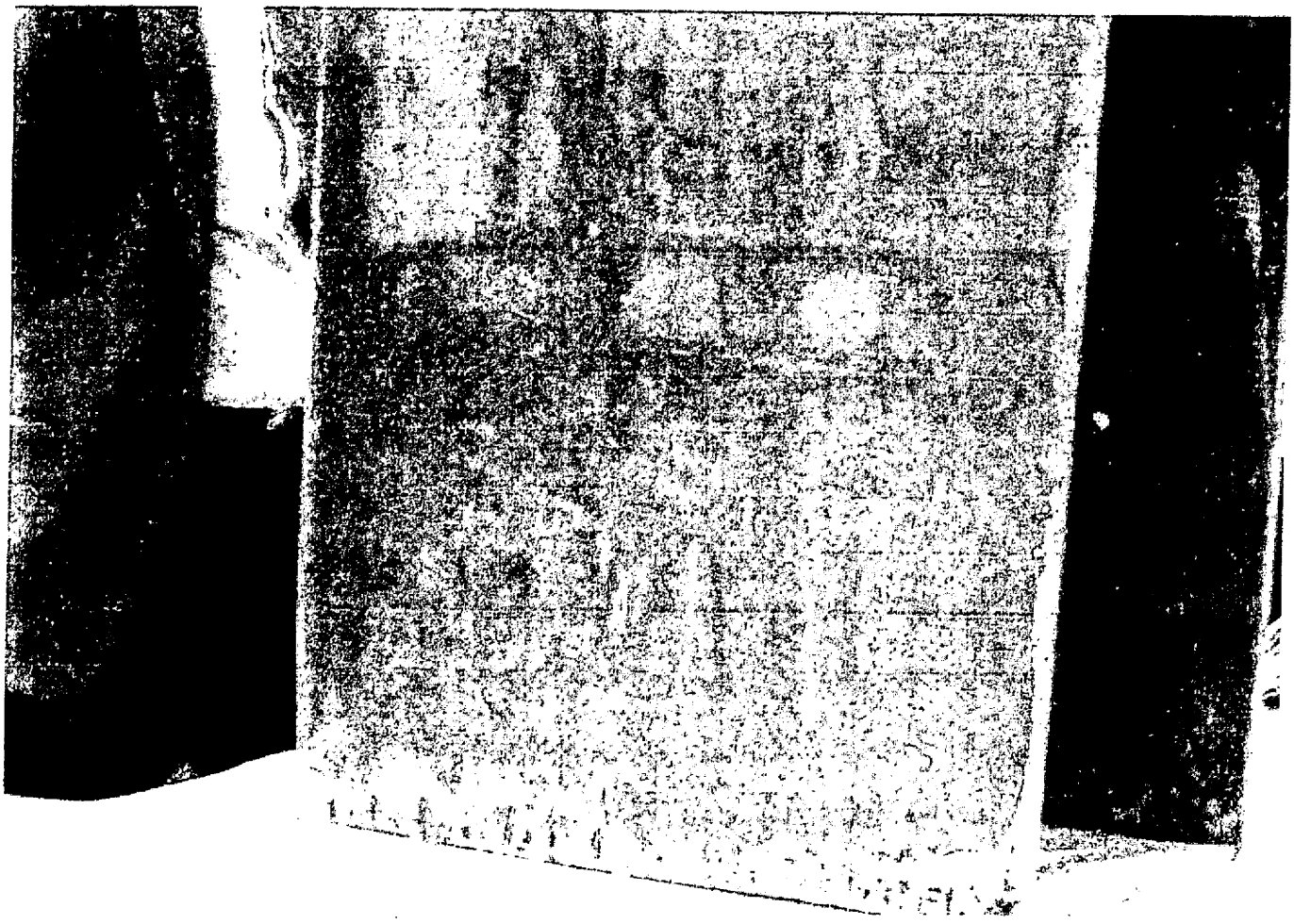
With these specific proposals, the Penn Museum hopes that the T'akdeintaan Clan will welcome objects from the Snail House collection back to Huna, as discussed in the Trustee Resolution, and consider embarking upon a new kind of leading community-museum partnership that combines our strengths and pledges our joint service and commitment to the education and preservation of Tlingit living clan history for future generations. Penn Museum sees the return and re-situating of the objects and a continued partnership with the Clan as a remarkable opportunity to articulate and strengthen its role as a ground breaking American museum in support of the ongoing vitality, education, and future of living Native American communities.

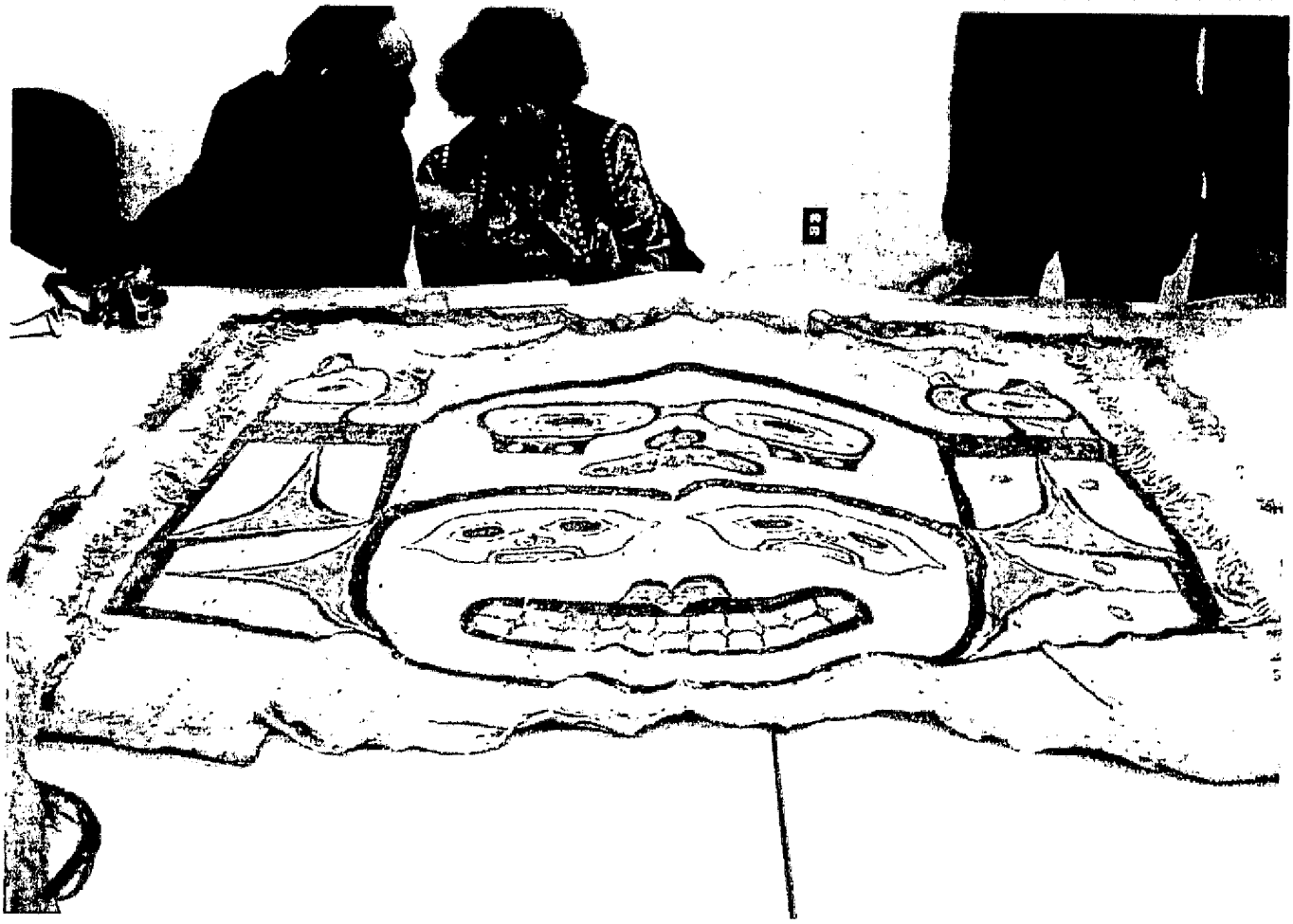
List of 8 Objects to be "Repatriated" to HIA/HHF On Behalf of
T'akdeintaan Clan [Mount Fairweather "Snail" House]
From University of Pennsylvania

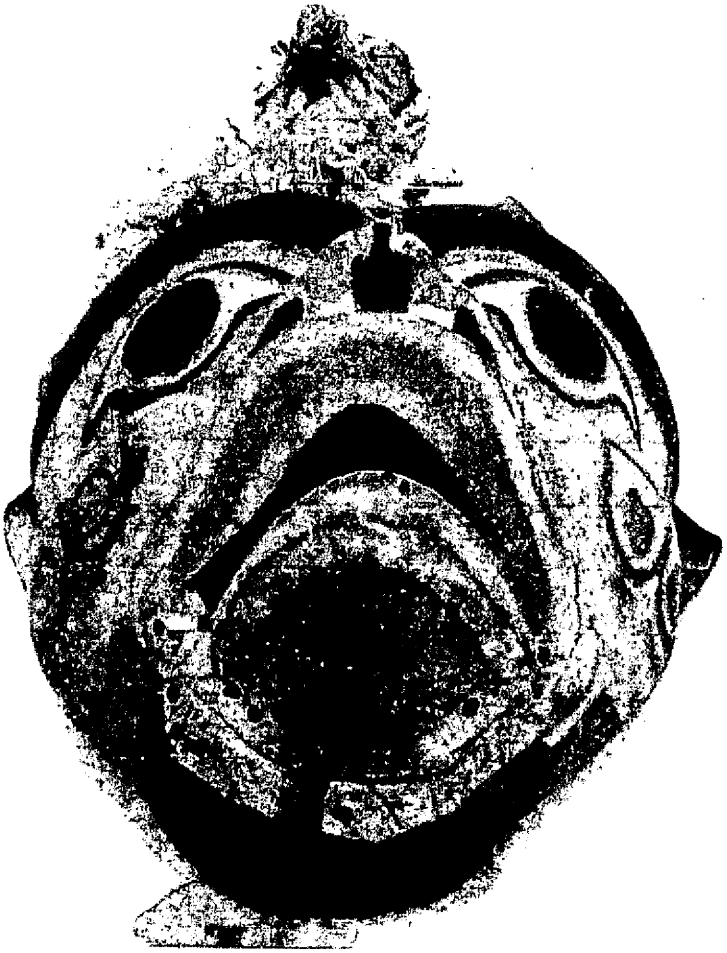
Per UPM Resolution to Repatriate, 19 June 2009

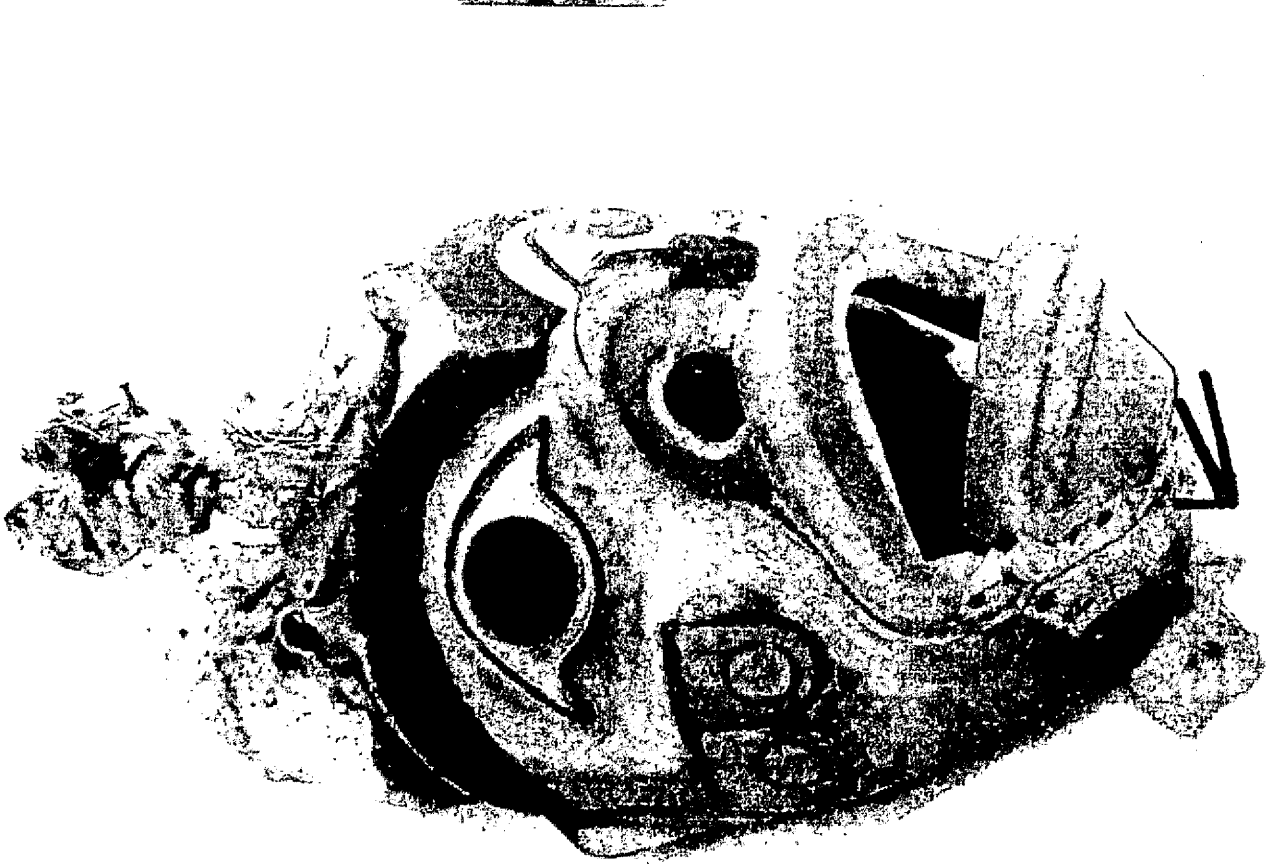
	Catalog #	Description
1.	NA 6828	Shaman's Drum, "Old man of war'
2.	NA 6829	Caribou Skin Robe, "Lituya Bay Robe"
3.	NA 6831	Shaman's mask, "Owl Mask'
4.	NA 6832	Dance Mask, "Commander of the Tides"
5.	NA 6835	Head gear, Shakee.at, "Ravine Frontlet"
6.	NA 6836	Headdress, "Raven head cover'
7.	NA 6845	Rattle, "Loon rattle" [shaman's rattle]
8.	NA 6862	Pipe

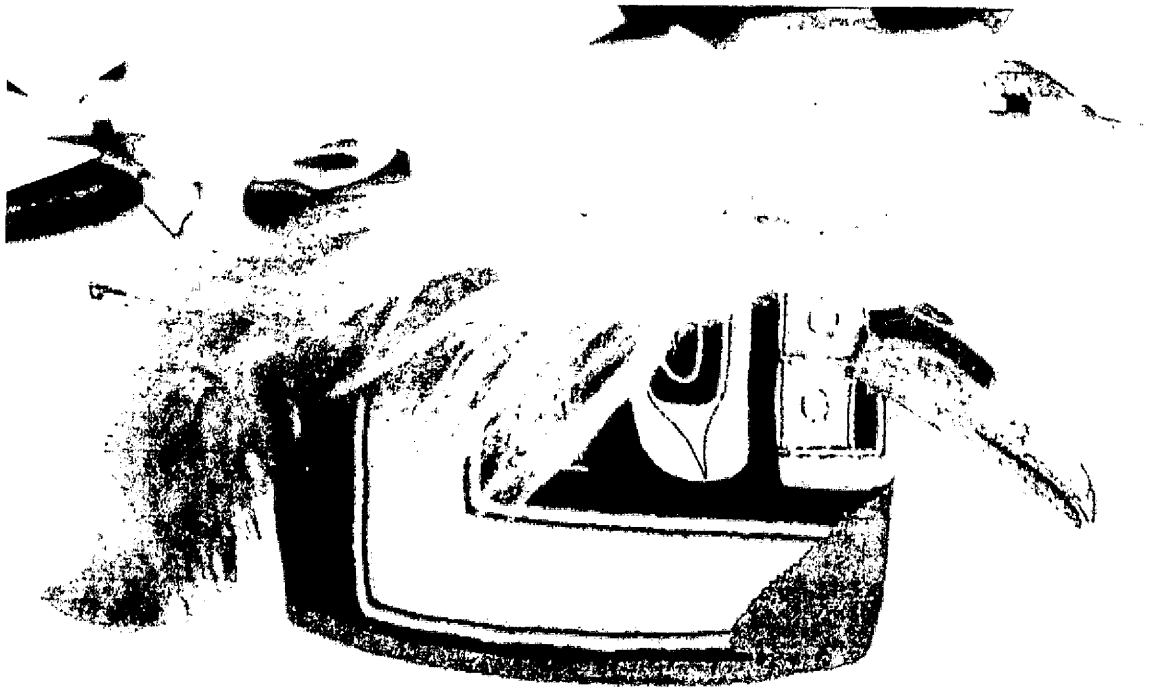


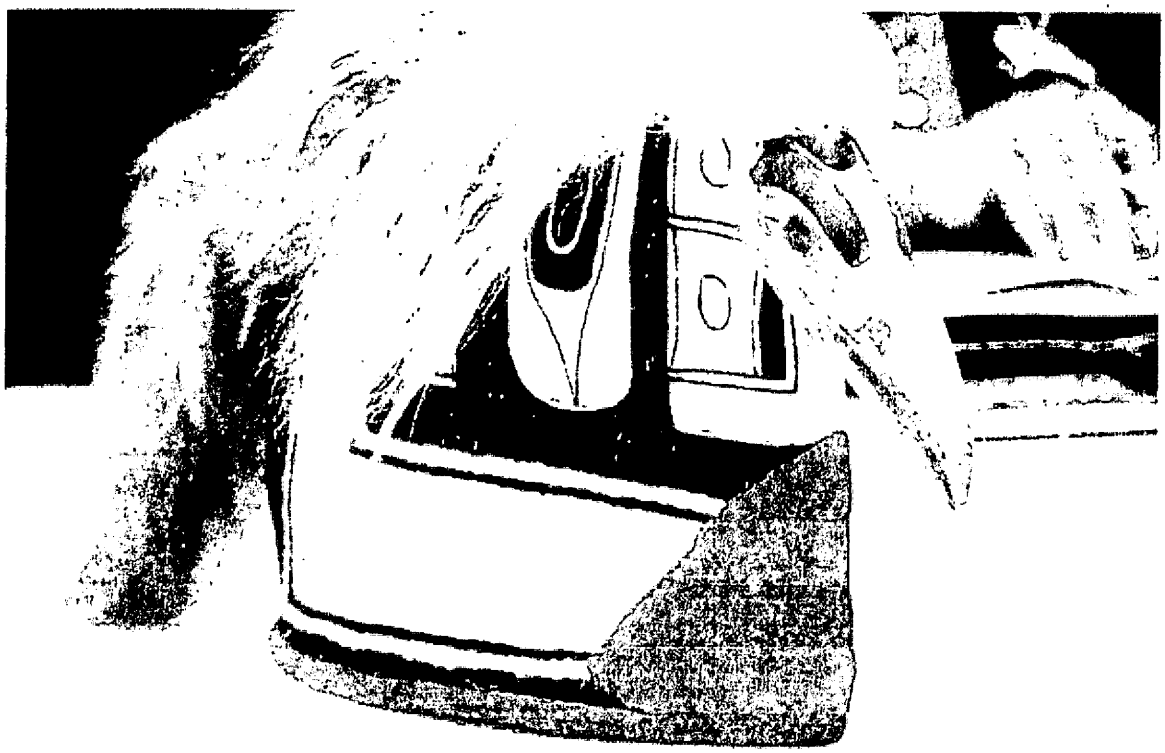


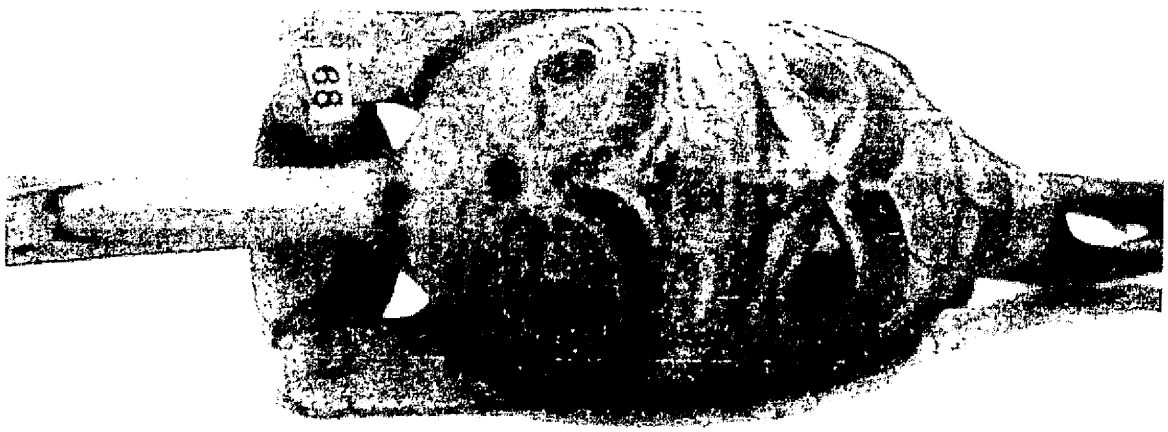








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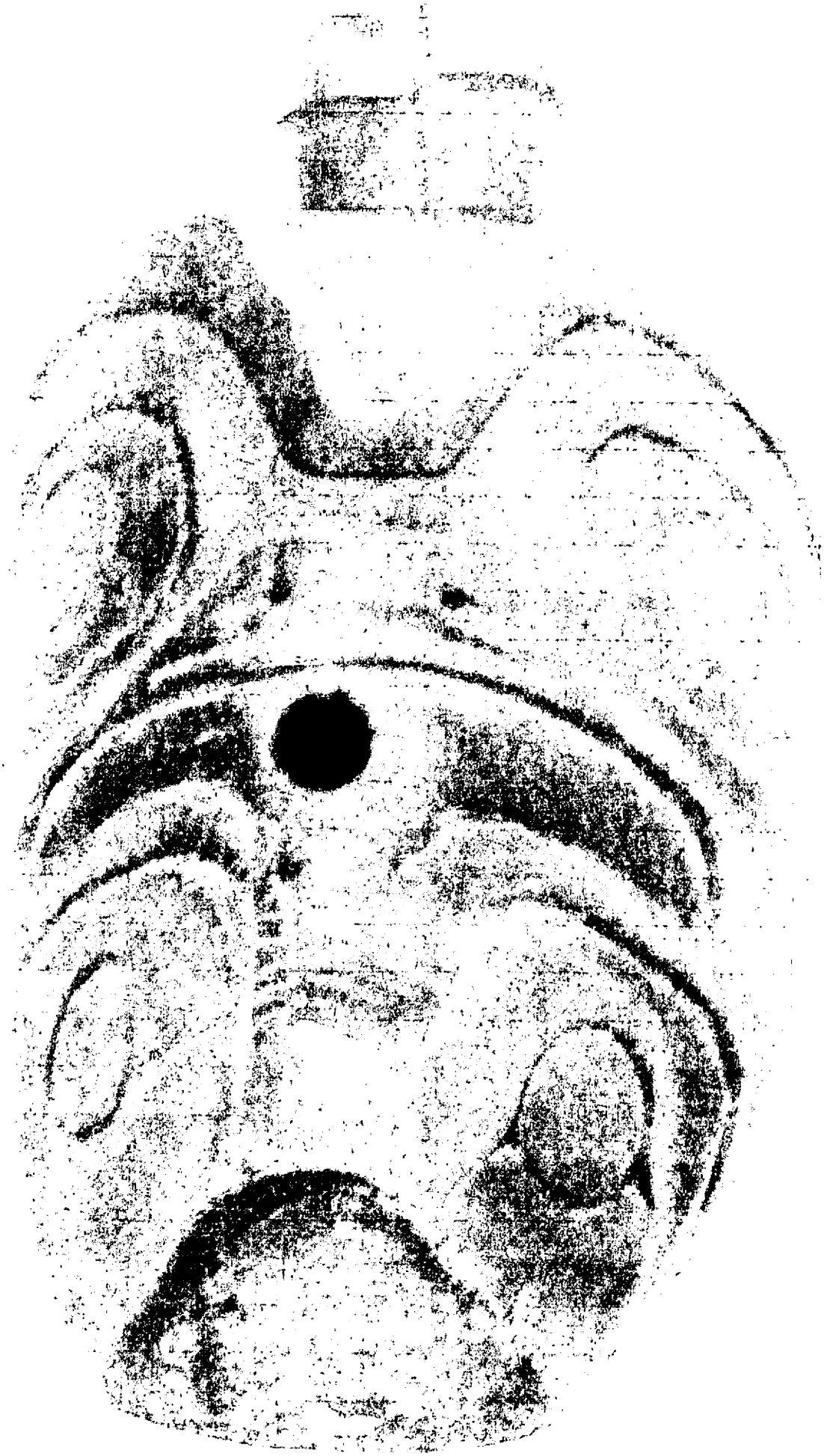

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Hoonah Indian Association
PO Box 602
Hoonah, AK 99829

AND

Huna Totem Corporation
9301 Glacier Highway
Juneau, AK 99801

24 June 2009

Dr. Richard Hodges
University of Pennsylvania Museum of Archaeology and Anthropology
3260 South Street
Philadelphia, PA. 19104

Dear Dr. Hodges,

The T'akdeintaan Mount Fairweather House [Snail House] Clan and House leaders have discussed the Resolution to Repatriate Clan Objects and Establish a Partnership between the Tlingit T'akdeintaan of Huna, Alaska and the University of Pennsylvania Museum of Archaeology and Anthropology of June 19, 2009. We have instructed Huna Heritage Foundation (HHF), acting on behalf of the Huna Totem Corporation, and the Hoonah Indian Association (HIA) to reply as follows:

1) The HHF/HIA on behalf of the T'akdeintaan Clan Mount Fairweather House [Snail House] agree to the immediate repatriation of the 8 objects identified below that University of Pennsylvania Museum (UPM) concurs that they meet the NAGPRA definitions of Sacred and/or Objects of Cultural Patrimony. We look forward to reviewing the draft Notice of Intent to Repatriate the 8 objects of Cultural Patrimony/Sacred Objects and its expeditious publication in the Federal Register:
   Shaman's Box Drum NA6828, Lituya Bay Robe NA6829, Owl of the Heaven's Shaman Mask NA6831, Commander of the Tides Mask NA6832, Ravine Frontlet Headdress NA6835, Raven Head Cover NA6836, Loon Spirit shaman's rattle NA6845 and Pipe NA6862.

2) The T'akdeintaan Clan Mount Fairweather House [Snail House] requests that the UPM provide information to HHF/HIA on any pesticide treatments that these 8 items may have undergone while in the care and under the curation of the UPM.

3) The T'akdeintaan Clan Mount Fairweather House [Snail House] respectful requests that the museum forego any press releases regarding this decision until mutually agreed upon arrangements can be made for the entire group of items.

4) The T'akdeintaan Clan Mount Fairweather House [Snail House] appreciates the desire of the museum to initiate immediate discussions relative to the group of 37 items referenced in Part 2 of the Resolution. However, after further discussion, it was apparent to the Clan that we will require at least 30 days for Clan Elders and Leaders to meet and thoroughly discuss their response to the UPM's Resolution. Thus, the Clan is not prepared to participate in a teleconference on either July 1 or 6th. We will advise you as soon as possible and work with you to identify a mutually acceptable date to initiate this discussion.

5) The T'akdeintaan Clan Mount Fairweather House [Snail House] requests that the UPM provide a full, written decision regarding HHF/HIA's NAGPRA claim including justification for its denial of the 37 items we requested as objects of cultural patrimony/scared objects.

6) The T'akdeintaan Clan Mount Fairweather House [Snail House] notes that the University's Resolution Addresses only 45 of the 46 items included in our NAGPRA claim [i.e. 8 objects to be repatriated and 37 the University deemed to not meet NAGPRA standards]. Please provide details about which items are included in your decision and why 1 item appears to have not been considered.

Thank you very much once again for all of your staff's time on this very important issue, and we look forward to our continued discussions.

Russell Dick, Chairman
Huna Totem Corporation

Frank White Jr., President
Hoonah Indian Association

Huna Heritage Foundation

From: Lucy Fowler Williams [wfowler@sas.upenn.edu]
Sent: Tuesday, July 14, 2009 9:04 AM
To: kmiller@hunatotem.com
Cc: staceye@sas.upenn.edu
Subject: Upenn Resolution
Attachments: Resolution to Repatriate Clan Objects and Establish a Partnership between the Tlingit T.pdf

Dear Kathy,

I am enclosing a pdf of the Resolution passed by the University of Pennsylvania Board of Trustees on June 19, 2009. The draft NIR is in process and I will get it to you as soon as possible.

With best wishes, Lucy.

Lucy Fowler Williams, PhD
The Jeremy A. Sabloff Keeper
American Collections
Penn Museum
3260 Spruce Street
Philadelphia, PA 19104-6324
p 215-898-4048
f 215-746-6982

Resolution to Repatriate Clan Objects and Establish a Partnership between the Tlingit T'akdeintaan Clan of Huna, Alaska, and the University of Pennsylvania Museum of Archaeology and Anthropology

Intention:

The Trustees of the University of Pennsylvania have received a claim from the Huna Indian Association and Huna Heritage Foundation representing the Tlingit T'akdeintaan Clan of Huna, Alaska, under the Native American Graves Protection and Repatriation Act (PL 101-601) (NAGPRA), for the repatriation of 45 T'akdeintaan clan objects known as the "Snail house collection" in the Penn Museum as objects of "cultural patrimony," or "sacred objects," or both.

The Penn Museum NAGPRA committee has carefully and thoroughly analyzed this claim on an object-by-object basis to determine whether the objects meet the statutory definitions. As part of that review, the committee sought the advice of expert anthropologists, welcomed members of the T'akdeintaan clan to visit the Museum to discuss the claim, traveled to Alaska to observe Tlingit ceremonies and living traditions, and sought the advice of the University General Counsel.

As a result of the Committee's review, the Museum recommends, with the administration's support, the response provided below. In short, the Museum recommends repatriation of eight objects to the T'akdeintaan Clan. In addition, with respect to the remaining objects, the Museum recommends creating a partnership between the University of Pennsylvania and the T'akdeintaan Clan, enabling the Clan to use these objects in ceremonies and display them in their museum or cultural center, and promoting future collaboration in the core missions of the museum, including education, cultural preservation, and community building in the 21st century. President Gutmann and Provost-Designate Price support this recommendation.

RESOLVED as follows:

1. The University has determined that eight objects claimed for repatriation by the Clan meet the NAGPRA definitions of cultural patrimony and/or sacred objects. Although the University believes that it holds right of possession to these eight objects, it will repatriate these objects to the Clan as soon as arrangements can be made to do so.
The objects are:

Shaman's box drum NA6828
Lituya Bay robe NA6829
Owl of Heavens shaman's mask NA6831
Commander of the Tides mask NA6832
Ravine frontlet headdress NA6835
Raven head cover NA6836
Loon spirit shaman's rattle NA6845
Pipe NA6862

2. The University has determined that the remaining 37 objects claimed for repatriation by the Clan do not meet the specific NAGPRA definitions for cultural patrimony or sacred objects. However, in recognition of their historical significance to the Clan, and in an effort to provide for continued collaboration with the T'akdeintaan Clan, the University will consider entering into an arrangement with the T'akdeintaan Clan, including the possibility of a joint curatorial and custodial structure, that allows for these objects to be re-situated in Alaska at a mutually agreeable and secure cultural facility (such as the Alaska State Museum, a National Park Service facility at Glacier Bay or elsewhere, or the Sealaska

Heritage Institute), identified appropriately as the T'akdeintaan and University of Pennsylvania Snail House collection, and made available to be used by the Clan to offer strength and healing to the Tlingit people, while also being made available to the Museum for specific exhibits, as mutually agreed. This proposal parallels the 1995 agreement between the Huna Indian Association and the National Park Service committing both organizations to work cooperatively on all matters associated with the Huna Tlingit's ancestral homeland in Glacier Bay National Park.

3. The Penn Museum further will consider the creation of a leading community-museum partnership with the T'akdeintaan Clan that builds on the legacy of NAGPRA and Louis Shotridge's vision to preserve Tlingit clan history and art. With this new partnership, the Museum would provide the framework for a collaboration that will continue long into the future and will serve to further mutual interests and goals. The Museum may thus be presented with unique opportunities to exhibit or acquire additional objects, allowing the Museum to educate its students and the public about T'akdeintaan Clan history and contemporary issues in ways that would otherwise be impossible. In implementing this proposal, the University would seek guidance from Clan elders in identifying appropriate artists and objects to best represent their history and identity.

4. In short, in responding to the T'akdeintaan claim, the University commits to serve its missions of education, scholarship, and service in new, creative, and strategic ways that support living Native American communities. The specific projects will be the subject of further discussion and agreement with the T'akdeintaan Clan. A description of the kinds of projects to be explored appears in Exhibit A.

EXHIBIT A

PROPOSED PROJECTS FOR CONSIDERATION

When possible, the Museum wishes to offer its support and service to projects initiated by the T'akdeintaan Clan, and to invite Clan members to participate in priority projects at Penn. Penn Museum proposes six specific initiatives for discussion and consideration:

A. Penn Museum proposes to help raise funds to support the development of the new Huna Cultural Heritage Center. Specifically, we propose to collaborate on a grant proposal to the Institute of Museum and Library Services (IMLS) in Washington, D.C. IMLS is currently funding our initiative to create the Louis Shotridge Digital Archive here at Penn, and has expressed interest in supporting additional projects that engage with Native American communities. A collaborative proposal to support the future Huna museum offers an extraordinary opportunity for Huna and the Penn Museum to come together as leaders in the American Museum, Native American, and educational arenas, to establish a collaborative model founded on the legacy of NAGPRA and to foster the educational and cultural needs of future generations of Tlingit and Penn students.

B. As Huna develops its new Cultural Heritage Center and Museum, the Penn Museum would like to consider offering professional training in the form of internships and workshops on the care, conservation, and exhibition of museum collections and archives. The workshops could be designed and team-taught by Museum staff and Tlingit elders to maximize their relevance for the Tlingit community, while at the same time providing learning opportunities for the Penn Museum. Through hands on experience, Tlingit students would learn the practical aspects of the care and conservation of museum collections and archives, digital photography, and exhibition techniques such as label preparation, mounts, and lighting.

C. The Museum is eager to work with the Clan to commission and acquire outstanding contemporary Tlingit art to revitalize its Tlingit collection. When possible, we hope to bring Tlingit artists to Philadelphia to share their work with the Penn community and to study our collections from around the world.

D. The exhibition of Tlingit art and culture for our east coast and world audiences is a continued priority at the Penn Museum, where we have strived for over a century to educate and challenge stereotypes about indigenous Americans. We would like to invite Tlingit people to serve as co-curators, advisors, and curatorial interns in developing new exhibitions in Philadelphia, and traveling exhibitions that could tour Alaska and around the world. These projects could offer opportunities for Tlingit elders and students to develop skills and ideas surrounding the presentation of their own cultural heritage, create forums for issues of contemporary concern in the Tlingit and Native American community, and help train and empower the next generation of Tlingit leaders. These projects could offer educational opportunities for curriculum development in the Huna elementary and high school, for Tlingit language revitalization, and incorporate new technologies.

E. When possible, Penn Museum would like to share its anthropological resources in support of priority projects determined by the Tlingit people. Projects may include helping to design an archaeological investigation in Huna, workshops on documenting living clan histories and clan art, support in developing a study of Tlingit tourism, Tlingit language, or a focus on Tlingit health concerns. Biological anthropologist Tad Schurr of Penn Museum is already working with Huna,

Yakutat, and Hydaburg on a collaborative study of Tlingit genetic ancestry and heritage. Penn Museum would like to support more projects that serve the Tlingit community and our joint interests in understanding and preserving the Tlingit legacy.

F. Penn wishes to actively conduct outreach to Southeast Alaska and recruitment of Tlingit undergraduate and graduate students and encourage them to come to the University of Pennsylvania. The University has identified minority recruitment as a key part of increasing access to education in the Penn Compact outlined by President Amy Gutmann and has a number of financial aid packages.

With these specific proposals, the Penn Museum hopes that the T'akdeintaan Clan will welcome objects from the Snail House collection back to Huna, as discussed in the Trustee Resolution, and consider embarking upon a new kind of leading community-museum partnership that combines our strengths and pledges our joint service and commitment to the education and preservation of Tlingit living clan history for future generations. Penn Museum sees the return and re-situating of the objects and a continued partnership with the Clan as a remarkable opportunity to articulate and strengthen its role as a ground breaking American museum in support of the ongoing vitality, education, and future of living Native American communities.

UNIVERSITY OF PENNSYLVANIA MUSEUM
of Archaeology and Anthropology

3260 South Street • Philadelphia, PA 19104-6324 • Telephone 215.898.4000 • Facsimile 215.898.0657

July 20, 2009

Russell Dick, Chairman
Huna Totem Corporation
9301 Glacier Hwy
Juneau, AK 99801-9306

Mr. Frank Wright, Jr., President
Hoonah Indian Association (IRA)
P.O. Box 602
Hoonah, AK 99829-0602

Dear Chairman Dick and President Wright,

I am writing in response to several questions posed in your letter of June 24 regarding the University of Pennsylvania's Resolution to Repatriate Clan Objects and Establish a Partnership between the Tlingit T'akdeintaan Clan of Huna, Alaska, and the University of Pennsylvania Museum of Archaeology and Anthropology, which we faxed to you after talking on the phone on June 19.

I have also enclosed our proposed Federal Notice of Intent to Repatriate the eight objects in the Snail House collection found to meet the NAGPRA definitions of Objects of Cultural Patrimony and/or Sacred Objects. We hope the notice will be posted in the Federal Register by the National Park Service within the next several weeks.

Below are our responses to your questions:

1. You asked if the eight objects have been tested for pesticide residues. We are aware of the growing concern within Native American and museum communities about the past use of pesticides and chemicals by museums to protect cultural objects from insect and fungal damage. We have not found evidence that Louis Shotridge treated his collections in the field, and the Museum does not have any evidence of systematic treatment of objects in its collections. Because of this uncertainty, however, we have initiated testing of the eight objects by our Department of Conservation, and plan to test

the remaining 37 objects as well. We will share with you any information we learn as soon as possible as we complete this process.

2. We fully support your request that any press releases regarding the Resolution be mutually agreed upon before they are released. In addition, we understand and respect your need for additional time to discuss our proposal, and look forward to talking with you when you are ready.

3. In regard to your request for clarification regarding the 37 objects that were not found to meet the NAGPRA definitions, we think a brief description of the Museum's process in evaluating your claim might also be helpful.

The Museum's NAGPRA Committee consists of ten individuals with expertise in NAPGRA compliance, collections management, registrarial issues, museum studies, archaeology, cultural anthropology, physical anthropology, and the cultures of the indigenous peoples of the Americas. It has ex officio representation from the University's Office of the General Counsel and the Museum's Board of Overseers. Since your repatriation consultation visit and receipt of your revised claim in 2006, the Committee has met a total of 38 times for approximately 89 hours to evaluate your claim. The Committee also consulted with anthropologists, conducted extensive in-house research, and some of its members attended five memorial potlatches where they have seen similar objects in use by Tlingit clans.

The potlatch trips were particularly educational. To give just one example, in 2004, the Kaagwaantaan clan of Sitka, Alaska invited the Museum to attend the Centennial Potlatch commemorating the famous 1904 "last potlatch" and celebrating the persistence of Tlingit culture. Four staff members (all members of the NAGPRA Committee) attended and hand-carried four clan hats for use in this potlatch. The staff members saw each hat danced and also witnessed the repatriation of the Sea Monster hat by Chicago's Field Museum of Natural History. Upon our return from each potlatch, staff members gave public presentations to the Museum community to educate them about the importance of the potlatch in contemporary Tlingit culture and about the significance of clan objects in healing the clans from their loss of deceased clan members and in bridging clan identities past, present, and future.

The Committee evaluated your claim on an object-by-object basis. That is to say, it evaluated whether each object fit the statutory definitions for Objects of Cultural Patrimony and for Sacred Objects. The Committee determined that eight objects fit one or both of these categories. Specifically, these are: the Box Drum (NA 6828), the Lituya Bay Robe (NA6829), the Owl of Heavens Mask (NA6831), the Commander of Tides Mask (NA6832), the Ravine Frontlet Headdress (NA6835), the Raven Head-cover (NA6836), the Loon Spirit Rattle (NA6845), and the Pipe (NA6862). The Committee determined that the remaining 37 objects do not fit either the NAGPRA category of Objects of Cultural Patrimony or Sacred Objects because they did not have each of the requisite criteria set forth in the statute.

The Committee found that two objects (the Box Drum and the Lituya Bay Robe) met the legal definition of Objects of Cultural Patrimony. The Committee recognized that objects that meet the NAGPRA definition of Cultural Patrimony reach the highest standard of communal centrality. Centrality, as used in NAGPRA, has two components: a) historical, traditional and cultural significance, and b) ongoing significance. Based on its review of relevant evidence, the Committee found that, both historically and today, among Tlingit clans, all objects are not of equal significance. It found that, for a variety of reasons, and through a number of historical, traditional and cultural processes (such as objects that become at.oow), some objects in Tlingit society are more important than others. The Committee did not find sufficient evidence in support of the central significance of the remaining objects, and did not find sufficient evidence that each of the objects holds ongoing central significance. For example, evidence for several objects such as the cedar bark rings, horns, and whistles did not support the conclusion that the objects reached the highest standard of centrality for the community. In addition, in several cases, the Committee found insufficient evidence to conclude that objects had passed through the several steps required to become at.oow and to reach a standard of central communal significance.

The Committee found that seven of the objects met the NAGPRA definition of Sacred Objects (the Lituya Bay Robe, the Owl of Heavens Mask, the Commander of Tides Mask, the Ravine Frontlet Headdress, the Raven Head-cover, the Loon Spirit Rattle, and the Pipe). The Committee found these objects were devoted to the Tlingit potlatch through their documented associations with leading clan members. However, it did not find sufficient evidence that the remaining objects were devoted to a particular ceremony or ritual, and are needed today to continue or renew that particular traditional Tlingit ceremony or ritual. Your repatriation claim asserted that all Tlingit objects are considered sacred because of their association with Tlingit ancestors. The Committee concluded that this fact alone is insufficient to meet the requirements of the law.

The Committee further determined that the remaining 37 objects, while not fitting a NAGPRA category in every respect, are nonetheless part of the Snail House collection since they were collected with the eight objects as a group, and thus have particular historical significance. It is on this basis that the University wishes to explore a joint curatorial agreement that will allow these objects to return to Huna as well.

The Museum is excited about the prospects of developing partnerships with you in several possible areas. As outlined in the Resolution, we have proposed several projects that may be of interest to your community. Preliminary ideas offer our help in securing financial support and staff training to aid the development of your cultural heritage center and museum; our Museum's interest in working with you to acquire examples of outstanding contemporary Tlingit art; our interest in inviting members of your community to collaborate with us on museum exhibitions in Philadelphia and for travel; the possibility of research projects that would benefit your community and the Tlingit people more broadly; and Penn's interest in recruiting Tlingit students to come to school in Philadelphia. Each of these ideas is put forth with the hope of offering

resources that can contribute to our shared goals to preserve Tlingit culture and to continue the legacies of NAGPRA and the contributions of Louis Shotridge.

4. Finally, there is a small confusion regarding the number of objects claimed. The University Resolution addresses all of the objects in your 2006 repatriation claim, except for the Mount Fairweather Peace Hat (NA8494) and the Octopus Tentacle Staff (NA10513), which you removed from the claim in July of 2008. Thus, the Resolution covers the complete Snail House collection (NA6828-NA6863, NA6865 & NA6866) and the Marmot frontlet (NA8498). The discrepancy between the UPM count of 45 and your count of 46 stems from inconsistencies over time in our museum cataloging process and variation in the recognition of accession numbers, collector numbers, and physical counts of objects. We apologize for any confusion this has caused, and want to reiterate that the Resolution refers to all of the items in your 2006 claim, excluding the two items you removed at a later date.

We very much look forward to working with you to resolve your concerns and to talking further about your response to the Resolution and proposed partnership when you are ready.

With kind regards,

Richard Hodges
The Williams Director

Signed on behalf of The Williams Director by
JAMES R. MATHIEU
Chief of Staff

Enclosure

UPM Draft notice, 7/20/2009

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate eight cultural items in the possession of the University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA that meet the definition of "sacred objects" and/or "objects of cultural patrimony" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The eight Tlingit objects are one wooden box drum (catalogue number NA6828); one hide robe (catalogue number NA6829); two carved wooden masks (catalogue numbers NA6831 and NA6832); one carved wooden headdress (catalogue number NA6835); one head cover (catalogue number NA6836); one carved wooden rattle (catalogue number NA6845); and one carved wooden pipe (catalogue number NA6862).

The first cultural item is a drum (NA6828), called Old-Man-of-War Box Drum, and made of two pieces of cedar wood. One narrow side is carved to represent the "old-man-of-war" and the opposing side is open; the broad sides are painted in geometric figures in red and black. The drum measures approximately 65.0 cm long, 32.0 cm wide, and 85.0 cm high.

The second cultural item is called the Lituya Bay Robe (NA6829), and is made from three panels of caribou hide sewn together. The seams are fringed and the top and sides are trimmed with martin fur. An

image is painted on the robe black and red, and either yellow or white pigment. The central figure of the image represents a rock in Lituya Bay and two side images represent rapids. The robe measures approximately 157.0 cm wide and 127.0 cm long.

The third cultural item is a mask (NA6831), called the Owl-of-the heavens, and consists of carved wood painted with red, black, and white pigment, representing a tree stump. On the top of the stump sits a taxidermic owl that can be moved by the performer wearing the mask. The mask measures approximately 24.5 cm high and 20.5 cm wide.

The fourth cultural item is a mask (NA6832) called Commander of the Tides. The face is painted with red and black pigmented designs representing feathers, and includes actual bird feathers crowning the mask and a wide leather band at the back. The eyes are movable, made to represent the movements of the changing ocean tides. The mask measures approximately 35.0 cm high and 24.0 cm wide.

The fifth cultural item is a headdress or shakee.at (NA6835) called Little Ravine, after a passageway over a sand mount at Dry Bay, near Yakutat. It is elaborately carved with multiple figures painted with red, black, and blue-green pigment, and ornamented with abalone, ermine fur, eagle down, and feathers. The carving represents an episode of the Raven's Journey that took place near the sand mount. The headdress measures approximately 53.0 cm high and 22.0 cm wide.

The sixth cultural item is a head-cover (NA6836) formed from a corner piece of a Chilkat blanket made of twisted wool of the wild mountain goat. A piece of red felt was added as a border and a second small piece of red felt covers the lower front of the headdress. The head-cover is ornamented with mountain goat hair and a fox tail. A carved wooden figure, painted with black, red, and blue-green pigment, and representing the Raven, is positioned at the top front of the head-cover. The headdress measures approximately 31.8 cm high and 21.6 cm long.

The seventh cultural item is a rattle (NA6845) carved to represent a loon, with a recumbent human figure and a raven's head on top. It is painted with black, red, and blue-green pigment. The rattle measures approximately 32.5 cm long, 7.7 cm wide, and 9.5 cm high.

The eight cultural item is a tobacco pipe (NA6862) carved with a representation of a spirit or animal,

which remains unidentified. It is painted with blue pigment at the base only and a metal strip, probably copper, is attached around the opening of the bowl. The pipe is large, measuring approximately 20.0 cm high and 14.5 cm wide.

In 1924, Louis Shotridge, a Tlingit Curator employed by the University of Pennsylvania Museum, purchased the eight objects as part of a collection of 44 objects referred to as the "Snail House Collection" for $500.00 from a Tlingit individual, Archie White (Dimitri Tukk'axaaw), headmaster of the T'akdeintaan Clan of Huna, Alaska, for the collections of the University of Pennsylvania Museum.

The cultural affiliation of the eight cultural items is the Tlingit T'akdeintaan clan of Huna, Alaska, as indicated through Museum records, and by consultation evidence presented by the the Huna Indian Association and the Huna Heritage Foundation representing the Tlingit T'akdeintaan Clan of Huna, Alaska.

Officials of the University of Pennsylvania Museum of Archaeology and Anthropology have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the hide robe (NA6829); the two carved wooden masks (NA6831 and NA6832); the Ravine frontlet headdress (NA6835); the head cover (NA6836); the carved wooden rattle (NA6845); and the carved wooden pipe (NA6862), cultural items described above, are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.

Officials of the University of Pennsylvania Museum of Archaeology and Anthropology have determined that, pursuant to 25 U.S.C. 3001 (3)(D), the wooden box drum (NA6828) and the hide robe (NA6829), cultural items described above, have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.

Officials of the University of Pennsylvania Museum of Archaeology and Anthropology also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and/or the objects of cultural patrimony and the Huna Heritage Foundation and the Huna Indian Association representing the Tlingit T'akdeintaan Clan of Huna, Alaska.

Lastly, officials of the University of Pennsylvania Museum of Archaeology and Anthropology have concluded that, pursuant to 25 U.S.C. 3001 (13), the University of Pennsylvania Museum of Archaeology and Anthropology has right of possession of the eight cultural items described in this notice, but in recognition of each object's religious and/or cultural significance for the Tlingit people, out of respect for the tribe and its culture, in consort with its continued interest in supporting Native American religious and cultural integrity, and consistent with the intent of NAGPRA, the University of Pennsylvania Museum of Archaeology and Anthropology wishes to voluntarily return the eight cultural items to the Tlingit T'akdeintaan Clan, represented by the Huna Heritage Foundation and the Huna Indian Association.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the eight sacred objects and objects of cultural patrimony should contact Dr. Richard Hodges, Director, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA, 19104-6324], telephone (215) 898-4050, before [insert date 30 days following publication in the Federal Register] *(Federal Register calculates this date)*. Repatriation of the sacred objects and objects of cultural patrimony to the Huna Indian Association and Huna Heritage Foundation representing the Tlingit T'akdeintaan Clan of Huna, Alaska, may proceed after that date if no additional claimants come forward.

The University of Pennsylvania Museum of Archaeology and Anthropology is responsible for notifying the Huna Indian Association and Huna Heritage Foundation, that this notice has been published.

Penn Museum
UNIVERSITY of PENNSYLVANIA MUSEUM
of ARCHAEOLOGY and ANTHROPOLOGY

October 5, 2009

Russell Dick, Chairman
Huna Totem Corporation
9301 Glacier Hwy
Juneau, AK 99801-9306

Mr. Frank Wright, Jr., President
Hoonah Indian Association (IRA)
P.O. Box 602
Hoonah, AK 99829-0602

Dear Chairman Dick and President Wright,

I am writing to follow up on my letter to you of July 20, 2009 regarding the issue of possible pesticide residues on the eight objects to be repatriated by the Penn Museum to the T'akdeintaan Clan.

You asked if the eight objects have been tested for pesticide residues. We are aware of the concern within Native American and museum communities about the past use of pesticides and chemicals by museums to protect cultural objects from insect and fungal damage. We have not found evidence that Louis Shotridge treated his collections in the field, and the Museum does not have any evidence of systematic treatment of objects in its collections. However, because we were not certain, our Department of Conservation tested the eight objects for residues of mercury and arsenic, the chemicals most likely to have been used to protect natural specimens in the early decades of the 1900s. No evidence of these chemicals was found on any of the objects.

The remaining 37 objects, which we have proposed to share with you under a joint curatorial agreement, will be tested for residues of mercury and arsenic during the first two weeks in November. We will share with you any information we learn as soon as possible as we complete this process.

We very much look forward to working with you to resolve your concerns and to talking further about your response to the Resolution and proposed partnership when you are ready.

With kind regards,

Richard Hodges
The Williams Director

Cc: Kathy Miller, Huna Heritage Foundation

Huna Heritage Foundation

From: Lucy Fowler Williams [wfowler@sas.upenn.edu]
Sent: Wednesday, October 07, 2009 11:04 AM
To: kmiller@hunatotem.com
Cc: 'Stacey O. Espenlaub'
Subject: UPenn Museum, repatriation update
Attachments: UPM Pesticide residue analysis of 8 objects 10 09.pdf; Shipping estimate of 2 crates w 8 UPM obj 10 09.pdf

Dear Kathy,

I am writing to let you know that we have received our first set of test results regarding the pesticide analyses discussed in our letter to Russell Dick and Frank Wright of July 20, 2009. Please see the attached pdf of a letter mailed to them both today via snail mail.

In addition, I now have the second set of cost figures for you for your NAGPRA grant proposal to request shipping funds to repatriate the 8 objects. The cost to ship the two crates holding the 8 objects is noted on the second attached pdf from Mike Andrell of Barthco, Inc. This plan is to ship the objects to Juneau.

Please let me know if you have any questions at all.

I hope everything is well in Huna, and we look forward to hearing from you about our proposed partnership of June 19, 2009 and our draft Notice of Intent to Repatriate of July 20.

With my best wishes, Lucy.

Lucy Fowler Williams, PhD
The Jeremy A. Sabloff Keeper
American Collections
Penn Museum
3260 Spruce Street
Philadelphia, PA 19104-6324
p 215-898-4048
f 215-746-6982

From: Andrel, Mike [mailto:mandrel@ohl.com]
Sent: Monday, September 21, 2009 5:45 PM
To: Tara Kowalski
Cc: Esterbrook, Lauren
Subject: RE: Shipping 2 crates to Alaska

Tara... Here it the estimate:

The estimated cost for two (2) Crates from University of Pennsylvania to the Airport/ UsAirways

Transportation to airport:	***$500.00***
Documents/booking	***$450.00***
Supervision /Escort to Aircraft	***$595.00***
Courier assistance to passenger Terminal	***$395.00***
Air freight Philadelphia to Seattle Premier Services	***$1075.02***
Supervision in Seattle from Us Airways	
Transfer to Alaskan Airlines	***$450.00***
Airfreight from Seattle to Juneau	***$1095.02***
Estimated Total	***$4560.04***

Hope this helps... Regards Mike

Michael Andrel, LCB, C.C.S., LEO
Vice president
Special Services
Americas

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"Details matter"

Hoonah Indian Association
PO Box 602
Hoonah, AK 99829

AND

Huna Totem Corporation
9301 Glacier Highway
Juneau, AK 99801

12 October 2009

Richard Hodges
The Williams Director
University of Pennsylvania Museum
3260 South St.
Philadelphia, PA 19104-6324

Dear Dr. Hodges:

We are writing in response to your offer of the return of eight objects and the exploration of a joint curatorial agreement for the remaining 37 objects in the Mt. Fairweather/Snail House Collection of the T'akdeintaan Clan of Hoonah. After several discussions among the clan leaders and its experts in which the issues were evaluated and assessed, we have come to the realization that we cannot agree to the findings and conclusions stated in the proposed Notice of Intent to Repatriate and in your letter of July 20, 2009. Consequently, we are writing to inform you that we intend to bring a dispute proceeding before the NAGPRA Review Committee in order to obtain an impartial consideration of this complex case.

In appreciation for the efforts that you and the various committees expended on considering the relevant facts of the case, and in the spirit of continued dialog, we will briefly summarize some of our concerns with your proposals.

1. Right of Possession. We note that in the draft notice provided by the Museum, the Museum's right of possession to all items in the collection is asserted. As we have presented in previous communications, we dispute this claim. Specifically, we do not agree with the assertion that the items were acquired by the Museum's collector with the consent of an individual who had authority to alienate the items at the time. Although many items of importance to Tlingit clans and tribes were acquired by collectors during the late 19th and early 20th centuries, this does not mean that Tlingit clans and tribes had universally and uniformly rejected their traditions of clan ownership and preservation of clan at.óowu for present and future generations. In addition, museum documentation provides only weak circumstantial evidence that the items were acquired from Archie White, and in fact lacks any specific documents attesting to this claim. Nor was the record

of the collector's unethical and illegal practices adequately taken into consideration in the description of how the items were acquired. For these reasons, and others, we cannot accept the statements of "fact" as presented in the draft notice.

2. Issue of Central Significance. In your description of the Museum's decision-making related to the definition of cultural patrimony (items having "historical, traditional, or cultural importance central to the Native American group"), on page 3 of letter dated July 20, 2009, you make reference to a finding that, in the view of the Museum, only two of the items "reach the highest standard of community centrality." We do not find that NAGPRA or its regulations require an assessment of "degrees" of community centrality and that only those items that meet your museum's criteria for the highest centrality shall be repatriated as an object of cultural patrimony. Under the law, centrality is described in terms of a distinction between property owned by the group (which by definition is inalienable) and individually-owned property which can be legitimately sold or otherwise disposed of by a member of the group at the time the item was acquired. Thus, we do not accept your finding that only two of the items in the Mt. Fairweather/Snail House Collection are of central and ongoing historical, traditional, or cultural importance to the clan and tribe.

In addition, there is a curious contradiction in your findings, in that only two items are found to have been cultural patrimony (and thus of central importance) while the remaining items are not. This leads us to conclude that perhaps your position regarding the right of possession may be clouding your judgment on this issue of centrality. Indeed, it is due to the "particular historical significance" of the remaining 37 items having been preserved in a single collection that you have proposed a joint curatorial agreement and the physical transfer of the items to Alaska. As has been described in detail by us in previous submissions, the items were preserved so they could be used by the clan in funerary ceremonies and memorials, and are thus central to the group's ongoing identity as a Tlingit clan. In your letter, you indicated that your representatives attended five memorial potlatches in which they observed the use of similar items by Tlingit clans and reported back to the museum about the significance of the objects. Nevertheless, in evaluating the remaining items on an object-by-object basis, it appears the Committee applied a standard of proof that is higher than that described in NAGPRA and its regulations.

3. Sacred Association with Tlingit Ancestors. Your letter states, "Your repatriation claim asserted that all Tlingit objects are considered sacred because of their associations with Tlingit ancestors. The Committee concluded that this fact alone is insufficient to meet the requirements of the law." We take issue with this finding, which indicates there is a fundamental misunderstanding about the ceremonial use and function of such items in Tlingit religious ceremonies. Objects used in Tlingit memorials are sacred in a NAGPRA sense because they evoke ancestral spirits which are believed to take part in the ceremony and receive the spiritual essence of the food and material items (such as blankets) that are distributed. This is a crucial feature of Tlingit memorials, without which the ceremony would be ineffective. We do not feel the Committee's statement about the association of at.oowu with clan ancestors recognizes the spiritual role of items brought out and used in Tlingit memorials, and specifically their association with the spirits of Tlingit ancestors who once owned and used the items, which is essential for the practice of Tlingit religion.

Sincerely,

Russell Dick, Chairman
Huna Totem Corporation

Frank Wright, Jr. President
Hoonah Indian Association

cc: Huna Heritage Foundation
Marlene Johnson, HHF Chairman
Kenneth Grant T'akdeintaan Clan Spokesperson
Adam Greenwald, House Leader

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PO Box 602
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9301 Glacier Highway
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October 12, 2009

Dr. Richard Hodges, Williams Director
University of Pennsylvania Museum of Archaeology and Anthropology
3260 South Street
Philadelphia, PA. 19104

Re: Hoonah Indian Association and Huna Totem Corporation Repatriation Claim

Dr. Hodges,

We would like to sincerely thank you for forwarding to us your response to John Martin's correspondence regarding the ongoing repatriation claim for the Snail/Mount Fairweather House at.óowu. As you have noted in your letter to him, John Martin is an individual clan member of the T'akdeintaan [Little Sockeye House] and therefore has no legal standing in this case.

We respectfully request that you forward us a copy of Mr. Martin's original correspondence to you, as you did in 2007 with the letter written by Teri Rofkar.

Sincerely,

Russell Dick, Chairman
Huna Totem Corporation

Frank Wright, Jr. President
Hoonah Indian Association

cc: Huna Heritage Foundation
Marlene Johnson, HHF Chairman
Kenneth Grant T'akdeintaan Clan Spokesperson
Adam Greenwald, House Leader

cc. R. Dick.

UNIVERSITY OF PENNSYLVANIA MUSEUM
of Archaeology and Anthropology

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August 31, 2009

Mr. John Martin
P.O. Box 20403
Juneau, Alaska 99802

Dear Mr. Martin,

Thank you for your letter of July 31 expressing your concern for our repatriation process regarding the Snail House collection of the T'akdeintaan clan of Huna, Alaska. As you know, we are currently working with the Huna Totem Corporation (HTC) and Hoonah Indian Association (HIA) on behalf of the T'akdeintaan clan.

Please know that we take very seriously your concerns about appropriate representation and protocol. However, we are legally bound by the regulations established by the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA). These regulations require us to deal with federally recognized tribes or Native Alaskan Corporations. They do not allow us to deal with clans directly, although we do hope that the corporations will act in ways that are acceptable to the clans.

We have no authority to adjudicate between different claimants within the T'akdeintaan clan. Indeed, this was one of the reasons the processing of the claim has taken so long. In 1995, HTC submitted the original claim for the Snail House collection. Because the claim was incomplete, we asked HTC to provide additional information, which they did in 1998. However, we also received a competing claim from HIA in 1998. This dispute wasn't resolved until 2001, when the two claimants joined hands and submitted a joint claim.

I thank you for the detail you have provided on the history of the T'akdeintaan clan in your letter which I have shared with the Museum's NAGPRA Committee. We will raise your concerns as best we can as we continue to negotiate the repatriation of T'akdeintaan objects with the corporate representatives of Huna. I greatly appreciate your willingness to share your thoughts on these important issues, and hope you can work together with individuals in Huna to resolve your concerns.

Sincerely yours,

Richard Hodges
The Williams Director

RH/RP

Cc:
Russell Dick, Chairman, Huna Totem Corporation
Frank Wright, Jr., President, Hoonah Indian Association