



Press Release

July 27, 2019

Tribal members announce intent to sue Seaquarium to bring captive orca home *announcement made International Tokitae Day, during the Paddle to Lummi*

Two individual Lummi tribal members, *Tah-mahs* (Ellie Kinley) and *Squil-le-he-le* (Raynell Morris), have announced their intent to sue Miami Seaquarium and its parent companies for the repatriation of *Sk'aliCh'elh-tenaut* (Tokitae/Lolita). This announcement was made on International Tokitae Day and with the support of many Indigenous people already gathered at the Lummi Stommish Grounds for the Paddle to Lummi canoe journey.

“She is my relative, our word for orca is *qwe 'lhol 'mechen*, which means *our relation under the waves*. She’s like a daughter to me,” said *Squil-le-he-le* (Raynell Morris), a Lummi elder. “It hurts my heart that she’s been kept away from us and from her pod for so long. She needs to be back home, with family.”

The Native American Graves Protection and Repatriation Act (NAGPRA) gives legal grounds for the suit.

Lummi Nation never gave consent to, or was notified of, *Sk'aliCh'elh-tenaut's* violent capture from territorial waters in 1970. She has been held captive ever since at Miami Seaquarium, which has repeatedly refused Lummi’s requests for a meeting and calls for her release and repatriation.

Tah-mahs (Ellie Kinley) added, “We’re letting these corporations know that we’re serious. It’s wrong for them to be holding a living artifact that is so culturally and spiritually important to us. What happens to *qwe 'lhol 'mechen* happens to us. When they’re whole, we’re whole. She needs her family and her family needs her.”

“We’ve vetted this suit with NAGPRA experts,” said Dr. Kurt Russo. “NAGRPRA is about cultural patrimony. This is not just about a single killer whale and two people, it’s about an essential sense of belonging that cannot be adequately expressed in legal language.”

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Video footage: <https://www.dropbox.com/sh/0fs213eyy4e4x2y/AAD4dHBZN0bxdRRsbBIvOH2ta?dl=0>

Facebook LiveStream at <https://www.facebook.com/OurSacredSea/videos/2312603992158578/>

NAGPRA Quick Facts

NAGPRA

is a Federal law passed in 1990 that requires agencies and institutions that receive Federal funds to return objects of cultural patrimony to the Native American individuals and/or Tribes from which those objects were taken.

Miami Seaquarium

as an oceanarium engaged in research and exhibition, is an institution that has received federal funding, and is thus subject to NAGPRA. Federal funds received include those for disaster relief, manatee rehabilitation, and coral reef research and exhibition.

Sk'aliCh'elh-tenaut

was violently taken from L-pod in 1970 at the ancestral village site of *Sk'aliCh'elh*, and she has been held in possession by Miami Seaquarium ever since. The Lummi Nation never consented to, and was never informed of, this abduction. The Lummi Nation has repeatedly requested the repatriation of *Sk'aliCh'elh-tenaut*, but Miami Seaquarium has refused to even meet with tribal delegations.

Cultural Patrimony

The entire Southern Resident Killer Whale population are *qwe'lhol'mechen*, our “relations below the waves.” J, K, and L pods have been in a reciprocal relationship since time immemorial with the Lummi people. Teachings indicate not only a deep cultural affinity and a spiritual connection between *qwe'lhol'mechen* and *Lhaq'temish* (Lummi people), but also kinship bonds.

As a member of *qwe'lhol'mechen*, *Sk'aliCh'elh-tenaut* is, to Lummi people, an “object of cultural patrimony,” if one must step outside the Lummi worldview and *schelangen* and use the legal and corporate language of United States jurisprudence. “Cultural affinity” is also a NAGPRA consideration: plaintiffs must demonstrate a historical and ongoing relationship to the subject; in this case, Lummi tribal affinity to *Sk'aliCh'elh-tenaut* is demonstrable.

Although NAGPRA has most often been used to repatriate human remains, funerary objects, and cultural artifacts, *Sk'aliCh'elh-tenaut* constitutes another and equally important type of “cultural patrimony.” An acceptance of animals as cultural patrimony was established by *Dugong vs. Rumsfeld*, and has increasing international precedent as the rights of nature gain legal ground.

Quick Guide to NAGPRA <https://www.nps.gov/history/tribes/documents/nagpra.pdf>