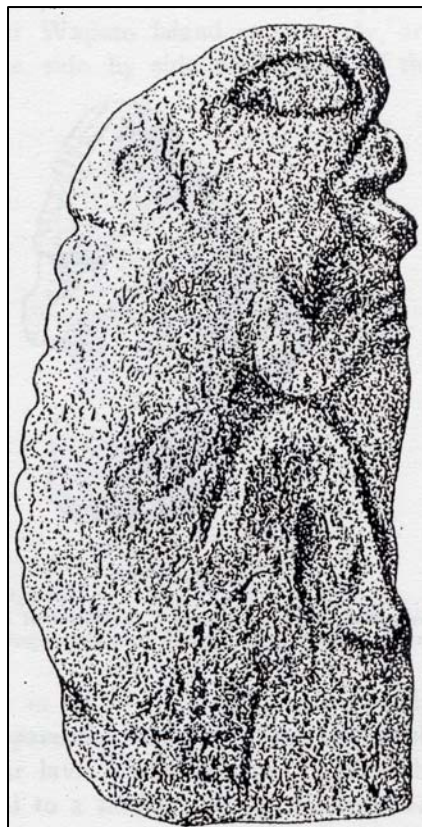


Stone T'ixwelátsa Repatriation Report & Supplement Report I



Submitted by:

The Nooksack Indian Tribe
Nooksack, Washington

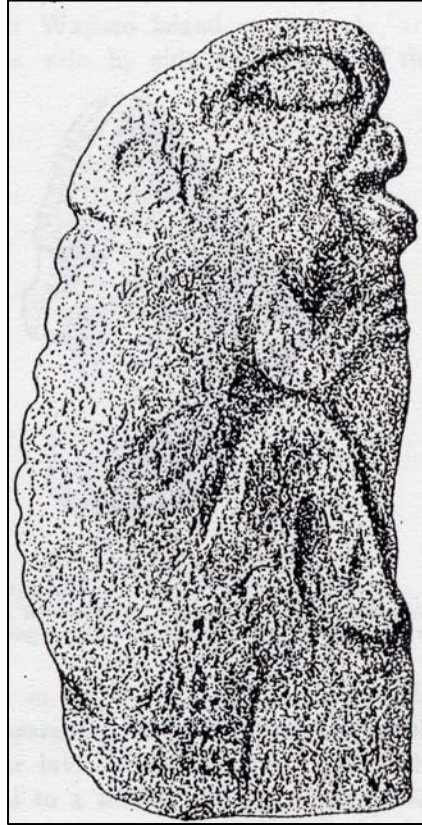
To:

The Burke Museum of Natural History and Culture
Seattle, Washington

As prepared by

David Schaepe (October 2005) / David Schaepe and Herb Joe (January 2006)

Stone T'ixwelátsa Repatriation Report



Submitted by:

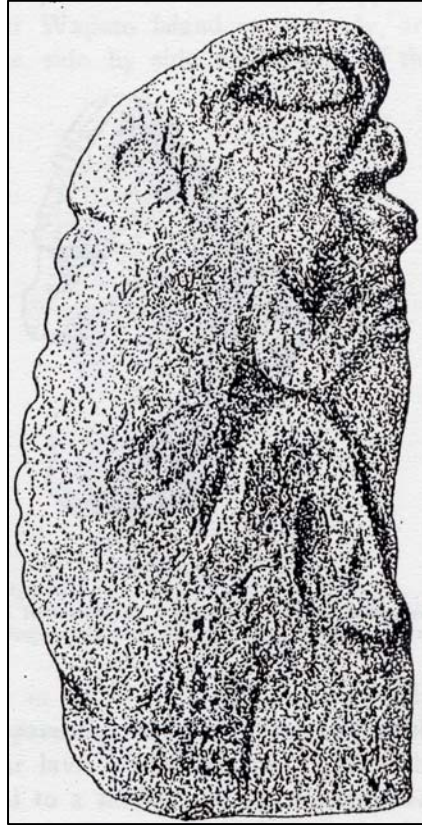
The Nooksack Indian Tribe
Deming, Washington

To:

The Burke Museum of Natural History and Culture
Seattle, Washington

October 2005

Stone T'ixwelátsa Repatriation Report



Prepared by:
David Schaepe
Senior Archaeologist
Treaty and Research Department
Stó:lō Nation

on behalf of the
Nooksack Indian Tribe

For submission to
The Burke Museum of Natural History and Culture
Seattle, Washington

October 2005

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1.0 Introduction

The objective of this report is to provide information supporting the Native American Graves Protection and Repatriation Act ('NAGPRA') repatriation request letter submitted by the Nooksack Indian Tribe (the 'Nooksack') to the Burke Museum of Natural History and Culture (the 'Burke'), for the return of the Stone T'ixwelátsa, accessioned by the Burke under archaeology catalog number 152, and accession number 190. The repatriation request for the Stone T'ixwelátsa is being forwarded under NAGPRA, section 7(a)(1) pertaining to "Native American human remains" and section 7(a)(5) pertaining to "objects of cultural patrimony".

This report is structured to address each of the legislative requirements defined in NAGPRA, section 7(a)(1) and 7(a)(5) regarding the test for the repatriation of Native American human remains and objects of cultural patrimony. The following sections of this report establish that:

- The Nooksack tribe - the claimant in the NAGPRA repatriation request for the Stone T'ixwelátsa - is an "Indian tribe" as defined in NAGPRA, section 2(7);
- The Burke is a "museum" as defined in NAGPRA, section 2(8), meaning that it is an institution that receives Federal funds and has possession of, or control over, Native American cultural items;
 - The Stone T'ixwelátsa is currently held in the Burke Museum's Collections;
- The Stone T'ixwelátsa qualifies as "human remains" per NAGPRA, section 2(3);
 - The Stone T'ixwelátsa is the physical remains of a person of Native American ancestry named T'ixwelátsa who was turned to stone (granite) by Xexá:ls (the Transformers) as they traveled through the land in the distant past, making the world right;
 - T'ixwelátsa (Herb Joe), also of Native American ancestry, is the current holder of the name 'T'ixwelátsa' and a direct lineal descendent of T'ixwelátsa as determined by the traditional kinship system of the Stó:lō;
- The Stone T'ixwelátsa is an "Object of Cultural Patrimony" to the Nooksack and the Stó:lō as defined in NAGPRA, section 2(3)(D);
 - the Stone T'ixwelátsa maintains ongoing historical, traditional, and cultural importance central to the Nooksack and Stó:lō cultural groups;
 - The Stone T'ixwelátsa was, and continues to be, considered inalienable by the Nooksack and Stó:lō at the time it was separated from them;
- There is "cultural affiliation" between the Nooksack and the Stó:lō forming a cultural bond between these communities and linking them to the communities in which the Stone T'ixwelátsa originated, per the definition in NAGPRA, section 2(2);
 - The Nooksack are lineal descendents of the original T'ixwelátsa;
- The Nooksack controlled the Stone T'ixwelátsa at the time of his collection;
- There are no outstanding or potentially competing repatriation claims on the Stone T'ixwelátsa;
- The stone figure currently held by the Burke is the Stone T'ixwelátsa;

- The Burke does not have “right of possession”, per NAGPRA, section 2(13), of the Stone T'ixwelátsa, meaning that they did not originally acquire it from an Indian Tribe with the voluntary consent of an individual with the authority to alienate the Stone T'ixwelátsa;
- The preponderance of evidence presented in this report satisfies the requirements for repatriation of the Stone T'ixwelátsa to the Nooksack tribe under NAGPRA, sections 7(a)(1) and 7(a)(5).

Information supporting these points is presented in the following sections of this report. Information included in this report is derived from referenced ethnographic, anthropological, linguistic, archaeological, historical, oral historical, and expert opinion accounts.

2.0 Overview of the Repatriation Claim Details

- a) T'ixwelátsa was born at a village along the Chilliwack River and became the first male ancestor of the Ts'elxweyeqw (Chilliwack) Tribe¹.

¹ Excerpt from Franz Boas's *'Legends from the Lower Fraser River'* (1895; see Kennedy and Bouchard 2002:103-104) - RE: the Origin of T'ixwelátsa (spelled by Boas as T'ē'qulā'tca).

"The Tc'ileQuē'uk⁵². In Ts'uwā'lē,⁵³ on the lower Chilliwack River⁵⁴, there lived a chief who had a very beautiful daughter. K-ā'iq, Mink, wished to have her for himself. So he assumed the form of a handsome young man and walked upriver on the shore opposite the village. He carried a harpoon in his hand and fish on his back so that it appeared as if he had just caught them. At just this moment an old man had sent all the young girls to bathe, among them the chief's daughter. The girls saw the young man, who kept calling "Ps! Ps!" and when they noticed the fish that he was carrying, they asked him to throw one over to them. He fulfilled their wish; the fish fell into the water, swam into the chief's daughter and made her ill. Her father searched for a shaman to heal her. So Mink assumed the shape of a shaman. In the evening he went to the village and when he was seen by an old woman, she said, "Surely he will be able to heal the girl." They called him into the house and he promised to heal her. First, he sent all the people out of the house, leaving only an old woman sitting outside the door to accompany his song with the rhythmic beats of the dancing stick. To begin with, he sang, but then he slept with the girl and she gave birth to a child right away. So Mink leaped at once out of the house. The old woman heard the child's crying and called the people back. They became very angry, took the child and threw him out of the house. But Mink was standing outside with his mountain goat cape spread wide; he caught the child in it and went away with him. After a while the girl's father became sad that he lost his grandson. So he sent to K-ā'iq and begged him to send him back. Mink granted his wish and sent the boy back. He was named T'ē'qulā'tca (from the lower reaches of the river)⁵⁵. He became the ancestor of the Tc'ileQuē'uk⁵⁶.

Later Qāls met T'ē'qulā'tca. They fought and tried to transform each other. Qāls first changed him into a root.⁵⁷ But this transformation was not entirely successful. Then he tried to transform him successively into a salmon and a mink, but wasn't any more successful. The mink wore eagle feathers on its head. So finally he changed him into a stone."

Footnotes:

⁵² "Tc'ileQuē'uk" (anglicized as "Chilliwack").

⁵³ This is Boas' rendering of the name for the Chilliwack village site called θ'Əwə'li, translated as 'dissolve; disappear, melted or wasted away,' and anglicized as "Soowahlie," that is situated at Vedder Crossing (Duff 1952:38; Maud, Galloway and Weeden 1987:40, 221; Galloway 1993:562). This is the setting of this story.

⁵⁴ Chilliwack.

⁵⁵ Galloway (2001:pers.comm.) has recorded t'ix^wƏlɛ'čɛ (Boas' "T'ē'qulā'tca") as an ancestral name and comments that 'from the lower reaches of the river' is a plausible translation.

⁵⁶ "Up to four generations ago the Tc'ileQuē'uk spoke the Nooksak language, which is almost identical with that of the Lummi. Hence they must be regarded as only recently assimilated with the other Fraser River tribes. The above legend seems to bear this out, their chief alone stemming from the lower course of the river, while the tribe lived on the upper reaches" [Boas' original footnote]. Boas (1894b:455-456) stated that the Chilliwack spoke Nooksack "until the beginning of this century," that is, until *circa* 1800. Confirmation that the original Chilliwack people spoke Nooksack or a language similar to Nooksack has been provided by Smith (1950:341), Duff (1952:43-44), Well (1987:40, 87-88, 203), and Galloway (1992:6-7). The Nooksack are a Coast Salish group living to the south of the Chilliwack. The Lummi spoke a dialect of Northern Straits which was mutually incomprehensible with the Nooksack language.

⁵⁷ Given in the original as *Rübe* which literally means "'turnip, but translated here as 'root'.

- b) T'ixwelátsa was turned stone (granite) in his contest of power with Xexá:ls (the Transformers), as a result of his being caught mistreating his wife².
- c) The human remains of T'ixwelátsa in his granite form as the Stone T'ixwelátsa retain his life force (*shxweli*) and soul (*smestiyexw*).
- d) Responsibility for T'ixwelátsa - in his stone form (the Stone T'ixwelátsa) - was given to his wife's line. Elder members of this female lineage include the late Nancy Phillips, Rose Roberts, and Flora Julian; daughters of Martha Joe, granddaughter of T'ixwelátsa (the last man to hold this name without having an English name). These women - prior to their passing - gave instruction to their grand-nephew - T'ixwelátsa (Herb Joe) - to bring his stone ancestor (the Stone T'ixwelátsa) home from the Burke Museum.
- e) The Chilliwack also select certain men to care for the Stone T'ixwelátsa. Each T'ixwelátsa is selected according to the traditional kinship system of the Chilliwack. T'ixwelátsa (Herb Joe) is the current holder of this ancestral name. He is a direct lineal descendent of the Stone T'ixwelátsa³. His grandmother, Lena Joe, was Martha

² Excerpt from Interview (2003) with T'ixwelátsa (Herb Joe) RE: the transformation of T'ixwelátsa:

The Stone T'ixwelátsa is a creation of, a transformation of one of the T'ixwelátsa(s). The story goes that Xa:ls [an alternate reference to Xexa:ls] the great transformer that was sent to our territory to make things right came upon a man and a woman by a river side. This man and woman were arguing with each other. Xa:ls being given the mandate or the responsibility for making things right as he traveled through our lands asked this man and woman if they would consider not arguing and that there was better ways of resolving conflict and resolving problems. As a result of his interference or intervention there ends up being a bit of conflict between the man, who's name happened to be T'ixwelátsa, and Xa:ls. And because of our history, our people had the devised other ways of resolving conflict other than violence, other than fighting each other. And one of the ways that they resolve conflict was through contests. Xa:ls being the great transformer and created by our God, Chichelh Siya:m, to make things right in our land. And T'ixwelátsa, who was a medicine man, a shaman, they decided to have a contest and they tried to transform each other into various things salmon, mink, a twig, or tree. Finally, Xa:ls was successful into transforming T'ixwelátsa into a stone statue.

Excerpt from Charles Hill-Tout's *Ethnological Studies of the Mainland Halkomelem: A Division of the Salish of British Columbia* (1903:367) - RE: the transformation of T'ixwelátsa (spelled by Hill-Tout as T'ēqulātca) by Xexa:ls (spelled by Hill-Tout as Qeqā'ls) among the Chilliwack (spelled by Hill-Tout as Tcil'qē'uk).

"The great transformer and wonder-monger of the Tcil'qē'uk was called by them *Qeqā'ls*. This is apparently the collective form of the commoner *Qāls* of the other tribes. I was not able to gather much concerning his doings among them. They apparently invoked him in prayer at times. The Tcil'qē'uk formerly possessed a large stone statue of a human being. It was owned by a certain family, and was taken to the neighboring Sumas tribe by a woman who married into that tribe. The statue weighed over a ton, it is said....This statue was said to be the work of *Qeqā'ls*, who one day passing that way was a man and his wife, who in some way displeased him, and were in consequence transformed into stone statues."

³ The inheritance of names is seen as direct lineal connection within Stó:lō-Coast Salish society, as described by Dr. Keith Carlson (Historian, University of Saskatchewan): "Indeed, today Salish nobles carrying high status hereditary names are not always direct blood relatives of their namesakes. What matters is peoples' understanding that the person given the name was considered worthy of that honour,

Joe's eldest daughter (see above) and great-granddaughter of T'ixwelátsa. T'ixwelátsa (Herb Joe) received his name in early 1970s. His next known direct descendent holder of the name - also a direct consanguinal relative of T'ixwelátsa (Herb Joe) as noted above - lived in the late 1800s and had no English name. Preceding him, from the mid-to-late 1800s, was T'ixwelátsa, the warrior and leader of the Chilliwack Tribe⁴. Prior T'ixwelátsa's link back to the original Stone T'ixwelátsa. Per Chilliwack tribal history, the name T'ixwelátsa (associated with the first man of the Chilliwack people) originated before the significant ancestral Chilliwack names of *Siyámches*, *Th'eláchiyatel*, *Yexwéylem* and *Wililéq* – the four brothers and ancestral leaders of the Chilliwack Tribe. Of these names, Wililéq had been passed down at least six times as of the early 1800s (Carlson 2003:160). Assuming a *minimum* difference of one generation between the origin of the names T'ixwelátsa and Wililéq, and an estimate of 50 years between subsequent inheritances of these names, then T'ixwelátsa the Seventh would have lived during the mid—to late 1800s. This rough framework provides a context for extrapolating the existence of the name T'ixwelátsa as far back in time as the 1400s; or further back in time if more than seven T'ixwelátsas had existed as of 1830 and/or if more than 50 years elapsed between episodes of inheritance.

- f) The Chilliwack were divided by the US-Canadian border circa 1858-59 with the establishment of the International Boundary Commission and the surveying of the border separating the United States and Canadian.
- g) The US government identified the Nooksack as a separate, federally recognized Indian Tribe in 1973.
- h) The Canadian government (particularly British Columbia) has, since the time of its development arising from the Hudson Bay Company's establishment of Fort Langley

and such worthiness is typically justified in terms such as, 'the ancestors saw that they are related/connected [even though we the living know of no blood ties].' (Carlson 2005:25).

⁴ The late Bob Joe, Chilliwack community member and traditional historian, told of T'ixwelátsa, the ancestral warrior and leader referred to by T'ixwelátsa (Herb Joe), in his narration of the 'Story of the Chilliwack People' told to folklorist Norman Lehrman circa 1950-51: "... The twin brother [Wililéq the Sixth] and sister [Lumlamelut] moved down there and took charge over governing this tribe. The sister never married but Wililéq the Sixth had children. When the twins died they buried them just below their house. When the leader died it was the uncle who took over. That was the first time there was a change. The other leader's name was T'ixwelátsa. It didn't last long because he was a great warrior. When he died the tribe started to divide. The family was large, in the hundreds and all over the place." Dr. Keith Carlson (Historian, University of Saskatchewan) places the time of Wililéq the Sixth at about 1830 AD (see Carlson 2003:160) creating a timeframe in the mid-1800s when T'ixwelátsa, the warrior, became leader of the Chilliwack Tribe. T'ixwelátsa likely died in the mid-late 1800s, after having killed the famed Sem:ath (Sumas) warrior Xeyteluq. This significant act - maintained in Stó:lō sqwelqwel (oral history of true facts; personal histories) and ethnographically documented (Oliver Wells, Interview with Albert Louie, July 28, 1965, p. 1, 43, 82) - motivated the making of amends between the two tribes through the arrangement of a marriage between Sumas and Chilliwack nobles. The Stone T'ixwelátsa moved with the newly wed Chilliwack spouse in this arrangement as she re-settled in her husband's village in the Sumas Prairie. The Stone T'ixwelátsa was found there in 1892.

in 1827, the incorporation of British Columbia as a Crown Colony in 1858, the confederation of Canada in 1867, the development of the Canadian Constitution in 1982, and the inclusion of the Stó:lō Nation in the tripartite Treaty Negotiations administered by the British Columbia Treaty Commission in 1994 -- recognized the halq'eméylem speaking Stó:lō ('People of the River') of the lower Fraser River Watershed.

- i) The Stone T'ixwelátsa was removed from Nooksack territory in 1892⁵.
- j) Museum records do not include any evidence that the Stone T'ixwelátsa was acquired with the consent of either the women or men entrusted with his care.
- k) The Stone T'ixwelátsa is "the physical remains of a person of Native American ancestry." The person was T'ixwelátsa. He was the first man of the Chilliwack tribe. His remains are stone. He was turned to stone (granite) by Xexá:ls (the Transformers);
- l) The Stone T'ixwelátsa is also an object of ongoing importance to the Chilliwack people, including members of both the Nooksack and the broader Stó:lō community, which could not be alienated by any individual.
- m) A relationship of shared group identity can be shown between the Stone T'ixwelátsa and the Chilliwack, the Nooksack, and the broader Stó:lō community, based on:
 - i) *geography*: Stone T'ixwelátsa was moved from a site within the aboriginal territory of the Stó:lō / Chilliwack to an area within Nooksack territory, as defined in Figure 1;
 - ii) *kinship*: T'ixwelátsa (Herb Joe) traces his ancestry directly from the Stone T'ixwelátsa by means of the traditional kinship system of the Chilliwack / Stó:lō;
 - iii) *biological*: the Nooksack and Chilliwack / Stó:lō are part of a single biological population based on their long history of intermarriage and consanguinal ties evident in individual and family genealogies;
 - iv) *archeological*: other transformation figures have been identified throughout the Chilliwack and Stó:lō territory, including a number of similar types such as the well-know feature at Xá:ytem where three individuals were turned into a granite stone by Xexá:ls;
 - v) *linguistics*: The Chilliwack name for T'ixwelátsa has remained constant since the origin of the name, accounting for *at least* nine episodes of inheritance of the name (counting T'ixwelátsa [Herb Joe] as at least the ninth descendent carrier of the name), potentially extending back in time prior to the 1400s;
 - vi) *folklore*: the story of T'ixwelátsa's transformation is well documented by anthropologists;

⁵ Excerpt from the *Chilliwack Progress* Newspaper (September 15, 1892) - RE: the finding of a large carved stone figure on the Sumas Prairie.

"A curiously carved Indian image was found by Messrs. Ward Bros. on the Sumas Prairie [sic]. The image is about four feet high, and weighs about 600 lbs. It is evidently very ancient; and is quite intact, every detail being clearly defined."

- vii) *oral tradition*: the transformation of T'ixwelátsa is well documented in Stó:lō *swôxwiyám* ('narratives of the distant past')⁶; the history of the Stone T'ixwelátsa is documented in Stó:lō *swelqwel* ('true facts; personal histories; news');
 - viii) *historical*: Historical documents provided by the Burke provide no evidence that it obtained T'ixwelátsa with the consent of the Nooksack, Chilliwack / Stó:lō.
- n) The Nooksack Tribe submits this repatriation claim to the Stone T'ixwelátsa under NAGPRA, section 7(a)(1) pertaining to "Native American human remains" and section 7(a)(5) pertaining to "objects of cultural patrimony".

⁶ *Sxwôxwiyám* oral histories that describe the distant past "when the world was out of balance, and not quite right." *Sxwôxwiyám* account for the origins and connections of the Stó:lō, their land, resources and *sxoxomes* ('gifts of the creator'). There are many heritage sites throughout Stó:lō Territory that relate to *sxwôxwiyám*. These sites are among the most culturally important Stó:lō heritage sites and continue to function as essential parts of the contemporary Stó:lō world. (as defined in the *Stó:lō Heritage Policy Manual*, Stó:lō Nation 2003:8)

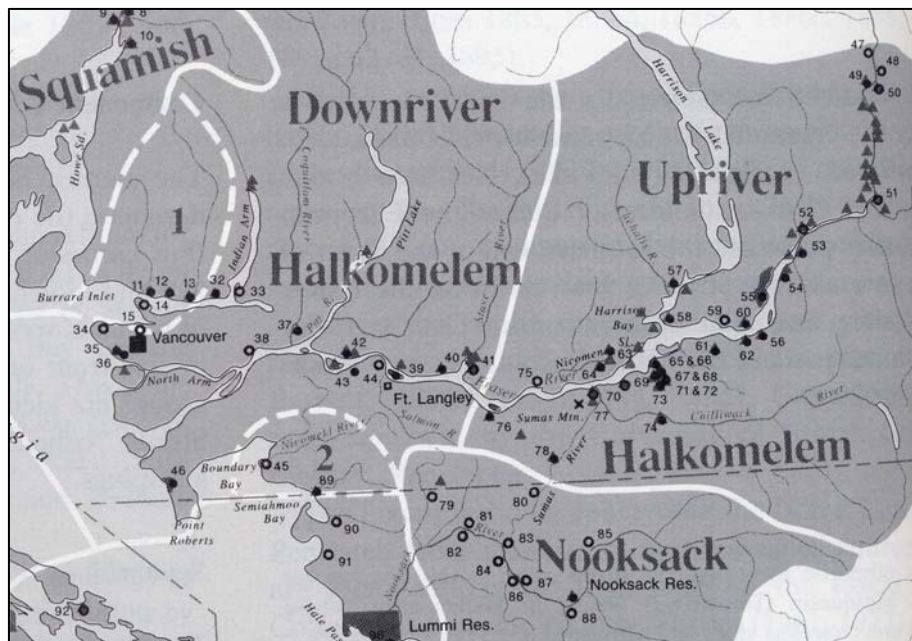


Figure 1. Nooksack and Stó:lō Culture Areas - "Territories and principal villages of the Central Coast Salish in the early 19th century" (Suttles 1990:454).

[**Note:** the Stone T'ixwelátsa was found in 1892 on the Sumas Prairie in Nooksack Territory in the area of site #80; Site #74 = Chilliwack village of 'Soowahlie' where T'ixwelátsa was born].



Figure 2a – The Stone T'ixwelátsa – T'ixwelátsa in his stone form as transformed by Xexá:ls (photo provided by T'ixwelátsa [Herb Joe]).



Figure 2b - T'ixwelátsa (Herb Joe) and his grandson Th'ítsxwelatse (Kurt Joe) with the Stone T'ixwelátsa (*note: approximately 12" of the figure's base is embedded in the display stand, obscuring the actual height of the Stone T'ixwelátsa in this photograph*).

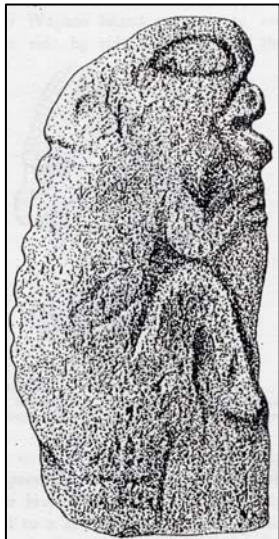


Figure 2c

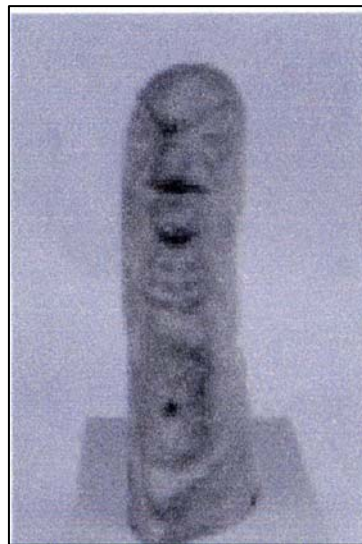


Figure 2d

Figure 2c. Sketch of large stone carving "Said to have been found near Sumas, Wash. (Museum of the University, Seattle, Wash.)" (H. Smith 1907:430; Figure 195 caption)

Figure 2d. The object with Burke Accession #190 / Archaeology Catalog #152 (photo from Burke Museum Archaeology Catalog Record; see Appendix I)

3.0 Establishing the Nooksack - the Claimant in the NAGPRA Repatriation Request for the Stone T'ixwelátsa - as an "Indian tribe"

The Nooksack Tribe of northwestern Washington State is a federally recognized "Indian tribe" in compliance with section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b) (see <http://www.wa.gov/dshs/dcs/tribal/tribes.shtml>). The Nooksack Tribe was recognized as such in 1973. Compliance with this act satisfies the determination of the Nooksack as an "Indian tribe" as defined in NAGPRA, section 2(7). This designation entitles the Nooksack tribe to file for the repatriation of the Stone T'ixwelátsa under the existing NAGPRA legislation.

Of note, the Nooksack maintain strong cultural affiliations with their Canadian Aboriginal neighbors, the Stó:lō (see Figure 1 - Nooksack and Stó:lō Culture Areas). The culture area of these two groups creates a continuum that crosses the U.S.-Canada international border. This cultural continuum reflects the long-standing interrelations between these groups that predates the establishment of the modern international boundary circa 1859. Throughout this report, reference is made to both the Nooksack and the Stó:lō regarding the cultural history and shared significance of the Stone T'ixwelátsa to this highly integrated cultural community. Evidence describing the nature of the cultural ties connecting this integrated community is presented below.

4.0 Establishing the Burke as a “Museum”

As defined in NAGPRA, section 2(8), the Burke qualifies as a “museum” by receiving Federal funding and having possession of, or control over, Native American cultural items.

Excerpt from <http://depts.washington.edu/urelat/uwawards/2001/dsa-augusztiny.html> -
RE: the Burke receiving Federal funding; Interview with Roxana Augusztiny, Burke Museum (Distinguished Staff Award recipient).

“In her own mind, three achievements stand out — attracting federal grants to the Burke, developing a relationship with the state legislature and professionalizing the museum. “Attracting a number of federal Institute for Museum Services grants has been critical in making this museum more appealing to the public and greatly increased funding to the Burke,” she said “These grants got the museum in the mindset to look beyond the University.”

Excerpt from <http://www.washington.edu/burkemuseum/archaeology/archcoll.html> -
RE: the Burke having possession of, or control over, Native American cultural items.

“The archaeological collections at the Burke Museum contain over one million artifacts from all over the world, including the Americas, Europe, the Middle East, Japan, and Oceania. We are best known for our extensive collections from the Lower Columbia River and the Puget Sound Region of Washington State. We also hold several collections in-trust for public agencies.”

4.1 Establishing that the Stone T'ixwelátsa is currently held in the Collections at the Burke

Transcript of the Burke Museum Archaeology Catalogue Record (2003) - RE: accession number, catalogue number, description, collection history of the Stone T'ixwelátsa (see copy of the Archaeology Catalog Record - Appendix I; Report Figure 2d).

- **Catalogue ID:** 152
- **Accession Number:** 190
- **Accession Date:** 11/1904
- **Count:**
- **Object Name:** Sculpture
- **Description:** Stone, Pecked
- **Remarks:**
Led: Stone statue. Identified by Harlan I. Smith. Remarks - Note on label for exhibit: "This stone figure was presumably recovered from the Fraser Plains near Sumas, Wn. According to tradition it formerly belonged to the

Flag:

Storage: Room 33

Chilliwacks, a Salish group on the Lower Fraser Riv. Valley in British Columbia. It later came into the possession of the neighboring Sumass [sic] tribe. It was the belief of the Chilliwacks that this image was the work of Kals the transformer who turned who turned a man & his wife who displeased him into stone."

Accn File: Additional information on object history in file. Was purchased and exhibited in a dime museum before coming to the Washington State Museum. Date received 1888. "See Article in Am. Mus. Mem., Vol. IV, part VI. P. 430."

- **Collector:** Young Naturalists Society **Coll. Date:** 11/01/1904
- **Found:** Sumas, WA
- **Locality Detail:**
- **Dimensions:**
- **Condition:**

5.0 Establishing that the Stone T'ixwelátsa is an 'Object of Cultural Patrimony' to the Nooksack and Stó:lō Cultural Groups

As defined in NAGPRA, section 2(3)(D), "*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."

Evidence is presented in the following portions of this section supporting the definition of the Stone T'ixwelátsa as an "object of cultural patrimony" to the Nooksack and Stó:lō. This evidence supports the assertion that the Stone T'ixwelátsa maintains ongoing historical, traditional, and cultural importance central to the Nooksack and Stó:lō cultural groups, and that the Stone T'ixwelátsa was, and remains, inalienable by these groups at the time it was separated from them. Demonstrating the central importance and inalienable nature of the Stone T'ixwelátsa requires: (1) relating the history of T'ixwelátsa and his transformation into stone; (2) defining the Stone T'ixwelátsa in terms of his object classification and historical, traditional, and cultural significance, and (3) defining the Stone T'ixwelátsa as collective property, now and at the time of his 'acquisition'.

5.1 The History of T'ixwelátsa and his Transformation into Stone

The histories of the name T'ixwelátsa and the Stone T'ixwelátsa are documented by a number of well respected anthropologists, including Franz Boas (1894, 1895), Charles Hill-Tout (1903), Harlan Smith (1907), and Wilson Duff (1956). Stó:lō oral history related to the Stone T'ixwelátsa and to this repatriation request is provided by contemporary Stó:lō community member and current holder of the name T'ixwelátsa (Herb Joe), as derived primarily from Stó:lō Elder Amy Cooper. Contemporary expert anthropological opinion is provided by Dr. Bruce Miller (Associate Professor, Department of Anthropology and Sociology, University of British Columbia), and the report author David Schaepe (Senior Archaeologist, Stó:lō Nation; PhD candidate, Department of Anthropology and Sociology, University of British Columbia). Transcribed excerpts of taped interviews included below use the following initials in reference to David Schaepe (DS), T'ixwelátsa (Herb Joe) is referenced as (T), and Bruce Miller (BM). These excerpts are derived from interviews conducted by David Schaepe in February of 2003⁷. Textual excerpts from the historic works of Franz Boas, Charles Hill-Tout, and Harlan Smith, for example, are referenced accordingly.

In preface to presenting the history of the Stone T'ixwelátsa, it is useful to provide some explanatory notes on the collective nature of the Stone T'ixwelátsa relative to T'ixwelátsa's (Herb Joe's) relationship to the Stone T'ixwelátsa. While the Stone

⁷ All interviewees reviewed and approved of the content and use of their respective transcripts as edited and presented in this report.

T'ixwelátsa is the collectively property of the entire Nooksack/ Stó:lō community (*see* report section 4.3 re: the inalienable nature of the Stone T'ixwelátsa), T'ixwelátsa (Herb Joe) -- a Stó:lō community member with direct consanguinal ties to Nooksack -- has care-taking responsibilities which he holds on behalf of the Nooksack/ Stó:lō community and which he derives from being the current holder of the name 'T'ixwelátsa'. The name, in this regard, is conceptually similar to the title of a 'public office'. In parallel, the 'Secretary of the Interior', for example, is entrusted with the maintenance of collective public lands while not owning those lands and not at liberty to independently dispose of those lands. These responsibilities reside in the 'office' and are attached to such individuals only while occupying this office and carrying this title. The holder of the title / 'public office' of 'T'ixwelátsa' is also elected, in a sense, by the Nooksack/ Stó:lō community to carry out specific duties only on their behalf. The title and responsibilities associated with the name 'T'ixwelátsa' were publicly bestowed upon Herb Joe as the latest in the long line of individuals holding position in the genealogy of this name -- since the first T'ixwelátsa was turned to stone. The descendent female line of T'ixwelátsa's family maintain a central role in bestowing the name 'T'ixwelátsa'. Such is the case that the current female lineage of T'ixwelátsa's descendent family chose Herb Joe to hold of this title and bring it back home from the Burke Museum. T'ixwelátsa (Herb Joe) is thus obligated to care for the Stone T'ixwelátsa and maintain his integrity on behalf of the broader Nooksack/ Stó:lō cultural group -- as dictated by Mr. Joe's assumption of the persona, responsibilities, and obligations inherent in the name and 'office' of T'ixwelátsa and the specific direction given to him. To clarify, T'ixwelátsa (Herb Joe) does not own the remains of T'ixwelátsa in his stone form (i.e., the Stone T'ixwelátsa), but rather has public and temporary (coincident with his holding the name T'ixwelátsa) care-taking duties attached to this collectively owned remains of his lineal ancestor. Part of T'ixwelátsa's (Herb Joe's) duties include maintaining the oral history of the Stone T'ixwelátsa.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

- DS: To begin with can you state your common name?
T : My Christian name or common name is Herbert Patrick Joe.
DS: The Native American Graves Protection and Repatriation Act defines "Cultural Affiliation" as, quote, "That there is a relationship of shared group identity which can be reasonable traced historically or prehistorically between a present day Indian tribe or a Native Hawaiian Organization and an identifiable earlier group." According to this definition, do you have a cultural affiliation with an Indian Tribe as recognized by the United States government?
T : Yes, I do.
DS: Which tribe would that be?
T : That would be the Nooksack Tribe at Washington State.
DS: Where is this tribe located?
T : In Deming, Washington, Nooksack, Washington, in that area.
DS: And that's Washington State?
T : Washington State, yes.
DS: Can you tell me what your genealogical lineage is that links you to this tribe?

- T : I have linkage on both sides of my nuclear family. My mother's father, Patrick McJoe was a member of the Nooksack Tribe when he was alive of the Nooksack Tribe. And my father and grandfather, my father Albert Louie, and grandfather, Edward Louie were both members of the Nooksack Tribe.
- DS: Are there any other Aboriginal communities to which you are culturally affiliated?
- T : Yes, there is.
- DS: Okay, which would those be?
- T : Stó:lō Tribe in British Columbia, Canada... the Tzeachten First Nation or Tzeachten Band in Chilliwack, B.C.
- DS: What is your genealogical lineage that links you to this Aboriginal community?
- T : Through my mother's side, we go back to the beginning time according to our family legends. I am a member of the Joe family registered currently on Tzeachten. My history goes back L'eqamel - or Lakahamen - as well, the Port Douglas and Yale. So I have family members from all of these surrounding areas, surrounding Chilliwack. We can trace our family lineage back that way in all four directions actually.
- DS: Can you tell me where the Tzeachten band is physically located?
- T : The Tzeachten band is on Vedder Road and Promontory Road in Chilliwack, B.C. Another suburb of Chilliwack actually is Vedder Crossing where it's specifically is located. And it is about a mile from the Chilliwack or Vedder River. North of the Vedder River.
- DS: Do you have an Aboriginal name?
- T : Yes, I do. The name is T'ixwelátsa.
- DS: Can you spell this name for me?
- T : T-i-x-w-e-l-a-t-s-a. Pronounced T'ixwelátsa [Tix-Hwa-Lots-a].
- DS: Can you tell me from what Aboriginal language and cultural group this name originates?
- T : The name originates from the halq'emeylem language, it's a dialect of the Coast Salish languages. And the language was spoken predominately in the upper part of the Fraser Valley or the upper part of the Coast Salish territory. The eastern part of the Coast Salish territory.
- DS: What are the details about how you received this name?
- T : When I returned from college, and was working for the federal penitentiary service, I was invited by two of my Elders to run for the position of chief in the first of the Indian Affairs run elections. I won that election and became Chief of Tzeachten at that time. And it was at that time the Elder of our family his name was Th'lacheyeltel or Chief Richard Malloway came to me and suggested that now that I was working for my people. And now that I have been selected by my people to be their leader, that I needed to be somebody. And by that he meant that I needed to carry an ancestral name. So he initiated the process for giving me that name by sending his sons out to the surrounding villages and invited all the Siya:m, or the important people. And we had a very large gathering at our, at that time, newly built Tzeachten Longhouse. During that ceremony, the name T'ixwelátsa was given to me or presented to me. And the way our Elders described it was that the family was now covering me with this name because I

- was the chief and because I was working for my people and in other words I have earned the right to carry the name. That in essence that's the short version of actually what had transpired during the time that I returned home and received this name from my family.
- DS: What year was that?
- T : Probably 1971 or '72.
- DS: What is the history of this name including its origin?
- T : The history of the name as I was informed that night was up to me to find out. When they covered me with the name, Chief Richard Malloway went around the gathering invited all the Elders that were there to get up and advise me as to how to carry this name now that they covered me with a name. Because they informed me that it was my responsibility to find out about this name. The way they instructed me was now I am no longer Herb Joe, I am now T'ixwelátsa. It's up to me to find out about the name because from this night on this is who you are, you are not Herb Joe, you are T'ixwelátsa. So over the years I have made a concerted effort to find out as much as I possible could about this name and the man who carried it throughout the history of our tribe. According to our family legends, and the legends of our tribe the Ts'elxweyeqw tribe - the Chilliwack tribe - T'ixwelátsa was the forefather, the very first T'ixwelátsa was the forefather of the Chilliwack people. In other words, T'ixwelátsa, the very first T'ixwelátsa, was the first man of the Chilliwack tribe. And there has been a succession of other T'ixwelátsa(s) through the ages down to the man that I received the name from. And he of course wasn't alive but he was my great great-great-great grandfather on my mother's side of the family. And he was the siya:m, the chief or the leader of our people at the time of his death⁸.
- DS: Okay, thank you. Are there obligations and responsibilities that go along with carrying this name, if so what are they?
- T : When I was first covered with the name, I was instructed by the Elders that night as to what I was obligated to do after having received the name. Along with any of the, what they call big names or high status names came the status of course but along with the status came a multitude of different responsibilities. And to

⁸ The late Bob Joe, Chilliwack community member and traditional historian, told of T'ixwelátsa, the ancestral warrior and leader referred to by T'ixwelátsa (Herb Joe), in his narration of the 'Story of the Chilliwack People' told to folklorist Norman Lehrman circa 1950-51: "... The twin brother [Wililéq the Sixth] and sister [Lumlamelut] moved down there and took charge over governing this tribe. The sister never married but Wililéq the Sixth had children. When the twins died they buried then just below their house. When the leader died it was the uncle who took over. That was the first time there was a change. The other leader's name was T'ixwelátsa. It didn't last long because he was a great warrior. When he died the tribe started to divide. The family was large, in the hundreds and all over the place." Dr. Keith Carlson (Historian, University of Saskatchewan) places the time of Wililéq the Sixth at about 1830 AD (see Carlson 2003:160) creating a timeframe in the mid-1800s when T'ixwelátsa, the warrior, became leader of the Chilliwack Tribe. T'ixwelátsa likely died in the mid-late 1800s, after having killed the famed Sem:ath (Sumas) warrior Xeyteluq. This significant act - maintained in Stó:lō sqwelqwel (oral history of true facts; personal histories) and ethnographically documented (Oliver Wells, Interview with Albert Louie, July 28, 1965, p. 1, 43, 82) - motivated the making of amends between the two tribes through the arrangement of a marriage between Sumas and Chilliwack nobles. The Stone T'ixwelátsa moved with the newly wed Chilliwack spouse in this arrangement as she re-settled in her husband's village in the Sumas Prairie. The Stone T'ixwelátsa was found there in 1892.

live up to those responsibilities of course you had to grow into them, you had to learn about them before you could actually do these activities for your people. In essence what the Elders told me was that I had to live and be like the previous T'ixwelátsa(s). One of the previous T'ixwelátsa(s) was a warrior, the of course the last one was a siya:m or a leader, a chief. Previous T'ixwelátsa(s) represented different things to our tribe throughout our history. And of course the original T'ixwelátsa was the first man of our tribe. And another of the T'ixwelátsa(s) is why we are here today. There is a story that belongs to our people, to my family in particular. That ties me directly to the Stone T'ixwelátsa because of the name. And it's been my responsibility as a name carrier to try and have him brought home to our area. So that he can take on the responsibility that he was originally meant to have to our tribe.

DS: Can you tell me what is the Stone T'ixwelátsa?

T : The Stone T'ixwelátsa is a creation of, a transformation of one of the T'ixwelátsa(s). The story goes that Xa:ls [an alternate reference to Xexa:ls] the great transformer that was sent to our territory to make things right came upon a man and a woman by a river side. This man and woman were arguing with each other. Xa:ls being given the mandate or the responsibility for making things right as he traveled through our lands asked this man and woman if they would consider not arguing and that there was better ways of resolving conflict and resolving problems. As a result of his interference or intervention there ends up being a bit of conflict between the man, who's name happened to be T'ixwelátsa, and Xa:ls. And because of our history, our people had the devised other ways of resolving conflict other than violence, other than fighting each other. And one of the ways that they resolve conflict was through contests. Xa:ls being the great transformer and created by our God, Chichelh Siya:m, to make things right in our land. And T'ixwelátsa, who was a medicine man, a shaman, they decided to have a contest and they tried to transform each other into various things salmon, mink, a twig, or tree. Finally, Xa:ls was successful into transforming T'ixwelátsa into a stone statue. Did you want to more know about significance?

DS: One question, that is T'ixwelátsa being transformed into a statue, that's a stone statue correct?

T : Right.

DS: Okay, what happened to T'ixwelátsa's soul when that happened?

T : As I was instructed or was told by our Elders the stone statue is similar to what we would say our reservoir or container that holds the spirit of T'ixwelátsa inside the stone,... and it's that spirit or shxweli that my family and the Stó:lō tribe and also the Nooksack tribe through our connections have lay claim to it and feel that it's important because there is a living spirit inside that stone.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

DS: I'm going to ask you a bit of the history of the Stone T'ixwelátsa, can you tell me where this object came from originally and please relate the history of the origin of the Stone T'ixwelátsa.

T : According to our family legends the Stone T'ixwelátsa originated or was created or transformed in our territory in the Chilliwack territory, the territory of the

Chilliwack people... on the Chilliwack River as the story goes. T'ixwelátsa and his wife were on the river bank fishing and happened to be arguing when Xa:ls, who walked through our territory and happened upon [them] and as I said previously, they had a confrontation and ended up in a contest trying to transform each other into various objects and/or animals. And as a result of that contest T'ixwelátsa was turned into stone. Because the wife wasn't part of the conflict she was not affected by the contest. Only her husband, T'ixwelátsa, was transformed into stone. Xa:ls then gave the Stone T'ixwelátsa or gave the responsibility for the care of the Stone T'ixwelátsa to T'ixwelátsa's wife. And... the Stone T'ixwelátsa was to be brought home and placed in front of their home as a reminder to all of the family that we had to learn to live together in a good way. And the family's responsibility from that point and time on was that the responsibility for caring for the Stone T'ixwelátsa was given to one of the women of our family. They were to be the caretaker of the Stone T'ixwelátsa throughout their lifetime and which time they would pass it on to one of their daughters or grand daughters. Who would then be responsible for caring for the Stone T'ixwelátsa for that generation.

DS: Are there people who carried the name T'ixwelátsa after that T'ixwelátsa was turned to stone?

T : Yes, there were a number of other T'ixwelátsa(s) too that I know of in particular. One of the T'ixwelátsa(s) was a warrior who went to war with other warriors like Qwo:l, and Xeyteluq and they warred against other surrounding tribes mostly from what I understand tribes from the coast. And then the last T'ixwelátsa to carry this name was my great-great-great-great grandfather on my mother's side who was the siya:m in part of the Chilliwack tribe⁹. Yakweakwioose to be exact.

DS: Are there obligations that go along with carrying the name T'ixwelátsa towards taking care of the T'ixwelátsa that was turned to stone?

T : There are the responsibilities that are carried by myself now that I carry the name and that is to be a helper in other words to take on some of the characteristics of the previous T'ixwelátsa(s) and bring honour to the name. That was one of the most stressed points of my education that night at the longhouse was that I now

⁹ As mentioned above, the late Bob Joe, Chilliwack community member and traditional historian, told of T'ixwelátsa, the ancestral warrior and leader referred to by T'ixwelátsa (Herb Joe), in his narration of the 'Story of the Chilliwack People' told to folklorist Norman Lehrman circa 1950-51: "... The twin brother [Wililéq the Sixth] and sister [Lumlamelut] moved down there and took charge over governing this tribe. The sister never married but Wililéq the Sixth had children. When the twins died they buried then just below their house. When the leader died it was the uncle who took over. That was the first time there was a change. The other leader's name was T'ixwelátsa. It didn't last long because he was a great warrior. When he died the tribe started to divide. The family was large, in the hundreds and all over the place." Dr. Keith Carlson (Historian, University of Saskatchewan) places the time of Wilileq the Sixth at about 1830 AD (see Carlson 2003:160) creating a timeframe in the mid-1800s when T'ixwelátsa, the warrior, became leader of the Chilliwack Tribe. T'ixwelátsa likely died in the mid-late 1800s, after having killed the famed Sem:ath (Sumas) warrior Xeyteluq. This significant act - maintained in Stó:lō sqwelqwel (oral history of true facts; personal histories) and ethnographically documented (Oliver Wells, Interview with Albert Louie, July 28, 1965, p. 1, 43, 82) - motivated the making of amends between the two tribes through the arrangement of a marriage between Sumas and Chilliwack nobles. The Stone T'ixwelátsa moved with the newly wed Chilliwack spouse in this arrangement as she re-settled in her husband's village in the Sumas Prairie. The Stone T'ixwelátsa was found there in 1892.

- needed to bring added respect to the name if I were to carry the name in the right way. And I needed to learn more about or learn all there was to learn about the previous T'ixwelátsa(s) before I can do that.
- DS: You mentioned Xa:ls in the story of T'ixwelátsa being transformed to stone, can you just briefly tell me who or what is Xa:ls?
- T : Xa:ls according to our Stó:lō legends was created by our God to walk through the lands and make things right. The story, the creation story of our peoples was that we were created last, all of the other living beings were created before us. And because we were created last we were transformed from other living beings, some of those that fly, some of those that crawl, some of those walk on four, some of those that swim. Human beings were transformed from these other living beings and because we were transformed last we were always called "Us poor weak human beings." And we had our frailties, we had weaknesses, and our role in life, purpose in life was to learn and to struggle on to keep on learning so that we could carry the knowledge back home to us in the other world where our ancestors lived. So that's in essence what the statue was for. It was used as a way of reminding our people that we did need to learn to live together in a good way.
- DS: When you talk about people, could you tell me of the maximum extent which people would understand T'ixwelátsa with that type of meaning?
- T : Our family would have been situated and located and lived in all parts of the Stó:lō territory, upper Fraser Valley territory, and probably beyond that as well. I have knowledge about our family having members, or members of the family living in Yale, the tribe up there, and had fishing rights and that kind of thing through intermarriage. We have connections with the St'atliyum people, the people up at the other end of Harrison Lake, the northern end of Harrison Lake. We have blood relations through Sts'eylis or 'Chehalis'. We have blood relations right down through Matsqui, Kwantlen, Katzie, Tsawwassen, Lummi, Nooksack, Sumas, and then back up to Chilliwack. We have family connections, direct blood connections, direct lineage to T'ixwelátsa... living in all of these areas. All of these members of our extended family would have of course known the importance and the significance of the Stone T'ixwelátsa.
- DS: As T'ixwelátsa in the origin of the Stone T'ixwelátsa is associated with the travels and transformation of Xexá:ls, do the Stó:lō as a whole recognize the cultural importance of that object?
- T : Yes, we certainly do today there are sacred sites all throughout our Stó:lō territory and beyond that were created by the transformations of Xexá:ls and all of the peoples in those areas are very much aware of the significance of the sacredness of these sites, these transformation. And of course these transformations sites begin at the most northern and eastern part of our territory and go right through to the southern and western part of our territory.
- DS: Does the recognition of the significance of the Stone T'ixwelátsa extend to the Nooksack?
- T : Very much so, the Nooksack peoples at one time according to our Elders were directly connected to the Stó:lō people and in fact some of our Elders tell us younger people that the Nooksack people spoke the same language but they spoke the high language. In other words a higher status language of the halq'emeylem

languages. And there are historical linkages through marriages to Nooksack from most of the tribes in the mid-valley area, the Stó:lō territory. Chilliwack people have marriages like my own particular family Rose Roberts. Her maiden name was Joe. She was from Tzeachten. The Antone family, the George family from the Chilliwack Tribes are also directly married into and are members of the family in Nooksack. The Antonies from Kwantlen are also directly married into that area. In the Sumas tribe, the Ned family are also directly related to the Nooksack tribes. So there are direct linkages to all of our major family groupings in Stó:lō territory to the Nooksack peoples.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

T : ... originally I was informed when I was covered with the name that there were other responsibilities and as I went through my search for knowledge of the names I came upon of the Elders, a lady who was the first to actually tell me of the Stone T'ixwelátsa. She was from Soowahlie, not through marriage but she was the one that informed me and told me the story of the Stone T'ixwelátsa and that I have a responsibility to the family on behalf of the Stone T'ixwelátsa.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

DS: You mentioned you heard the story of T'ixwelátsa originally from a woman in Soowahlie, do you recall the name of that person?

T : Amy Cooper, Amy Cooper was the Elder. Actually she told me that when she was a little girl she thinks probably about between six and eight years old, she remembered the last T'ixwelátsa. She remembered being in that village and seeing him and hearing him, listening to him, and she described him to me as being just a little old man who everybody respected and loved. I continued to go back to her time and time and time again to have tea with her and talk with her about T'ixwelátsa, and the responsibilities that I was learning about and that I would have to take on as a responsibility in my life.

Excerpt from Franz Boas's 'Legends from the Lower Fraser River' (1895; see Kennedy and Bouchard 2002:103-104) - RE: the Origin of T'ixwelátsa (spelled by Boas as T'ē'qulā'tca).

"The Tc'ileQuē'uk⁵². In Ts'uwā'lē,⁵³ on the lower Chilliwack River⁵⁴, there lived a chief who had a very beautiful daughter. K·ā'iq, Mink, wished to have her for himself. So he assumed the form of a handsome young man and walked upriver on the shore opposite the village. He carried a harpoon in his hand and fish on his back so that it appeared as if he had just caught them. At just this moment an old man had sent all the young girls to bathe, among them the chief's daughter. The girls saw the young man, who kept calling "Ps! Ps!" and when they noticed the fish that he was carrying, they asked him to throw one over to them. He fulfilled their wish; the fish fell into the water, swam into the chief's daughter and made her ill. Her father searched for a shaman to heal her. So Mink assumed the shape of a shaman. In the evening he went to the village and when he was seen by an old woman, she said, "Surely he will be able to heal the girl." They called him

into the house and he promised to heal her. First, he sent all the people out of the house, leaving only an old woman sitting outside the door to accompany his song with the rhythmic beats of the dancing stick. To begin with, he sang, but then he slept with the girl and she gave birth to a child right away. So Mink leaped at once out of the house. The old woman heard the child's crying and called the people back. They became very angry, took the child and threw him out of the house. But Mink was standing outside with his mountain goat cape spread wide; he caught the child in it and went away with him. After a while the girl's father became sad that he lost his grandson. So he sent to K·ā'iq and begged him to send him back. Mink granted his wish and sent the boy back. He was named T'ē'qulā'tca (from the lower reaches of the river)⁵⁵. He became the ancestor of the Tc'ileQuē'uk⁵⁶.

Later Qāls met T'ē'qulā'tca. They fought and tried to transform each other. Qāls first changed him into a root.⁵⁷ But this transformation was not entirely successful. Then he tried to transform him successively into a salmon and a mink, but wasn't any more successful. The mink wore eagle feathers on its head. So finally he changed him into a stone."

Footnotes:

⁵² "Tc'ileQuē'uk" (anglicized as "Chilliwack").

⁵³ This is Boas' rendering of the name for the Chilliwack village site called θ'Əwə·lí, translated as 'dissolve; disappear, melted or wasted away,' and anglicized as "Soowahlie," that is situated at Vedder Crossing (Duff 1952:38; Maud, Galloway and Weeden 1987:40, 221; Galloway 1993:562). This is the setting of this story.

⁵⁴ Chilliwack.

⁵⁵ Galloway (2001:pers.comm.) has recorded t'ix^wƏlɛ'čɛ (Boas' "T'ē'qulā'tca") as an ancestral name and comments that 'from the lower reaches of the river' is a plausible translation.

⁵⁶ "Up to four generations ago the Tc'ileQuē'uk spoke the Nooksak language, which is almost identical with that of the Lummi. Hence they must be regarded as only recently assimilated with the other Fraser River tribes. The above legend seems to bear this out, their chief alone stemming from the lower course of the river, while the tribe lived on the upper reaches" [Boas' original footnote]. Boas (1894b:455-456) stated that the Chilliwack spoke Nooksack "until the beginning of this century," that is, until *circa* 1800. Confirmation that the original Chilliwack people spoke Nooksack or a language similar to Nooksack has been provided by Smith (1950:341), Duff (1952:43-44), Well (1987:40, 87-88, 203), and Galloway (19923:6-7). The Nooksack are a Coast Salish group living to the south of the Chilliwack. The Lummi spoke a dialect of Northern Straits which was mutually incomprehensible with the Nooksack language.

- ⁵⁷ Given in the original as *Rübe* which literally means “turnip, but translated here as ‘root’.

Excerpt from Franz Boas's 'The Indian Tribes of the Lower Fraser River' (1894:54-456) -
 RE: the relationship between T'ixwelátsa (spelled by Boas as T'ēqulātca) and the
 Chilliwack (spelled by Boas as Te'ilEQuē'uk).

"The inhabitants of each village are believed to be the descendants of one mythical personage. I give here a list of tribes, their villages, and the names of the mythical ancestors:

<u>Tribe</u>	<u>Villages</u>	<u>Ancestor</u>
6. Te'ilEQuē'uk ·	Ts'uwā'lē, Qē'lEs (on upper part of Chilluwak [sic] River).	T'ēqulātca.

The tribal traditions tell that Qāls, the deity, met the ancestors of all these tribes and transformed them into certain plants or animals which generally abound near the site of the winter village. For instance, Mā'lē is well known for the great number of flags growing in the slough near the village, mountain-goats are found not far from Pā'pk'um and so forth. In many cases the ancestor is said to have been transformed into a rock of remarkable shape or size, which is found not far from the village. Thus T'ē'qulātca, Qā'latca, and Autltē'n are still shown."

"...According to tradition the Te'ilEQuē'uk spoke, until the beginning of this century, the Nooksak [sic] language, which prevails farther to the south. The tribal myth states expressly that the tribe was originally a mountain tribe living on the upper reaches of Chilluwak [sic] River, and that they migrated down the river."

Excerpt from Charles Hill-Tout's *Ethnological Studies of the Mainland Halkomelem: A Division of the Salish of British Columbia* (1903:367) - RE: the transformation of T'ixwelátsa (spelled by Hill-Tout as T'ēqulātca) by Xexa:ls (spelled by Hill-Tout as Qeqā'ls) among the Chilliwack (spelled by Hill-Tout as Tcil'qē'uk).

"The great transformer and wonder-monger of the Tcil'qē'uk was called by them *Qeqā'ls*. This is apparently the collective form of the commoner *Qāls* of the other tribes. I was not able to gather much concerning his doings among them. They apparently invoked him in prayer at times. The Tcil'qē'uk formerly possessed a large stone statue of a human being. It was owned by a certain family, and was taken to the neighboring Sumas tribe by a woman who married into that tribe. The statue weighed over a ton, it is said. A few years ago, some enterprising person bought it for a small sum and shipped it into Washington State where it figured for a time in a 'dime museum.' It has since found its way, I believe, to the

Field Museum at Chicago. This statue was said to be the work of *Qeqä'ls*, who one day passing that way was a man and his wife, who in some way displeased him, and were in consequence transformed into stone statues."

5.2 The Stone T'ixwelátsa - Object Classification and Determination of its Historical, Traditional, and Cultural Significance

As derived from the heritage site and object classifications in the Stó:lō Heritage Policy Manual (2003), the Stone T'ixwelátsa is described as a 'Transformation (Iyoqthet) Site' or Object. Transformation Objects are the direct result and manifestation of the actions of *Xexá:ls* -the Transformers - agents of the Creator (Chichelh Siya:m). The actions of the Transformers are remembered and maintained in a traditional form of oral history (*sxwôwxíyám*), passed on through the generations since time immemorial (Bierwert 1999). These histories account for events in a period of the distant past during which the world was considered to be 'out of balance'. *Sxwôwxíyám* accounts of the actions of the Transformers create an extended narrative that documents the stabilization and formation of the world as it exists today (McHalsie et al 2001). The Transformers attained their name as a result of their supernatural power to physically transform people (and other things), as they were encountered at particular locations in the landscape, into objects of various materials. Stone, as in the case of the Stone T'ixwelátsa, is a common transformation material. With human subjects, the Transformers captured the living soul (*smestíyexw*; also sometimes referred to as 'shxweli,' meaning 'life force') of the affected individuals as embodied in their altered form. While perhaps stone in substance, Transformation Objects - as with the Stone T'ixwelátsa - contain a human soul (or souls). The Stone T'ixwelátsa, thus, contains the *smestíyexw* of a transformed person. This significant detail, as tied to the *sxwôwxíyám* of its divine origin, distinguishes the Stone T'ixwelátsa as a Transformation Object from other cultural artifacts considered, archaeologically, as 'stone sculpture' (that is, sculpted stone objects not of divine origin and lacking a *smestíyexw*). In addition, Transformation narratives generally include a 'moral' lesson providing instruction and guidance for proper human behavior and interaction.

The Stone T'ixwelátsa, as a Transformation Object, thus:

- is the physical remains of a human in granite form, retaining his life force (*shxweli*) and soul (*smestíyexw*)
- is centrally important in directly connecting to and attesting to the creation of the world via the actions of the Transformers, in connection to the will of the Creator - providing the foundations of the Nooksack and Stó:lō worldview;
- forms part of a collective representation of the extended Transformation narrative which, while having individual meaning as an element of the story (like 'a chapter in a book') cannot be separated from the collectivity (the 'book as a whole') without loss of integrity to the entire framework - as, in parallel, the Christian 'Stations of the Cross' individually contribute elements of the complete story of Christ's death and resurrection. The complete story is ordered and structured as a collectivity of 'self-

sufficient' though interconnected and integrated elements. Thus, the Stone T'ixwelátsa is one of a few dozen documented Transformation Sites / Objects known to the Nooksack and Stó:lō, and provides one 'chapter / station' in the collective Transformation narrative;

- is associated with a specific place in the landscape, forming part of a broader physical-spiritual landscape transformed by the Transformers. Specifically, the Stone T'ixwelátsa is associated with the ancestral village site of Soowahlie, located near Vedder Crossing, on the Chilliwack River;
- is a physical object containing a living, ancestral human soul, and carrying a specific name of a transformed individual, as recalled in oral history. Specifically, the Stone T'ixwelátsa is the transformed manifestation of a man named T'ixwelátsa from the Chilliwack village of Soowahlie on the Chilliwack River;
- provides guidelines for proper behavior. The s̓xwôw̓xiyám (Transformer narrative) accounting for the origin of the Stone T'ixwelátsa contains a moral lesson about proper ways of resolving conflict;
- is linked to a form of shared oral history that informs the broadest level of cultural identity attached to the shared understanding of the origin of the world and behavioral rules, binding people together across tribal groupings. The T'ixwelátsa Transformation narrative is an element of the complete Transformer narrative that is traditionally recognized by the Stó:lō and Nooksack peoples as an integrated and interconnected cultural community;
- manifests the highest level of cultural, traditional, and historic significance across the entire cultural grouping of the Nooksack and Stó:lō; while *simultaneously* acting at numerous sub-set levels of attachment to particular places of particular importance to sub-set groups of the broadest cultural identity (for example, tribes, villages, families, individuals). The Stone T'ixwelátsa is, thus, an object of broad cultural, traditional, and historic significance to *all* the Stó:lō and Nooksack culture groups at their broadest level of recognition, while being *simultaneously* attached to numerous levels of related sub-set identities - the people of the Chilliwack tribal grouping; the current and ancestral inhabitants of the villages near Soowahlie; the descendent lineages of T'ixwelátsa family, T'ixwelátsa (Herb Joe; the current holder of the name T'ixwelátsa) and his extended family (which includes members of the Nooksack Tribe).

5.3 Establishing the Inalienable Nature of the Stone T'ixwelátsa

Based on the information presented in the preceding sections, it is possible to determine that, as with all Transformation Sites and Objects, the Stone T'ixwelátsa is collective property and by its very nature inalienable to the cultural community by any individual(s). To this effect, the Stone T'ixwelátsa:

- is collectively owned at the broadest level of cultural group identity – Nooksack and Stó:lō - though linked by name to a specific caretaker, as a responsibility bestowed upon that individual by the traditional means of the broader cultural group. Thus, caretaking responsibility for the Stone T'ixwelátsa, as recognized by the Nooksack and Stó:lō, is linked to the current holder of the name T'ixwelátsa – T'ixwelátsa (Herb

Joe) – as directed by the female line of T'ixwelátsa's ancestors. Caretaking responsibility is inherited as a responsibility associated with the name T'ixwelátsa, as delegated by the current female line of T'ixwelátsa's ancestors. Preparation for carrying this future responsibility extends to the holder of the 'junior' version of the name T'ixwelátsa - 'Th'ítsxwelats'. The name Th'ítsxwelats is currently held by Kurt Joe, T'ixwelátsa's (Herb Joe's) grandson, whose duties involve learning the history and caretaking protocols associated with the Stone T'ixwelátsa;

- cannot be alienated by any individual from the cultural community of which it is a part - as with any Transformation site or object. While T'ixwelátsa (Herb Joe) maintains traditional care-taking responsibilities associated with the Stone T'ixwelátsa, neither he nor any other member of the Nooksack or Stó:lō can rightfully or legitimately do anything that results in the alienation of the Stone T'ixwelátsa from this integrated and collective cultural community. T'ixwelátsa's (Herb Joe's) care-taking responsibilities require him to maintain the integrity of the Stone T'ixwelátsa on behalf of T'ixwelátsa's lineage and the entire cultural community.

The preceding details support the classification of the Stone T'ixwelátsa as a Transformer Object and establish the highest assignment of cultural, historic, and traditional importance upon the Stone T'ixwelátsa by the Nooksack and Stó:lō. A simple process for determining 'cultural value' (incorporating historic and traditional value) is derived from the teachings of Stó:lō Elders and defined in the Stó:lō Heritage Policy Manual (2003):

"The cultural value of any particular element of *Stó:lō* heritage reflects the nature of the attachment between the object, site, or knowledge and its original owner(s) / maker(s) / caretaker(s). Thus, objects, sites, or knowledge of the highest cultural value are those that were held dearest by their maker(s)/owner(s) – and may include such things as Transformer sites, *sxwóxwiyám*, and ancestral burials. Objects on the lower end of the cultural value scale are those held least dear by their maker(s) – and may include such things as refuse heaps (e.g., shell middens) and debris from stone tool making."

This teaching supports the assignment of the highest level classification of historical, traditional, and cultural importance to the Stone T'ixwelátsa.

5.4 Supporting Information

Additional information is provided below in support of the preceding bulleted conclusions regarding the high level cultural significance and inalienable nature of the Stone T'ixwelátsa, as an 'object of cultural patrimony'.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

DS: The Native American Grave Protection and Repatriation Act defines an object of cultural patrimony as quote, "An object having on-going historical traditional or

- cultural importance central to a Native 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. And as such object shall be considered inalienable by such Native American group at the time the object was separated from the time that the group." Is the Stone T'ixwelátsa an object of cultural patrimony according to this definition?
- T : Yes, it is.
- DS: Is the Stone T'ixwelátsa the owned property of an individual among the Indian tribe or Aboriginal communities that you belong to?
- T : No, it belongs to the Stó:lō tribe or the halq'emeylem speaking people and from there I would say we could directly relate the importance to the [T'ixwelátsa(s)] descendants to family which would also include his family members in the Nooksack tribe, and the Sumas tribe and some of the other surrounding tribes where T'ixwelátsa was actually last found. So the importance is basically to the halq'emeylem speaking people is an icon or a teaching tool if you will of the grandparents for all of the children of the tribe.
- DS: Okay, is the Stone T'ixwelátsa an object of on-going historical traditional or cultural importance central to Native American group or culture itself?
- T : Yes, I believe it is. It has historical value in that it's tied to Xexá:ls and Xexá:ls walking through our lands making things right. The traditions that belong to our people have to do with the way we carry ourselves. The way we live and of course the teachings of the Stone T'ixwelátsa are central to those traditions and of course culturally it also has to do with the spiritual side of the halq'emeylem speaking peoples. It has to do with our belief in our shxweli, our soul, our spirit and it also has to do with our historical connections to the Creator, our God, our Chechelh Siya:m, it has all of those aspects, are part of the Stone T'ixwelátsa and his significance to our people.
- DS: So would you say that then the cultural, historical, and traditional importance of the Stone T'ixwelátsa is of central importance to the Nooksack, Stó:lō, Ts'elxweyeqw [Chilliwack] cultural group as a whole?
- T : Yes, I believe it is. I think one of the main reasons being that they all speak, all those peoples that you just described, all speak the same language, all have the same lineage with respect to blood relationships. Therefore, they have this same historical background. And being that being the case then the Stone T'ixwelátsa would be important or significant to the way and to what the families in the Nooksack, the Stó:lō tribes would be teaching their children and grandchildren. So there is that direct correlation or connection.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

- DS: On a scale 1 to 10, with 1 being the lowest and the 10 being the highest, how would rate the importance of the Stone T'ixwelátsa in terms of this cultural, historical, and traditional significance to the Nooksack, Stó:lō people as a whole?
- T : I am going to qualify this. There has been a renaissance or a degree of awakening of the culture with regard to all of the customs and traditions of the Stó:lō Nooksack peoples from that perspective I would say the importance if we are

- going to rate it from 1 to 10 is a 10 because if we don't have a basis for our teachings then the teachings are meaningless. They are creations of whoever the teacher is. This gives validation to the legend. It gives some grounds for the teachings to be passed on and for that reason is very meaningful and very, very important to our people. The young people of today most of whom were not educated historically or traditionally within the oral traditions specifically they have a different education model that our younger generations are [unclear section of tape]. So we need the Stone T'ixwelátsa here so that we can get our young people involved in the history of our people. So again back to the rating I'd still have to say it's a 10 in terms of importance.
- DS: Okay, and is the Stone T'ixwelátsa then from what you're saying is it useful to the Indian tribes and the Aboriginal groups that you are a member of?
- T : Yes, it definitely is very, very useful. It's part of the people, it's part of our identity, it's part of the education model that we are going to be using to teach our children the culture and traditions of our people.
- DS: Can the Stone T'ixwelátsa remain at the Burke Museum and maintain it's cultural usefulness?
- T : In my opinion, no, the Stone T'ixwelátsa has to come home to be re-awakened, and take his rightful place as the teaching icon for our Stó:lō people and the Nooksack people. So the answer is no, no, it can't stay in the Burke Museum and still have the same significance to the people here in Stó:lō territory. We have to understand that our people believe that there is a living spirit, or a living soul in that statue. It's not going to be re-awakened until he returns home.
- DS: For your purposes and the purposes of the broader Indian Tribe and Aboriginal cultural groups that you are part of, would a replica of the T'ixwelátsa Stone T'ixwelátsa provide an acceptable substitute for the original?
- T : No, it to me it definitely wouldn't serve a purpose other than to be a statue that would show the people what the real T'ixwelátsa looks like. Again I have to reiterate that the Stone T'ixwelátsa has in it, contains it the spirit of T'ixwelátsa and it's that living spirit that it needs to be awakened so that the teachings can be passed on to our young people again, and we need that living spirit to be re-awakened. That's the spiritual significance of the Stone T'ixwelátsa and having the him come home to our territory so that it can be once again take his rightful place as a sacred site... and a teaching icon for our peoples. We need to educate our younger people so that they can become proud Stó:lō people again, proud speakers of the halq'emeylem language.

Excerpt from Interview with Dr. Bruce Miller -

- DS: The Native American Graves Protection and Repatriation Act defines an object of cultural patrimony as an object having an on-going historical, traditional, or cultural importance central to a 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. And such object shall have been considered inalienable by such Native American group at the time

- the object was separated from such group. Is the Stone T'ixwelátsa an object of cultural patrimony according to this definition?
- BM: I think it is. Certainly is.
- DS: Is the Stone T'ixwelátsa the owned property of any individual among the Indian tribe and Aboriginal communities associated with it?
- BM: No, I don't think of it as the property of a single individual. It's really cultural property, community property. It has a particular affiliation with a named individual who has that same name that would be called his Indian name, that's Herb Joe. And the Stone T'ixwelátsa and Herb Joe share that name, and in that sense Herb Joe has a stewardship relationship with the Stone T'ixwelátsa but it isn't a form of ownership. It rather is that he has obligations to it, not the right of disposal.
- DS: Is the Stone T'ixwelátsa an object of on-going historical, traditional, or cultural importance central to a Native American group or culture itself? And if so, to whom is the Stone T'ixwelátsa important? Could you please address the position of the Nooksack in this regard?
- BM: The T'ixwelátsa stone is related to a Transformer story, and the transformer story concerns the alteration of the landscape of the Fraser River region.. contemporary Lower Mainland of British Columbia. And it concerns the myth period in which the Transformer encountered ancestral beings to contemporary human beings. And in this case, transformed someone into this stone. So the stone contains the soul of this ancestor. But the other thing is it connects the landscape to the contemporary population because Transformer transformed the landscape, created the present day world. And connects directly to the set of ancestral or sometimes called 'Indian names' which I mentioned previously. So it connects directly the past and the present, and the landscape as a natural feature and also as a cultural feature. And in that sense, it is a very fundamental portion of Coast Salish and Nooksack and Stó:lō conception of the universe, cosmological conception... I think it's really quite fundamental. And this embodies all of that in one piece... so those sets of stories, including this story, are quite fundamental to establishing the basic relationships between the Nooksack and Stó:lō people and their world.
- DS: A similar question - is the Stone T'ixwelátsa of central importance to a Native American group or culture? and if so, how and to whom?
- BM: It's centrally important to the people who tell the stories of the Transformer of the coming out of the myth period into the contemporary human period. And so this piece is of importance to the Nooksack and to other peoples who have interest in the Fraser River region. In particular, the Nooksack and various bands of the Stó:lō.

Excerpt from Interview with Dr. Bruce Miller -

- DS: On a scale, one being the lowest to ten being the highest, how would you rate the historical, and traditional importance of the Stone T'ixwelátsa?
- BM: That object would rate very high, very close up to the very top because it embodies and connects so many critical themes in the community life and spiritual view and social organizational view so... I'd say somewhere between 8 and 10. Because for one thing an object like that is irreplaceable, there can't be

another. Secondly, it is in effect a living being. It's an animated entity in the universe, so it's critical that way. Thirdly, it reminds the people who see it of the fundamental issues in their community and of the fundamental values and practices and relationships they have. So it constitutes a reminder of all that. Fourthly, it's a mnemonic device which embeds in it a specific notion of location, place, name, and relations with non-human beings. So all of that is contained within that [object]. And so in the Coast Salish world there are a small number of well-known Transformer sites of different types, and all of them are deeply revered by contemporary members of the community. They're protected by members of the community and they're regarded as inalienable and truly significant features that connect them to their mythic past, to their historic past, to their present, and ultimately even to the future. So this is of great significance...

6.0 Establishing "Cultural Affiliation" between the Nooksack and the Stó:lō

The following section provides oral historical and ethnographic excerpts supporting the close cultural affiliation between the Nooksack and the Stó:lō. Of note, this discussion is extended to include the situation of the Chilliwack within the Nooksack/Stó:lō community. The Chilliwack, as a Stó:lō tribal group, are specifically mentioned only as means of providing cultural context to the many 'Chilliwack' references in the T'ixwelátsa oral history and anthropological accounts.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

- DS: The Native American Graves Protection and Repatriation Act defines cultural affiliation as meaning that there is a relationship of shared group identities that can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable earlier group. Is there a cultural affiliation between the Nooksack, the Chilliwack, and the Stó:lō, and if so how?
- T: Yes, there is historic connections. I have mentioned a little earlier that there is a geographic area of common usage between the Nooksack and Stó:lō tribes where they fished, hunted, and lived in a common area. They of course share a common language. At one time the Nooksack language or Nooksack dialect was considered to be a high form of the halq'emeylem language. So there's the cultural aspects there as well. And of course there the, because of the proximity of the two peoples there was intermarriage. There is all of the families that are currently the predominant families that are currently identifiable in the Stó:lō Nation have blood linkages to the Nooksack tribe through marriage. So there is that aspect of our connections as well. And many of our stories and legends also are the same stories and legends that are told by the Nooksack Elders so with regard to historical teachings and education models the Nooksack and the Stó:lō tribe have very, very similar education processes that they went through with their Elders and down to the children. So there is all of those connections culturally.
- DS: So you would say they share a group identity?
- T: Very much so, they share, they are the same people. According to our ancestors the peoples were all of the same peoples that spoke the same languages. The different designation of tribal area designation only came after the Europeans, the impact of European immigration to these areas became very much a part of our environment at the time. When the United States government through their bureau of Indian affairs had a direct impact on these identity situations as did the Canadian government with their department of Indian affairs and how the governments identified these specific groups of Indians. Historically, we were all the same people, we all spoke the same language. We practiced the same traditions and customs. And we had the same culture. We were in fact one people but lived in geographic areas that were linked by waterways, historic waterways the Nooksack River, the Sumas Lake, the Fraser River all of these were interconnecting waterways that connected our people.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

- DS: The Native American Graves Protection and Repatriation Act defines cultural affiliation as meaning there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and identifiable earlier group. Is there a cultural affiliation between the Stone T'ixwelátsa and the Nooksack tribe?
- T : Yes, there is a direct affiliation. We can connect the two now identified separate tribes through our history of our family and interfamily marriages. The Nooksack River wasn't one of the highest producing salmon rivers. The Fraser River in fact was the host of four of the largest salmon runs in the world at that time. And the fishing sites were extremely important to the survival of our tribes. For that being one of the reasons, the Nooksack and the Stó:lō families intermarried so that they could share in the resources. And therefore, share in the culture. As I said earlier the Nooksack and the Stó:lō bands, tribes, spoke the same language. And because they spoke the same language there was that connection to the culturally as well. They would have shared a common hunting, fishing areas, they of course shared the same language. And also had these intermarriages, marriages between the Nooksack and the Chilliwack, Sumas, Matsqui tribes that connected us more closely. So there is a direct connection to Nooksack from the Stó:lō tribes.

Excerpt from Interview with Herb Joe -

- DS: How is the Nooksack Tribe connected to halq'emeylem speakers, Coast Salish, how are they connected...?
- T : Well, geographically the Nooksack Tribe lived right adjacent to and south of the Stó:lō peoples and through marriage and intertribal travel. There was a very direct connection between the Stó:lō peoples, the Matsqui people, the Kwantlen people, the Sumas people, Chilliwack people. All of these were smaller tribes that were directly related to the Nooksack people through marriage in most parts. We all lived in a common hunting and fishing and food gathering area. And throughout the ages even spoke the same basic language. It is said by some of our Elders that the Nooksack language was a higher form or higher status form of the halq'emeylem language. So we all spoke the same language.

Excerpt from Interview with Dr. Bruce Miller -

- DS: Is there a cultural affiliation between Nooksack and the Chilliwack and the broader Stó:lō?
- BM: The anthropological record indicates that these communities have had a shared culture, on variety of bases, for a very long period. They are connected through marriage, through kinship, through common use of resource stations, through common defensive purposes, and through spiritual life. In particular, this piece represents a kind of spiritual commonality. So there's a common culture but there is also a common social organization, engaging all those peoples over a very long period, including the present.

Excerpt from Franz Boas (1895; see Kennedy and Bouchard 2002:103-104) - RE: the cultural affiliation between Nooksack and Stó:lō/Chilliwack Peoples; see footnote #56 from this passage.

"The Tc'ileQuē'uk⁵². In Ts'uwā'lē,⁵³ on the lower Chilliwack River⁵⁴, there lived a chief who had a very beautiful daughter. K·ā'iq, Mink, wished to have her for himself. So he assumed the form of a handsome young man and walked upriver on the shore opposite the village. He carried a harpoon in his hand and fish on his back so that it appeared as if he had just caught them. At just this moment an old man had sent all the young girls to bathe, among them the chief's daughter. The girls saw the young man, who kept calling "Ps! Ps!" and when they noticed the fish that he was carrying, they asked him to throw one over to them. He fulfilled their wish; the fish fell into the water, swam into the chief's daughter and made her ill. Her father searched for a shaman to heal her. So Mink assumed the shape of a shaman. In the evening he went to the village and when he was seen by an old woman, she said, "Surely he will be able to heal the girl." They called him into the house and he promised to heal her. First, he sent all the people out of the house, leaving only an old woman sitting outside the door to accompany his song with the rhythmic beats of the dancing stick. To begin with, he sang, but then he slept with the girl and she gave birth to a child right away. So Mink leaped at once out of the house. The old woman heard the child's crying and called the people back. They became very angry, took the child and threw him out of the house. But Mink was standing outside with his mountain goat cape spread wide; he caught the child in it and went away with him. After a while the girl's father became sad that he lost his grandson. So he sent to K·ā'iq and begged him to send him back. Mink granted his wish and sent the boy back. He was named T'ē'qulā'tca (from the lower reaches of the river)⁵⁵. He became the ancestor of the Tc'ileQuē'uk⁵⁶."

Footnote:

⁵⁶ "Up to four generations ago the Tc'ileQuē'uk spoke the Nooksack language, which is almost identical with that of the Lummi. Hence they must be regarded as only recently assimilated with the other Fraser River tribes. The above legend seems to bear this out, their chief alone stemming from the lower course of the river, while the tribe lived on the upper reaches" [Boas' original footnote]. Boas (1894b:455-456) stated that the Chilliwack spoke Nooksack "until the beginning of this century," that is, until *circa* 1800. Confirmation that the original Chilliwack people spoke Nooksack or a language similar to Nooksack has been provided by Smith (1950:341), Duff (1952:43-44), Wells (1987:40, 87-88, 203), and Galloway (1993:6-7). The Nooksack are a Coast Salish group living to the south of the Chilliwack. The Lummi spoke a dialect of Northern Straits which was mutually incomprehensible with the Nooksack language.

Excerpt from Wayne Suttles (1990:453-456) – RE: the linguistic affiliations among the Central Coast Salish; between the Nooksack and Upriver Halkomelem [Stó:lō]; and between the Nooksack and Chilliwack.

“Central Coast Salish refers to the speakers of five languages: Squamish, Halkomelem, Nooksack, Northern Straits, and Clallam. Before European invasion they possessed the southern end of the Strait of Georgia, most of the Strait of Juan de Fuca, the Lower Fraser Valley, and some adjacent areas. Their territory thus included parts of British Columbia and Washington (fig.1 [see report Figure 1]).”

“Halkomelem

... The Upriver Halkomelem were:... the the Sumas (‘sōō,mās), on Sumas Lake (which covered the lowland southeast of Sumas Mountain until it was drained in the 1920s) and Sumas River;...the Chilliwack (‘chīlə,wāk), on the Chilliwack River;...According to traditions, until early in the nineteenth century the Chilliwack River flowed into Sumas Lake, and the Chilliwack people, who then spoke a dialect of the Nooksack, all lived up the Chilliwack River in the mountains. When logjams caused the Chilliwack River to change its course and flow north into the Fraser, the Chilliwack people moved into the valley, where, by the middle of the nineteenth century they had some 12 villages and were abandoning their original language for Halkomelem (Duff 1952:43-44; Boas 1894:455-456; Hill-Tout 1903:355-357). The Chilliwack, Pilalt, and Teit have been grouped together (Duff 1952) as the Upper Stalo.”

“Nooksack

Nooksack territory included the drainage of the Nooksack River above the mouth of Bertrand Creek, the upper Sumas River, the south end of Cultus Lake, most of Lake Whatcom, and possibly the shores of Bellingham Bay between the mouths of Whatcom and Chuckanut creeks. Most of the 20 or more Nooksack villages were in the level valley below the confluence of the north and south branches of the Nooksack River (Fetzer 1951; Richardson 1974).”

6.1 Establishing that the Nooksack are Lineal Descendents of the Original T'ixwelátsa

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

T : Our family would have been situated and located and lived in all parts of the Stó:lō territory, upper Fraser Valley territory, and probably beyond that as well. I have knowledge about our family having members, or members of the family living in Yale, the tribe up there, and had fishing rights and that kind of thing through intermarriage. We have connections with the St'atliyum people, the people up at the other end of Harrison Lake, the northern end of Harrison Lake. We have blood relations through Sts'eylis or 'Chehalis'. We have blood relations right down through Matsqui, Kwantlen, Katzie, Tsawwassen, Lummi, Nooksack,

- Sumas, and then back up to Chilliwack. We have family connections direct blood connections, direct lineage to T'ixwelátsa and to the Stone T'ixwelátsa living in all of these areas. All of these members of our extended family would have of course known the importance and the significance of the Stone T'ixwelátsa.
- DS: As T'ixwelátsa in the origin of the Stone T'ixwelátsa is associated with the travels and transformation of Xexá:ls, do the Stó:lō as a whole recognize the cultural importance of that object?
- T : Yes, we certainly do today there are sacred sites all throughout our Stó:lō territory and beyond that were created by the transformations of Xexá:ls and all of the peoples in those areas are very much aware of the significance of the sacredness of these sites, these transformation. And of course these transformation sites begin at the most northern and eastern part of our territory and go right through to the southern and western part of our territory.
- DS: Does the recognition of the significance of the Stone T'ixwelátsa extend to the Nooksack?
- T : Very much so, the Nooksack peoples at one time according to our Elders were directly connected to the Stó:lō people and in fact some of our Elders tell us younger people that the Nooksack people spoke the same language but they spoke the high language. In other words a higher status language of the halq'emeylem languages. And there are historical linkages through marriages to Nooksack from most of the tribes in the mid-valley area, the Stó:lō territory. Chilliwack people have marriages like my own particular family Rose Roberts. Her maiden name was Joe. She was from Tzeachten. The Antone family, the George family from the Chilliwack Tribes are also directly married into and are members of the family in Nooksack. The Antonies from Kwantlen are also directly married into that area. In the Sumas tribe, the Ned family are also directly related to the Nooksack tribes. So there are direct linkages to all of our major family groupings in Stó:lō territory to the Nooksack peoples.

7.0 Establishing that the Nooksack controlled the Stone T'ixwelátsa at the time of his Collection

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

T : According to our legends and family history, after T'ixwelátsa was turned to stone, the women of our family were given the responsibility for caring for T'ixwelátsa, the Stone T'ixwelátsa. And the responsibility was given to a specific woman in our family and she was to take care of it. Normally, what happened as I understand it, was that the T'ixwelátsa was placed in front of the front door of the longhouse in which this lady lived. And through the ages that's the way it stayed until one of the women of our family who happened to be the care taker of the Stone T'ixwelátsa married into the Sema:th tribe, Sumas tribe, and she took it with her as part of her dowry as part of her family responsibilities, she took the Stone T'ixwelátsa with her to Sumas¹⁰. Of course the Sumas people and the Nooksack people lived in a common area that is now Nooksack, Huntingdon, Abbotsford but it was at the western and south western part of, what used to be known as Sumas Lake. So that whole area would have been occupied by the Sumas people and the Nooksack people jointly. There is historical evidence that indicates that there was a common gathering area just to the west to the, what is now known as the Nooksack reservation at North Wood. That area was taken by the United States government when the international boundary was established.

¹⁰ The late Bob Joe, Chilliwack community member and traditional historian, told of T'ixwelátsa, the ancestral warrior and leader referred to by T'ixwelátsa (Herb Joe), in his narration of the 'Story of the Chilliwack People' told to folklorist Norman Lehrman circa 1950-51: "... The twin brother [Wililéq the Sixth] and sister [Lumlamelut] moved down there and took charge over governing this tribe. The sister never married but Wililéq the Sixth had children. When the twins died they buried then just below their house. When the leader died it was the uncle who took over. That was the first time there was a change. The other leader's name was T'ixwelátsa. It didn't last long because he was a great warrior. When he died the tribe started to divide. The family was large, in the hundreds and all over the place." Dr. Keith Carlson (Historian, University of Saskatchewan) places the time of Wilileq the Sixth at about 1830 AD (see Carlson 2003:160) creating a timeframe in the mid-1800s when T'ixwelátsa, the warrior, became leader of the Chilliwack Tribe. T'ixwelátsa likely died in the mid-late 1800s, after having killed the famed Sem:ath (Sumas) warrior Xeyteluq. This significant act - maintained in Stó:lō sqwelqwel (oral history of true facts; personal histories) and ethnographically documented (Oliver Wells, Interview with Albert Louie, July 28, 1965, p. 1, 43, 82) - motivated the making of amends between the two tribes through the arrangement of a marriage between Sumas and Chilliwack nobles. The Stone T'ixwelátsa moved with the newly wed Chilliwack spouse in this arrangement as she re-settled in her husband's village in the Sumas Prairie. The Stone T'ixwelátsa was found there in 1892.

8.0 Establishing that there are No Outstanding or Potentially Competing Repatriation Claims on the Stone T'ixwelátsa

- See Appendix II - Letters of Support

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

DS: Regarding the repatriation request for the Stone T'ixwelátsa, what Indian Tribe is submitting the repatriation request for his remains?

T : The Nooksack tribe in Washington State.

DS: And what is your role in the repatriation request for the Stone T'ixwelátsa?

T : I am the figure head if you will in that I carry the traditional on behalf family and the tribe, I am T'ixwelátsa and of course the Stone T'ixwelátsa name is T'ixwelátsa as well. I am the person that was given the responsibility for caring out any of the responsibilities that are historically, culturally, spiritually attached to the name T'ixwelátsa. So that's my responsibility in regards to the repatriation request.

DS: Is that responsibility recognized by the Nooksack tribe?

T : Yes, with discussions with the tribal chairman, and the cultural committee for the Nooksack tribe. They collectively have recognized what my role is and recognized all other aspects of this repatriation request.

DS: Do you have proof of support from all the involved Indian tribes and Aboriginal organizations for this repatriation request? And including recognition of your role in this repatriation request?

T : Yes, we have as I said have approached the Nooksack cultural committee and had a number of meetings with them so they recognize it. And we have been able to obtain letters of support from themselves, the tribal chairman and the cultural committee as well as the bands in the Stó:lō tribe.

DS: Do you know of any Native Americans or Indian tribes that have any competing claims or the potential to submit a competing claim or claims to the Stone T'ixwelátsa?

T : No, not to my knowledge there are no other tribes or other peoples that have a claim to the Stone T'ixwelátsa.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

DS: Why are the Nooksack involved in this repatriation request?

T : The Nooksack tribe are applying on for this repatriation, on behalf of members of the Nooksack tribe that family has direct lineage to the Stó:lō tribes. So the Nooksack tribe is applying on behalf of their own tribal membership for repatriation of this object.

9.0 Establishing that the Stone T'ixwelátsa is the Object currently held by the Burke – Tracing the recent Acquisition History of the Stone T'ixwelátsa

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

DS: Okay, can you tell me about the more recent history of the Stone T'ixwelátsa accounting for the acquisition of the object by the Burke Museum.

T : According to our legends and family history, after T'ixwelátsa was turned to stone, the women of our family were given the responsibility for caring for T'ixwelátsa, the Stone T'ixwelátsa. And the responsibility was given to a specific woman in our family and she was to take care of it. Normally, what happened as I understand it, was that the T'ixwelátsa was placed in front of the front door of the longhouse in which this lady lived. And through the ages that's the way it stayed until one of the women of our family who happened to be the care taker of the Stone T'ixwelátsa married into the Sema:th tribe - Sumas tribe - and she took it with her as part of her dowry as part of her family responsibilities, she took the Stone T'ixwelátsa with her to Sumas. Of course the Sumas people and the Nooksack people lived in a common area that is now Nooksack, Huntingdon, Abbotsford but it was at the western and south western part of, what used to be known as Sumas Lake. So that whole area would have been occupied by the Sumas people and the Nooksack people jointly. There is historical evidence that indicates that there was a common gathering area just to the west to the, what is now known as the Nooksack reservation at North Wood. That area was taken by the United States government when the international boundary was established. The peoples who were living in that area were given the opportunity to homestead land a little further to the east of that location at a place that is now called North Wood which is, I guess, north east of Lyden, Washington. We have historical evidence that our people have been there for a long time as well, actually before the homesteading, because there is a cemetery there that indicates that our people were there long before the actual establishment of that area as reservation area. So those are some of the linkages and of course there are other historical linkages as well.

DS: Can you tell me how the Stone T'ixwelátsa ended up at the Burke Museum?

T : From what I've been led to understand by our Elders that the, when the Stone T'ixwelátsa was moved to Sumas, to the Sumas tribal area where this lady had married into, one of my relatives, she - I would say - didn't keep as close connection with the Stone T'ixwelátsa as possible and it was lost sometime during that time frame. That we would assume that it was probably left at one of the fishing or housing sites and when the people moved to one of the other housing sites the Stone T'ixwelátsa was left. And consequently, was found by a farmer as I understand it... And of course now it's currently in the Thomas Burke collection in the Burke Museum in Seattle, Washington.

9.1 Timeline of Events associated with the Museum Acquisition of the Stone T'ixwelátsa

- 1892 -

Excerpt from the *Chilliwack Progress* Newspaper (September 15, 1892) - RE: the finding of a large carved stone figure on the Sumas Prairie.

"A curiously carved Indian image was found by Messrs. Ward Bros. on the Sumas Prairie [sic]. The image is about four feet high, and weighs about 600 lbs. It is evidently very ancient; and is quite intact, every detail being clearly defined."

- 1880-1904 -

Excerpt from the Burke Museum Archaeology Catalog Record (2003) - RE: the collection / acquisition of the Stone T'ixwelátsa by the Young Naturalists Society – the founding society of the Washington State Museum / Burke Museum - (see copy of the Archaeology Catalog Record - Appendix I; Report Figure 2d).

Accn File: Additional information on object history in file. Was purchased and exhibited in a dime museum before coming to the Washington State Museum. Date received 1888. "See Article in Am. Mus. Mem., Vol. IV, part VI. P. 430."

Collector: Young Naturalists Society

Coll. Date: 11/01/1904

Found: Sumas, WA

Researcher's Note: While the dates associated with this Catalog are mixed and somewhat confusing, the record clearly establishes that the Young Naturalists' Society (YNS) as the donators of the Stone T'ixwelátsa to the Burke. The Young Naturalist Society was composed of a group of natural scientists associated with the Washington Territorial University – later to become the University of Washington – and was formed circa 1880. They operated as a society, conducting research and amassing a large collection of various types of objects and specimens. In 1885, they founded and constructed a museum to house their collections. In 1899, the Washington State Legislature designated the YNS's collections as the Washington State Museum. In 1904, the Young Naturalists' Society was dissolved and the remainder of its collections amalgamated with those of the Washington State Museum. The Washington State Museum was renamed as the 'Burke Museum of Natural History' in 1962, after Judge Thomas Burke (see <http://www.washinton.edu/research/pathbreakers/1882a.html>; <http://www.washington.edu/burkemuseum/about.html>).

The date the Stone T'ixwelátsa was reported found - 1892 - coincides with the range of possible dates that the Stone T'ixwelátsa was accessioned into the museum collection by the YNS, circa 1880-1904 – the life-span of their existence as a society. The date '1888' in the catalog notation - "Was purchased and exhibited in a dime museum before coming to the Washington State Museum. Date received 1888." - while pre-dating the reported finding of the Stone T'ixwelátsa, more significantly *pre-*

dates the establishment of the Washington State Museum in 1899. This discrepancy *invalidates the '1888' date*.

One plausible observation about the listed date '1888' is that it represents a typographical error. The date '1899', likely very similar in appearance to '1888' in the handwritten records of the time, could likely have been mistyped as '1888' in the process of data-entry on the modern catalog record or at some previous time in the active history of the Burke acquisition records. Significantly, the date '1899' matches the more meaningful date of the legislated transition of the YNA's collection to that of the Washington State Museum / Burke. It is in 1899 – not 1888 - that any object already in the YNS's collection would have been "received" by the Washington State Museum. This '1899' date integrates well with the cited finding of the Stone T'ixwelátsa in 1892 and the 1903 reference to the Stone T'ixwelátsa having "found its way" to a qualified museum after having spent some time on display at a "dime store museum", as noted in the following passage from Charles Hill-Tout (1903:367). Thus, in attempting to make sense of the two dates on the Burke catalog record - 1888 and 1904 - it is plausible that they signify significant dates in the history of the Young Naturalists' Society, rather than specific dates associated with the collection history of the Stone T'ixwelátsa. Regardless, the range of dates linked to the collection and accessioning of the Stone T'ixwelátsa into the Burke collections match in a congenial and generally unproblematic way.

- 1903 -

Excerpt from Charles Hill-Tout's *Ethnological Studies of the Mainland Halkomelem: A Division of the Salish of British Columbia* (1903:367) - RE: the origin and museum acquisition of the Stone T'ixwelátsa (spelled by Hill-Tout as T'ēqulātea).

"The great transformer and wonder-monger of the Tcil'qē'uk was called by them *Qeqā'ls*. This is apparently the collective form of the commoner *Qāls* of the other tribes. I was not able to gather much concerning his doings among them. They apparently invoked him in prayer at times. The Tcil'qē'uk formerly possessed a large stone statue of a human being. It was owned by a certain family, and was taken to the neighboring Sumas tribe by a woman who married into that tribe. The statue weighed over a ton, it is said. A few years ago, some enterprising person bought it for a small sum and shipped it into Washington State where it figured for a time in a 'dime museum.' It has since found its way, I believe, to the Field Museum at Chicago. This statue was said to be the work of *Qeqā'ls*, who one day passing that way was a man and his wife, who in some way displeased him, and were in consequence transformed into stone statues."

- 1907 -

Excerpt from Harlan Smith's *The Gulf of Georgia and Puget Sound* (1907:430-431; Am. Mus. Mem., Vol. IV, part IV.) - RE: the origin and museum acquisition of the Stone T'ixwelátsa.

"Another figure of the same type is represented in Fig. 195, b [see report Figure 2c]. It is said to have been ploughed up on the Fraser Plains, near Sumas, Wash.

This figure also has a pit on top of the head. Mr. Charles Hill-Tout refers to a large stone carving [reference given as *Report of the British Association for the Advancement of Science for 1902*, p. 367; see above], and it is not improbable that the carving mentioned by him is the specimen figured here. Mr. Hill-Tout says that the Chilliwack formerly possessed a large stone statue representing a human figure. It was owned by a certain family, and taken to the neighboring Sumas tribe by a woman who married into that tribe. A few years ago some enterprising person bought it and shipped it into Washington State, where it was exhibited for a time in a dime museum. According to the belief of the Chilliwack, this statue was the work of the Transformer Xäls, who had transformed into stone a man and his wife who had displeased him."

- 1952 -

Excerpt from Paul Wingert's *Prehistoric Stone Sculpture of the Pacific Northwest Coast* (1952:23) - RE: discussion of distinctive 'narrative' attributes of prehistoric stone sculpture, using the Stone T'ixwelátsa as an example.

"A more conventionalized style appears south of the Fraser River in the Puget Sound area. Large vertical stones are carved as human figures, on some of which mortar-like depressions are found (cat. no. 118). Although these are closer than is usual in the north of Columbia River style, they nevertheless have an animation, evident in the open mouth and tense pose, that is distinctive and suggests narrative content."

"Puget Sound Style

118 Anthropomorphic figure. Granite, h. 47, w. 18. Lent by Washington State Museum, University of Washington. Found: Sumas, Washington"

Researcher's Note: "cat. no. 118" refers to Wingert's own numbering system implemented for the purposes of his publication, and should not be confused with the Burke's separate artifact catalogue or accession numbering system. The connection between the statue cataloged by Wingert as #118 and the Statue (Burke Catalogue ID #152) is further clarified by the following excerpt from Duff (1956:88-90), below.

- 1956 -

Excerpt from Wilson Duff's *Anthropology in British Columbia, No. 5* (1956:88-90) - RE: Classification of "Large Stone Figures"

"A number of stone sculptures representing human heads and figures, and generally larger and cruder than the sculptures described above, have also been found about the Gulf of Georgia [i.e., Lower Fraser River Watershed] and the Lower Fraser [i.e., Lower Fraser River Valley]. These do not form a single homogenous type either in concept or in style... In summary, these figures are evidence of the antiquity and variety of stone sculpture in the Gulf area..."

"7. Anthropomorphic Figure. (See Smith, 1907, Fig. 195b) A large upright figure of granite, 47 inches high by 18 inches wide, now in the Washington State Museum (Wingert, 1952, Catalogue No. 118). Smith ably summed up the information on the origin of this figure as follows: "It is said to have been ploughed up on the Fraser Plains, near Sumas Washington... Mr. Charles Hill-Tout refers to a large stone carving and it is not improbable that the carving mentioned by him is the specimen here figured. Mr. Hill-Tout says that the Chilliwack formerly possessed a large stone statue representing a human figure. It was owned by a certain family, and taken to the neighbouring Sumas tribe by a woman who married into that tribe... According to the belief of the Chilliwack, this statue was the work of the Transformer Xäls, who had transformed into stone a man and his wife who had displeased him." (Smith 1907, pp. 430-431.). This figure is different in style from the typical pecked stone sculpture of the area. The head and body are not separate units. The eyes are large pecked ovals; no nose is present at all. The arms and legs are crudely shown fully flexed. There is a suggestion of an animal form down the back of the main figure. A small depression is the top of the head recalls similar pits in some Columbia Valley figures (e.g., Wingert, 1952, Figs 8, 24)."

- 2003 -

Transcript of the Burke Museum Archaeology Catalog Record (2003) - RE: accession number, catalogue number, description, collection history of the Stone T'ixwelátsa (see copy of the Archaeology Catalog Record - Appendix I; Report Figure 2d)

- **Catalogue ID:** 152
- **Accession Number:** 190
- **Accession Date:** 11/1904
- **Count:**
- **Object Name:** Sculpture
- **Description:** Stone, Pecked
- **Flag:**
- **Storage:** Room 33
- **Remarks:**

Led: Stone statue. Identified by Harlan I. Smith. Remarks - Note on label for exhibit: "This stone figure was presumably recovered from the Fraser Plains near Sumas, Wn. According to tradition it formerly belonged to the Chilliwacks, a Salish group on the Lower Fraser Riv. Valley in British Columbia. It later came into the possession of the neighboring Sumass [sic] tribe. It was the belief of the Chilliwacks that this image was the work of Kals the transformer who turned who turned a man & his wife who displeased him into stone."

Accn File: Additional information on object history in file. Was purchased and exhibited in a dime museum before coming to the Washington State Museum. Date received 1888. "See Article in Am. Mus. Mem., Vol. IV, part VI. P. 430."

- **Collector:** Young Naturalists Society **Coll. Date:** 11/01/1904
- **Found:** Sumas, WA
- **Locality Detail:**
- **Dimensions:**
- **Condition:**

Excerpt from interview with T'ixwelátsa (Herb Joe) -

- DS: ..can you please describe the object you wish to repatriate? Give me the cultural name if there is one, the description, height, weight, type of object in as much detail as you can?
- T : The Stone T'ixwelátsa is made of stone, granite, is about I'm going to guess 4 feet high, maybe a little taller, about one-half to two feet in width and is probably weighs in the neighborhood of seven hundred pounds to a thousand pounds I think, somewhere in that neighborhood. It's a fairly good size... You wanted know the name... The name of the stature according to our family legends is T'ixwelátsa because historically according to our legends it contains the shxweli or the soul or the spirit of T'ixwelátsa that it represents.
- DS: Is this object formed in anyway or is it just a solid block?
- T : No, it has form to it. There is a head with eyes, I don't think there was a nose so much but there is a jaw, a mouth, and it has a backbone, if you want to call it a spine that goes down the back. It has arms and legs on the torso portion of the statue. There is several indentations in the statue. There is a bowl indentation on the head of the statue. There is also, I call it a representation of our méxweya, our belly button, in the statue as well. The statue is rather unique in the way it was carved or the way it looks.
- DS: Are the arms, do they stand out by themselves or are they part of the statue?
- T : No, they are part of the statue themselves as are the legs.
- DS: Where is this statue currently located?
- T : The object or the statue is currently located in the Tomas Burke Museum on the University of Washington campus in Seattle, Washington.
- DS: Have you personally seen the Stone T'ixwelátsa at this current location?
- T : Yes, I have, I've seen it a number of times. The first time being about 1995 or 1996 and have made a number of, what I call pilgrimages with various members of our family and other important people down to visit T'ixwelátsa. And the last time being a couple of weeks ago.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

- DS: How do you know that the object in the Burke Museum is the same object that you wish to repatriate?
- T : Well, originally I was informed when I was covered with the name that there were other responsibilities and as I went through my search for knowledge of the names I came upon of the Elders, a lady who was the first to actually tell me of the Stone T'ixwelátsa. She was from Soowahlie, not through marriage but she was the one that informed me and told me the story of the Stone T'ixwelátsa and that I have a responsibility to the family on behalf of the Stone T'ixwelátsa ... we

feel that the Stone T'ixwelátsa is in fact a living being, it has a soul, has a spirit, a shxweli. And that was part of the, I guess, the reclamation from my perspective. [After finding out about the ethnographic references to T'ixwelátsa and the T'ixwelátsa Stone T'ixwelátsa in the publications of Harlan Smith and Charles Hill-Tout] In following through with my responsibilities to the family and to the Stó:lō tribe, I was instructed to

[unclear] and go down to the museum and find out, in fact if it was T'ixwelátsa. I of course couldn't do that myself. So I enlisted the assistance of two different spiritual persons or healers, traditional spiritual healers. On two different occasions I took one of them with me down to Seattle and had them, quote-unquote, take a look at the statue. What they did with their gifts, their hands, their gifts of healing and helping, they were able to determine that there was spiritual life in the statue and that it was there, had been there for a long, long time. And that the statue was waiting for something specific to happen. As the name carrier T'ixwelátsa I assumed that waiting, what they're waiting for, was part of the legend about being brought home and reunited with our people. So that's where I learned that part of my task in life was to in fact bring T'ixwelátsa could once again be the teacher of our people, and be also a statue of spiritual value to our people because it is directly related to the Xexá:ls legends and all of those legends became sacred sites in Stó:lō territory. There are a number of different sites that we can consider as Stó:lō people to be sacred sites. Therefore, we think that there's that kind of significance to the current T'ixwelátsa Stone T'ixwelátsa. These spiritual healers were very specific in what they said about the Stone T'ixwelátsa and that the, for instance, the spine which is considered to be the spine or the backbone of the Stone T'ixwelátsa wasn't, is not, in fact of a spine or a backbone. It is in fact a recording historically of the attempts that were made to come home or to be repatriated. This is the seventh time that he will have made the attempt to come home. So there are other parts of the Stone T'ixwelátsa that were significant and those parts were that knowledge was given to myself and my wife and my father-in-law while he was still alive. These to me and to my family validated or verified that the T'ixwelátsa is in fact the statue that's currently in the Burke Museum in Seattle.

10.0 Establishing that the Burke does not have “Right of Possession” of the Stone T'ixwelátsa

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

DS: Can you tell me how the Stone T'ixwelátsa ended up at the Burke Museum?

T : From what I've been led to understand by our Elders that the, when the Stone T'ixwelátsa was moved to Sumas, to the Sumas tribal area where this lady had married into, one of my relatives, she - I would say -didn't keep as close connection with the Stone T'ixwelátsa as possible and it was lost sometime during that time frame. That we would assume that it was probably left at one of the fishing or housing sites and when the people moved to one of the other housing sites the Stone T'ixwelátsa was left. And consequently, was found by a farmer as I understand it... And of course now it's currently in the Thomas Burke collection in the Burke Museum in Seattle, Washington.

Excerpt from the *Chilliwack Progress* Newspaper (September 15, 1892) - RE: the finding of a large carved stone figure on the Sumas Prairie.

"A curiously carved Indian image was found by Messrs. Ward Bros. on the Sumas Prarie [sic]. The image is about four feet high, and weighs about 600 lbs. It is evidently very ancient; and is quite intact, every detail being clearly defined."

Excerpt from Charles Hill-Tout's *Ethnological Studies of the Mainland Halkomelem: A Division of the Salish of British Columbia* (1903:367) - RE: the origin and museum acquisition of T'ixwelátsa (spelled by Hill-Tout as T'ēqulātca)

"The great transformer and wonder-monger of the Tcil'qē'uk was called by them *Qeqā'ls*. This is apparently the collective form of the commoner *Qāls* of the other tribes. I was not able to gather much concerning his doings among them. They apparently invoked him in prayer at times. The Tcil'qē'uk formerly possessed a large stone statue of a human being. It was owned by a certain family, and was taken to the neighboring Sumas tribe by a woman who married into that tribe. The statue weighed over a ton, it is said. A few years ago, some enterprising person bought it for a small sum and shipped it into Washington State where it figured for a time in a 'dime museum'."

These three passages establish that the Burke did not originally acquire the Stone T'ixwelátsa from an Indian Tribe with the voluntary consent of an individual with the authority to alienate the Stone T'ixwelátsa. Rather, the Stone T'ixwelátsa was collected by 'Messrs. Ward Bros.' from a location on the Sumas Prairie without any consultation with or consent of any representative(s) of the Nooksack or Stó:lō. The Stone T'ixwelátsa was then sold to a museum and at some later date accessioned by the Burke, again without any indication of consultation with or consent of any representative(s) of the Nooksack or Stó:lō. The documented process of collection and acquisition of the Statue by the Burke leads to the conclusion that the Burke does not have 'right of possession' of the Stone T'ixwelátsa.

Historically, the period of time surrounding the collection of the Stone T'ixwelátsa saw intense colonial activity among the Coast Salish peoples. Presented below are three significant factors of European colonization that adversely effected the Nooksack and Stó:lō of the Sumas Prairie and which account in a general way for the Stone T'ixwelátsa having been left on the Sumas Prairie, as indicated by T'ixwelátsa (Herb Joe). These include:

- the Canadian federal 'Anti-Potlatch Law' (c.1884) - outlawed Native peoples from gathering for potlatch and other ceremonies;
- the establishment of Aboriginal / Native American residential schools and the adoption of residential school system models in the US and Canada (c. 1879-1893) - caused general disruption of Native peoples' traditional cultural practices;
- the lynching of Louie Sam, a teen-age Native boy from the Sumas Band, in 1884 by a mob of American vigilantes from the pioneer village of Nooksack, Washington (Carlson 1996) - motivated the movement of Native peoples away from the U.S.-Canada international border in the vicinity of the Sumas Prairie for fear of repeated vigilantism (Carlson, personal communication, 2001).

The general negative effects of these factors on the Nooksack and Stó:lō aid in understanding the context in which proper care for the Stone T'ixwelátsa - following traditional cultural protocols - appears to have been diminished around the time the Stone T'ixwelátsa was reported found in 1892.

Excerpt from Interview with T'ixwelátsa (Herb Joe) -

DS: Can the Stone T'ixwelátsa remain at the Burke Museum and maintain it's cultural usefulness?

T : In my opinion, no. The Stone T'ixwelátsa has to come home to be re-awakened, and take his rightful place as the teaching icon for our Stó:lō people and the Nooksack people. So the answer is no, no, it can't stay in the Burke Museum and still have the same significance to the people here in Stó:lō territory. We have to understand that our people believe that there is a living spirit, or a living soul in that statue. It's not going to be re-awakened until he returns home.

11.0 Conclusion

The information included in this report is presented as a means of addressing the requirements for repatriating the Stone T'ixwelátsa to the Nooksack, as defined under NAGPRA, sections 7(a)(1) and 7(a)(5). The Nooksack and their Stó:lō relatives look forward with great anticipation to making arrangements for receiving their ancestor, the Stone T'ixwelátsa, from the Burke. The return of these extremely significant remains of their transformed ancestor, T'ixwelátsa, to the collective Nooksack and Stó:lō community will mark a significant progressive step in the recognition of their heritage on the path to cultural revival. Appreciation for the return of the Stone T'ixwelátsa will most certainly be met with great celebration and wide-spread applause both within and beyond the Nooksack-Stó:lō community.

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APPENDIX I - BURKE MUSEUM ACCESSION RECORD

Archaeology Catalog Record

Catalog ID: 152 **Flag:**

Accession No.: 190

Accession Date: 11/1904

Count: **Storage:** ROOM 33

Object Name: Sculpture

Description: Stone; Pecked

Remarks: Led: Stone statue. Identified by Harlan I. Smith. Remarks - Note on label for exhibit: "This stone figure was presumably recovered from the Fraser Plains near Sumas, Wn. According to tradition it formerly belonged to the Chilliwacks, a Salish group on the Lower Fraser Riv. Valley in British Columbia. It later came into the possession of the neighboring Sumass [sic] tribe. It was the belief of the Chilliwacks that this image was the work of Kals the transformer who turned a man & his wife who had displeased him into stone."
Accn File: Additional information on object history in file. Was purchased and exhibited in a dime museum before coming to the Washington State Museum. Date received 1888. "See Article in Am. Mus. Mem., Vol. IV, part VI. p 430."

Collector: Young Naturalists Society **Coll. Date:** 11/01/1904

Found: Sumas, WA

Locality Detail:

Dimensions:

Condition:



STATE MUSEUM, UNIVERSITY OF WASHINGTON		
ACCESSION NUMBER <u>190</u>		HOW ACQUIRED: <u>Gift</u>
RECEIVED FROM: <u>Young Naturalists Society</u>		
ADDRESS:		
DATE RECEIVED: <u>1955</u>		NUMBER OF SPECIMENS:
MUSEUM ALOG NO.	ORIGINAL NUMBER	INVENTORY OF ACCESSION
152		<p><u>Stone Image</u>:- This image is said to have been ploughed up on the Fraser Plains, near Sumas, Whatcom County, Wash. This figure has a pit on top of the head. Mr. Charles Hill-Tout refers (Rept.Brit.Assn.Adv.Sci.,1902) to a large stone carving and it is not improbable that the carving mentioned by him is the specimen here figured. Mr. Hill Tout says that the Chilliwack formerly possessed a large stone statue representing a human figure. It was owned by a certain family, and taken to the neighboring Sumas tribe by a woman who married into that tribe. A few years ago some enterprising person bought it and shipped it into Washington State where it was exhibited for a time in a dime museum. According to the belief of the Chilliwack, this statue was the work of the transformer Kals who had transformed into stone a man and his wife who had displeased him. (See Article in Am.Mus. Mem.,Vol. IV,part VI.,p 430)</p>

APPENDIX II - LETTERS OF SUPPORT

- Stó:lō Nation Chief's Council / Stó:lō Tribal Council / Stó:lō Nation House of Elders
- Ch-ihl-kway-uhk Tribe



Stó:lō Nation



Stó:lō Tribal Council

The Burke Museum of Natural History and Culture
University of Washington
Box 353010
Seattle, WA 98195-3010
September 28, 2005

Attention: Dr. Julie Stein
Director, Burke Museum

Dear Dr. Stein,

Re: Support for Repatriating the Stone T'ixwelátsa to the Nooksack Indian Tribe

On behalf of the Stó:lō Nation and Stó:lō Tribal Council, we - the Stó:lō Nation President, Stó:lō Tribal Council President, and Stó:lō House of Elder's Representative - are writing this joint letter as a statement of support for the NAGPRA-related repatriation of our ancestor - the Stone T'ixwelátsa - to the Nooksack Indian Tribe. In our capacities as leaders of the Stó:lō Nation and Stó:lō Tribal Council, we represent 18 Stó:lō Bands in our traditional territory of the Lower Fraser River watershed, including Aitchletz, Cheam, Chawathil, Kwantlen, Kwaw Kwaw Aplit, La'qamel, Matsqui, Popkum, Scowlit, Seabird Island, Shxw'ow'hamel, Skawahlook, Skowkale, Soowahlie, Squiala, Sumas, Tzeachten, and Yakweakwioose. We, the Stó:lō, are part of a community of peoples in which the Stone T'ixwelátsa originated. We have talked with the Nooksack Tribal Chairman, and reviewed and approve of the repatriation application letter and supporting report. Thus, we are authorized to submit this letter of support on behalf of the Stó:lō communities that we represent.

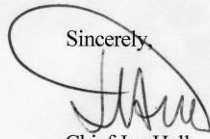
The Stó:lō and the Nooksack maintain strong cultural bonds with deep historical roots. As long-standing neighbours and relatives, we shared a geographic area of common usage as well as a common language. Oral history supports the direct connection between the present-day Nooksack and Stó:lō communities and those that co-existed when our ancestor T'ixwelátsa was transformed into stone. The establishment of the 49th parallel as the international border between Canada and the United States in the mid-19th century artificially separated the Stó:lō to the north from our relations now living in the U.S. This separation, however, has not affected our recognition of our traditions and oral histories that connect the Stone T'ixwelátsa to the Nooksack, the Chilliwack, and all the Stó:lō. We recognize the teachings of the Old People who

remembered and passed on the history of T'ixwelátsa and associated care-taking protocols. We recognize these protocols, linked by ancestral name and connected to our ancestor - alive in his stone form - as the cultural foundation for the proper care-taking of the Stone T'ixwelátsa.

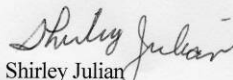
On this basis we support the repatriation of the Stone T'ixwelátsa to the Nooksack Tribe, and look forward to celebrating with our relatives and neighbours the return of our ancestor to our peoples.

If you have any questions at all or require further information, please feel free to contact us via David Schaepe (Stó:lō Nation Archaeologist) by telephone at 604-824-5232 or by e-mail at dave.schaepe@stolonation.bc.ca.

Sincerely,



Chief Joe Hall
President of Chiefs Council
Stó:lō Nation



Shirley Julian
Elder's Representative
House of Elders
Stó:lō Nation



Grand Chief Clarence Pennier
President
Stó:lō Tribal Council

CC: Narcisco Cunanan, Nooksack Tribal Council Chairman, Nooksack Indian Tribe
William Coleman, Nooksack Tribal Council / Cultural Committee Liaison
T'ixwelátsa (Herb Joe)
Stó:lō Tribal Council
Stó:lō Nation Chief's Council
Stó:lō Nation House of Elders
Roy Mussel, Chairman, Ch-ihl-kway-uhk Tribe
Albert 'Sonny' McHalsie, Director, Treaty and Research Department, Stó:lō Nation
David Schaepe, Senior Archaeologist, Treaty and Research Department, Stó:lō Nation



October 11, 2005

The Burke Museum of Natural History and Culture
University of Washington
Box 353010
Seattle, WA 98195 – 3010

Attention: Dr. Julie Stein
Director, Burke Museum

Re: Letter of Support for the Stone T'ixwelátsa Repatriation to the Nooksack Tribe

Dear Dr. Stein:

On behalf of the Ch-ihl-kway-uhk ("Chilliwack") Tribe, I am writing this letter as a statement of support for the NAGPRA-based repatriation of the Stone T'ixwelátsa to the Nooksack Indian Tribe.

The Ch-ihl-kway-uhk Tribe is comprised of nine First Nations of the Central Fraser Valley and Chilliwack River Watershed including: Aitchletz, Kwaw Kwaw Apilt, Skowkale, Skwah, Soowahlie, Squaila, Tzeachten and Yakweakwioose. As a tribe whose origins are linked to T'ixwelátsa, we recognize the traditional, cultural and historical significance of the Stone T'ixwelátsa – not only to the Ch-ihl-kway-uhk, but also the Nooksack and the broader Stó:lō cultural groups to which we are interconnected. Further, we recognize and support maintaining the traditional cultural protocols regarding the care-taking responsibilities for our transformed ancestor as outlined in the supporting repatriation report.

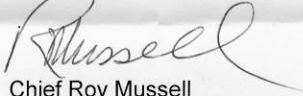
We have fully reviewed and agree with the information included in this report. We strongly believe that the Stone T'ixwelátsa should be repatriated to the Nooksack Indian Tribe as both ancestral human remains and an object of cultural patrimony. We believe that the information in the supporting report meets the NAGPRA test defined for these types of cultural objects.

Unit 29 – 6014 Vedder Road
Chilliwack, B.C. V2R 5M4

The Ch-ihl-kway-uhk Tribe greatly appreciates the work currently engaged in by the Nooksack Indian Tribe, in their efforts to repatriate this significant heritage object. The membership of our Tribe look forward to taking part in the celebration accompanying the return of the Stone T'ixwelátsa to his home among our collective ancestral community. The return of our ancestor, Stone T'ixwelátsa, represents a significant forward step in the reclamation of our cultural heritage and is due cause for celebration.

On behalf of the Ch-ihl-kway-uhk Tribe, I thank you for accepting this statement of support. Please do not hesitate to contact me at (604) 858-0009 should you have any questions.

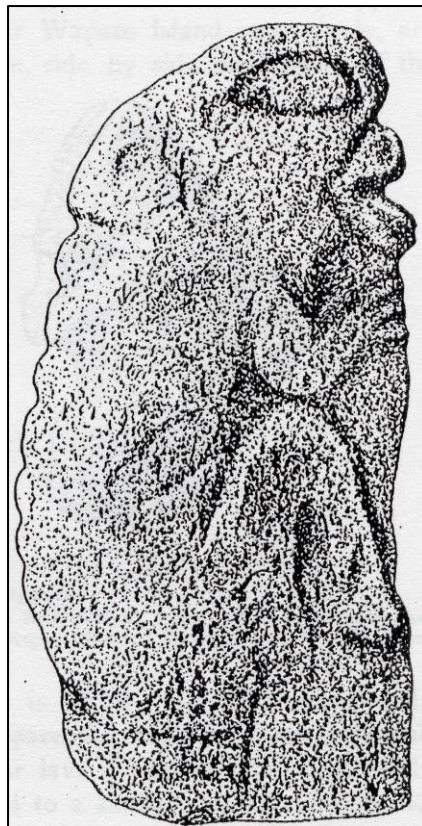
Sincerely,



Chief Roy Mussell
Vice Chairman
Ch-ihl-kway-uhk Tribe

cc: Narcisco Cunanan, Noosack Tribal Council Chairman, Nooksack Indian Tribe
William Coleman, Nooksack Tribal Council/Cultural Committee Liaison
T'ixwelátsa (Herb Joe)
Chief Joe Hall, President, Stó:lō Nation Chief's Council
Shirley Julian Elder's Representative, Stó:lō Nation House of Elders
Grand Chief Clarence Pennier, President, Stó:lō Tribal Council
Albert "Sonny" McHalsie, Director, Treaty and Research Department,
Stó:lō Nation
David Schaepe, Senior Archaeologist, Treaty and Research Department,
Stó:lō Nation

Stone T'ixwelátsa Repatriation Report: Supplement I



Prepared by:
David Schaepe and T'ixwelátsa (Herb Joe)
On behalf of the Nooksack Indian Tribe

Submitted by:
The Nooksack Indian Tribe
Nooksack, Washington

To:
The Burke Museum of Natural History and Culture
Seattle, Washington

February 2006

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1.0 Introduction

This report provides data supplementing the *Stone T'ixwelátsa Repatriation Report* (Schaepe 2005) submitted to the Burke Museum of Natural History and Culture (the 'Burke') by the Nooksack Indian Tribe (the 'Nooksack') in October of 2005. This report - *Supplement I* - presents new information serving to supplement those data included in the primary report, aimed specifically at addressing questions posed by the Burke Museum in their letter of January 9, 2006 (see Appendix I). To this effect, the Nooksack are pursuing their claim of the Stone T'ixwelátsa as held by the Burke under Catalogue #152, pursuant to NAGPRA section 7(a)(5) pertaining to “objects of cultural patrimony”.

Based on the letter of January 9, 2006 from Dr. Peter Lape (Curator of Archaeology, Burke Museum) to Narcisco Cunanan (Nooksack Tribal Council Chairman), the Nooksack understand that:

- (a) the Burke agrees that the stone figure [Catalogue #152] “*may be an object of cultural patrimony*” as defined by NAGPRA;
- (b) two questions posed by the Burke currently detract from their full recognition of the stone figure [Catalogue #152] as an object of cultural patrimony; questions pertaining to –
 - *Question 1* - “the identity of the stone figure” (i.e., is the stone figure at the Burke one in the same as the Stone T'ixwelátsa?)
 - *Question 2* - “its possible abandonment” (i.e., were the Nooksack in control of the Stone T'ixwelátsa or was the object abandoned at the time of his collection?);
- (c) the Burke will recognize and accept “biological, kinship, oral history, archaeological, anthropological, linguistic, folklore, ethnohistorical, or archival data,” per the terms of NAGPRA, as forms of evidence that may used to address their questions; and,
- (d) the Burke will accept that the stone object [Catalogue #152] *is* both the Stone T'ixwelátsa and an Object of Cultural Patrimony upon their concurrence with information presented in addressing these questions.

To these questions, the Nooksack reply: (1) that *the stone figure at the Burke is the same as the Stone T'ixwelátsa*; and (2) that *the Nooksack were in control of the Stone T'ixwelátsa at the time of his collection; that he was not abandoned*. The remaining portion of this report provides substantiation of the Nooksack's responses to the Burke.

2.0 Addressing Question 1 - “*Is there information available confirming the stone figure at the Burke Museum [Catalogue #152] is the stone figure referred to as T'ixwelátsa?*”

The short answer to Question 1, as posed above, is “Yes” -- that the stone figure at the Burke [Catalogue #152] is the stone figure known as the Stone T'ixwelátsa sought for

repatriation by the Nooksack Tribe. This question is fueled by Dr. Lape's statement that "Charles Hill-Tout (1902) referred to the fact there were multiple stone statues" which apparently presented "some question as to whether the large stone figure currently at the Burke Museum is the stone figure referred to in oral accounts. It is my understanding that no living Nooksack or Stó:lō person had seen the stone statue before it was transferred to the Burke Museum. Based on this, it is not obvious that the stone figure at the Burke can be confirmed as T'ixwelátsa." Confirmation that the Stone T'ixwelátsa is indeed the Burke's object 'Catalogue #152' is established by a combination of: archaeological data (quantitative analysis); oral history; ethnographic data; and historic documentation, presented in Section 2.1.

In brief, confirmation that the Stone T'ixwelátsa and the Burke's object 'Catalogue #152' are one-in-the-same is proved beyond any reasonable doubt by the fact that:

- *as determined with the highest degree of confidence, the Burke's object 'Cat. #152' is the only known Coast Salish stone sculpture matching completely those characteristics of material type, size, form, weight, transportability, and geographic location describing the Stone T'ixwelátsa.*

This conclusion is strongly supported by statistical analysis quantitatively identifying Object Cat. # 152 / Stone T'ixwelátsa, based on its large size, as an extreme outlier among the population of documented Coast Salish stone sculptures (i.e., that it is virtually unique among Coast Salish stone sculpture/statues). Further comparison of those factors noted above match and confirm the identity of the Stone T'ixwelátsa as the Burke's object 'Cat. #152' among all other known possibilities drawn from that statistical analysis.

2.1 Substantiation of Response to Question 1

Contrary to the assertion that "no living Nooksack or Stó:lō person had seen the stone statue before it was transferred to the Burke Museum" are descriptions of the Stone T'ixwelátsa provided by Stó:lō-Chilliwack informants in the late 1800s; oral history originating prior its collection in 1892. Two significant community-based descriptions were recorded by anthropologists Franz Boas and Charles Hill-Tout during their ethnographic work among the Chilliwack and broader Stó:lō groups between 1890-1902. Chilliwack (spelled below as *Tcil'qē'uk*) informants described the Stone T'ixwelátsa to Charles Hill-Tout, which he recounted as follows:

"The Tcil'qē'uk formerly possessed *a large stone statue of a human being*. It was owned by a certain family, and *was taken* to the neighboring *Sumas* tribe by a woman who married into that tribe. The statue *weighed over a ton*¹, it is said." (Hill-Tout 1903:367; emphasis added).

¹ The term "a ton" as used here is recognized as a non-literal and un-quantified reference to a very heavy object weighing several hundred pounds; beyond the lifting capacity of any one individual.

Additionally, Franz Boas (1894:454) provided the following description based on oral history provided by various Stó:lō informants during his ethnographic work carried out in “the summer of 1890” (ibid.). He states:

“The tribal traditions tell that Qäls, the diety.. met the ancestors of all these tribes and transformed them... In many cases the ancestor is said to have been transformed in a *rock of remarkable shape or size*, which is found not far from the village. *Thus T’ē’qulätca* [and others]... *are still shown*” (ibid.; emphasis added).

Chilliwack and Stó:lō oral history recorded by Hill-Tout and Franz Boas are complimentary and clearly derived from Chilliwack and/or Stó:lō individuals who had in-depth knowledge of the origin, history, and material form of the Stone T’ixwelátsa. These oral histories describe six significant characteristics of the Stone T’ixwelátsa, including:

1. *Material* - T’ixwelátsa was transformed into stone;
2. *Form* - the stone object into which T’ixwelátsa was transformed was anthropomorphic (i.e., human-like form);
3. *Size* - the Stone T’ixwelátsa is large;
4. *Weight*: the Stone T’ixwelátsa is estimated to weigh hundreds of pounds; approximating a ‘ton’.
5. *Transportability*: the Stone T’ixwelátsa was able to be transported a long distance using traditional, pre-industrial technology; likely by canoe (see Figure 1).
6. *Geographic Location (Terminal)*: the Stone T’ixwelátsa was moved to the Sumas Tribe, whose villages were geographically coincident with the name-sake Sumas Prairie (see Suttles 1990:454, as referenced in Schaepe 2005:8).
7. *Status*: “shown” as late as 1890.

Thus, Stó:lō-Chilliwack oral history establishes that the Stone T’ixwelátsa is *a large, stone, anthropomorphic figure weighing many hundreds of pounds*, that was *transported* to the Sumas Tribe – living on the *Sumas Prairie* – and which was “*still shown*” as late as the year 1890². These oral histories, recorded by highly credible anthropologists (Boas, Hill-Tout) at the turn of the 19th century, are known to predate the transferal of the Stone T’ixwelátsa to the Burke³. There is no reason to believe that information contained in these

² See Schaepe 2005:35 - interview with T’ixwelátsa (Herb Joe) - regarding the direct lineal relations connecting the Nooksack and Sumas Tribes; recognizing possession and control by the Sumas Tribe acknowledges control via interfamily relations, particularly as traced along maternal lines, by the Nooksack.

³ Oral history collected by Boas in 1890 clearly predates the transferal of the Stone T’ixwelátsa to the Burke. Oral history collected by Hill-Tout (circa 1895-1902), like that collected by Boas, undoubtedly originates from a period of time preceding the transferal of the Stone T’ixwelátsa to the Burke (‘collected’ from the Sumas Prairie circa 1892 / transferred to the Burke collections circa 1899) given that oral history of the Stone T’ixwelátsa, along with the name ‘T’ixwelátsa’ was known to have been passed down for generations – certainly back into the 1700s and possibly as far back as the 1400s (see Schaepe 2005:5).

oral histories was not based on eye-witness accounts, particularly given Boas's statement that the Stone T'ixwelátsa was "still shown" when he was there in 1890.

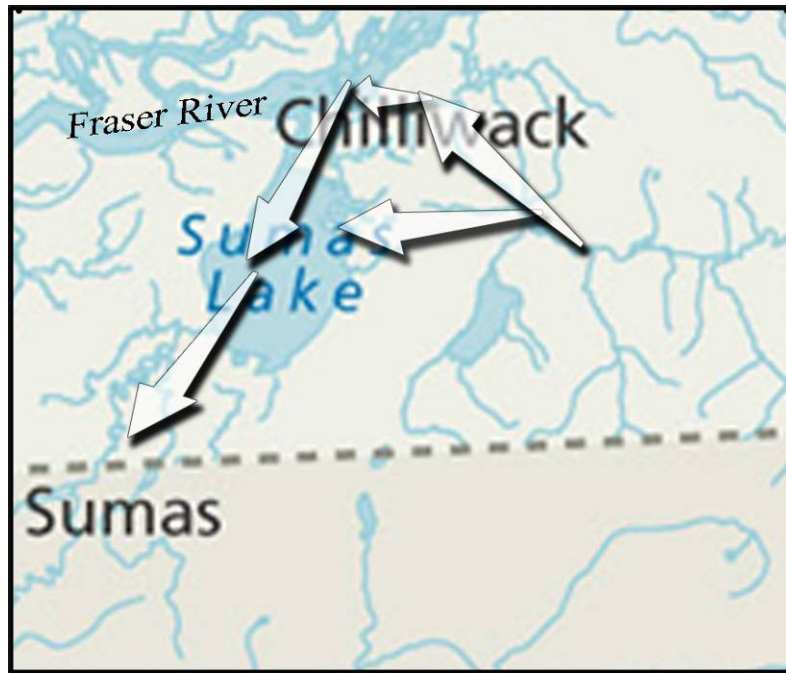


Figure 1. Possible routes for transporting the Stone T'ixwelátsa along waterways between the Chilliwack area and the Sumas Prairie.

Using the same set of categories, the Burke's Object #152 is described as follows (per the Burke's *Archaeology Catalog Record* or as otherwise noted):

1. *Material* – stone; granite.
 2. *Form* - anthropomorphic⁴.
 3. *Size* – 48" high x 18" wide (Duff 1956:89; Wingert 1952:23)
 4. *Weight* – estimated to be 600-1,000 lbs (based on estimation of weight by volume [cm³] of granite objects as calculated using www.allmeasures.com).
 5. *Transportability*: would have been able to be transported a long distance using traditional, pre-industrial technology; including by canoe – based on the size and weight descriptions.
 6. *Found Location*: Sumas Prairie.
- also, pertaining the 'Status' of the object:
8. *Collected*: Yes; acquired by the Burke Museum circa 1899 (see Schaepe 2005).

⁴ Paul Wingert, a specialist in Coast Salish stone sculpture, identified the Burke's object 'Cat. #152' as an "anthropomorphic figure" (Wingert 1952:23; also see Duff 1956:88-90).

The newspaper report in the *Chilliwack Progress* of September 15, 1892 establishes the following description of the stone object found on the Sumas Prairie (the ‘Sumas Prairie Object’):

1. *Material* – (evidently stone – based on reported size/weight figures)
 2. *Form* - anthropomorphic (“a curiously carved Indian image.. quite intact, every feature being clearly defined”).
 3. *Size* – about 48” high
 4. *Weight* – estimated to be 600 lbs.
 5. *Transportability*: would have been able to be transported a long distance using traditional, pre-industrial technology; including by canoe – based on the size and weight descriptions.
 6. *Found Location*: Sumas Prairie.
- also, pertaining the status of the object:
7. *Collected*: Yes; circa 1892 “found by Messrs. Ward Brothers on the Sumas Prairie.”

Identification of these characteristics describing the Stone T’ixwelátsa and the Burke’s object Cat. #152 establishes a factual basis useful in addressing the comment that “Charles Hill-Tout (1902) referred to the fact there were multiple stone statues” -- the basis for questioning “whether the large stone figure currently at the Burke Museum is the stone figure referred to in oral accounts.” There are clearly many stone sculptures / statues of Coast Salish origin; as documented by Hill-Tout (1902), Harlan Smith (1907), Wingert (1952), Duff (1956, 1975), (Holm 1990), Hannah (1996), and others. However, there is variability among this population of objects (including both qualitative and quantitative attributes) that must be considered as a critical element of ‘fact’ in the Burke’s statement. The characteristics defined above provide among them a reliable, well established, and valid set of attributes that can be used in assessing the variability among Coast Salish stone sculpture; and to identify possible candidates for identification as the Stone T’ixwelátsa.

The following quantitative analysis constitutes a comprehensive comparison of ‘size’ among Coast Salish stone sculpture. A total of 175 cases are included in this study, a highly representative sample containing nearly all known cases of archaeological stone sculpture from the Gulf of Georgia and Puget Sound regions (i.e., the Coast Salish area), accounted for by over 100 years of archaeological and anthropological research. In comparison, Margaret Holm (1990:46) accounted for 243 sculptural objects, total, *for the entire Northwest Coast* including objects made of materials other than stone - 176 of which came from the Strait of Juan de Fuca, Gulf of Georgia, and Puget Sound regions (as well as from the Columbia River area). Data used in the present study, the most comprehensive of its kind to date, come from three sources: Duff (1956)⁵, Holm (1990), and Schaepe (n.d.).

⁵ Anthropologist Wilson Duff is generally recognized as having produced the most comprehensive analysis of archaeological stone sculpture from the Gulf of Georgia Region, including the Central/Lower Fraser Valley-Nooksack local. Duff’s publication *Prehistoric Stone Sculpture of the Fraser River and Gulf of Georgia* (1956), continues to be described as “the first and only definitive work seated human figure bowls” (Hannah 1996:11) and other types of archaeological sculpture from the Gulf of Georgia Region. Sixty years after its initial release this work remains comprehensive in its inclusion of the vast majority of stone sculpture from this area. As discussed

All cases used in this study were *stone* objects of *sculpted* form, generally recognized as ‘artwork’ or ‘sculpted objects’ from an archaeological perspective. The quantification of *size* was limited to measurements of ‘maximum dimension (cm)’ as the sole variable consistently accounted for in the descriptions of the objects included in this analysis. Results of this analysis are presented below in Tables 1-2, and Figures 2-3. Raw data are presented in Appendix II.

This analysis demonstrates that, of 175 documented Coast Salish stone figures / sculptures, only three cases - extreme outliers among this population - arise as potential candidates for identification as the Stone T’ixwelátsa, based on *size* (maximum dimension). This population can be statistically described as having a median size (maximum dimension) of 14 cm (see Table 1). The maximum dimensions for 95.4% (n=167) of the population range between 3.3 cm and 35.0 cm. The shape of this batch is upwardly skewed by a number of extreme outliers (see Table 1; Figure 2), a total of eight of which were identified. Five of these are outliers ranging between 41.0-54.5 cm – too small to be considered possible candidates for identification as the Stone T’ixwelátsa, particularly recognizing the added variable of *weight*. These cases are located below the established ‘cut-off’ point identified in Figure 3⁶. The remaining three *extreme outliers*, only 1.7 % (n=3) of the entire population of cases, include as the only potential Stone T’ixwelátsa candidates:

- the ‘St. Mary’s Frog Boulder’⁷;
- Cat. #152; and
- the ‘Musqueam Stone’⁸

in a more recent work on the subject, “This work, for the first time, gathered all relevant information regarding such sculptures and organized it in a coherent way. Duff included very detailed descriptions of the general form of seated human figure bowls as well as separate descriptions of individual finds (complete with contextual and distributional information as was available)... Duff helped establish various classes of stone sculpture from the area and suggested relationships among them (Hannah 1996:12). Latter discussions and analyses of Coast Salish and Northwest Coast stone sculpture and archaeological artwork (e.g., Carlson 1983; Duff 1975; Holm 1990) support the descriptions and findings of Duff’s pioneering research.

⁶ The identified weight of the largest of this group of outliers - ‘Marpole/51586’ - was based on the estimation of weight by volume [cm³] of granite objects as calculated using www.allmeasures.com.

⁷ *Of note*, the ‘St. Mary’s Frog Boulder’ – a large 4’ x 3’ x 3’ granite boulder partly pecked and shaped to look like a giant frog, found on the grounds of the St. Mary’s Residential School near Hatzic, B.C. in 2002 (Schaepe n.d.) – *may be of recent origin* based on oral history provided to Linnea Battel (Director of the Xa:ytem Interpretive Centre, where the Boulder is now displayed) implying that it was sculpted by a previous Stó:lō youth and Residential School border in the early-to mid-1900s. I have included this piece anyway, as a legitimate Coast Salish stone sculpture. Confirmation of this oral history would, in itself, remove this object from any potential consideration as the Stone T’ixwelátsa.

⁸ Duff (1956:89) describes the ‘Musqueam Stone’ as follows: “This large stone on the Musqueam Indian Reserve at the mouth of the Fraser, carved to represent a human figure, is about 4 feet high and weights about 300 pounds. It is made from an egg-shaped sandstone boulder which has bulbous spherical protrusions which now represent the chest and head. The head has facial features crudely carved on it – large slanting lenticular eyes, a small lenticular mouth, and simple protruding ridges for the nose and cheek bones. The Musqueam Indians claim definite ownership of this

**Table 1. Statistical description– maximum dimensions (cm)
of 175 cases of Coast Salish stone sculpture.**

<i>Variable</i>			<i>Statistic</i>	<i>Std. Error</i>
Max. Dimension (cm)	Mean		17.070	1.2555
	95% Confidence Interval for Mean	Lower Bound	14.593	
		Upper Bound	19.548	
	5% Trimmed Mean		14.740	
	Median		14.000	
	Std. Deviation		16.6566	
	Minimum		3.3	
	Maximum		122.0	
	Range		118.7	
	Interquartile Range		12.8	

<u>Frequency</u>	<u>Stem & Leaf</u>
6.00	0 . 333333
18.00	0 . 4444444444555555555
19.00	0 . 6666666666777777777
14.00	0 . 888888999999999
15.00	1 . 000000000011111
13.00	1 . 2222222223333
20.00	1 . 4444444444555555555
11.00	1 . 66666677777
10.00	1 . 8899999999
11.00	2 . 00000111111
13.00	2 . 222222222333
7.00	2 . 4445555
4.00	2 . 6667
2.00	2 . 88
2.00	3 . 01
.00	3 .
3.00	3 . 555
8.00	Outliers / Extremes (>=41)

**Figure 2. Stem and Leaf Plot showing the distribution, shape, and spread of
‘Maximum Dimension (cm)’ measurements for 175 cases of Coast Salish Stone
Sculpture – noting the outliers & extremes (Stem width: 10.0; Each leaf: 1 case).**

figure. While they do not know when or by whom it was carved, they do have traditions of its use. In former times it is said to have marked the centre of the field in some sort of game involving a ball, which at the start of the game was placed on its head. In more recent times it was used as a marker on the soccer field. It is also said to have been used as a test of strength, only the strongest men being able to lift it.”

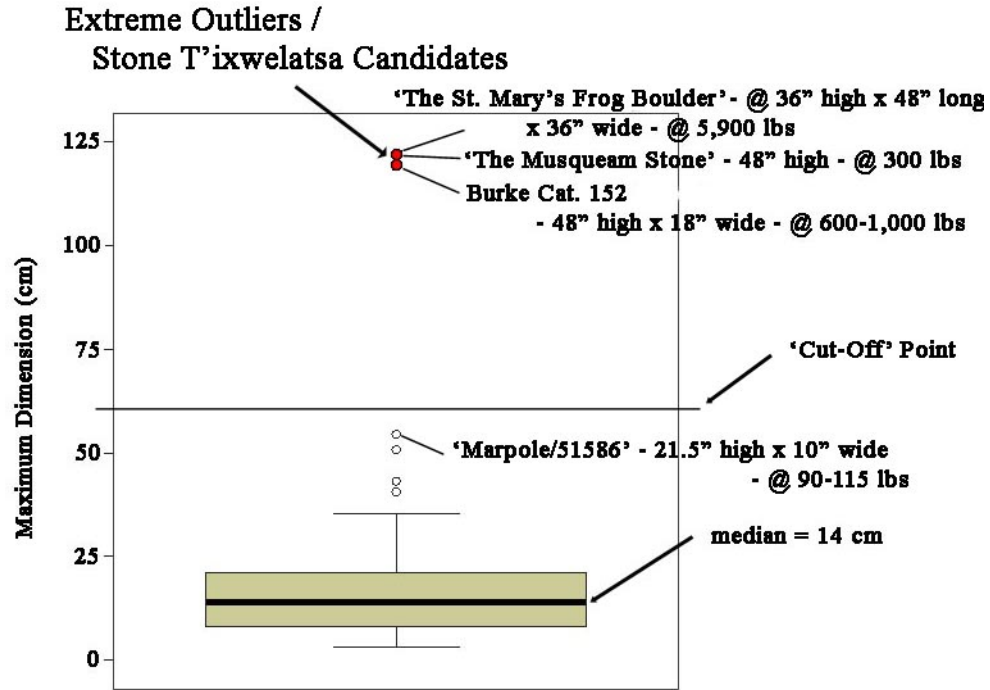


Figure 3. Box-Plot of 'maximum dimension (cm)' measurements of 175 Coast Salish stone sculptures, showing the position of the 'Burke Cat. 152' as a highly unique object, and one of only three *extreme outliers / Stone T'ixwelátsa* candidates.

Table 2. *Identity Correlation Chart* comparing of all three Stone T'ixwelátsa candidates (including the he Stone T'ixwelátsa and the 'Sumas Prairie Object') across seven variables - *confirming Stone T'ixwelátsa's identity.*

Object ID	Material: Stone	Size: Extra- ordinarily Large	Weight: Multi-100 lbs	Transport- ability: Long Distance	Form: Anthropo- morphic	Location: Sumas Prairie	Status: Accessioned / Collected / Gone Missing c. 1890-1900	Identity: Stone T'ixwelátsa
St. Mary's Frog Boulder	Yes	Yes	Yes	--	--	--	--	--
Musqueam Stone	Yes	Yes	Yes	Yes	Yes	--	--	--
Cat. #152	Yes	Yes	Yes	Yes	Yes	Yes	Yes (accessioned c. 1899)	YES
Sumas Prairie Object	(Yes)	Yes	Yes	(Yes)	Yes	Yes	Yes (collected c. 1892)	
Stone T'ixwelátsa	Yes	Yes	Yes	Yes	Yes	Yes	Yes (gone missing post-1890)	

Replication of this analysis using *weight* as a variable, while not presently possible due to an insufficient data set, would produce the same basic results (shape, spread, outliers), with these three cases (extreme outliers) widely separated instead of grouped. The separation of these cases, as extremes further separated from the primary batch of cases, would serve to isolate object Cat. #152 as unique. Cat. #152 would be plotted as the only case within a range of weights clearly beyond the lifting capacity of a single person (unlike the Musqueam Stone) and yet transportable by traditional means (unlike the ‘St. Mary’s Frog’⁹).

Table 2, the *Stone T’ixwelátsa Identity Chart*, compares these three cases against seven variables describing the Stone T’ixwelátsa¹⁰. The results of this comparison confirm that the Burke’s object Catalogue #152 is *the only case* in complete agreement with those variables establishing the unique identity of the Stone T’ixwelátsa. Thus, with very high degrees of certainty, confidence, and probability, it is established that ***the Burke’s object Catalogue #152 is the Stone T’ixwelátsa.***

Additional supporting comments:

- Oral history and historical documentation render a complete and unbroken history of the Stone T’ixwelátsa from its origins in Time Immemorial to its current place in the Burke Museum - accounting for its movement to the Sumas Prairie, its collection from the Sumas Prairie, and its incorporation into the Burke Museum collection.
- Recognition by anthropologist Harlan Smith (1907:430) that “it is not improbable [i.e., ‘*is probable*’] that the carving mentioned by him [Hill-Tout] is the specimen here figured [Burke object Cat. #152].”
- A very prominent Stó:lō shxwlá:m, renown both within and beyond the Nooksack-Stó:lō community, examined object Cat. #152 and identified the living spirit of T’ixwelátsa within the granite figure;
- The Burke’s catalogue and interpretive records for object Cat. # 152 indicate agreement with the findings that their object Cat. #152 is the Stone T’ixwelátsa (see Appendix III).

⁹ The estimated weight of the St. Mary’s Frog Boulder (@ 5,000-6,000 lbs) approaches the lifting capacity of many modern backhoes (@ 5,000-7,000 lbs).

¹⁰ This comparison chart contains additional rows for cases including the ‘Sumas Prairie Object’ found in 1892 as described in the newspaper account; and the Stone T’ixwelátsa, itself, based as described in oral history. The use of bracketed notations, such as ‘(Yes)’, in the ‘Sumas Prairie Object’ row indicates answers reasonably implied and derived from elements of the object’s original description.

3.0 Defining Question 2: Explaining “*how the figure [Stone T’ixwelátsa] was controlled by the Nooksack at the time it was removed from the field;*” or was he abandoned?

The second question posed by the Burke in their reply to the Nooksack pertains to the Stone T’ixwelátsa and “its possible abandonment.” The Burke’s assertion that the Stone T’ixwelátsa was possibly abandoned is based on documents in the Burke, presumably information in the catalogue and accession record, suggesting that the Stone T’ixwelátsa “was found ploughed up in a field in the Fraser Lowlands near Sumas, Washington.” In their letter, the Burke recognizes that the Stone T’ixwelátsa was then “purchased and shipped to Washington State.” As phrased, “Its placement in a farmers field suggests that it was abandoned.” The issue of ‘abandonment’ is embedded in NAGPRA’s definition of ‘Object of Cultural Patrimony’ as an “inalienable” object (i.e., not owned or therefore able to be abandoned by any individual); and also in the determination of ‘Right of Possession’ (i.e., determining who has the legal right of possession to a object). The act of *abandonment* (per the definition below) signifies ‘giving up - *with the intent of never again claiming - a right or interest in or control of something*’. Abandonment, as thus understood, leads to ‘alienation’ and the relinquishment of ‘Right of Possession’ as defined in NAGPRA. Commonly accepted definitions of the terms *abandon*, *control*, *ownership*, and *possession* are presented below.

3.1 Definitions - Abandon, Control, Ownership, and Possession

The following terms: *abandon*, *control*, *ownership*, and *possession*, are used in the following section with regard to the definitions provided below¹¹:

Abandon [verb]:

- to give up to the control or influence of another person or agent;
- to give up with the intent of never again claiming a right or interest in
- to withdraw protection, support, or help from
- to cease from maintaining, practicing, or using
- to forsake
- to stop maintaining or insisting on; of ideas or claims;
- to give up control and responsibility to another, or withdraw protection, support or help.

Control [verb]:

- to exercise authoritative or dominating influence over; direct;
- to adjust to a requirement; regulate;
- to hold in restraint; check;
- to verify (an account, for example) by using a duplicate register for comparison.

¹¹ Per www.wordnet.princeton.edu/perl/webwn; www.dpw.state.pa.us/oimpolicymanuals/manuals/bop/ca/101/101-01.htm.

[noun]:

- authority or ability to manage or direct;
 - one that controls; a controlling agent, device, or organization;
 - an instrument or set of instruments used to operate, regulate, or guide a machine or vehicle. often used in the plural.

Ownership [noun]:

- the state or fact of being an owner;
- legal right to the possession of a thing.

Possession (noun):

- *law* - actual holding or occupancy with or without rightful ownership;
- the fact of possessing or the legal right to possess something: dominion, ownership, proprietorship, title;
- one's portable property; belonging (often used in plural), effect (used in plural), good (used in plural); personal effects, personal property, property, thing (often used in plural);
- something, as land and assets, legally possessed.

3.2 Addressing Question 2: Explaining “*how the figure [Stone T’ixwelátsa] was controlled by the Nooksack at the time it was removed from the field;” or was he abandoned?*”

In view of the Burke’s response, the Nooksack maintain their position that *the Stone T’ixwelátsa is currently held by the Burke without right of possession, as a object unlawfully taken from its rightful owners - the Nooksack-Stó:lō community - by the Ward Brothers in 1892*. At the time he was taken, the Nooksack maintained control of and care-taking authority over the Stone T’ixwelátsa by virtue of applicable customary law of the Nooksack-Stó:lō, derived from *sxwōxwiyám*¹². The Stone T’ixwelátsa could not be cared for in any other way. The Stone T’ixwelátsa was never abandoned by the Nooksack. This response to the Burke is substantiated below.

3.2.1 Substantiation of Response to Question 2

There is no doubt that the Stone T’ixwelátsa originated in the Nooksack-Stó:lō community. As such it is subject to customary Nooksack-Stó:lō law. Oral history provided by

¹² “Stó:lō origin narratives -- *sxwōxwiyám* (“narratives of the distant past”) -- tell us that the ancestors were “*sent down from the sky by the deity*” (Bouchard 2002: 102, 104; also see McHalsie et al 2001). Oral history collected by Jenness in 1934/35 confirms this: “*In the first times a being, bright and dazzling, came from the sun...*” (Jenness 1935)... *Xexá:ls*, the Transformers, made the world right through transformation of some people and animals. Transformer tales tell of people transformed into objects imbued with their spirit (Teit 1917:129).” – Excerpted from Schaepe et al 2004:25; also see Footnote 13.

T'ixwelátsa (Herb Joe) and as documented in the ethnographic literature clearly establishes that the Stone T'ixwelátsa is part of *sxwóxwiyám*. *Sxwóxwiyám* anchor the Nooksack-Stó:lō to events and places in their landscape embedded with fundamental teachings of responsibility and proper behavior providing an integral platform of customary law, directly connected to the actions of *Xexá:ls* (see Footnote 13). '*Sxwóxwiyám*' is widely recognized as an integral, and therefore inalienable, element of Nooksack-Stó:lō identity -- as indicated by T'ixwelátsa (Herb Joe), and as supported by respected community members and Elders Joe Aleck (Cheam), Mel Bailey (Katzie), Diane Charlie (Chehalis), Tilly Gutierrez (Chawathil), T'ixwelátsa (Tzeachten), Johnny Leon (Katzie / Chehalis); Frank Malloway (Yakweakwioose), Ken Malloway (Tzeachten), Albert McHalsie (Shxw'ow'hamel), Grand Chief Clarence Pennier (Scowlitz), and Gwen Point (Skowkale) per their statements recorded in prior interviews (Schaepe et al 2004:28; 29-218)¹³.

¹³ *Mel Bailey*: "Each *sxwóxwiyám* has a teaching to it... how you carry that when you grow up; how to be polite; how to be respectful. And all that is taught in the stories, *sxwóxwiyám*... and that was our schooling, you know, and our ways, our ways of living, treating one another, sharing one another. Not to be selfish, not to be greedy."

Tilly Gutierrez: "...*Xexá:ls*, you know, he goes around. That's about the only thing we could talk about is *Xexá:ls*, the Great Maker. He's the one created all these things we have here....You get nothing if you don't listen."

T'ixwelátsa (Herb Joe): "*Sxwóxwiyám* - old stories about who we are as a people. They all talk about the connectedness of us all, including all of those that walk on four, those that crawl on ground, those that swim and those that fly. And all that our creator gave us here in the form of mother earth, it's all connected. All connected. And that's what *Sxwóxwiyám* is all about. It gives us what our ancestors give us. It's the legacy if you will, that our ancestors left us. And if we were to study *Sxwóxwiyám*, understand *Sxwóxwiyám*, and then live by *Sxwóxwiyám* we'd be very healthy people. So that's to me what *Sxwóxwiyám* is all about."

Albert 'Sonny' McHalsie: "...There's a rock out in the middle of the river, out towards Yale, you know, a woman transformed to stone. The *shxweli* of that woman is still there. So that big stone, makes it important. If there's any kind of teaching about that woman was doing things bad that she shouldn't be doing, well those teaching are still important to us, to make sure we don't do the same things that person was doing. *Shxweli* is an important part of our belief system as well. *Shxweli* connects us to all of that. I mean even the river itself was a transformation. *Xexá:ls created the river, created that water. You know there's other teachings, not to spit in it and to take care of it... Because our whole belief system too, it comes down looking at our ancestors, looking at our future generations, right? So when we're looking at our relationship to the land it's got to be based on all our ancestors' connections to the land. Well you go far enough back you have an ancestor that's transformed into a sturgeon, ancestor transformed into a mountain, ancestor transformed into the beaver, into the mountain goat, into rocks, all those different things.* And you start making your way up this way and you have all different ancestors who lived in certain places, lived in these villages here, hunted here, did different things, and you get up to present time. *And our belief is that we have to take care of the ancestors or they don't take care of us. We always go to remember the future generations.* And that's why you see—you still hear all the elders, chiefs, leaders, they

always [unclear] just been totally put into our head, it's a big part of our culture. Can't just remember the ancestors, always got to remember the future generations. There's a connection there, an obligation that we have there, to those. I mean if that's why we have those Halkomelem words that say that seven generations back, seven generations in the future, it's the same word, for those people. The same respect that you have to your ancestors, or the same obligations you have to take care of them, same respect and obligations you have to the future generations. Cause you say that one word, [tomieqwl] It's ancestors, it's future generations too.... sxwóxwiyám, I think that's the most important part of our oral history that there is. I mean, when you look at the two parts of our oral history, it's sqwelqwel and sxwóxwiyám, those are the two most important parts. Sqwelqwel being like the history or news incorporates both of that. So when you talk about your grandparents, like where they lived, where they fished, where they hunted, that's part of your sqwelqwel. But when we talk about sxwóxwiyám, sxwóxwiyám is the stories of creation, or part of creation. When you look at the sxwóxwiyám, the world was already here, the world was created, there was animals, there was people. But the big thing was that it was mixed up, there was chaos, and it needed to be put in order, or as the elders say, it needed to be made right. So Xexá:ls then, they were the three daughters, or the three sons and the daughter of red-headed woodpecker and black bear. They were given special powers and given the responsibility to travel through the land, through our land, or through the S'ólh T'é méxw to make the world right. They started at the head of Harrison Lake, made their way down to the Fraser, headed up river and once they got up the canyon, they had to go towards the sunrise, and once they reached the sunrise, they traveled through the sky to the sunset and traveled back up river again to the sunrise once more and were never seen any more. And all throughout their travels, they did different transformations. Transforming some of our ancestors into stone, some into mountains, some into the different resources that we have today. It's those stories that really make up the relationship that we have with our land and resources. Those stories and the connection that we talked about earlier, with shxweli. Each of those places then, wherever an ancestor's been transformed into a rock or a mountain, each of those places are sacred to us. And each of those places that they have a story to them and usually there are other morals or other teachings that are included with the telling on that story. So sxwóxwiyám is really important to us. Like sxwóxwiyám is the word for the stories and sxwóxwiyám is also the word for the time period when the stories happened. Like I mentioned, there more like—they're a lot about creation stories. Even though the world was here, other things were being created. Sturgeon came about from sxwóxwiyám; some of the rocks that are in the river came about from sxwóxwiyám; some of the mountains came about from sxwóxwiyám. A lot of it has to do with creation, and just the telling of each of those stories is important... They're really important to me... if you want to look at a metaphor, it would be the Bible for Christian people. The importance of the Bible to Christian people, sxwóxwiyám is important to us... it provides a foundation for our culture. All those different places, important places and the stories that are told about those places where people were transformed, there's teachings in there on how to act, how you should be, behave and things you have to be careful about..."

Gwen Point: "What are Sxwóxwiyám? They are stories, that is how our elders taught us, and they never ever told us what to do. The elders knew by giving us all the information we needed we would do what was right. Every man, woman and child knows what's right and what's wrong... What are they? They are about responsibility... It's about teaching individuals about responsibility and doing what's right. I heard story after story and I share them with whoever will listen. My grandmother never told me what a story meant, it was up to you to figure what it was about and it was up to you to figure it out. That's what the elders would say. You're listening when you can understand the stories. And at the end of the day, the stories are about kindness and respect. You would never do anything to hurt anyone else, that's what those stories are about. You never do anything, you never put yourself above anyone else or ahead of somebody. You never step in front

The prospect of abandoning or failing to maintain responsibility for the Stone T'ixwelátsa or any other aspect of *sxwóxwiyám* is essentially “inconceivable” - per T'ixwelátsa (Herb Joe):

“[*Sxwóxwiyám*] tells the story of who we are and how we have to carry ourselves to maintain our identity. If we abandon *sxwóxwiyám* then we abandon our identity.. our Stó:lō, our Nooksack identities. Then who do we become? We would be a lost people.”

- Herb Joe, personal communication, 2006

Further¹⁴:

DS: *T'ixwelátsa, is it possible for you to abandon the Stone T'ixwelátsa, right now?*

T: No. Once the Stone T'ixwelátsa became an obvious part of our responsibilities again.... at the time I was a relatively young man being educated about T'ixwelátsa's responsibilities... it was done so by way of meeting between my grandmas, technically speaking my grand-aunts... they all met and gave me direction to bring T'ixwelátsa home to his people so that he can again take his rightful place in our lives. That direction was given to me as part of my responsibilities and as long as I carry the name 'T'ixwelátsa,' as long as the name isn't stripped from me through disgrace or shaming the name then that will remain part of my responsibility. I was given direction by my dear Elders to carry out our ancient and historic responsibilities so it now is very much a part of my responsibility for the rest of my life.

DS: *Can you give up control or responsibility to another person?*

T: If I were able to do so it would be again with the authority of the rest of T'ixwelátsa's family and more specifically, by the Elders...the Siya:ms of T'ixwelátsa's family they would have to give me direction to turn over the responsibility to someone else and that someone else would have to be biologically connected to T'ixwelátsa, in this case the Stone T'ixwelátsa as well....

of an elder. The teachings, you do what's right. It takes a big person to do what's right. 'Sxwóxwiyám' - the stories are to teach people. Lessons, and if you never got the lesson, you can't hear. That's why my grandmother would say, “are they deaf?” Or they would look at them, oh, there's a name in our language. Poor didn't mean you were poor materialistically, it meant the teaching. “Oh, those people are poor.” You just feel sorry for them because they don't have the teaching. You are considered a rich person when you carry the teaching. When you do what you are suppose to do responsibly, that's what Sxwóxwiyám means. People have got to do right by everyone, not just for the individual. People have got to do right by all people, not just selectively, for the coming generations. That's responsible.

¹⁴ Interview excerpts included in this report are - unless otherwise noted - transcribed from the interview between Dave Schaepe and T'ixwelátsa (Herb Joe), carried out and recorded on February 3, 2006. The transcripts presented in this report were reviewed by T'ixwelátsa (Herb Joe) and verified as accurate.

DS: *What would happen if the family was, for any reason, unable to fulfill their responsibilities in taking care of the Stone T'ixwelátsa...? What would happen in that instance where the family and the name-holder like yourself were unable to fulfill their responsibilities and obligations to the community to look out for Stone T'ixwelátsa?*

T: That whole question is inconceivable to me as the name-carrier. People have been here since the beginning of time and this is our territory. According to our teachers, it will be our territory till the end of time. Because T'ixwelátsa was in our territory... that responsibility was never ever given up. That responsibility would have remained...

That customary law is now, as it was then, fully intact and specifically applicable to the recognition of ownership, control, and care-taking responsibility attached to the Stone T'ixwelátsa. Neither the Ward Brothers nor the Burke Museum are recognized as fulfilling any of the criteria defined under customary law required to establish rightful (i.e., legal) possession.

Recognition of *rightful* or '*right of*' possession of this object resides in the fact -- documented in oral history and ethnography -- that the law governing the ownership, control, and care-taking responsibilities of the Stone T'ixwelátsa are:

- rooted in the will of the Creator (*Chichel Siya:m*), whose intent in the period of *sxwóxwiyám* ('the distant past when the world was out of balance' – per McHalsie et al 2001) was to make the world right and correct the unacceptable behavior of human beings, specifically the Nooksack-Stó:lō population;
- materialized as an act of *Xexá:ls* (agents of *Chichel Siya:m*; the Transformers) who transformed T'ixwelátsa into his stone form as an element of their extensive set of actions providing a code of proper behavior, a 'Ten Commandments' so to speak, to all Nooksack-Stó:lō; and
- directed by *Xexá:ls*' dictation of protocols, requirements of control, and caretaking responsibilities attached to the Stone T'ixwelátsa, specifically.

T'ixwelátsa (Herb Joe) explains:

“After T'ixwelátsa was turned to stone, the women of our family were given the responsibility for caring for T'ixwelátsa, the Stone T'ixwelátsa... And through the ages that's the way it stayed... one of the women of our family who happened to be the care taker of the Stone T'ixwelátsa married into the Sema:th tribe - Sumas tribe - and she took it with her as part of her dowry as part of her family responsibilities, she took the Stone T'ixwelátsa with her to Sumas. Of course the Sumas people and the Nooksack people lived in a common area that is now Nooksack, Huntingdon, Abbotsford but it was at the western and south western part of, what used to be known as Sumas Lake. So that whole area would have been occupied by the Sumas people and the Nooksack people jointly” (T'ixwelátsa, interview with David Schaepe, 2005).

Per customary law, then, *ownership* of the Stone T'ixwelátsa is held collectively by the entire Nooksack-Stó:lō cultural group as an element of *sxwóxwiyám*, and therefore integral and fundamental to the cultural core of Nooksack-Stó:lō identity. Figure 4 provides one example illustrating *sxwóxwiyám* as an 'axis' and fundamental element of various interconnected dimensions of Nooksack-Stó:lō culture and identity, as derived from the results of numerous community member interviews (Schaepe et al 2004:230).

Connection between the Stone T'ixwelátsa and *control* and *care-taking responsibility* recognized under customary law (required for rightful possession) is established by proof of two specific and unyielding criteria:

- direct biological descent traceable to the female line of T'ixwelátsa's family (i.e., matrilineal consanguinal ties), and
- inheritance of the title 'T'ixwelátsa' by a man of that lineage.

Control and *care-taking responsibility*, then, reside with the female line of the family and the specific individual chosen by those family-members to carry the hereditary title 'T'ixwelátsa' and related obligations.

This information explains the workings of ownership, control, care-taking responsibility, and rightful possession of the Stone T'ixwelátsa under the governance of Nooksack-Stó:lō customary law. By these terms, ownership, control, care-taking, and rightful possession reside *only* and in an *inalienable way* within the Nooksack-Stó:lō community.

DS: *Can you give up control or responsibility[of the Stone T'ixwelátsa] to another person?*

T: If I were able to do so it would be again with the authority of the rest of T'ixwelátsa's family and more specifically, by the Elders...the Siya:ms of T'ixwelátsa's family they would have to give me direction to turn over the responsibility to someone else and that someone else would have to be biologically connected to T'ixwelátsa, in this case the Stone T'ixwelátsa as well.

--- (interview section break) ---

DS: *Is it necessary for an individual to be or a family member to be Nooksack or part of the broader Nooksack Stó:lō community to inherit that responsibility?*

T: They have to be biologically connected to T'ixwelátsa, the name T'ixwelátsa. He would have to be biologically connected to that to assume that responsibility. So in my case I received the name from my dear elder who was our relative of the T'ixwelátsa family and he gave the name and covered me with the name because I was biologically connected to T'ixwelátsa. As I said earlier that he was my great, great, great, great, grandfather on my mother's side.

Further, *transferal of possession, control, or specific care-taking responsibilities* ('transferal') of the Stone T'ixwelátsa between eligible family members recognized as such under customary law was, itself, regulated by a formal customary process and protocol – the *potlatch*. Only by public proclamation by the matriarchs of the T'ixwelátsa family as witnessed at a potlatch, could transferal of the Stone T'ixwelátsa be achieved. Potlatches of this nature would include weddings and/or namings affecting either the maternal lineage or title associated with the Stone T'ixwelátsa. This process accounts for the transfer of the Stone T'ixwelátsa via marriage to the location on the Sumas Prairie where it was taken by the Ward Brother in 1892, and the transfer of the title 'T'ixwelátsa' between Herb Joe's great-great-great-great-grandfather (c. 1850s) and himself (c. 1971-72).

DS: *Is that the system [in reference to the passage, above] that would have been traditionally practiced 100 years ago, at the time Stone T'ixwelátsa was taken from Sumas Prairie?*

T: Yes, it certainly would have. They would have had a large family gathering, probably with other Siya:ms present and in this case when this young lady when taken in marriage into another tribe the wedding ceremony would also have included as a part of that ceremony her responsibilities, as someone of high status, in this case they would have announced to all of T'ixwelátsa's family and of course to her new married family that this one of her responsibilities and this was why the Stone T'ixwelátsa was going along to her new home. So it would have been done in a large ceremony...

--- (interview section break) ---

DS: *The way that you describe it... there was a long gap between people who carried the name T'ixwelátsa from your great, great, great, great, grandfather, from the 1800s I would guess, until the 1970s when you were given the name T'ixwelátsa to carry. Did the Anti-Potlatch Law that started in 1884 and affected Stó:lō people up until the 1950s, did that affect the transferal of that name? Did that account for the gap, account in any way the gap in the transferal of the name T'ixwelátsa? For example between your great, great, great, great, grandfather and yourself.*

T: It certainly did, yes. The carrying of high status or high responsibility names was done ceremonially and of course with the anti-pot latching law it was impossible to gather publicly that the numbers of people that would have been required to pass on a name of that stature to someone else. The name as I understand it was a Siya:ms name or high status name. One had to earn the right to carry such a name. You would have been given for instance a child's name as a child and then as you became a man you would be given a man's name. It would relate to who you were as a person at that point in time. So if you were a provider or hunter or fisher, you would have been given a name according to that station. You wouldn't be given a Siy:am's name until you had proven to people that you were a Siy:am, a leader. In my particular case, I was elected by my people the Chi'aqtel people as their elected chief, their Siy:am. It was only after that the Anti-

Potlatch Law had been repealed at that time that that name was able to be ceremonially passed on to someone else. It involved bring the Siya:ms from the other families together to give instruction to the name carrier as to what his responsibilities to not only his own family but to all of the other families as well. The opportunity for passing on the name was not accessible to our people for a long period of time during the time it was illegal by way of the Anti-Potlatch Law to gather in any numbers to do that ceremony. As I recollect the passing on of T'ixwelátsa for me to carry was the first time in those hundred years that a large ceremony of that nature was actually staged in Stó:lō territory. There would have been other that who had names passed on to them but they would have been passed on inside a family structure. So done relatively privately. This was a very high status name that was to be passed on ceremonially in front of all the Siya:ms and all of the other families.

DS: *Transferal of title of that nature, transferal of responsibilities for care taking especially tied to Stone T'ixwelátsa required public audience? Is that true?*

T: Yes, very much so. Because of the nature of the responsibility all of the other families would have been invited to be a part of the ceremony so that they could be witness to the transferring of the responsibility...

The century-long gap separating the transferal of the title 'T'ixwelátsa' is accounted for by the *Anti-Potlatch Law*, instituted and enforced in British Columbia between 1884 and 1951. This law made it illegal to hold large gatherings¹⁵ -- particularly potlatches -- effecting the customary process of transferring titles and responsibilities among at least three generations of Nooksack-Stó:lō. T'ixwelátsa (Herb Joe's) naming ceremony in the early 1970s was among the first generation of potlatches to take place following the repeal of the *Anti-Potlatch Law* in 1951 -- clearly demonstrating the community's intent to maintain this fundamental aspect of customary law throughout the seven decades that it was banned. While the transferal of that title may have been delayed during those years in which potlatching was banned, T'ixwelátsa's family (i.e., female lineage) maintained their control and caretaking responsibilities for the Stone T'ixwelátsa over the generations; once again vesting T'ixwelátsa (Herb Joe) with care-taking responsibility at his naming.

T: (continuing from above)... So the responsibility had 'laid asleep,' if you will, for all those generations until someone came along that had proven to the families that they were capable of taking on that responsibility. Then.. the name was placed on me by our dear elder Chief Richard Malloway, Th'eláchiyatel. He went around to all the Siya:ms that had come to that gathering that night and shook hands with them and asked them to give me instruction as to how to carry that name and who I was from that point on. There was a very ceremonial way of transferring the name. And of course in transferring the name came a very open educational process that started that night.

¹⁵ In 1886, Bill Uslick - a Stó:lō man from Chilliwack - was the first person in B.C. convicted under the Anti-Potlatch Law. He served time in jail (Dr. Keith Carlson, personal communication, 2006).

T'ixwelátsa (Herb Joe), per family instruction, began the process of repatriating the Stone T'ixwelátsa when, as a result of research being carried out in 1990-91, it was recognized that he was being held at the Burke. The intent to repossess the Stone T'ixwelátsa, following his 'kidnapping' by the Ward Brothers, was maintained within T'ixwelátsa's family for the ninety-nine years between 1892 and 1991. T'ixwelátsa (Herb Joe) actualized the family's intention in 1991 and has actively pursued the repatriation of the Stone T'ixwelátsa from then on -- for the last 15 years -- as he will continue to do indefinitely into the future:

DS: *Is it your intention to bring Stone T'ixwelátsa home?*

T: Yes. That was the direction I was given. My grandmothers gave me that direction and encouragement. Unless the grandmas of my family get together and give me direction otherwise, that will be one of my life-long tasks... it's something that I will continue to follow as long as I am able to, and if I am no longer able to, one of my responsibilities would then be to pass that responsibility on to another younger name-carrier who was worthy of taking on that responsibility.

DS: *When did this responsibility begin?*

T: For Herb Joe - me, T'ixwelátsa - it began when my grandmothers gave me the direction to specifically have him return home. Historically, I have, as a name-carrier, always carried that responsibility. It was part of the responsibility of T'ixwelátsa and T'ixwelátsa's family.

DS: *And before you were the name carrier, how far back in time does that history extend?*

T: According to the sxwóxwiyám, it was not the first T'ixwelátsa but one of the T'ixwelátsas after that who was transformed by Xexá:ls. The original T'ixwelátsa was the man who established the [Chilliwack] people. As I understand it, the [Chilliwack] people had been well established when Xexá:ls walked through our lands to make things right. So it was, to me, obvious that he wasn't the first T'ixwelátsa. It was probably the second or third T'ixwelátsa that was turned into stone.

The Ward Brothers' act of taking the Stone T'ixwelátsa was a *severe transgression of Nooksack-Stó:lō customary law* governing the Stone T'ixwelátsa – exactly one of those types of actions punishable by Xexá:ls. A number of Halq'eméylem words supplied by Elder Rosaleen George aptly describe the Ward Brothers' actions from a Nooksack-Stó:lō perspective (Interview with Albert McHalsie, 1996):

- Yeqw'wes - "disturbing the artifacts in the ground, relics or ancient ancestors things."
- Qá:qel - "taking things that doesn't belong to you."
- Sqelsqel - "thief"

T'ixwelátsa (Herb Joe) continues:

- DS: *Is it acceptable to have taken the Stone T'ixwelátsa in 1892 away from its village site, away from where it was located? The way it was described in the newspaper is it was found by the Ward brothers and taken. Is that an acceptable way of transferring control of Stone T'ixwelátsa?*
- T: Not at all. What needed to have happened would be T'ixwelátsa's family and extended family not just the nuclear family as you know families today, the extended family would include probably most of the tribe that he was living with they would have been all brought together and they would all had to agreed to release the Stone T'ixwelátsa to the possession of someone else. The original direction at the beginning of time for T'ixwelátsa was given by Xexá:ls and that direction had been followed through the generations that Stone T'ixwelátsa remained in our family and that direction basically had never been altered or changed in any way. So the responsibility is still a responsibility of T'ixwelátsa's family.
- DS: *Is it necessary for an individual to be or a family member to be Nooksack or part of the broader Nooksack Stó:lō community to inherit that responsibility?*
- T: They have to be biologically connected to T'ixwelátsa, the name T'ixwelátsa. He would have to be biologically connected to that to assume that responsibility. So in my case I received the name from my dear elder who was our relative of the T'ixwelátsa family and he gave the name and covered me with the name because I was biologically connected to T'ixwelátsa. As I said earlier that he was my great, great, great, great, grandfather on my mother's side.
- DS: *According to the newspaper account in 1892, people by the name of the Ward brothers found and took the Stone T'ixwelátsa by your knowledge of your genealogy which is extensive, is there any record of the Ward brothers being family members or biologically connected to you or your family?*
- T: Not to my knowledge. I've never been told that the name Ward has been any of our biologic relations. So the answer is no. The Wards have never been to my knowledge a part of T'ixwelátsa's family.
- DS: *Peter Lape is the Curator of Archaeology at the Burke museum responsible for the collections there. Is there any possibility that Dr. Lape is a member of the Nooksack family that maintains control over Stone T'ixwelátsa?*
- T: I have never heard the name up until a month ago. So I rather doubt it. We can never say for sure because we don't know his family tree. I guess that if he had relatives that were born and raised in the Nooksack Valley then there is a possibly because there was intermarriage and the immigrants who came to our valley and our First Nations people who lived there since the beginning of time. There was quite a lot of intermarriage. So I suppose technically speaking there could be the possibility but in my connections and my responsibility to our extended family the name Peter Lape has never ever arisen that I can ever remember in any of the discussions with my dear elders.

- DS: *Even if Dr. Lape and the Ward brothers were family members would it be acceptable to have taken Stone T'ixwelátsa from Sumas Prairie and now keep it in the Burke museum?*
- T: No, even if I were to be in possession of Stone T'ixwelátsa and I removed him from our families territory where we would no longer see and learn from him, that would have been unacceptable and I would have been stripped of the name and the responsibilities that went with the name. Someone more appropriate would have given that name who would then maintain the responsibility for caring for the Stone T'ixwelátsa. So even if it had been me rather than the Ward brothers or Peter Lape it would have been inappropriate for Stone T'ixwelátsa to have taken out of our families homes and geographic area...our tribal area.
- DS: *Would that have required public recognition and family acceptance to do that?*
- T: Yes. That would be the only way that Stone T'ixwelátsa would have been allowed to leave our territory...with the permission of all of T'ixwelátsa's family. Not just the name carrier T'ixwelátsa but all of the family.

In simple terms, the Ward Brothers' stole the Stone T'ixwelátsa ('took something that did not belong to them'). As a result, the Burke Museum now houses stolen property in the form of the Stone T'ixwelátsa.

3.3 Other Issues RE: "Ploughed Up" and "Farmer's Field"

The information provided above explains *how* the Stone T'ixwelátsa was controlled at the time it was taken by the Ward Brothers in 1892. Another issue raised by the Burke is the implication surrounding the possible context in which the Stone T'ixwelátsa was found; that *if* he had been found ploughed up in a farmer's field then that implies abandonment by the Nooksack. This implication has three basic parts:

- (a) the context – "ploughed up";
- (b) the nature of the land-base / historical context – "farmer's field"; and
- (c) possible abandonment by the Nooksack based on factors (a) and (b) and relating to the customary, traditional practices of the Nooksack regarding ownership and control.

Each of these three parts of the Burke's implication are addressed below.

3.3.1 Part A (Context – "ploughed up")

It is the Nooksack's position that the Burke's the assertion that the Stone T'ixwelátsa was found "ploughed up" is an unreliable (i.e., cannot be replicated with the available date) and therefore highly conjectural statement. The Burke's assumption of this context is based on

solely on Harlan Smith's passage (1907:430-431), as noted on the Burke's accession form for their object Cat. #152:

"... [referring to Stone T'ixwelátsa / Cat. #152]... It is said to have been ploughed up on the Fraser Plains, near Sumas, Wash..."

Smith's passage (1907) is the *first and only* recorded reference of the specific manner / context in which the Stone T'ixwelátsa was found -- written 15 years after the actual event. Smith provides no reference to the source of that information. While his reference to the "Fraser Plains near Sumas, Washington" reliably confirms the Sumas Prairie the location where the Ward Brothers found the Stone T'ixwelátsa, Smith's reference to "ploughed up" is unsubstantiated. The primary and most influential historical account documenting the Ward Brothers 'find' is from the *Chilliwack Progress* (September 15, 1892):

"A curiously carved Indian image was found by Messrs. Ward Bros. on the Sumas Prairie [sic]. The image is about four feet high, and weighs about 600 lbs. It is evidently very ancient; and is quite intact, every detail being clearly defined."

No mention is made in this article of the object being 'ploughed up,' nor of its location in a 'farmer's field' -- simply that it was found by the Ward Brothers on the Sumas Prairie (along with a brief but detailed description of the object). No support is found for the Burke's assumption. Likewise, the other known historical record of this 'find,' from Charles Hill-Tout (1902:367), also fails to provide support:

"...[re: the Stone T'ixwelátsa] It was owned by a certain family, and was taken to the neighboring Sumas tribe by a woman who married into that tribe... A few years ago, some enterprising person bought it for a small sum¹⁶ and shipped it into Washington State..."

Notably, lack of physical 'plough scars' (i.e., scrapes on the surface of stone objects commonly resulting from impact with metal ploughs or disks) on the Stone T'ixwelátsa¹⁷ would strongly indicate that it was not struck by a plough and was therefore not ploughed up. Inspection by the Burke can evaluate this observation.

There are many possible alternate descriptions of the specific context in which the Stone T'ixwelátsa was found (e.g., positioned upright outside a longhouse or on the outskirts of a village on the Sumas Prairie; *cached* -- temporarily buried by the Nooksack as a means of protection; positioned on the Sumas Prairie as a marker of territory while people were

¹⁶ The reported sale of the Stone T'ixwelátsa clearly refers to events following the finding and taking of the Stone T'ixwelátsa by the Ward Brothers -- per the *Chilliwack Progress* article. In all likelihood, the Ward Brothers sold the object to an individual who then shipped it to Washington State (i.e., the Nooksack did not sell the Stone T'ixwelátsa).

¹⁷ No plough scars are recalled to the best of anyone's knowledge, based on personal observation of the object by T'ixwelátsa (Herb Joe) and Archaeologist David Schaepe.

living away from village; in the midst of being moved by T'ixwelátsa's family), all of equal standing as the implication made by the Burke.

In conclusion:

- *the Nooksack find no substantial support for the implication that the Stone T'ixwelátsa was “ploughed up” and conclude that this statement should be disregarded as a factor potentially affecting the determination of ‘Right of Possession’ as defined in NAGPRA. (Note: see Parts B and C, below – re: additional information addressing the issue of possible abandonment).*

3.3.2 Part B (The Nature of the Land-Base / Historical Context – “farmer’s field”)

It is this Nooksack's position that the description of the land-base from which the Stone T'ixwelátsa was taken as “a farmer's field” is (1) unreliable and unsubstantiated – based on the information presented above; and (2) generally irrelevant. The land-base in question was, in 1892, and remains today within the traditional lands of the Nooksack-Stó:lō -- including the Sumas Prairie between the south shore of Sumas Lake (drained in 1924) and the Nooksack River. Aboriginal title to this area was never ceded by the Nooksack-Stó:lō nor extinguished by any means of treaty, war, sale, or exchange. Contemporary land claims attest to the fact that Nooksack-Stó:lō Aboriginal title to that area exists – regardless of how it has been affected by European colonization and land use. The land base where the Stone T'ixwelátsa was found was part of a village location occupied by of the Nooksack-Stó:lō from precontact times into the 1880s, if not later.

It was mentioned previously (Schaepe 2005:45; see Carlson 1996) that the Nooksack-Stó:lō communities of the Sumas Prairie area were affected by the American vigilante mob lynching of two of their community members in 1884 – first, a youth named Louie Sam, and soon thereafter, a man named Jimmy Poole. Louie Sam, who was hung to death, was very possibly from the village that was home to the Stone T'ixwelátsa at the time. Per information provided by Historian Keith Carlson (personal communication, 2006) Jimmy Poole, who nearly died from being hung, moved northward for fear of further vigilantism from south of the border. It is likely that others followed suite in the days, months, and years following the terrorism of the Nooksack-Stó:lō community. Fueled by fear, it is likely that people temporarily evacuated their residences and, as is customary, moved in with relatives who provided temporary shelter and safe haven elsewhere, such as at Kilgard along the northwestern shore of Sumas Lake.

It is well accounted for in historical documents and clearly recalled in Nooksack-Stó:lō oral history that these community members were *promised* investigation of the Louie Sam incident and establishment of justice by the Canadian government and colony of British Columbia (Carlson 1996; McIlwraith 2005). Council among Nooksack-Stó:lō leaders resulted in a decision to respect the government's promise to act on their behalf and effectively deal with the conflict; rejecting the option of immediate retaliation. Choosing not to retaliate (i.e., engage in violent conflict) meant resorting to traditional mechanisms

of avoiding conflict such as seeking protection, namely ‘taking refuge’¹⁸, via temporary evacuation as a means of finding safety elsewhere among the community. The government’s promise to resolve this situation effectively and logically established a basis for those affected Nooksack-Stó:lō community members *to anticipate returning* to their Sumas Prairie villages once justice was achieved and peaceful cross-border relations re-established.

By definition, those family members possessing the Stone T’ixwelátsa did not abandon their homes; nor did they abandon the Stone T’ixwelátsa – even if he was left on his own (for additional information see Part C, below). *First*, understanding the reasons motivating this movement, it is understandable that people would leave behind some belongings – especially very heavy things like the Stone T’ixwelátsa; further, that some objects of value (like the Stone T’ixwelátsa) may have been hidden as a means of providing protection while temporarily left behind. *Second*, both the family and the Stone T’ixwelátsa clearly remained within their traditional lands – they never left or relinquished land title to that area. *Third*, there is every reason to believe the family intended to return to their Sumas Prairie village upon the promised resolution of the vigilantism (which also speaks to people leaving things behind in this context as contrary to abandonment). *Fourth*, there is every reason to believe that the failure of the government to resolve this conflict effectively served to extend the period of evacuation from the Sumas Prairie. *Lastly*, Boas’ statement that the Stone T’ixwelátsa was “still shown” (1894:454) as late as 1890 indicates that - just prior to his ‘kidnapping’ - control was still clearly maintained by the family even while they *may have* lived apart from the place where they kept (hid?) him. Ultimately, we are unsure of the extent and exact timing of any historic evacuation of the area. That the Stone T’ixwelátsa was still shown implies that that people visited him; that perhaps not everyone left that specific village - at least not right away; that connection and control were maintained. In the meantime, colonial settlement and land use advanced and encroached upon Nooksack-Stó:lō lands:

DS: *What would happen if the family was, for any reason, unable to fulfill their responsibilities in taking care of the Stone T’ixwelátsa either through them being affected by smallpox and actually no longer being there to take care of Stone T’ixwelátsa, or having moved away out of fear.. having been fear-struck as a result of lynchings as happened to Louie Sam and Jimmy Poole? What would happen in that instance where the family and the name-holder like yourself were unable to fulfill their responsibilities and obligations to the community to look out for Stone T’ixwelátsa?*

T: That whole question is inconceivable to me as the name-carrier. People have been here since the beginning of time and this is our territory.

¹⁸ ‘Taking refuge’ beyond the confines of one’s own village is a traditional response to terrorism / attack among the Nooksack-Stó:lō and broader Coast Salish. People fled their villages upon indications of external danger or threat and always with the intention of returning from their temporary evacuation (see Barnett 1955; Carlson 2001a). The historical reaction to the Louie Sam/Jimmy Poole lynchings strongly reflects this traditional process. In all likelihood, what people expected to be a short-term evacuation of their homes for the purpose of seeking safe haven was prolonged by the government’s lack of action to resolve, per their promise, the conflict.

According to our teachers, it will be our territory till the end of time. Because T'ixwelátsa was in our territory... that responsibility was never ever given up. That responsibility would have remained. in this particular case, if the family had to leave that specific location they would have lived in Stó:lō territory, in Nooksack Territory. The responsibility would have remained because Stone T'ixwelátsa was always in our territory... Stone T'ixwelátsa was never given up. Even though he would have maybe been in a location where there was none of his descendents there in that specific location, eventually the family the would have returned to that location and rebuilt their home and then of course place Stone T'ixwelátsa out in front of their home again. So the expectation is that they would have returned when it was safe to do so...

DS: *Would the assumption that the Stone T'ixwelátsa was found ploughed up in a farmer's field affect your statement?*

T: It wouldn't affect it at all. We are still connected to the Stone T'ixwelátsa and we have historic as well as moral and spiritual responsibilities to the care of the Stone T'ixwelátsa. Having lost him for a while doesn't negate your connections.. we are still connected to him. We still maintain that responsibility. If he happens to be out of our possession for a short period of time our responsibilities still remain the same, and they will till the end of time according to the direction we've been given historically.

DS: *Being out of possession means losing control?*

T: No. We still have to maintain that responsibility.

DS: *Is it possible that the family living on the Sumas Prairie around 1892 could have hidden Stone T'ixwelátsa as a way of protecting him knowing that they were going to leave that place?*

T: That is a distinct possibility. I would think that would have been one of the alternatives and one of the considerations that the lady who was looking after him thought about. I'm sure that her responsibility to the Stone T'ixwelátsa was such that she would have looked to protect him, and because he's very heavy she would have needed the men of her family to help move him. So that again would have been a possibility... It might have been from the house site to the woods. Later on when... the land was sold by the Federal government to farmers and immigrants, they would have cleared the land and would have come across his safe-keeping site.

DS: *Did the Nooksack or Stó:lō ever sell that land?*

T: No. The Nooksack nor the Stó:lō ever sold that land. It was appropriated by the Federal government and then sold as a way of promoting immigration to farmers from Europe and other places around the world.

DS: *Do the Nooksack or Stó:lō recognize as legitimate the sale of that land?*

T: No they don't... Those of the tribes who have not signed treaties have laid claim to all of that property... as being tribal lands... it belongs to the ancestors and to our people and was never given up formally... we as a tribe still claim that land as our own.

It is within this historical context that the Stone T'ixwelátsa was found, taken, and sold - in violation of Nooksack-Stó:lō customary law. The Stone T'ixwelátsa was, thus, never abandoned. That he was found possibly in a “farmer’s field” is irrelevant and otherwise explained by this history.

In conclusion:

- *the Nooksack conclude that the Burke’s implication that the Stone T'ixwelátsa was found in a “farmer’s field” is irrelevant and otherwise explained within a broader historical framework of understanding encapsulating the historical events surrounding the ‘finding’ of the Stone T'ixwelátsa; further, that the Burke’s implication should be disregarded as a factor potentially affecting the determination of ‘Right of Possession’ as defined in NAGPRA. (Note: see Part C, below – re: additional information addressing the issue of possible abandonment).*

3.3.3 Part C - Possible Abandonment by the Nooksack [based on factors (A) and (B), and relating to customary practices of the Nooksack regarding ownership and control]

It is the Nooksack’s position that the Stone T'ixwelátsa was not abandoned. Responses to Parts A and B of the Burke’s implication, above, provide information supporting this position. Further explanation of customary protocols of ownership and control (augmenting those specific to the Stone T'ixwelátsa, presented in Section 3.3) serves to add support to the Nooksack’s position. Inherent in the Burke’s comments linking possible abandonment to the manner in which the Stone T'ixwelátsa was presumably found (‘ploughed up in a farmer’s field’) is the factor of *proximity*. An element of the Burke’s question of abandonment includes the implication that spatial distance to an object plays a role in determining rightful possession – ownership, control, and caretaking responsibility -- and thus links to the general issue of abandonment. Presuming the Stone T'ixwelátsa to have been “ploughed up” or otherwise located in a “farmer’s field” implies that he was left physically separated from and out of the direct physical possession of the family at the time he was found.

Based on the information provided above, physical separation and constant, direct physical possession are *not* factors of the customary law defining ownership, control, and caretaking responsibility of the Stone T'ixwelátsa. Per T'ixwelátsa (Herb Joe):

- DS: *In traditional practice, is it necessary to remain in close proximity to an object to maintain control over it?*
- T: No, if you maintain control over something...people understood and knew who these things belong to, if you will. For instance, even with regard to a canoe, if someone needed the use of a canoe they would use it in a respectful way but return it to its original place so that the people that built the canoe could return to continue to use it. The same thing would apply to our fishing places on the river for instance. The people of the river

understood who's family fished from a particular spot and even if they had a need to use that fishing spot while the main family that used that spot was not there then they would use it but even in their use of it they would know that they didn't have primary use and control over that particular fishing spot¹⁹. So ownership was recognized by all of the other families and the other tribes who was the primary owner, if you will. You didn't have to be there in that specific spot to be recognized as the owner. It was well known throughout the other families who were the ones that owned that canoe, that fishing spot and in this case the Stone T'ixwelátsa. They knew who owed that particular object and because there was a common ownership of these things there was no need to steal. It was ok to use objects as long as you used them with respect and returned them to that spot. In this particular case with regard to T'ixwelátsa, we had a large territory... We occupied a quite a large geographic area as our tribal area. Anywhere within that tribal area the Stone T'ixwelátsa could have lived because the woman who's responsibility was to maintain the statue in front of her home could have lived, and in this case married into the Sumas. [She] Moved T'ixwelátsa with her to Sumas but her daughter or granddaughter could have remarried in Chiyaqtel for instance and have the Stone T'ixwelátsa moved back there. Or could have moved into Yale, to our families that lived in Yale and it would still be T'ixwelátsa's family's responsibility because of the old *sxwóxwiyám* giving us direction and responsibility for the care of it. So it didn't matter where it was geographically within our territory. The fact remain that it was the responsibility of our family to care and maintain that particular object.

DS: *Is it still common practice to leave things behind at places at fishing rocks, leave your possessions behind. Things like, for example your fishing line, nets, dry rack structures, equipments... the leave them behind once the fishing season is done. So that there is no one there tending them for the number of months that people are away from their fishing sites.*

T: Yes, it was very much common practice amongst our people to leave things. In this case you're talking about fishing tools that they leave behind because no one was going to steal them. People would use them if there was a need for them but they would not steal them. They would not take them away. So there was no fear of losing there fishing tools. That same concept was applicable to all of the other so-called objects that you could own or use, in this case houses or canoes or clothing, those things were quite often left in a particular place because that's where it was used.

DS: *Those things.. lets say, things that were left... were not taken out of recognition of ownership.. even though no one was around, physically there or present?*

T: That is true; yes it's very much true. When you have a culture that doesn't have in it's culture individual ownership as a main part of its culture then it

¹⁹ Intergenerational inheritance and control of family-owned fishing sites in the Fraser Canyon remains current and widespread among families who moved from that part of their traditional lands in the 1860s; see *A Stó:lō-Coast Salish Historical Atlas* (Carlson 2001b:58-59).

leads to a situation where ownership isn't as big a factor in our society as it is in other societies and cultures. So having understand because they have the same cultural values, the same family values, the same societal values, they understand what ownership and use is all about and they don't take things for the sake of owning them. They would use them if there was a need but that doesn't mean that they would then own them cause they were using them. If it was made by another family or another man or another woman then they would use it and leave a little thank you gift for having the ability to use their tools and then they would move on. They would not take it with them.

DS: *What would happen if somebody did take something that didn't belong to them?*

T: Then they would probably come before the Siya:ms, if it was something of great importance. The Siya:ms would then decide who owned the particular object and say "oh this is yours, you can take it back." Then the person who took the object would then be chastised. He would probably be punished in some way for being dishonest and taking something that should not have been taken from a particular site. If it was bad enough they might even, in terms of punishment, be banished for instance. But there would be some consequence through a open and communal way of dealing with those kinds of conflict or disputes. In most cases what would happen the two people or two families who are contesting the ownership a particular object would be brought before a circle of Siy:ams or circle of chiefs. They would present their cases in an open forum and the chiefs would then decide by consensus who owned whatever object it was and make things 'right.'

--- (interview section break) ---

DS: *Being out of possession means losing control?*

T: No. We still have to maintain that responsibility.

--- (interview section break) ---

DS: *Let's talk about abandonment and address specifically some of the questions brought up by the Burke in their letter. I'll ask you, was the Stone T'ixwelátsa abandoned by the Nooksack?*

T: From the stories that I've been told, no. The Stone T'ixwelátsa was not abandoned. It would probably have been left in an old village site. Here again, a village site was known living place of a specific family. If objects were left in that specific village site then the other families knew who lived there and who these objects would have been connected to. So from that perspective, T'ixwelátsa's family and the lady that was looking after T'ixwelátsa left under duress as I understand it and would have left whatever objects that she couldn't take very easily with her. For instance they would probably would have left in canoes so if they didn't make special preparation to transport the Stone T'ixwelátsa which is

considerably...it has a lot of weight to it. They would have had to made special preparation to move him. In this case they would have probably packed up their children and whatever they needed to, to continue to survive over a short period of time and then move on to a place that was more safe. Probably across the lake to a place that was probably more highly populated by members of their family or tribe.

DS: *According to the traditional system you've described for the Stó:lō and Nooksack, would that family have still maintained control over Stone T'ixwelátsa, even after having moved to the other side of lake or having moved away from their village?*

T: Yes, they would have maintained that responsibility. The understanding is that they would return. One has to take it into context and that our people have been living in this territory since the beginning of time according to our sxwóxwiyám. Because our people were tied to the resources of a particular area it wasn't uncommon for our families to move from one village site to another, to allow...to regrow its resources and after a period of a couple of years or so move back to the original village site. That expectation was always there and still is to this day. Our people still believe that they connected to the land and no matter where they are in the world, when for instance, if they are in Germany when they say "home" they would mean, in this case, Stó:lō and Nooksack territory which they are connected to even though they were contemporary living in Germany. While living in Germany they would have a house to live in but 'home' would always be the land that they are connected to. In this case the Sumas Prairie was from the beginning of time the place where our peoples lived and they didn't necessarily live in one specific spot for all of that time. They would have moved to places where resources in any given year would have been more plentiful.

In conclusion:

- *the Nooksack conclude that the implication that the Stone T'ixwelátsa was abandoned is unsupported by information explaining general customary protocols of ownership and control (as well as information presented in Parts A and B); and should be disregarded as a factor potentially affecting the determination of 'Right of Possession' as defined in NAGPRA.*

3.4 Human Remains

The Nooksack-Stó:lō continue to recognize the Stone T'ixwelátsa as ancestral human remains.

3.5 Conclusion

This report fulfills the request made by the Burke to provide additional information: (1) “confirming that the stone figure referred to in oral accounts is the same stone figure in possession of the Burke Museum (Cat. #152),” and (2) explaining “how the figure was controlled by the Nooksack at the time it was removed from the field, or.. to explain the discrepancy.” By means of the information presented here and in the initial ‘Stone T’ixwelátsa Repatriation Report’ submitted in October 2005, the Nooksack take the position that they have satisfied the requirements for repatriating the Stone T’ixwelátsa to their community as an "Object of Cultural Patrimony" per NAGPRA sections 7(a)(5) and 2(3)(D). The Nooksack reiterate their sentiment that “The Nooksack and their Stó:lō relatives look forward with great anticipation to making arrangements for receiving their ancestor, the Stone T’ixwelátsa, from the Burke. The return of these extremely significant remains of their transformed ancestor, T’ixwelátsa, to the collective Nooksack and Stó:lō community will mark a significant progressive step in the recognition of their heritage on the path to cultural revival. Appreciation for the return of the Stone T’ixwelátsa will most certainly be met with great celebration and wide-spread applause both within and beyond the Nooksack-Stó:lō community.”

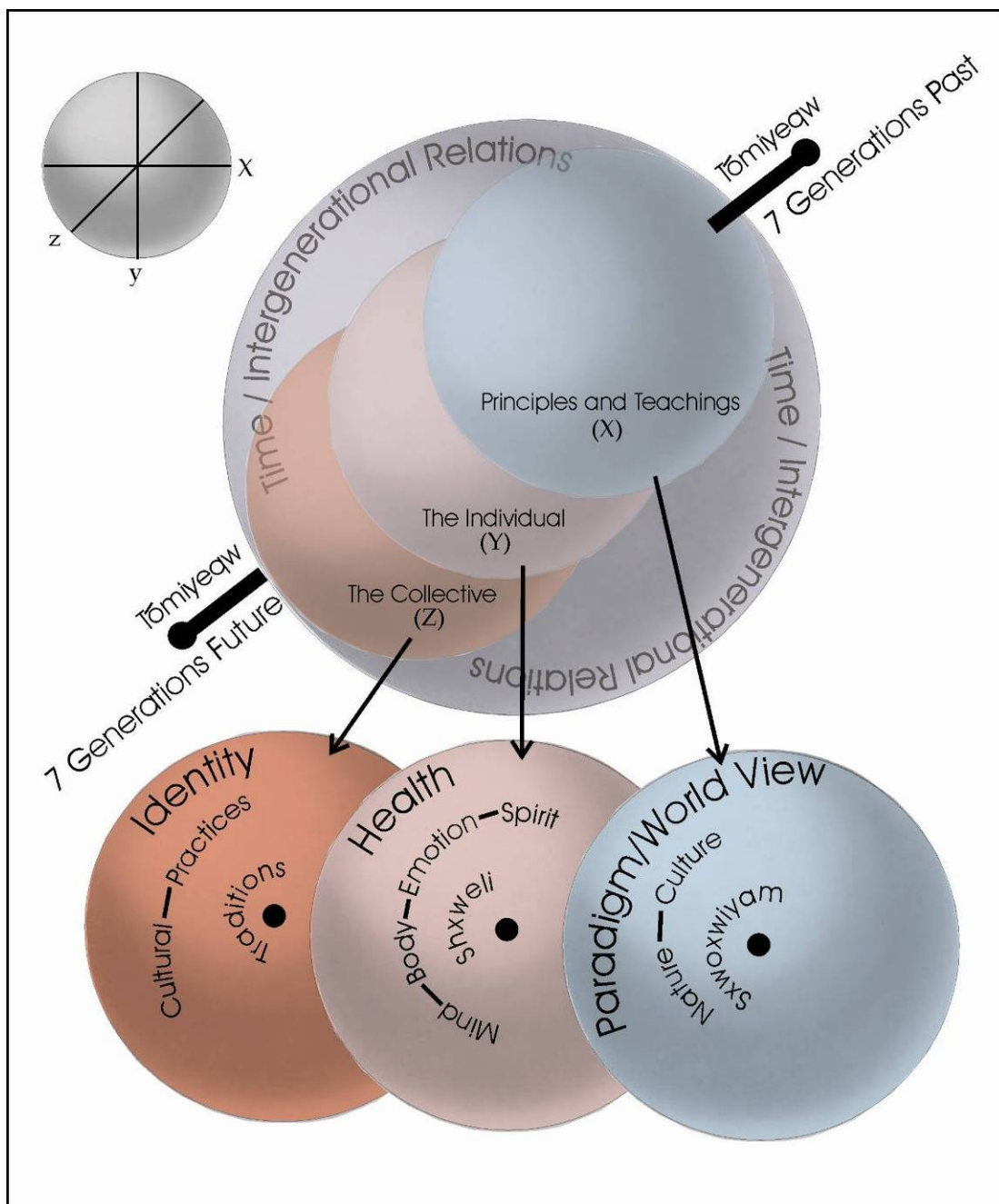


Figure 6. Four Interconnected Dimensions of Nooksack-Stó:lō Culture (adapted from Schaepe et al 2004:230).

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APPENDIX I: BURKE RESPONSE LETTER – JANUARY 9, 2006



Peter V. Lape, Ph.D.
Curator of Archaeology
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January 9, 2005

Narcisco Cunanan
Chairman
Nooksack Tribal Council
5048 Mt. Baker Highway
PO Box 157
Deming, WA 98244

Dear Mr. Cunanan,

Thank you for your October 14, 2005 letter requesting repatriation of the stone figure collected from Sumas, Washington (Burke Cat. #152). We have reviewed your request (the *Stone T'ixwelatsa Repatriation Report* by David Schaepe, dated October 2005) under the *Native American Graves Protection and Repatriation Act* (NAGPRA) to determine whether this stone figure meets the legal definitions of "human remains" and/or "object of cultural patrimony" under NAGPRA, and can be culturally affiliated with the Nooksack Indian Tribe. As detailed below, we need some additional evidence supporting aspects of your claim before we can make a final determination on your request.

Object of Cultural Patrimony

The Burke agrees that the stone figure *may* be an object of cultural patrimony; however, there remain two primary questions affecting that characterization: one regarding the identity of the stone figure and the second regarding its possible abandonment. Thus, we need some additional evidence supporting aspects of your claim. According to NAGPRA, this information can be in the form of biological, kinship, oral history, archeological, anthropological, linguistic, folkloric, ethnohistorical, or archival data.

The first question is whether the stone figure at the Burke Museum (Cat. #152) is the object being referred to in your request as T'ixwelatsa. Charles Hill-Tout (1902) referred to the fact that there were multiple stone statues, and this presents some question as to whether the large stone figure currently at the Burke Museum is the stone figure referred to in oral accounts. It is my understanding that no living Nooksack or Sto:lo person had seen the stone statue before it was transferred to the Burke Museum. Based on this, it is not obvious that the stone figure at the Burke can be confirmed as T'ixwelatsa. Is there information available confirming the stone figure at the Burke Museum is the stone figure referred to as T'ixwelatsa? This information could be in the form of oral history. For example, does T'ixwelatsa (Herb Joe) or any other tribal member have information about the history of the object from the time it was moved to Nooksack until it was acquired by the Burke Museum? If there is additional information confirming that the stone figure referred to in the oral accounts is the same stone figure in the possession of the Burke Museum (Cat. #152), please forward this to the Museum.

Secondly, the evidence that stone figure was *abandoned* at the time it was collected by the museum is problematic under the definition for object of cultural patrimony in NAGPRA. In the *Stone T'ixwelatsa Repatriation Report*, Schaepe writes "The Stone T'ixwelatsa was, and continues to be, considered

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Archaeology

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inalienable by the Nooksack and Sto:lo at the time it was separated from them." In addition, Herb Joe states:

Normally, what happened as I understand it, was that the T'ixwelatsa was placed in front of the front door of the longhouse in which this lady lived. And through the ages that's the way it stayed until one of the women of our family who happened to be the care taker of the Stone T'ixwelatsa married into the Sema:th tribe, Sumas tribe, and she took it with her as part of her dowry as part of her family responsibilities, she took the Stone T'ixwelatsa with her to Sumas.

However, according to documents in the Burke Museum, this object was found ploughed up in a field in the Fraser Lowlands near Sumas, Washington, and was then purchased and shipped to Washington State. Its placement in a farmer's field suggests that it was abandoned, which would mean that the object would not meet the definition for "object of cultural patrimony" under NAGPRA. Based on the evidence, it is unclear to the Burke Museum that the Nooksack controlled this stone figure at the time of its collection. Is it possible that the figure was being cared for and controlled in another manner? Is there any information available to explain how the figure was controlled by the Nooksack at the time it was removed from the field, or any other information to explain the discrepancy? If so, please forward this to the Burke for consideration.

Cultural Affiliation

Your claim letter demonstrated the strong relationship of shared group identity between the Stone T'ixwelatsa and the Nooksack Indian Tribe. In order to confirm cultural affiliation between the stone figure (Burke Cat. #152) and the Nooksack Indian Tribe, however, the Burke needs additional information (as requested above), to confirm that the stone figure in the Burke's possession is in fact T'ixwelatsa.

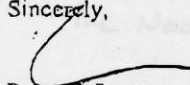
Human Remains

The stone figure does not qualify as human remains as defined by NAGPRA. We have discussed the matter with National NAGPRA Program Officer, Jaime Lavallee, for advice on this matter. She stated that there is no precedent for anything other than human bones being repatriated as human remains. As the Review Committee noted in their review of the law's language in the December 4, 1995 discussion of the rules and regulations for NAGPRA, the definition of "human remains" was written carefully and precisely and cannot be broadened without running counter to Congressional intent (Federal Register, Vol. 60, No. 232, pp. 62134-62169).

In addition, if an object is also being claimed as an object of cultural patrimony, even if it includes human remains as a part of the object, the object must be considered an object of cultural patrimony. Therefore, the request for repatriation of the stone figure as human remains is being set aside and your request for repatriation of the figure as an object of cultural patrimony remains for consideration.

We look forward to hearing from you and are committed to continuing to work with the Nooksack Indian Tribe on this important matter. Please feel free to contact me if you have any further questions or comments.

Sincerely,


Peter V. Lape
Curator of Archaeology

**APPENDIX II: RAW DATA – MAXIMUM DIMENSION (cm) / COAST SALISH
STONE SCULPTURE**

Max. Dimension (cm)	Object ID	Provenience	Source of Data
120.0	Cat #152 / T'ixwelatsa	Sumas Prairie	Duff (1956)
6.1	DgRr2:5126	St. Mungo	Holm (1990)
11.5	DjRi3:3096	Milliken	Holm
3.4	DjRi3:7741	Milliken	Holm
4.7	DjRi3:4736	Milliken	Holm
5.8	DjRi3:5657	Milliken	Holm
6.5	DjRi3:1678	Milliken	Holm
11.3	DhRs1:281	Marpole	Holm
5.3	DhRs1:1393	Marpole	Holm
10.1	DhRs1:9216	Marpole	Holm
28.0	DhRs1:10403	Marpole	Holm
54.5	51586	Marpole	Holm
12.2	16-5016	Marpole	Holm
23.5	NMC XII-B-1696	Marpole	Holm
10.3	n/a	Marpole	Holm
20.3	16-7853	Marpole	Holm
25.0	DhRs1:13937	Marpole	Holm
22.3	DhRs1:10493	Marpole	Holm
13.9	DhRs1:10187	Marpole	Holm
10.2	Ma3339	Marpole	Holm
23.3	16-7852	Marpole	Holm
10.4	99-1749	Marpole	Holm
6.1	DhRs1:10117	Marpole	Holm
6.0	DhRs1:10279	Marpole	Holm
21.3	n/a	Beach Grove	Holm
11.6	DfRs3:8	Beach Grove	Holm
16.7	DfRs3:701	Beach Grove	Holm
8.4	45SJ1:217	Cattle Point	Holm
9.5	45SJ25/118	Garrison	Holm
7.4	DgRw4:3008	False Narrows	Holm
4.6	DgRw4:166	False Narrows	Holm
15.4	DgRw4:314	False Narrows	Holm
5.6	DgRw4:305	False Narrows	Holm
4.5	DgRw4:1511	False Narrows	Holm
10.4	DgRw4:2825	False Narrows	Holm
3.6	DgRw4:1266	False Narrows	Holm
6.3	DgRw4:1042	False Narrows	Holm
19.7	DhRt5:73	Point Grey	Holm
16.0	VM - AR19:16-17	Port Hammond	Holm

22.8	n/a	Port Hammond	Holm
17.5	DcRv1:1407	Pedder Bay	Holm
8.5	DcRv1:524	Pedder Bay	Holm
8.5	QAA1040	Boundary Bay	Holm
7.6	DjRi3:3800	Milliken	Holm
3.3	DjRi3:2184	Milliken	Holm
10.5	DjRi5:5084	Esilao	Holm
11.5	DjRi3:11142	Milliken	Holm
9.0	DjRi-y:144	Yale	Holm
12.0	DjRi-y:142	Yale	Holm
20.3	Type A:1 / p. 60	Marpole	Duff (1956)
25.4	Type A:3 / p. 60	Locarno Beach	Duff
17.8	Type A:4 / p. 60	Locarno Beach	Duff
15.3	Type A:5 / p. 60	Nooksack	Duff
35.5	Type A:6 / p. 60	San Juan Island	Duff
24.7	Type B:5 / p. 61	Yale	Duff
14.0	Type B:6 / p. 61	Yale	Duff
22.8	Type B:7 / p. 61	Yale	Duff
14.0	Type B:8 / p. 62	Yale	Duff
26.7	Type B:9 / p. 62	Yale	Duff
19.0	Type B:10 / p. 62	Yale	Duff
24.7	Type B:11 / p. 62	Hope	Duff
14.0	Type B:12 / p. 62	Hope	Duff
17.5	Type B:13 / p. 62	Hope	Duff
7.6	Type B:14 / p. 62	Hope	Duff
13.7	Type B:15 / p. 62	Upper Skagit	Duff
15.2	Type B:16 / p. 63	Deroche	Duff
30.5	Type B:17 / p. 63	Sullivan	Duff
22.8	Type B:18 / p. 63	Chilliwack River	Duff
17.8	Type B:19 / p. 63	Fraser Valley	Duff
24.1	Type B:20 / p. 63	Marpole	Duff
21.5	Type B:22 / p. 63	Marpole	Duff
22.8	Type B:23 / p. 63	Burrard Inlet	Duff
18.4	Type B:30 / p. 64	Mayne Island	Duff
19.0	Type B:31 / p. 64	Saltspring Island	Duff
15.8	Type B:32 / p. 64	North Saanich	Duff
27.3	Type B:33 / p. 64	Victoria	Duff
14.7	Type B:34 / p. 64	Victoria	Duff
21.0	Type B:35 / p. 64	Beecher Bay	Duff
22.2	Human Head:2 / p. 69	Yale	Duff
19.0	Human Head:3 / p. 69	Yale	Duff
21.5	Human Head:4 / p. 69	Yale	Duff
14.6	Human Head:6 / p. 69	Hatzic Lake	Duff
22.8	Human Head:7 / p. 69	Port Hammond	Duff
12.1	Human Head:9 / p. 70	Marpole	Duff
14.0	Human Head:10 / p. 69	Locarno Beach	Duff

54.5	Human Head:11 / p. 69	Nooksack	Duff
26.8	Human Head:14 / p. 69	Cowichan Gap	Duff
22.8	Type A1:1 / p. 72	Yale	Duff
16.5	Type A1:3 / p. 72	Hammond	Duff
14.0	Type A1:4 / p. 72	Marpole	Duff
17.8	Type A1:6 / p. 72	North Saanich	Duff
12.8	Type A1:7 / p. 72	Brentwood	Duff
16.5	Type A1:8 / p. 72	Galiano Island	Duff
15.9	Type A1:9 / p. 72	North Saanich	Duff
21.0	Type A1:10 / p. 72	Esquimalt	Duff
12.8	Type A1:11 / p. 72	Victoria	Duff
35.5	Type A1:12 / p. 72	Victoria	Duff
12.0	Type A2:15 / p. 72	Marpole	Duff
14.0	Type A2:16 / p. 72	Marietta	Duff
28.0	Type A2:17 / p. 72	Marietta	Duff
6.3	Type A2:20/ p. 73	New Westminster	Duff
12.7	Type A2:21 / p. 73	Nanaimo	Duff
15.2	Type B1:1 / p. 73	Marpole	Duff
15.2	Type B1:2 / p. 73	Marpole	Duff
10.2	Type B2:4 / p. 73	Yale	Duff
3.8	Type B2:7 / p. 73	Yale	Duff
7.0	Type B2:8 / p. 73	Yale	Duff
14.0	Type B2:9 / p. 73	Hope	Duff
11.4	Type B2:10 / p. 73	Yale	Duff
13.7	Type B2:11 / p. 73	Hammond	Duff
9.0	Type B2:12 / p. 73	North Saanich	Duff
8.3	Type B2:13 / p. 73	Saltspring Island	Duff
12.0	Type B2:14 / p. 73	Craigs Crossing	Duff
6.2	Small A:1 / p. 76	Yale	Duff
5.7	Small A:2 / p. 76	Yale	Duff
6.7	Small A:3 / p. 76	Yale	Duff
4.2	Small A:4 / p. 76	Yale	Duff
4.5	Small A:5 / p. 76	Yale	Duff
7.0	Small A:6 / p. 76	Chilliwack	Duff
5.1	Small A:9 / p. 76	Mission	Duff
10.2	Small A:9 / p. 76	Marpole	Duff
7.0	Small B:4 / p. 77	Yale	Duff
7.7	Small B:5 / p. 77	Yale	Duff
4.7	Small B:6 / p. 77	Yale	Duff
7.6	Small B:7 / p. 77	Yale	Duff
9.0	Small B:8 / p. 77	Hope	Duff
6.3	Small B:9 / p. 77	Yale	Duff
5.8	Small C:9 / p. 80	Yale	Duff
3.8	Small C:10 / p. 80	Yale	Duff
5.8	Small C:11 / p. 80	Yale	Duff
14.0	Small C:12 / p. 80	Yale	Duff

4.4	Small C:13 / p. 80	Yale	Duff
8.2	Small C:14 / p. 80	Yale	Duff
7.6	Small C:15 / p. 80	Mission	Duff
5.1	Small C:16 / p. 80	Mission	Duff
5.3	Small C:17 / p. 80	Port Hammond	Duff
15.8	Small C:18 / p. 80	Comox	Duff
9.0	Small D:2 / p. 81	Musqueam	Duff
9.5	Small D:3 / p. 81	Saturna Island	Duff
8.6	Small D:5a / p. 81	Yale	Duff
3.8	Small D:5c / p. 81	Hope	Duff
4.2	Small D:5d / p. 81	Yale	Duff
9.0	Small D:10a / p. 82	Yale	Duff
9.3	Small D:10b / p. 82	Yale	Duff
10.2	Small D:11a / p. 82	Yale	Duff
7.0	Small D:11b / p. 82	Mayne Island	Duff
4.5	Small D:13 / p. 82	Yale	Duff
21.5	Large 1 / p. 88	Comox	Duff
43.2	Large 2 / p. 88	Nanaimo	Duff
50.8	Large 3 / p. 88	Sechelt	Duff
122.0	Large 4 / p. 89	Musqueam	Duff
31.7	Large 5 / p. 89	Boundary Bay	Duff
40.6	Large 6 / p. 89	Boundary Bay	Duff
22.8	Large 9 / p. 89	Whidbey Island	Duff
26.5	No. 25 / p. 131	Nooksack Valley	Duff
20.4	No. 11 / p. 132	Yale	Duff
23.2	No. 17 / p. 132	Websters Corners	Duff
15.1	No. 15 / p. 133	Albergrove	Duff
19.0	No. 14 / p. 133	Aldergrove	Duff
20.3	No. 18 / p. 134	Alouette River	Duff
22.8	No. 20 / p. 135	Langley Prairie	Duff
25.5	No. 30 / p. 136	Departure Bay	Duff
20.3	No. 31 / p. 136	Portier Pass	Duff
35.5	No. 34 / p. 137	North Saanich	Duff
19.0	No. 42 / p. 139	Courtenay	Duff
15.5	No. 36 / p. 140	Patricia Bay	Duff
10.0	No. 22 / p. 140	Marpole	Duff
19.0	No. 40 / p. 140	Whidbey Island	Duff
13.0	No. 41 / p. 140	Whidbey Island	Duff
16.5	No. 19 / p. 141	Hammond	Duff
16.5	No. 16 / p. 141	Websters Corners	Duff
25.5	No. 38 / p. 141	Saanich	Duff
18.2	No. 21 / p. 141	Burnaby	Duff
19.7	No. 24 / p. 141	Harrison Lake	Duff
122.0	St. Mary's Frog Boulder	Hatzic	Schaepe (n.d.)

APPENDIX III: BURKE MUSEUM RECORDS – OBJECT CATALOG #152

Archaeology Catalog Record

Catalog ID: 152 **Flag:**

Accession No.: 190

Accession Date: 11/1904

Count: **Storage:** ROOM 33

Object Name: Sculpture

Description: Stone; Pecked

Remarks: Led: Stone statue. Identified by Harlan I. Smith. Remarks - Note on label for exhibit: "This stone figure was presumably recovered from the Fraser Plains near Sumas, Wn. According to tradition it formerly belonged to the Chilliwacks, a Salish group on the Lower Fraser Riv. Valley in British Columbia. It later came into the possession of the neighboring Sumass [sic] tribe. It was the belief of the Chilliwacks that this image was the work of Kals the transformer who turned a man & his wife who had displeased him into stone."
Accn File: Additional information on object history in file. Was purchased and exhibited in a dime museum before coming to the Washington State Museum. Date received 1888. "See Article in Am. Mus. Mem., Vol. IV, part VI. p 430."

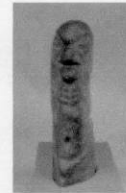
Collector: Young Naturalists Society **Coll. Date:** 11/01/1904

Found: Sumas, WA

Locality Detail:

Dimensions:

Condition:



STATE MUSEUM, UNIVERSITY OF WASHINGTON

ACCESSION NUMBER 170 HOW ACQUIRED: Gift
 RECEIVED FROM Young Naturalists Society
 ADDRESS.....
 DATE RECEIVED 1888 NUMBER OF SPECIMENS.....

USEUM ALOG NO.	ORIGINAL NUMBER	INVENTORY OF ACCESSION
152		<p><u>Stone Image</u>:- This image is said to have been ploughed up on the Fraser Plains, near Sumas, Whatcom County, Wash. This figure has a pit on top of the head. Mr. Charles Hill-Tout refers (Rept.Brit.Assn.Adv.Sci.,1902) to a large stone carving and it is not improbable that the carving mentioned by him is the specimen here figured. Mr. Hill Tout says that the Chilliwack formerly possessed a large stone statue representing a human figure. It was owned by a certain family, and taken to the neighboring Sumas tribe by a woman who married into that tribe. A few years ago some enterprising person bought it and shipped it into Washington State where it was exhibited for a time in a dime museum. According to the belief of the Chilliwack, this statue was the work of the transformer Kals who had transformed into stone a man and his wife who had displeased him. (See Article in Am.Mus. Mem.,Vol. IV,part VI.,p 430)</p>

ADDENDUM – Nooksack Tribe Submission Letter (February 16, 2006)



NOOKSACK INDIAN TRIBE

5048 Mt. Baker Hwy • P.O. Box 157 • Deming, WA 98244
Administration: (360) 592-5176 • Fax: (360) 592-2125

February 16, 2006

The Burke Museum of Natural History and Culture
University of Washington
Box 353010
Seattle, WA 98195-3010

Attention: **Dr. Peter Lape**
Curator of Archaeology, Burke Museum

Dear Dr. Lape,

Re: Submission of the *Stone T'ixwelátsa Repatriation Report – Supplement I*

As the Tribal Council Chairman of the Nooksack Indian Tribe (the "Nooksack"), and on behalf of our tribal membership, I wish to thank for your letter of January 9, 2006 replying to our request for the repatriation of our ancestor the Stone T'ixwelátsa, pursuant to the provisions of the *Native American Graves Protection and Repatriation Act*, 25 U.S.C. §§ 3001-3013 ("NAGPRA"). The repatriation of the Stone T'ixwelátsa is, as you are aware, of great significance to the Nooksack and the communities of our extended families and relatives of the Chilliwack and the other Stó:lō tribes. As I mentioned before, we want to see the Stone T'ixwelátsa properly cared for following the cultural protocols that we recognize as part of our ancestor's history; the traditional care-taking responsibility attached to the family and holder of this ancient and distinguished name. Our community has shown great patience and understanding throughout this process. We wish to inform you that we are proceeding with our repatriation request for the return of the Stone T'ixwelátsa as *object of cultural patrimony*, as recognized in your letter.

We understand the Burke's care and need to be duly diligent in the NAGPRA process. We have therefore taken the time to *thoroughly* address the remaining questions that you posed in your response letter. Attached to this letter is a report which sets out in detail the evidence you requested with regard to addressing your questions. The information in our report - *Stone T'ixwelátsa Repatriation Report – Supplement I* - serves, as a supplement to the information in

our initial submission of October 2005, to substantiate the various requirements of NAGPRA and all associated Regulations. We re-iterate our position that the information in these two reports, together, establishes beyond any reasonable doubt, on a preponderance of the evidence, the following:

1. the Nooksack are an "Indian tribe" (s. 2(7));
2. the Burke is a "museum" (s. 2(8));
3. the Stone T'ixwelátsa is presently being held by the Burke under Archaeology Catalog #152;
4. the Stone T'ixwelátsa is an *object of cultural patrimony* with ongoing historical, traditional and cultural importance to the Nooksack (s. 2(3)(D));
5. the Stone T'ixwelátsa was and remains an inalienable object of central cultural importance to the Nooksack;
6. the present-day Nooksack have a cultural affiliation with the communities in which the Stone T'ixwelátsa originated (s. 2(2));
7. there is a shared group identity between the Nooksack and the communities in which the Stone T'ixwelátsa originated;
8. other lineal descendants of the communities in which the Stone T'ixwelátsa originated support the return of the Stone T'ixwelátsa to the Nooksack, and there are no potentially competing claims to the Stone T'ixwelátsa;
9. the Nooksack controlled the Stone T'ixwelátsa at the time he was taken (i.e., stolen);
10. the Stone T'ixwelátsa was taken without the consent of our people in direct violation of our customary law governing the ownership, control, and care-taking responsibilities of the Stone T'ixwelátsa;
11. the Burke does not have the right of possession of the Stone T'ixwelátsa (s. 2(13)).

Our community was disappointed to learn by way of your letter that the Burke's counsel failed to acknowledge our belief - arising from the core of our culture - that the Stone T'ixwelátsa contains the living soul (*smestiyexw*) of our ancestor, the man named T'ixwelátsa who was transformed into stone. Regardless, we wish to affirm to you our religion and our belief that the Stone T'ixwelátsa *is* a transformed human containing a living soul (*smestiyexw*). Connection to our ancestor, as such, is central to our traditional worldview.

Having said that, it is our position that we have substantively addressed the Burke's questions and met all the requirements of NAGPRA that pertain to recognizing the Stone T'ixwelátsa as an *object of cultural patrimony*. We reiterate our request that the Stone T'ixwelátsa be returned to the Nooksack as soon as possible. We look forward to making these arrangements with you and the staff at the Burke. I re-emphasize that the return of the Stone

NOOKSACK INDIAN TRIBE

T'ixwelátsa to the Nooksack, and the broader Stó:lō community, will be a moment of incredible historical, cultural, and spiritual importance. It is our intention to spread that good will as widely as possible and to recognize equally the diligent efforts of those who endeavoured in this process in celebrating this momentous achievement.

For the sake of efficient communications, please distribute all correspondence between the Burke and the Nooksack regarding the Stone T'ixwelátsa to those individuals included in the CC-list attached to the letter – per the communication strategy developed by the Nooksack Culture Committee.

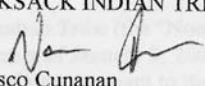
Lastly, in order to best facilitate open and expeditious communication between the Nooksack and the Burke regarding our repatriation request, I am extending an invitation to you to attend our next Nooksack Culture Committee Meeting, scheduled for Thursday, February 23rd at 12:00 at our Tribal Office in Deming, Washington. I strongly urge you, as well as Dr. Stein if she is able, and any other staff you care to invite to attend this meeting. Our agenda will pertain to discussing our most recent submission and the Burke's position on our request following their review of our supplementary information. Please contact our representatives at the Tribal Office at (360) 592-5176 if you require directions. As your hosts, we will provide you with a meal. The Culture Committee looks forward to seeing you in February. Please contact T'ixwelátsa (Herb Joe) directly at 604-819-8843 regarding your reply to our invitation.

Dear Dr. Stein,

Re: Submission of the Stone T'ixwelátsa Repatriation Report - Supplement I

Yours truly,

NOOKSACK INDIAN TRIBE


Narcisco Cunanan
Chairman, Nooksack Tribal Council

Enc. Stone T'ixwelátsa Repatriation Report – Supplement I (x 2 copies) / CD w/PDF (x1)

CC: Dr. Julie Stein, Director, Burke Museum – Fax: 206-616-7583
Megan Noble, Assistant Collections Manager, Burke Museum - Fax: 206-616-7583
William Coleman, Nooksack Tribal Council / Cultural Committee Liaison - Fax: 360-592-5721
Nooksack Tribe Cultural Committee, c/o Chairman (George Swaneset, Jr.) & Secretary - fax: 360-592-5721
T'ixwelátsa (Herb Joe) – Fax: 604--820-2597
David Schaepe, Senior Archaeologist, Stó:lō Nation – Fax: 604-824-5226

ADDENDUM – Burke Museum Response Letter (March 17, 2006)

03/20/2006

15:06

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BURKE MUSEUM

PAGE 02



Megon A. Noble
Assistant Archaeology Collections Manager
Phone: (206) 685-3849
Fax: (206) 685-3039
megnoble@u.washington.edu

March 17, 2006

Narcisco Cunanan
Chairman
Nooksack Tribal Council
5048 Mt. Baker Highway
PO Box 157
Deming, WA 98244

Dear Mr. Cunanan,

We have reviewed the Stone T'ixwelatsa Repatriation Report and Supplement I and believe that the Nooksack have provided the appropriate information to document that the stone figure meets the legal definition of "object of cultural patrimony." We are happy to inform you that we are moving forward with the process of repatriation.

I spoke with David Schaepe earlier this month to review the next steps in the process. We have drafted a Notice of Intent to Repatriate for your review. Please feel free to edit this document as you see appropriate and return to the Burke.

Once the Notice has been reviewed, the Burke will forward it to National NAGPRA staff for their review. Typically, they have minor changes and have some questions. If they do not have any further questions or clarifications, we can then proceed with publication in the Federal Register. In my experience this can take between four to six months.

We look forward to continuing to work with you in returning the stone T'ixwelatsa. We would welcome a visit to the Burke in the near future to view the T'ixwelatsa and discuss the logistics of the transfer. In discussing possible dates with David Schaepe, he mentioned that the Culture Committee has a meeting scheduled for April 27th. I can tentatively reserve that date, but will need to verify Peter Lape's schedule when he returns later this month before confirming. Thank you for your patience and continued effort on this important matter.

Sincerely,

Megon Noble
Asst. Archaeology Collections Manager

Enclosure

Cc: William Coleman, Nooksack Tribal Council/ Cultural Committee Liaison
George Swaneset, Jr., Nooksack Tribe Cultural Committee, Chairman
Nooksack Tribe Cultural Committee, Secretary
T'ixwelatsa (Herb Joe)
David Schaepe, Senior Archaeologist, Sto:lo Nation

WASHINGTON STATE MUSEUM SINCE 1899

THE BURKE MUSEUM UNIVERSITY OF WASHINGTON BOX 353010 SEATTLE, WA 98195-3010
206 543-7907 FAX: 206 685-3039 www.burkemuseum.org