No One Owns the Deceased!

The Treatment of Human Remains from Three Great Basin Cases

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The human remains enabling the studies in this volume are from three cases: Stillwater Marsh, Nevada, Great Salt Lake, Utah, and the Malheur Lake, Oregon (See Figure 1.1). Each case is distinct not only in location but also in timing of the appearance of the human remains, the subsequent consultation process, the cast of players, and the resolutions pursued. Collectively, however, these remains are noteworthy from two very different anthropological vantages. From an educational vantage, they more than double the amount of prehistoric human skeletal remains known from the Great Basin and have greatly added to our understanding of ancient life. They appear at a time when significant advances in analytical capability are being achieved. From the very different vantage point of a reflexive anthropology struggling with its own cosmology, the human remains were brought into public view by the serendipity of climatic and geological forces at a time when a national conversation about cultural patrimony was taking place. Out of this combination of the natural and the cultural arises a potential to discuss some philosophical issues prompted by the three cases. In approaching these issues, we make several arguments: burials cannot be owned—by American Indians or anyone else; local solutions are more consistent with the principles of democratic process than national or state regulatory mandates (including NAGPRA—the Native American Graves Protection and Repatriation Act of 1990); we must concur with the result of local solutions regardless of whether we live in unenlightened times, but we must also seek solutions now that do not vitiate our options should we find ourselves in a more enlightened future.

With the passage of time, the distinctiveness of these and other individual cases of cultural patrimony will surely fade. What will be remembered are the decisions that resulted from this national conversation, whether those decisions were
cognizant that future political contexts and cultural constructions will surely deviate from those of the present and whether the underlying issues of principle were raised, acted upon, or sacrificed for the expedience of the present.

DIFFERENT CIRCUMSTANCES, DIFFERENT SOLUTIONS

Observers of the Great Basin, from John Frémont, to Mark Twain, to Wallace Stegner, have remarked on the unpredictability and fluctuation found in the region's climate. True to its reputation, the Great Basin climate caused once-buried human remains to be exposed at the surface in three cases, at different times, but within the same decade.

Exposure and Discovery

Stillwater, Nevada, was first. Deep snowpack in the mountains of northern and central Nevada and California's Sierra Nevada in 1983–85, coupled with valley rainfall, swelled the Carson and Humboldt Rivers to their highest levels in recorded history. Lacking an outlet to the sea, the rivers poured into the usually dry Carson Sink. Stillwater Marsh, a 35,000-acre maze of islands, tules, and water, lies at the southern margin of the Carson Sink. Water surged into the marsh transforming it into a vast but shallow lake. Wind-driven ice rafts and waves scoured landforms and killed vegetation. In the summer of 1985 the high water began to recede. The emerging landscape revealed dozens of archaeological sites, each sectioned horizontally by the flood. Human remains were scattered across the sites.

Great Salt Lake, Utah, was next. The 1980s turned out to be a wet decade. The Stillwater floods were over, but in areas that historically supported lakes, waters did not peak until 1987–88. In the spring of 1987, the Great Salt Lake reached its highest level in recorded history. Fed by four moderate-sized rivers and a host of streams emanating from the Wasatch Mountains, the eastern shores of the lake, like Stillwater, constitute a mosaic of wetland habitats. There are slow moving sloughs, ponds, tules, and stringers of slightly elevated ground on the natural levees bordering relict and active channels. Like Stillwater, the high ground was planed by ice and waves; channels were filled in; vegetation was killed; and as the lake receded, archaeological sites were exposed. Erosion continued as the ground dried into a diffuse alkali dust that was soon blown into the mountains, causing the ground surface to deflate, in some cases over 15 cm in two years. The surface was scattered with human remains, and more appeared as deflation proceeded.

The effects of Great Basin climate on the land are predominately time-space transgressive, and the floods of the 1980s were no exception. Malheur Lake, like the Carson Sink and the Great Salt Lake, has no outlet to the sea. Above-average precipitation caused Malheur Lake to rise to a historic record high and more than double its surface area. Water inundated a vast network of islands and miles of
Ice and wave erosion removed vegetation and topsoil. When the water finally began receding in 1988 and 1989, it revealed over 35 habitation sites, many containing human burials (Oetting 1990b).

Responses

The response in each case was as local as the climate, but shared a concern among all parties involved that something "right" should be done. Again, Stillwater Marsh, which is managed by the U.S. Fish and Wildlife Service (FWS), was in the lead. As soon as the water receded from the archaeological sites and burials in summer 1985, artifact collectors roamed the sites. Erosion and effervescence of the alkaline marsh soils damaged the burials and transformed archaeological contexts. There was a small uproar. Members of the local chapter of the Nevada Archaeological Association and archaeologists across the state expressed concern over the situation. The neighboring Fallon Paiute–Shoshoni tribe wanted their ancestors and heritage protected. The news media clamored for stories and pictures. The Nevada State Historic Preservation Office (SHPO) and Advisory Council on Historic Preservation looked to the FWS for a solution. With the help of the Nevada State Museum and SHPO, the FWS verbally enlisted the support of the Fallon tribe for collection, limited excavation, an unspecified level of analysis, and some sort of reinterment. The Nevada State Museum coordinated an extraordinary effort by professionals and volunteers to salvage the human remains (Tuohy, Dansie, and Haldeman 1987), while the FWS increased law enforcement and public education. By September 1986, over 4,000 human bones were collected from the surface of archaeological sites in Stillwater Marsh. The bones came from 144 relatively intact burials and 272 individuals whose remains had been scattered by the flood waters. These 416 individuals from Stillwater Marsh exceeded the total burials previously recovered in the state of Nevada (S. T. Brooks, Haldeman, and Brooks 1988). The bones were held in temporary curation by the Nevada State Museum.

Avocational archaeologists from the Utah Statewide Archaeological Society were the first to observe and record the human remains along the Great Salt Lake in the fall of 1987 and spring of 1988. They covered the exposed human remains with plastic sheeting and soil, and recorded their locations. In summer 1988 the Utah Division of State History organized several meetings of all possible participants, but consensus to recover the human remains was slower than at Stillwater and Malheur for two reasons. The closest American Indian tribal affiliations were the Ute, with headquarters in northeastern Utah, and the Northwestern Band of the Shoshoni Nation, at that time headquartered in Fort Hall, Idaho. Historic records indicate both had resided in the Great Salt Lake area. It seemed likely that consultation would ultimately be with the Shoshoni, but the proximity of the Ute demanded their inclusion. Also, while most of the human remains were found on State of Utah lands, federal lands managed by the U.S. Bureau of Reclamation and the FWS were also potentially involved and the extent of the problem was unknown. These factors required the coordination of several interested parties and led to systematic reconnaissance along much of the entire eastern shore of the Great Salt Lake in 1989 (Metcalf and Shearin 1989; Russell et al. 1989; Simms et al. 1990). The recovery of human remains required further consultation and fund raising, and ultimately proceeded in 1990 via state funds, university field programs, and public programs (Simms et al. 1991). The U.S. Bureau of Reclamation conducted a survey in 1991 (Baker et al. 1992) and recovered the human remains in 1992 (Fawcett and Simms 1993). All of the remains were held in temporary curation by Utah State University. In all, a minimum number of 85 individuals were recovered.

Malheur Lake, Oregon, like Stillwater Marsh is managed by the FWS. The exposure of burials in the late spring of 1988 at Malheur came quickly on the heels of the experience at Stillwater, so response was prompt. However, the extreme isolation of the Malheur area afforded an atmosphere in which events transpired and decisions were made with far fewer exigencies than in the Stillwater Marsh and Great Salt Lake cases. The FWS turned to the Burns Paiute, whose ancestors once lived on the islands and shores of Malheur Lake (Whiting 1950). Consultation was achieved simply, and by a few people from each organization, although all decisions were subject to standard tribal and FWS protocol. The FWS and Burns Paiute formulated, in relatively relaxed settings, goals and procedures for the archaeological sites and burials with little participation by outside organizations. Verbal consultation quickly established a procedure where exposed burials were covered with plastic sheeting and soil while isolated human bone was collected. An October 1989 interim agreement allowed removal of 15 known burials and temporary curation at the Oregon State Museum of Anthropology. The parties agreed on a final memorandum of understanding in 1990 that called for removal and analysis of all burials as they eroded out of Malheur Lake through 1992. In all, archaeologists retrieved the remains of 50 individuals from 42 graves, as well as hundreds of scattered bones from sites in Malheur Lake (Hempill 1992a, 1992b, 1992c).

Solutions

A consistent theme underlying all three cases was the goal of the archaeological community and the land managing agencies to include American Indian voices. In retrospect, there was never a question as to whether the remains would be repatriated, only a struggle with what this meant. The scientific value, and by extension, the long-term public and educational values were kept in view throughout the consultation process. The sacred quality, and by extension, the emotional
import of the burials and bones drove the consultation process as well. This dualistic philosophy is consistent with an underlying assumption that the remains of the deceased cannot be owned by anyone.

In two of the cases, Stillwater Marsh and Great Salt Lake, repatriation into burial chambers was sought and achieved. In this way, the desire for an ethical interment of the remains was balanced with long-term public interests by holding open the possibility of future access. At Malheur, the burials were reinterred into graves in an isolated and protected plot of open ground with no possibility of future analysis.

At Stillwater Marsh the interested parties initially held, as one might expect, vastly different views on how human remains should be treated. A characterization of those views is familiar to many. On the one hand, there are those who believe the bones contain valuable information and should be analyzed and curated like other scientific data. On the other hand, there are those who believe that the bones are sacred and ancestral to the local tribes. Fortunately, the issue did not become as polarized as is often portrayed in today’s popular press. There were many from both camps willing to listen to a supposed adversary and recognize the legitimacy of the opposing view.

Consultation over the Stillwater remains began in 1985. Verbal agreements and written interim agreements (which implemented various treatments of the burials) were eventually codified in the October 1988 “Memorandum of Understanding on Human Remains among the U. S. Fish and Wildlife Service, the Nevada State Historic Preservation Office, and the Fallon Paiute–Shoshoni Tribe” (MOU). Although the tribe and FWS were the primary negotiators, the Nevada SHPO, the Nevada Indian Commission, and professional archaeologists and anthropologists from other Nevada universities and institutions contributed significantly throughout the consultation process. The Nevada State Museum played a key role not only in salvage archaeology and as temporary curation facility but also as a champion of Nevada’s cultural heritage.

The Stillwater MOU was negotiated and implemented before the advent of NAGPRA. The prevailing wisdom of the time was contained in the Archaeological Resources Protection Act (ARPA) and the Department of Interior Guidelines for the Disposition of Archaeological and Historical Human Remains (DOI 1981). Specifically, ARPA indicated that human remains are “archaeological resources.” And, coming from federal land, the Stillwater bones were property of the federal government. Thus, the government had certain responsibilities for the treatment of the remains, including consulting with those who had an affinity with the remains. Although the government asserted sovereignty, the consulting parties and a whole community of Nevadans recognized that the Stillwater burials transcended mere “archaeological resources” and Department of Interior guide-

lines. The issue wasn’t about ownership so much as it was about mutual respect and a sense for the common good.

The Stillwater MOU represents a compromise by consensus. The document asserts a philosophy that the appropriate treatment of human remains requires a responsible balance between respect for the deceased, respect for the feelings of the descendants of the deceased, and the interests of science. The MOU specifies criteria and procedures for recovery, curation, analysis, reporting, and reburial. It passively assumes a cultural relationship between the burials and the historical Paiute residents of the area, but makes no statement affirming or denying a genetic connection or a relationship presuming knowledge of historical continuity. The procedures that guided the recovery of remains from the 1985–86 flooding were encoded into the MOU, and they continue to guide the treatment of additional remains which have come to light and those which will surely come to light in the future. Remains are removed when more than 50 percent of the in situ elements are exposed. If remains do not meet this criteria, they are covered with plastic and earth and left in place. Artifacts spatially associated with the burials are treated as grave goods and are subject to reinterment, although the depositional conditions create an ambiguity in the archaeological contexts. Analyses include all observational techniques, but substance analyses are limited to skeletal elements recovered in a damaged or broken condition.

The Fallon Paiute–Shoshoni Tribe wanted the remains to be reinterred at their location of discovery, which was impractical because of erosion, the high water table, and the possibility of future flooding or vandalism. So the consulting parties decided on a single, mass grave. The dual recognition of the spiritual and the scientific values of the remains, as well as the likelihood that additional remains would come to light in the future, prescribed the construction of a burial chamber at the Stillwater National Wildlife Refuge. The chamber called for in the Stillwater MOU was a 12’x10’x30’ underground structure of concrete. The interior was lined with shelves upon which rest 1’x1’x2’ redwood caskets containing the human remains. The contents of the burial chamber are tagged and cataloged. After the remains and the documentation were placed inside, traditional Paiute ceremonies consecrated the burial chamber. Then, in November 1988, the double steel door was closed and a bulldozer pushed boulders and earth over the structure. Two locks secured the door—the key to one held by the FGWS and the other by the Fallon Paiute–Shoshoni Tribe.

The MOU calls for future access to the chamber to add more remains as fluctuating water levels at Stillwater Marsh continue to erode bones from archaeological sites. However, a recently scheduled reopening of the chamber in 1996 was canceled at the eleventh hour when the National Park Service informed the FWS that reintering additional remains without exercising the NAGPRA process was
inappropriate. The Stillwater MOU yielded in order to accommodate NAGPRA, and, a year later, the Fallon tribe and the FWS reopened the chamber and reinterred the additional human remains. It was somewhat disconcerting that a hard-earned process agreed to by the local community of Indians and archaeologists was upset by a distant far-off agency and post hoc rule.

The Stillwater MOU also specifies a process for gaining access to the chamber to conduct additional research on the remains. Research proposals must submit to a scientific peer review process and, if successful, are then reviewed by the FWS and the tribe. The final decision on approval of proposals rests with the tribe. Since the signing of the MOU a couple of proposals for additional substance analysis were informally considered—trail balloons of a sort—but were not pursued.

The exposure of human remains at Malheur Lake came just as resolution was being achieved at Stillwater Marsh. Flushed with experience at Stillwater and seizing continuity, the FWS pursued at Malheur a similar course for the treatment of human remains. But as mentioned earlier, the atmosphere of consultation and ultimately the solution was different. Verbal and written agreements implemented in 1988 and 1989 were eventually finalized in a November 1990 Memorandum of Understanding on Human Remains among the FWS, the Oregon State Historic Preservation Office, and the Burns Paiute Tribe (Malheur MOU). As at Stillwater, the Malheur MOU identified the spiritual and the scientific value of prehistoric human remains. It specified similar procedures for the recovery of remains and their curation. Scientific analysis included detailed observational studies, CAT scans, and radiocarbon dating.

The Burns Paiute Tribe, like the Fallon Paiute-Shoshoni Tribe at Stillwater, wanted the remains reinterred at their location of discovery, which was similarly impractical. So a site safe from flooding and erosion was selected. Significantly different, however, the Malheur bones would be reinterred into individual graves in the ground at a site. The human remains were cataloged, labeled, wrapped in muslin, and placed in graves grouped according to the site from which they were recovered. After traditional Paiute ceremonies to consecrate the site and the reinterments, a map was made of each grave as to its contents and a single basalt boulder was placed at each one. At Malheur, there are no provisions for future access, only the interment of additional burials should the need arise.

As mentioned previously, the isolation of Malheur Lake colored the decisions over the human remains found there. The closest town and seat of Harney County is Burns—population 4,000 and 30 miles from Malheur Lake. Harney County sprawls over 10,000 square miles of sagebrush, yet only 7,100 people live there. The city of Portland, the populous Willamette Valley, the state capital, most of the universities, the news media, as well as archaeologists and Indians are a six-hour drive and a world away. Consultation occurred chiefly among two FWS archaeologists, a consulting physical anthropologist, and the Burns Paiute tribal staff, officials, and elders. Everybody embraced the spiritual and scientific importance of the burials. However, use of a burial chamber was discarded as an option for reinterment. Detailed scientific analyses of the remains was mandated, and after the bones served the needs of science, they would be reburied in the ground. A compromise was struck whereby the bones would give their information to the community and then the community would give the bones back to the earth.

The Great Salt Lake case took a decidedly different course, although the outcome, repatriation in a burial chamber with the possibility of future interment and study, was similar to the Stillwater Marsh case. Most of the remains were largely from state lands, with the smaller number from federal lands recovered several years after most of the collection had been made. Initially, consultation was similar to the Stillwater case, and there were various meetings of the interested parties and the usual diversity of perspectives, but there was a willingness to hear contrasting views. The ultimate course of consultation was set, however, by two factors: a special legislative bill to fund the initial recovery of the remains and a decision by the governor to appoint a task force, the Governor's Committee on Reburial, to write a law addressing American Indian graves and repatriation concerns. Thus, the Great Salt Lake case initiated the development of a Utah version of the federal Native American Graves Repatriation Act, which caused the consultation specific to the Great Salt Lake case to become embedded in what became a statewide issue involving all Utah tribes. Thus, a local situation not only drove the general statewide process but also in turn was influenced by nonlocal forces. This complicated process is described elsewhere (Simms 1993).

The State of Utah Native American Grave Protection and Repatriation Act was passed in 1992 and instituted a standing committee, the Native American Remains Review Committee (NARRC) under the aegis of the Utah Division of Indian Affairs. This committee continues to meet to develop regulations, most of which have not been subject to application or test. Legislative action leading to the construction of a burial chamber waited until 1993, and the chamber, planned as a statewide facility, was completed in 1996.

The remains were recovered, analyzed, and taken into temporary curation well prior to the passage of the state law. Instead of a memorandum of agreement as at Stillwater and Malheur, decisions about the Great Salt Lake case either took place in the meetings of the Governor's Committee on Reburial or were made informally via consultation between the Utah Division of State History, the principal investigator for the archaeological work, and the tribal council of the Northwestern Band of the Shoshoni. The decision to permit scientific analysis took the form of a legal memorandum negotiated by the principal investigator conducting the archaeology and voted on by the tribal council. The memorandum constituted permission for analyses to be included in grant proposals to funding agencies. It was signed only by the tribal council chair and tribal legal council. Observational
analyses were permitted and a subsample of mostly fragmentary bone was segregated for substance analyses. The remains were placed under temporary curation at Utah State University.

As at Stillwater and Malheur, there was a strong desire for the remains to be reinterred close to the point of discovery. A consensus seeking a burial chamber was achieved by 1990, but subsequent debate and the complications of working across state agencies caused delays. These impediments were finally resolved when two state legislators became involved as advocates for the construction of a burial chamber in Salt Lake City, on lands administered by the Utah Division of State Parks. The goal was to have a burial chamber where remains from around the state could be repatriated, but the degree to which this approach would be successful remains unclear because, even though tribes were "consulted," they were not engaged in the decision-making process for the chamber. Tribes generally desire remains to be reinterred close to "home."

The Great Salt Lake case indicates the complications that can arise, despite the best of intentions, when the decision making becomes disengaged from those already working toward a local solution and becomes embedded in various levels of government. Perhaps on the positive side, the Great Salt Lake burials stimulated a broader discussion and led to a codified position for the state at large. But, more toward the negative side, after passage of the law, decision making was placed in the hands of the Native American Remains Review Committee under the Division of Indian Affairs and the construction of a burial chamber was placed with the Division of State Parks. None of the committee members, American Indian or otherwise, had any prior experience or involvement with the Great Salt Lake burial situation—that is, with the Governor's Committee on Reburial that drafted the law. Neither did the Division of State Parks have any such experience. By disengaging the process from the several years of groundwork laid between 1988 and 1992, the costs of instituting the regulatory apparatus increased, and after several large cost overruns, the burial chamber became so expensive that such places of interment may now be politically difficult as local solutions for other areas of the state. Finally, the nonlocal approach to the problem contributed greatly to why a situation that arose in 1988 was still not solved as this article went to press in the summer of 1999. The ancient bones remain in temporary curation.

A PHILOSOPHICAL UNITY? SOME UNSOLICITED ADVICE

The Native American Graves Protection and Repatriation Act did not apply to the three cases discussed here. Either they were resolved before enactment of the law (Stillwater or Malheur) or they occur on state lands free from the law (Great Salt Lake). The issues that we and our archaeological, tribal, and land-managing colleagues confronted then are not the same issues that vex land managers, archaeologists, and tribes today. NAGPRA is about determining the affiliation (ownership) of human remains, and then repatriating the remains to the affiliated. We were more interested in the pursuit of knowledge, respect for the deceased and those concerned with the deceased, and disposition of the remains in a way that all could embrace. The ultimate fallacy of NAGPRA, we believe, is its underlying assumption that archaeological human remains are "property."

"Burial sites are not fixed locations, and they cannot be abandoned or disrupted. No individual or group can 'own' the remains of another person" (Zimmerman 1988). "In a philosophical and spiritual sense this is surely so. In a legalistic and regulatory sense, however, ownership of the past has come of age. Bones, objects, and in some cases, perhaps even unpublished notes, photos, and maps are a potential commodity to virtually anyone who may become empowered by control over these things" (Simms 1993). This situation is unfortunate, and as either "side" in the reburial controversy ignores Zimmerman's basic tenet, the only thing likely to be served are the transient power interests of the present. The future, the very thing a fascination with the past is about, will be made irrelevant in today's decision making.

How so? If we simply reinter all American Indian remains does that not save us from having to deal with this issue in the future? We are surely being culturally sensitive if we accede to the spiritual wishes of American Indians specifically or the feelings among the general populace that human remains should be interred rather than stored. However, if archaeologists utilize regulatory ambiguity to force study, such as loosely interpreting the language of NAGPRA or state equivalents to conclude that study must be done to determine cultural affiliation (i.e., ownership), are we really fighting for the triumph of knowledge? If we argue that archaeologists are only serving science, are we being disingenuous? We suggest that all of the above positions are ethnocentric, shortsighted, and located in transient special interests.

The conclusion that American Indians should be the sole determinants regarding the treatment of the dead of their "race" is ethnocentric, if not racist. It amounts to the use of an arbitrarily defined racial category to allocate power and homogenizes the diversity that represents people labeled as American Indians. Perhaps more unfortunate in a practical sense, this position fails to take the future into account. We are not the first archaeologists of European descent to sometimes feel a bit awkward when studying the artifacts, bones, and culture of American Indians. The history of Indian-white relations has disenfranchised the American Indian, to say the least, but the granting of ownership will not absolve the sins of the past. Nor through ownership of bones do Indians gain continuity with the past or the cultural legitimacy that is their right. Rather, it is through the democratic process (consultation), the pursuit of knowledge, and basic morality that we achieve these goods. All human remains must be treated with the utmost respect. Reinterment is a basic moral principal that we cannot ignore, but we also cannot
ignore a similar obligation to America's past and to learn from it. The United States is dedicated to the principal of nation, where citizens transcend parochial angst and politically correct ethnicity by embracing democracy, knowledge, and basic respect to mold a future for all.

As for the proponents of scientific ownership, the use of interpretive vagary and bureaucratic gamesmanship to force analysis, perhaps against the wishes of the "other side," is just a continuation of the regulatory manipulation that has characterized Indian/government relationships throughout U.S. history. A 1995 court test of the Native American Graves Repatriation Act nudges the process even further toward division and the adversarial decision-making process characteristic of the legal system. In a suit brought by a native Hawaiian organization, the court found that cultural affiliation was not established and that it must be done before the court would become involved in repatriation (Giesen and Gagne 1996). In one sense, this finding was wise because it shifted the consultation out of the courts. In another sense, some archaeologists are now arguing for the routine use of DNA studies to resolve issues of cultural affiliation. No amount of evidence, be it archaeological, mythological, historical, or genetic, will ever determine the affiliation (cultural or biological) of human remains more than a few hundred years old. The nature of these disciplines has always been to open new doors as others never quite get closed. Surely, cultural affiliation must be part of the process and, regardless of the improbability of DNA studies resolving issues of affiliation, archaeologists who latch onto legalistic decisions to force more study may be doing more harm than good. When either American Indians or archaeologists bring the consultation process into the legal system prematurely, consultation via consensus will almost surely give way to embattlement among adversaries. Both parties end up losing something and a pall of suspicion is cast over future negotiations. The only beneficiaries in such a process are the attorneys. Should archaeologists give up the pursuit of knowledge in the face of arbitrary and suspect tactics of some American Indians? Of course not. Archaeologists may stand to lose more than American Indians would, however, if we jump into the legal mud pit with those who pursue low-road tactics. The naïve assumption that archaeologists only have the good of science at heart and thus should be granted special status with regard to the treatment of human remains flies in the face of public sensibilities and legislative action of the past decade. It amounts to public suicide for the profession.

Despite the appearance that there are two "sides" in the reburial debate, this is an illusion exposed by a common fault in each of the above polarized positions—that the dead can be owned (or for the purposes of legal and regulatory expedience, the dead should be treated as if they were owned). Bogus! Combine this realization with an advocacy for local solutions and a way out of the contradictions becomes apparent.

The local approach contrasts with the tendency to transfer solutions to attorneys and courts, boards of review, or committees (e.g., federal NAGPRA or state equivalents such as Utah's Native American Remains Review Committee—with the ignominious acronym, NARRC). Such parties are not intrinsically invested in the local solution (regardless of whether they are state or federal). Since they take on an official authority and stand in judgment, they tend to alienate participants, instill an adversarial climate, and force the process back toward an unproductive argument over ownership. The advocates of science will be trapped in a regulatory stereotype and so will the advocates for the spiritual value of the deceased. Such polemics are surely the misunderstanding evident in media coverage and public rhetoric today. A portrayal of adversaries may make for easily judged media images, but rarely brings consensus among parties who are closely affiliated with the local situation through direct experience. These parties include American Indians, land owners, members of the public, and, yes, even archaeologists with a demonstrated commitment to working in an area.

If no one owns the past, then collectively, we can only hold it in trust. Since we cannot know the cultural values that will be held in the future, we cannot decide for them. If no one owns the remains of dead people, then the knowledge about the past contained in human remains is as valuable as claims of their spirituality. If we simply rebury without study, and with no provision for access to those remains in the future, we have succumbed to ownership. If we simply study, we have done the same. The only way to avoid focusing the debate on ownership is through the combination of local solutions and the passage of time. Face-to-face consultation among parties with a commitment demonstrated through direct experience forms the basis for an agreement that may not satisfy everyone, but it holds the best chance to avoid speaking for those yet to be born and shutting them off from their past.

Responsibility to principles that transcend the special interests of the present and the convenience of government comes at a variety of costs: The cost of reinterment in contexts that can grant future access; the cost of scientific knowledge awaiting less volatile and hostile times; and the costs of restraining the power of appointed committees, boards, attorneys, and itinerant "advocates" over those more locally and directly invested in the outcome. In the Great Basin cases described here, the process determining the treatment of the remains fell squarely into many of the pitfalls we identify here. The solutions, however, show that it is possible to connect the past with the future while living in the present.

If consultation among interested parties toward a local solution produces a reburial solution, such as a burial chamber as happened in two of the three Great Basin cases, the future is not cut off. However, if the local solution also forbids some kinds of analysis or future access, then so be it. By considering the opinions of the present, the path toward greater understanding is left open and the advocates for the pursuit of public knowledge via scientific investigation stand a better chance to move forward.
chance of being heard. We should be advocates for this good. Whatever the local solution is with regard to scientific analysis in the present, the maintenance of a tie with the future by providing access to the remains ensures that future study in more enlightened times remains possible.

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