

Department of Archaeology

August 23, 2017

STREET ADDRESS

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RE: An Open Letter on the Cawston, BC, Burial Ground

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Dear Minster Donaldson,

I have recently become aware of the situation in Cawston, BC, regarding the ancestral human burials found, and of the efforts of the Lower Similkameen Indian Band to protect their ancestors. Having now reviewed various press releases and news accounts of the situation, including the concerns raised by Chief Crow, I am writing this letter in support of a quick and respectful response by the provincial government and the Archaeology Branch.

Although the Heritage Conservation Act ostensibly provides protection to ancestral burial grounds and sacred places for their historical and religious value that are integral to Indigenous peoples' traditional and spiritual beliefs as unique cultural landscapes, the reality is that this is not always achieved in practice. There is also often a lack of understanding of the differences between how so-called settler populations and First Nations peoples perceive of such places.

I take this opportunity to raise two essential points pertinent to the Cawston ancestral remains: 1) that access to and protection of heritage sites represents a basic human right; and 2) that the loss of or damage to significant heritage sites represents a type of violence.

1) Access to and Protection of Heritage as a Basic Human Right

Heritage is important to all peoples – everyone has a cultural legacy worthy of respect and protection. What constitutes “heritage” includes (but is not limited to) the objects, places, knowledge, customs, practices, plants, stories, songs and designs of earlier generations that define or contribute to a person’s or group’s identity, history, worldview and well-being. However, Indigenous peoples – disempowered, disenfranchised, colonized or otherwise dominated by the states that claim jurisdiction over them – have historically had little control over their heritage, including a say in decisions made over sites and places of great importance to them.

For its part, the United Nations has set a broad mandate for acknowledging and protecting Indigenous peoples through its Declaration on the Rights of Indigenous Peoples (UNDRIP). Canada is a signatory to UNDRIP. Of particular relevance to heritage is Article 31:

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. *They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.* (Emphasis added).

The UN declaration serves to uphold those rights in theory, but it is another matter to put this into practice. That task falls within the realm of provincial or federal heritage preservation laws and policies you are mandated and committed to uphold with acceptance of appointment to your post. It is evident in the Cawston case that this process is not working. What is at risk are objects, places, and knowledge that are essential to the history, spirituality, and wellbeing of the members of the Lower Similkameen Indian Band. Unfortunately, heritage legislation continues to prioritize scientific evidence over culture-based values. There is unequal protection under the law for Indigenous vs Euro-Canadian heritage. Particularly when heritage policies are influenced by economic pressures.

2) Heritage Loss as Violence

The World Health Organization defines violence as “the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.” We contend that the types of cultural harms unfolding in Cawston— the denigration and disturbance of an ancestral burial ground – constitute a similar form of violence.

Without wanting to detract attention from more explicit forms of harm, the loss of access to, or more obviously, the destruction of heritage sites has significant adverse effects upon the members of First Nations communities for whom heritage sites and objects are considered necessary not only to their historical continuity and worldviews but also their well-being.

A Recommendation

It is my understanding that the concerns of the Lower Similkameen Indian Band have not been fully considered, nor has there been adequate government-to-government discussion as to fulfilling their requests for assistance and quick resolution relating to the disturbance of the ancestral burials, and to the likelihood that there are others present but not yet identified.

In 2015, members of the Intellectual Property Issues in Cultural Heritage (IPinCH) Project that I directed (www.sfu.ca/ipinch) came together to discuss the threats to ancestral burial grounds, specifically the Grace Islet burials. The group subsequently drafted the “Declaration on the Safeguarding of Indigenous Ancestral Burial Grounds as Sacred Sites and Cultural Landscapes.” A

copy can be found here: <https://www.sfu.ca/ipinch/resources/declarations/ancestral-burial-grounds/>

The declaration—which is very relevant in the present case—states the importance of recognizing and protecting Indigenous ancestral burial sites and calls on all levels of government to work together to ensure such sites are not subject to alteration or damage. It is also a reminder to all parties, including non-Indigenous governments and researchers, of their *existing* legal and ethical obligations with respect to First Nations sacred sites on which human remains of cultural and spiritual significance are interred. Here as elsewhere, cultural property represents the tangible and intangible aspects of people’s lives, a concept that many in Western society need assistance in learning to recognize and respect.

Clearly the British Columbia government, and the various agencies representing it, have a legal and moral obligation to acknowledge and protect the ancestral burial ground, sacred places, and other historical or heritage sites of the Lower Similkameen Indian Band. Not to do so will result in irrevocable cultural and spiritual harm to the people.

There has been much promotion of Reconciliation by the federal and provincial government, something long overdue but much needed. However, what has not been adequately recognized is that reconciliation needs to be more than saying “sorry” — it means changing fundamentally how things are done. That must extend to how heritage sites, and most especially burial grounds and sacred sites, are protected.

I urge you and your representatives to resolve the situation as quickly as possible. In the past I pledged to the former director of the Archaeology Branch to provide any assistance I can in the long-promised review of the Heritage Conservation Act, as well as to any other matters pertaining to First Nations heritage. As incoming Chair of the Archaeology Department of Simon Fraser University, an institution committed to education and engagement, I repeat that pledge to you here. Please call on me if I can provide any assistance.

Most respectfully,



George Nicholas
Professor

Chair: Archaeology Department Repatriation Committee

Chair: Committee on Native American Relations, Society for American Archaeology

Member: Public Advocacy Committee, Canadian Archaeological Association

cc: Kal?lupaqn Chief Keith Crow, Lower Similkameen Indian Band

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