

Virginia Indians, NAGPRA, and Cultural Affiliation: Revisiting Identities and Boundaries
in the Chesapeake

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ABSTRACT

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Many of the recent events discussed in this thesis – NAGPRA's 20th anniversary, the implementation of the 2010 rule on the disposition of culturally unidentifiable human remains, the Commonwealth of Virginia's recognition of the Patowomeck, Nottoway of Virginia, and Cheroenhaka Nottoway tribes, and the honoring of Chickahominy ancestors through facial reconstructions – shaped my perspective and were my impetus to pursue the much neglected and often dreaded subject of

repatriation in Virginia. It is my fervent wish and hope that Virginia Indians will be accorded due respect and honor through continued consultation with contemporary researchers and in the opportunity to rebury their ancestors with dignity.

I dedicate this thesis to the Chickahominy, Mattaponi, Monacan, Nansemond, Nottoway, Pamunkey, Patawomeck, Rappahannock and all other Virginia Indians; past, present, and future.

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Beyond its legal hold on museum practitioners, from the beginning it is important to observe that repatriation inspires profound feelings. NAGPRA is emotionally charged because it seeks to right some of the myriad and grievous injustices inflicted on Native Americans, and yet it does so, in our litigious society, imperfectly. It is emotional because the law is not in itself a solution to colonialist practices so much as a framework that establishes a process of restitution; NAGPRA is not a product or single historical moment, but rather it provides a mechanism to craft values, forge relationships, and configure social institutions. NAGPRA is emotive because some curators imbue the collections under their care with personal inflections, such that they consider the objects held in public trust as “my collections.” It is emotive because the questions of NAGPRA go to the heart of Native American identity, sovereignty, and religion. It is emotive because repatriation is perceived as a threat to science, that metaphysic-cum-method governing so much anthropological research. Most of all, NAGPRA is emotive because it requires Native Americans and museum professionals to come to terms, on an uncertain and unequal footing, with a contentious past and an ill-defined future.

Stephen Nash and Chip Colwell-Chanthaphonh (2010:100)

I. INTRODUCTION

Repatriation, the legal process of returning Native American human remains and cultural objects to present-day tribes, is far from simply a legal mandate. For American Indian tribes, museum professionals, academic researchers, and lawmakers, it is a deeply political and emotionally-charged subject. More than twenty years after the passage of the National Museum of the American Indian Act (NMAIA, 1989) and the Native American Graves Protection and Repatriation Act (NAGPRA, 1990), there are still many unresolved conflicts among American Indians, anthropologists, and the federal government (e.g. Lovis et al. 2004, Buikstra 2006, Liebmann 2008, Jacobs 2009, Matthews and Jordan 2011, GAO 2010, GAO 2011). Perspectives expressed during the ‘NAGPRA at 20’ symposium, held in Washington, D.C. on November 15-16, 2010, highlighted difficulties concerning the acknowledgment of American Indian tribes and Native Hawaiian organizations by the federal government. There was also apparent tension over how to handle the disposition of thousands of culturally unidentifiable human remains.

Following the passage of NMAIA and NAGPRA, legal mandates and their ethical corollaries have had a significant impact on the archaeological study of the American Indian past as well as the lives of contemporary American Indians. The history and status of American Indian tribes, represented at least partially in the acknowledgement of tribes by federal and state governments, has both instigated the reassessment of previous archaeological projects and impacted contemporary archaeological approaches. One key result of repatriation legislation has been an increased focus on the cultural affiliation of archaeological sites and associated geographic regions with present-day tribes. According to NAGPRA, cultural affiliation is determined when “there is a relationship of shared group identity which can reasonably be traced historically or prehistorically between members of a present-day Indian tribe or Native Hawaiian organization and an identifiable earlier group” (25 U.S.C. § 3001, Section 2(2)). However,

determining cultural affiliation is highly political and it is difficult to pin down a “relationship of shared group identity” even when archaeological and museum documentation is present (see Bruchac 2010). NAGPRA practitioners often revisit older culture historical research because its focus lines up most directly with their own questions about the expression of identity through groups of material culture types called “archaeological cultures.”

In Virginia, archaeologists and NAGPRA practitioners usually rely heavily on archaeological evidence when they determine cultural affiliation. Using the direct historical approach, they connect archaeological cultures to historically documented Virginia Indian communities. It is common for researchers to associate specific cultural practices like burial with Algonquian, Iroquoian, and Siouan language families. For example, Algonquians buried their dead in ossuaries, while Iroquoians preferred individual or small multiple burials, and Siouans built accretional mounds or alternately buried their dead individually. Implicit in this approach is the assumption that before (and after) the arrival of Europeans, Virginia Indians were divided into bounded and homogenous linguistic, cultural, and political groups and that there was more diversity among than within these groups. The following passages illustrate this approach at the Hand Site (44SN22) and the Rapidan Mound (44OR1):

A consideration of the burial practices visible in the cemetery population from the Hand site...indicates that the mortuary program is most similar to what is known about Iroquoian practices. The settlement, therefore, is most likely to have been occupied by an Iroquoian-affiliated group [Mudar et al. 1998:151].

We have chosen not to follow [MacCord's]¹ (or Schmitt's) naming that does not acknowledge a connection between the Monacan people of central Virginia and the mound complex, a historical continuity we have here and elsewhere argued is the interpretation most parsimoniously concordant with the available historical data [Dunham et al. 2003:113].

There are, however, several key differences between these two studies. Mudar and colleagues (1998) draw an analogy between burial practices at the Hand Site and nearby archaeological sites

¹ See MacCord (1986, 1991).

associated with the Iroquoian-speaking Tuscarora. They then use historical and geographical evidence to associate the site with the historic Iroquoian-speaking Nottoway. Dunham and colleagues (2003), following Hantman (2001), argue that closely related groups created the thirteen accretional mounds called the “Lewis Creek Mound Culture” (see MacCord 1986). In the absence of other present-day state recognized tribes descended from historically-documented interior Siouan speakers, they consider all of the mounds to be associated with the Monacan Indian Nation.

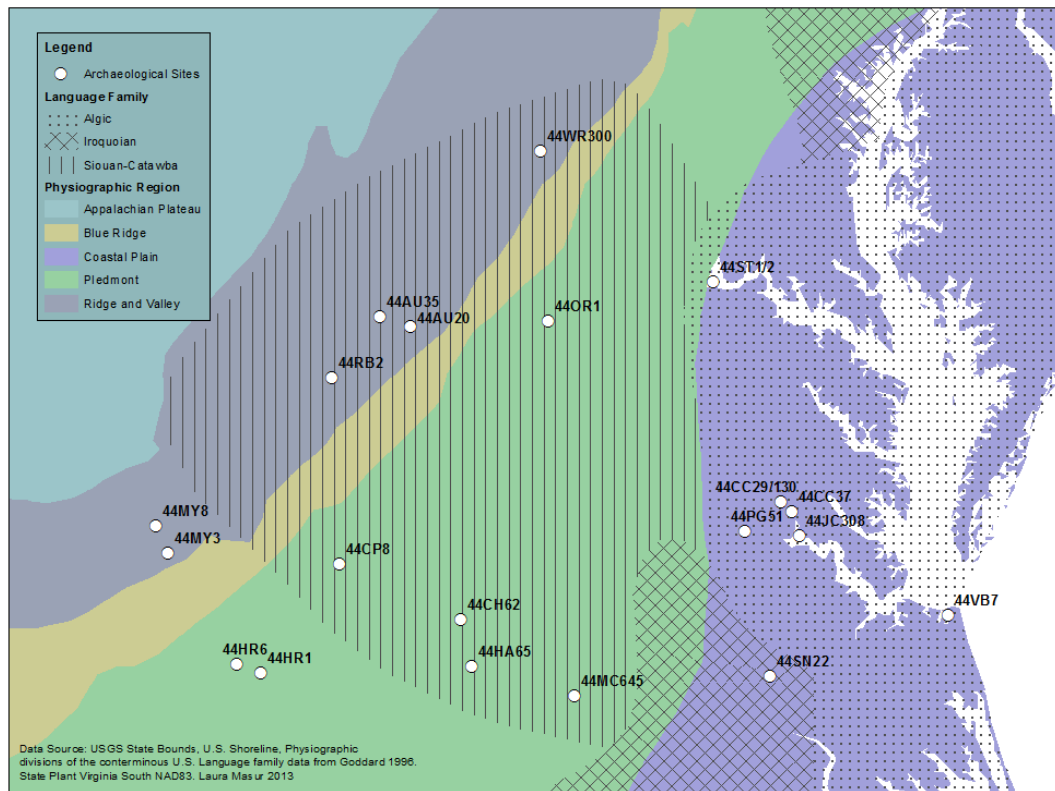


Figure 1: Physiographic regions, language families, and archaeological sites considered in this thesis

Cultural affiliation in Virginia is usually determined using ethnohistoric accounts of cultural practices, political affiliations, and language families as well as culture historical typologies, which are based on archaeological complexes of ceramic types, settlement patterns, and burial traditions. Contemporary researchers like Mudar and colleagues (1998) draw cultural

boundaries at the scale of language families, while and Dunham and colleagues (2003) look primarily to archaeological evidence in order to delineate boundaries, and Boyd and Boyd (1992) draw distinctions between cultural practices in physiographic regions. In the past, physical anthropologists (e.g. Hrdlička 1916), have drawn biological distinctions between the members of different language families based on cranial shape, though contemporary bioarchaeological approaches (e.g. Killgrove 2009) dismiss these inherently racial and racist distinctions. The relationship between language family, cultural practices, material culture, skeletal morphology, and geographic region is a complex and politically-charged issue today, much as it was a century ago (e.g. Boas 1940).

In the United States, the first twenty years under repatriation legislation have seen the development of repatriation procedures in museums, universities, and federal agencies: determining cultural affiliations, creating and sending summaries of human remains and cultural objects to culturally affiliated tribes, cultivating appropriate consultation processes, and managing the flow of information on repatriated remains and objects. Today, NAGPRA practitioners face an even more complex set of problems regarding the disposition of culturally unidentifiable human remains.² As such, contemporary theories of identity have begun to play a role in determining cultural affiliation when traditional methods fall short. For example, Beisaw (2010) takes into account theoretical studies of memory and identity, which can be particularly helpful when examining burials from multicomponent sites. She writes:

By shifting our emphasis from the trait lists of culture history and the linearity of the direct-historical approach to a theoretical framework that allows for the complexity of individual and group identity, anthropologists can better fulfill their obligations to the NAGPRA process. After all, archaeology is just one of the means by which cultural affiliation can be determined [Beisaw 2010:245].

² “Culturally unidentifiable refers to human remains and associated funerary objects in museum or Federal agency collections for which no lineal descendant or culturally affiliated Indian tribe or Native Hawaiian organization has been identified through the inventory process” (43 C.F.R. 10.2 (e)(2)).

According to Beisaw, theory should be incorporated more often into NAGPRA compliance in order to evaluate the complexity of past identities and their relationship to present-day Indian tribes.

In this thesis, I reexamine the questions of cultural affiliation and ethnic, political, and linguistic identity in eastern and central Virginia. While NMAIA and NAGPRA have not been employed in Virginia and many surrounding states as frequently as in other parts of the country because local American Indian tribes have not (as of April 2013) been acknowledged by the federal government, several archaeological and bioarchaeological projects have yielded to the spirit of repatriation legislation through collaboration with local tribes (e.g. Dunham et al. 2003; Gallivan and Moretti-Langholtz 2007; Gallivan et al., 2009, 2011; Hantman 2004; Hantman et al. 2000). Additionally, the Pamunkey Indian Tribe, one of the eleven³ Indian tribes recognized by the Commonwealth of Virginia, has submitted a petition for federal acknowledgement through the Bureau of Indian Affairs. The Chickahominy, Eastern Chickahominy, Monacan, Nansemond, Rappahannock, and Upper Mattaponi tribes have sought federal acknowledgement through a congressional act, which, introduced in 1999, passed in the House of Representatives in 2009 but was tabled by the Senate (Martin 2010:54-56, BIA 2012). The rule on culturally unidentifiable human remains, an amendment to NAGPRA enacted in 2010, may provide another route by which state-recognized Virginia Indian tribes may seek to repatriate the remains of their ancestors and associated funerary objects (75 FR 12403).⁴

Throughout this thesis, I explore the ways that a four-field anthropological approach, alongside history and geography, can contribute to the process of repatriation in Virginia. I also acknowledge the essential role of collaboration and consultation with Virginia Indians and the

³ Cheroenhaka Nottoway, Chickahominy, Eastern Chickahominy, Mattaponi, Monacan, Nansemond, Nottoway, Pamunkey, Patowomeck, Rappahannock, and Upper Mattaponi.

⁴ This rule lays out guidelines for the repatriation and reburial of human remains determined to be “culturally unidentifiable.” It also allows outlines (albeit restricted) provisions by which human remains may be returned to tribes that are not acknowledged by the federal government.

potential contributions of other lines of evidence, such as genealogy and oral tradition. My research centers around three major topics: (1) What methodologies have been and are currently employed in determining the cultural affiliation of human burials discovered archaeologically in Virginia? Given the limited implementation of repatriation legislation in Virginia, in which cases has it been possible to affiliate human skeletal remains with historically-documented and/or modern-day Virginia Indian tribes? How do (ethno)historical, linguistic, anthropological (ethnographic), archaeological, bioarchaeological (biological), and geographical lines of evidence contribute to the study of cultural affiliation? (2) How can theoretically-informed archaeological and bioarchaeological research in particular be used to interpret the ways that sociopolitical groups expressed identity during the Late Woodland (AD 900-1600) and Early Historic periods in the Virginia Piedmont and Coastal Plain? Does the analysis of burial traditions, funerary objects, and skeletal remains suggest distinct cultural differences between populations ethnolinguistically identified as Algonquian, Siouan, and Iroquoian? (3) Under what circumstances will contemporary tribes have recourse to claim human remains and funerary objects from Virginia under NAGPRA and NMAIA? How will changes in the status of Virginia Indian tribe(s) impact the repatriation process?

The discussion of cultural affiliation in Virginia will focus on burial traditions and skeletal biology, but will also consider the role of historic migrations, political affiliation, spoken language, and ceramic types as expressions of group identity. The focus on burial sites is both pragmatic, since human remains and funerary objects comprise the majority of archaeological collections eligible for repatriation, and scholarly, since bioarchaeological and mortuary analysis can shed light on behavioral practices as well as memory and identity. In particular, I argue that many of the approaches to cultural affiliation used in Virginia, especially the association of cultural identity at the scale of language families, archaeological cultures, and physiographic regions, are inappropriate. Instead, I propose that considering all available lines of evidence for

each repatriation case provides the best route to understanding layers of identity in Late Woodland and Early Historic Virginia.

In chapter two, I examine the history of museum collections and repatriation in the United States, both before and after NMAIA and NAGPRA. I also address the history of burial protection and repatriation in Virginia, reviewing state laws, archaeological perspectives, and successful repatriations. In chapter three, I consider literature on ethics and theories of identity and landscape that has been foundational to this thesis. This review highlights the role of theory in framing research questions and interpreting data. Chapter four reviews documentary history, geographic analysis, late-nineteenth and early-twentieth century ethnographic studies, linguistic data, archaeology, and skeletal analysis, discussing the ways they have been and are currently used to evaluate cultural affiliation and identity in Virginia. In light of theoretical discussions and available data, I reconsider cultural affiliation in chapter five, focusing on three regional case studies of the Piedmont, Coastal Plain, and Southside. In chapter six, I consider the future of repatriation in Virginia, calling archaeologists and all other parties involved in the repatriation process to consider several important questions and to recognize their legal *and* ethical responsibilities to Virginia Indians.

II. NMAIA, NAGPRA, AND REPATRIATION IN PRACTICE

I have seen more ancestors on shelves than I have seen alive and it has drained me emotionally, physically, and spiritually. It has changed my life forever.

Bobby Gonzalez, quoted in Graham and Murphy (2010:121)

I would argue that the reburial of the Chesapeake remains was the single most significant unifying event of recent years, bringing together members of the eight recognized tribes and members of federally recognized tribes from Virginia and throughout the country to hold a ceremony of mutual respect and celebration of a time before the coming of the Europeans to this continent.

Danielle Moretti-Langholtz (1998:281)

The Native American Graves Protection and Repatriation Act (NAGPRA, 1990) and its precedent, the National Museum of the American Indian Act (NMAIA, 1989) establish a basis for the protection of American Indian interments as well as recourse for the return of previously excavated or collected human remains and cultural items in the possession of universities, museums, and federal agencies. More than twenty years after their passage, NMAIA and NAGPRA have led to the development of important collaborative relationships between American Indian communities, museum professionals, archaeologists, and skeletal biologists. Alongside the development of post-processual archaeological theory, repatriation legislation has had a definite and permanent impact on the contemporary practice of archaeology by requiring consultation between researchers and modern-day tribes (Ferguson 1996, Rose et al. 1996, Killion 2001, Buikstra 2006, Graham and Murphy 2010). Even in Virginia, where, to date, American Indian tribes have been recognized by the state but not the federal government, some archaeologists, skeletal biologists, and museums professionals have made efforts to consult with Virginia Indians and include tribal leaders in decision making processes regarding ancestral places and remains (Dunham et al. 2003, Gallivan and Moretti-Langholtz 2007, Hantman et al. 2000, Moretti-Langholtz 1998, Rountree and Turner 2002).

Effective May 14, 2010, a new rule issued by the Department of the Interior creates opportunities for the disposition of culturally unidentifiable human remains⁵ to both federally recognized and nonfederally recognized Indian tribes. Despite its polarizing effect in anthropological and museum communities (Nash and Colwell-Chanthaphonh 2010; 43 CFR 10), this rule has the potential to benefit newly forged partnerships, particularly in states like Virginia where the limited definition of an “Indian tribe” under NMAIA and NAGPRA stunted some early efforts at repatriation (Mudar et al. 1998; National Museum of Natural History 1994).

Chapter two encompasses a discussion of the history and legal framework of NMAIA and NAGPRA as well as accounts of their implementation at various museums. In the first section, I examine the history of human remains collections in museums as well as the long struggle leading up to the creation of burial protection and repatriation laws at both the state and federal level. I outline the legal requirements of NMAIA and NAGPRA in the next section, including key revisions to NMAIA in 1996 and NAGPRA in 2010, and give examples of their implementation between 1989 and 2009. Reflecting upon twenty years since the passage of NAGPRA, I review current perspectives on the progress and challenges of repatriation in the United States, highlighting the need to balance priorities within and between communities, address the difficult question of government acknowledgement, and work with the inflexible definitions and requirements codified in NMAIA and NAGPRA. Finally, I examine the history and status of burial protection and repatriation in Virginia from the 1970s to the present, focusing on the attitudes of archaeologists and skeletal biologists regarding repatriation and detailing the few repatriations that have taken place in Virginia since the early 1990s.

⁵ “Culturally unidentifiable refers to human remains and associated funerary objects in museum or Federal agency collections for which no lineal descendant or culturally affiliated Indian tribe or Native Hawaiian organization has been identified through the inventory process” (43 C.F.R. 10.2 (e)(2)). Note also that because an *Indian tribe* is defined specifically as an organization acknowledged by the federal government (25 U.S.C. § 3001, Section 2(7)), human remains and funerary objects that may be culturally affiliated with a nonfederally recognized tribe – such as a tribe recognized by the state – will still be considered culturally unidentifiable (see also Bruchac 2010, McLaughlin 2004).

History

During the mid-nineteenth century, a growing interest in natural history led to the establishment of museums specializing in comparative zoology, archaeology, and ethnology. Institutions like the U.S. National Museum in Washington, D.C.⁶, the Peabody Museum at Harvard University, the American Museum of Natural History in New York City, and the Field Museum in Chicago were founded during this museum period in American history. While curators initially purchased the private collections of natural historians, this practice soon gave way to museum-sponsored collection strategies (Thomas 2000:53-56). Interests in comparative zoology also included collections of human skeletal remains. Skull collecting through the disturbance of indigenous burials or the collection of remains prior to burial was not a new avocation. For example, Thomas Jefferson, in his pursuits as a natural historian, excavated an earthen burial mound near his home at Monticello during the eighteenth century (Jefferson 1999:103-107; McGuire 1992:820). Sarah or Saartjie Bartmaan, an African individual of Khoi Khoi descent, was enslaved and put on exhibition in 1810s Britain and France; after her death, her remains were studied by French naturalists and were curated until their 2002 repatriation to South Africa (Kakaliouras 2012:211). During the 1840s, Dr. Samuel Morton collected a variety of crania – including those belonging to American Indians – in order to prove the “racial” superiority of Europeans and their descendants. The research of Morton and his contemporaries contributed to the development of the “Vanishing Red Man” theory, which was used by the United States government to justify Indian displacement and genocide (Ferguson 1996:64-65; Trope and Echo-Hawk 2001:11).

As the demand for human remains increased, curators sought the remains of American Indians who had been killed during military conflicts. An 1868 Order from the Surgeon General requested that American Indian remains should be collected for the Army Medical Museum.

⁶ Now the National Museum of Natural History, Smithsonian Institution.

Consequently, the remains of Cheyenne and Arapaho individuals killed during the Sand Creek Massacre in 1864 as well as Pawnee massacred by U.S. troops at Mulberry Creek, Kansas in 1869, among other victims of violent conflict, were sent to museums in the east for scientific study. Soldiers, anthropologists, and private individuals continued to collect and excavate American Indian remains well into the twentieth century, notwithstanding outrage from descendant communities. Many American anthropologists in the late-nineteenth and early-twentieth century, such as Franz Boas and George A. Dorsey, began their careers amassing large collections of American Indian remains on contract with natural history museums (Buikstra 2006: 390-391; Thomas 2000: 53-63; Trope and Echo-Hawk 2001:11-13). Similar excavations continued well into the twentieth century; Dr. Aleš Hrdlička oversaw the excavation of approximately one thousand individuals from Larsen Bay, Alaska, during the 1930s (Bray and Killion 1994). State cemetery protection laws almost always failed to protect Native American burial sites. For the purposes of these laws, the definition of “person,” “citizen,” and “human” applied uniquely to individuals of European descent.⁷ Additionally, cemeteries were defined based on an ethnocentric Euro-American standard, hence the variety of mortuary traditions practiced by American Indians were exempt from legal protection (Trope and Echo-Hawk 2001: 14-15).

Beginning in the mid-1960s, American Indian activists like Suzan Harjo and Vine Deloria increasingly lobbied for legislation supporting both burial protection and reburial (Preucel 2011). Reaction against incidents of burial disturbance in Iowa in the early 1970s – in which American Indian remains were curated while remains of European descent were reburied – led to the passage of the first state reburial law in 1975. This law provided support for the excavation, study, and reburial of remains threatened by construction. Burial codes passed in

⁷ Trope and Echo Hawk (2001:15) note that American Indians were not considered persons in the context of federal law until 1979, nor were they granted citizenship until 1924.

other states varied in rigor; the Arizona code restricted burial excavation time and allowed landowners to keep artifacts, while laws in states like Delaware and Nebraska applied both proactively and retroactively – thus providing outlets for the repatriation of American Indian remains already held in museum collections. Outside of state legal requirements, reburial sometimes took place at the request of direct lineal descendants (Buikstra 2006:391-393; Rose 1996:81, 88).

While some archaeologists and skeletal biologists showed early support for reburial initiatives, many others resisted. Researchers feared that the repatriation would significantly limit skeletal and archaeological collections available for future study, undermining the scope of future research. In the early 1980s, professional organizations like the American Association of Physical Anthropologists (AAPA) and the Society for American Archaeology (SAA) adopted anti-reburial positions, except in the cases where lineal descendants could be identified. However, the efforts of archaeologists like Larry Zimmerman, alongside American Indian activists, were central to shifting attitudes within the discipline. Negotiations were held at a 1989 inter-congress of the World Archaeological Congress in Vermillion, South Dakota, the symbolic site of violent conflict over a museum burial display in the 1940s. The result – the 1989 Vermillion Accord – promotes respect for the dead, their wishes, and the wishes of descendant or stakeholder communities, as well as respect for the scientific value of human remains, calling for negotiation between interested parties regarding the disposition of the deceased (Buikstra 2006:391-395). Buikstra (2006:395-396) also notes that the more humanistic, contextual push towards post-processual theories in archaeology beginning in the 1980s have allowed researchers to be more open to multivocality within historical narratives.

The first twenty years

In 1989, the Smithsonian Institution accessioned the collections of the New York-based Museum of the American Indian/Heye Foundation, renaming it the National Museum of the American Indian and stipulating that a new museum would be built on the national mall in Washington, D.C. The National Museum of the American Indian Act (NMAIA) also requires the Smithsonian Institution – in practice, the National Museum of Natural History (NMNH) and the new National Museum of the American Indian (NMAI) – to inventory collections of human remains and funerary objects,⁸ and send relevant inventories to federally-recognized American Indian tribes. Subsequently, a lineal descendant or culturally affiliated tribe could request the expeditious return of these items. A committee was created to oversee the process of inventory and return, resolving any associated disputes (Trope and Echo-Hawk 2001:20-22).

Congress passed the more comprehensive Native American Graves Protection and Repatriation Act (NAGPRA) in 1990. Applying to all federal agencies, museums, and educational institutions, this law establishes a similar process for the inventory and return of American Indian human remains and objects. However, NAGPRA includes definitions and requirements not specified in the original version of NMAIA. Most prominently, the law applies to sacred objects⁹ and objects of cultural patrimony¹⁰ as well as human remains and funerary objects, differentiating between funerary objects associated¹¹ and unassociated¹² with human

⁸ *Funerary object*: “an object that, as part of a death rite or ceremony of a culture, is intentionally placed with individual human remains, either at the time of burial or later” (20 U.S.C. 80q, Section 16(4)).

⁹ *Sacred object*: “specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents” (25 U.S.C. § 3001, Section 2(3)(C)).

¹⁰ *Object of cultural patrimony*: “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” (25 U.S.C. § 3001, Section 2(3)(D)).

¹¹ *Associated funerary objects*: “objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later,

remains in a museum collection. NAGPRA protects Native American burials on federal and tribal lands and, like NMAIA, requires that federal agencies and museums with Native American human remains or associated funerary objects in their collections send inventories to all federally recognized, culturally-affiliated tribes. These institutions also must notify culturally affiliated tribes with summaries of their collections that include unassociated funerary objects, sacred objects, and objects of cultural patrimony. Lineal descendants or tribes that can show lineage or cultural affiliation based on a preponderance of the evidence¹³ (rather than scientific certainty), may then also request the repatriation of human remains or objects under one or more the aforementioned categories. NAGPRA also established a review committee that would oversee the implementation of the law (Trope and Echo-Hawk 2001:22-31).

As amended in 1996, NMAIA requires the Smithsonian Institution to send summaries of unassociated funerary objects, sacred objects, and objects of cultural patrimony to culturally-affiliated tribes. While this change brought NMAIA into closer alignment with NAGPRA, there are still small but distinct differences between the two laws. NMAIA applies solely to the collections of the Smithsonian Institution and as such Smithsonian museums are exempt from NAGPRA. Funding is also established differently under the two laws: while the National NAGPRA office awards grants to tribes in order to support the expense of repatriation research and consultation with museums, repatriation offices at NMNH and NMAI operate on budgets independent of NAGPRA, directly supporting consultation visits for tribes. Each Smithsonian museum is under the jurisdiction of a separate review board and not under the NAGPRA review committee, nor are the repatriation offices within these museums required to publish notices of

and both the human remains and associated funerary objects are presently in the possession or control of a Federal agency or museum” (25 U.S.C. § 3001, Section 2(3)(A)).

¹² *Unassociated funerary objects*: “objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, where the remains are not in the possession or control of the Federal agency or museum” (25 U.S.C. § 3001, Section 2(3)(B)).

¹³ A “preponderance of evidence” means that only just over half of data presented should support a claim of cultural affiliation.

inventory completion or intent to repatriate in the Federal Register, as is required under NAGPRA. Whereas the body of repatriation legislation is most commonly referred to simply as ‘NAGPRA,’ this misnomer obscures the relative congruency of requirements under NMAIA and NAGPRA. Together, these two laws require compliance from all federal agencies and museums, including the Smithsonian, the National Park Service, and university museums. However, amendments to NAGPRA like the 2010 rule concerning the disposition of culturally unidentifiable human remains do not apply immediately to NMAIA and require an amendment to bring requirements of the two laws in concert.

Although many archaeologists and skeletal biologists were initially opposed to repatriation legislation, the first twenty years under the laws have seen many positive effects, such as the development and implementation of comprehensive standards for data collection from human skeletal remains (Buikstra and Ubelaker 1994) and the improvement of mutually beneficial relationships between American Indians, anthropologists, and museum professionals (Buikstra 2006:412-415, Ferguson 1996:68-69, Killion 2001:150-152, Rose 1996:92-94). Repatriation efforts have served as symbolic reparations for crimes committed by governments, militaries, citizens, and scientists, in turn forcing anthropologists and historians to come to terms with an ugly past (Graham and Murphy 2010:116-121, Killion 2001:151, Nash and Colwell-Chanthaphonh 2010:100, McLaughlin 2004:188).

The process of repatriation has been slow and fraught with complex legal, ethical, and anthropological questions (e.g. Lovis et al. 2004:176-181), not the least of which is the difficulty of mitigating conflicts between the priorities of interested parties, and interpreting and implementing inflexible legal language and definitions while maintaining the rigors of academic research. At the National Museum of Natural History, early repatriations included the return of victims of the 1864 Sand Creek Massacre to the Cheyenne (Killion 2001:156-157, Thomas 2000:215) and the reburial of individuals that Hrdlička had disinterred from Larsen Bay, Alaska

in the 1930s (Bray and Killion 1994). As of 2001, NMNH had received 80 requests for repatriation, of which 53 had been fulfilled (Killion 2001:153). Figures from 2004 report the repatriation of 3,323 individuals (MNI) (Buikstra 2006:396), while more recent findings from the Government Accountability Office note the cumulative return of the remains of 5,560 individuals and over 180,000 funerary objects from NMNH (GAO 2011:20).

Although the majority of American Indian tribes seek the return of human remains to reservations or ancestral lands, there are some exceptions. For example, members of the Zuni Tribe hold beliefs regarding the disposition of the dead that prevent the return of ancestral remains to reservations. Instead, remains continue to be curated at museums, under specific treatment protocols requested by the tribe. Other tribes, like the Wind River Shoshone and the Blackfeet Tribe are concerned about the accurate identification of human remains eligible for repatriation (Thomas 2000:215-216). While many American Indian tribes continue to prioritize the return of human remains over sacred and patrimonial objects (Graham and Murphy 2010:121), museums with small human skeletal collections like the National Museum of the American Indian receive a higher proportion of requests for cultural objects within ethnographic collections. For some Indian tribes – like the eleven tribes recognized by the state of Virginia – the stipulation that only Indian organizations acknowledged by the federal government are defined under NAGPRA as Indian Tribes and can therefore be considered culturally affiliated with human remains and funerary objects has stemmed the tide of the law’s positive effects.

Tribes and museum professionals also face the difficult task of determining cultural affiliation in compliance with NMAIA and NAGPRA. Cultural affiliation is determined when “there is a relationship of shared group identity which can be reasonably traced historically and prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable earlier group” (25 U.S.C. § 3001, Section 2(2)). This legal definition is predicated on the antiquated anthropological concept of static, bounded, homogenous cultural groups, the

identity of which are reflected materially as “archaeological cultures.” A number of publications addressing the implementation of repatriation legislation note the difficulty of determining cultural affiliation using given archaeological taxonomies, and the insufficiency of laws regarding the disposition of culturally unidentifiable remains (Buikstra 2006:399, 414; Echo-Hawk 2000: 268-269; Ferguson 1996:66; Killion 2001:154-155; Rose et al. 1996:91; McLaughlin 2004:193-196; Baker et al. 2001:76-77). Some archaeologists (e.g. Beisaw 2010, Bernardini 2005, Colwell-Chanthaphonh and Powell 2012, Dongoske et al. 1997, Liebmann 2008) have applied contemporary anthropological theories to the practice of assigning cultural affiliation; their work serves as a model for the determination of cultural affiliation in culturally sensitive and intellectually rigorous ways.

NAGPRA at 20

Despite its potential to serve as emancipatory legislation, the contemporary attitudes of many involved parties toward NAGPRA are often negative, focusing on noncompliance, long waits for repatriation and reburial, NMAIA and NAGPRA’s inapplicability to private property, and the aforementioned difficulties with determining cultural affiliation. Additionally, there are still clear conflicts among the priorities of American Indians, the academy, and the federal government as evidenced in the 2010 and 2011 Government Accountability Office (GAO) audits of institutions subject to NAGPRA and NMAIA and the 2010 enactment of a rule concerning the disposition of culturally unidentifiable human remains by the Secretary of the Interior. In her master’s thesis on the 2010 rule, Jessica Kinsey aptly discerns that “there is an obvious disconnect between the positions of Native Americans and researcher institutions that do want to give up their collections. In such disputes, the federal government, with less knowledge than either Native Americans or scientists on matters of culture or history, is given the authority to

mediate such matters” (Kinsey 2009:70-71). Each party’s varying priorities complicates an already difficult task.

Government Accountability Office reviews of both NAGPRA (2010) and NMAIA (2011) highlight the failures rather than the accomplishments of government institutions acting in compliance with the laws. For example, the GAO notes federal agencies’ failure to publish notices of inventory completion or to determine cultural affiliation, all prerequisites to completing the repatriation process. The report also details problems concerning the organization of information – like final records of repatriated remains and items – and making it available to involved parties (GAO 2010). The GAO audit of NMAIA focuses on the slow process of repatriation at the Smithsonian, attributing this problem to the law’s requirement “to use the best available scientific and historical documentation to identify the origins of its Indian human remains and funerary objects” (GAO 2011: Highlights). Additional criticisms include the museums’ failure to report repatriation activities to Congress – though this is not required in NMAIA – and the absence of a policy regarding the disposition of culturally unidentifiable human remains, alluding to the problems “solved” by the implementation of the 2010 Rule under NAGPRA (GAO 2011).

In 2010, the Secretary of the Interior implemented a significant amendment to NAGPRA regarding the disposition of culturally unidentifiable human remains. This rule lays out guidelines for the repatriation and reburial of human remains when cultural affiliation cannot be established. An Indian tribe must be recognized by the federal government in order to be eligible to request human remains and cultural items under NMAIA and NAGPRA. Therefore, remains or items that are affiliated with a nonfederally recognized tribe are considered culturally unidentifiable under the law (see McLaughlin 2004:193-194). The 2010 rule stipulates that culturally unidentifiable human remains and associated funerary objects excavated or collected from tribal lands or aboriginal territories may be returned to a contemporary tribe that has a

connection to those geographic areas. In the absence of such a tribe, the remains may be returned to another tribe or reburied under state or other law. The law also outlines provisions by which human remains may be returned to tribes that are not acknowledged by the federal government (43 C.F.R. 10.11; 75 F.R. 12403).

The academic community's response to the rule, which was first published in October 2007, has been conflicted and with negative perspectives, employing "a fiery and often patronizing tone resuscitated, sometimes explicitly, from the 1980s" (Nash and Colwell-Chanthaphonh 2010:101). Jordan Jacobs (2009) speaks out against the rule, arguing that it requires museums to lower their standards in the process of determining the recipient of human remains. Taking into consideration contemporary anthropological and archaeological theories of identity, he questions "the assertion that it is always possible to identify an extant community with the *best* connection – or 'cultural relationship,' which is as yet undefined to a past group" (Jacobs 2009:83). Jacobs argues that all stakeholders, including academics, should be considered when determining the disposition of culturally unidentifiable human remains. In contrast, Bruchac (2010) speaks out in support of the new rule, while still acknowledging the problematic process of working within NAGPRA definitions. She argues that the rule "should encourage broader consultation on affiliation, increasing the likelihood of more repatriations to non-federally recognized tribes" (Bruchac 2010:147).

These examples make it clear that the government's priority in NMAIA and NAGPRA compliance is just that – compliance with the letter of the law and expeditiously completing the repatriation process rather than prioritizing the rights and priorities of American Indian communities, museums, and the academy. However, the GAO's criticisms, albeit harsh, provide federal agencies, museums, and universities with ample suggestions for improving the repatriation process. In addition, the 2010 Rule creates new opportunities for nonfederally recognized tribes to be involved in consultations and to rebury ancestral remains.

Burial protection and repatriation in Virginia

Only tribes acknowledged by the federal government have standing to claim human remains or objects under NMAIA or NAGPRA (Echo-Hawk 2000:269). Although eleven present-day Indian tribes¹⁴ have been acknowledged by the Commonwealth of Virginia as of 2010, none have yet been recognized by the federal government (Martin 2010:54-56). However, repatriation legislation has had a significant impact on archaeological and bioarchaeological projects in Virginia; during the past fifteen years, archaeologists have increasingly included collaboration with descendant and stakeholder communities in their research plans (e.g. Hantman 2004; Hantman et al. 2000; Gallivan and Moretti-Langholtz 2007; Gallivan et al. 2009, 2011; Atkins 2009). However, active consultation and collaboration is not yet the status quo for archaeological and bioarchaeological projects in Virginia and some researchers working in the mid-Atlantic region continue to resist repatriation to nonfederally recognized tribes (e.g. Becker 2008).

As discussed earlier in this chapter, negative attitudes toward burial protection and repatriation were common leading up to and following the passage of NMAIA and NAGPRA. Virginia was no exception; clear resistance to the reburial of human remains and funerary objects was present into the 1990s. Articles published in the *Quarterly Bulletin of the Archaeological Society of Virginia* serve as a litmus test for attitudes towards repatriation between the mid-1970s and mid-1990s. Two publications from the 1970s address the legality of excavating American Indian burials, concluding that current state laws could not prevent this practice. R. Westwood Winfree (1973:158-161) outlines these laws, arguing that American Indian burials in Virginia are considered abandoned and therefore not covered under state law, nor could the descendants of the interred prove a relationship of kinship that would be required in order to succeed in a civil suit.

¹⁴ Cheroenhaka Nottoway, Chickahominy, Eastern Chickahominy, Mattaponi, Monacan, Nansemond, Nottoway, Pamunkey, Patowomeck, Rappahannock, and Upper Mattaponi.

“So much for the threat of ‘Red Power,’” he writes. “And lest our Indians think this attitude flippant and disrespectful, they should be reminded that no one has less of a spirit of desecration, and more of a feeling of reverence and respect for our Indians, living and dead, than our archaeologists” (Winfrey 1973:161). In an article outlining standards for burial excavation in Virginia, Michael Barber (1975:53) states that “if one is excavating an unidentified, unmarked burial in an aboriginal or colonial context for scientific purposes, one should be on firm legal ground.”

Turner (1995) notes that the belief that Virginia Indian burials were exempt from state burial protection codes prevailed into the mid-1980s, when the Virginia Attorney General specified that all human remains are protected under the Code of Virginia.¹⁵ At that point, a court order was required in order to excavate skeletal remains – a problematic and often flouted requirement. As such, archaeologists at the Virginia Department of Historic Resources (VDHR) facilitated revisions to the Code of Virginia and the Virginia Antiquities Act in 1989, by which the excavation of human remains was allowed with a permit from the VDHR. Turner outlines the permits issued between 1989 and 1994, which allowed the excavation of 361 individuals, 77 (21%) of whom were Virginia Indian. Eighteen of those individuals were reinterred in 1993 (Turner 1995:4).¹⁶

Five years after the passage of NAGPRA, Virginia archaeologists and bioarchaeologists published several articles discussing the law’s impact in Virginia. Boyd (1995:2) argues that while repatriation motivates skeletal biologists to synthesize and publish data, the reburial of skeletal remains would prove an impediment to furthering knowledge about Virginia history. The majority of the article is devoted to the knowledge gained through bioarchaeological studies of Virginia Indian skeletal remains, but Boyd also proposes the comparison of DNA drawn from

¹⁵ See also Kiser (2008) for details on burial protection in the Code of Virginia.

¹⁶ Although not specified in the article, these remains appear to be from Paspapegh/Governor’s Land (44JC308).

Virginia Indian skeletal remains to contemporary populations as a means of identifying ancestor-descendant relationships and determining the ethnic and genetic affiliation of culturally unidentifiable remains (Boyd 1995:6). This assertion calls to mind debates concerning the connection between genetic (or racial) and cultural identities, which made headlines during the nearly ten year dispute over Kennewick Man (see Buikstra 2006:402-406, Thomas 2000). The role of DNA or cranial metrics in determining identity remains a divisive issue among skeletal biologists today (Buikstra 2006:400, Kakaliouras 2008:44-46). Keith Egloff (1995) makes a similar argument about the importance of funerary objects from Virginia Indian sites, highlighting their importance in museum exhibits and public education. Although Egloff contends that the repatriation of funerary objects would greatly diminish the role of the VDHR from fulfilling the central goal of public education, he concludes with a call for respect among interested parties, so that different perspectives can be reconciled for “a greater good” (Egloff 1995:26).

In Virginia, NMAIA and NAGPRA’s effects have been noticeable but restricted compared to many other states. Four repatriations took place in the first twelve years after NAGPRA’s passage: in 1993, 18 sets of human remains were reburied after their excavation from the Paspahugh site (44JC308). Chief Emeritus Oliver Perry of the Nansemond Tribe (now deceased) oversaw this reburial as well as the repatriation and reburial of 64 sets of human remains from the Great Neck Site (44VB7) in 1997 (Gallivan and Moretti-Langholtz 2007:57, Moretti-Langholtz 1998:268-281, Rountree and Turner 2002:228, Waugaman and Moretti-Langholtz 2006:62-63, 62 F.R. 14701-14702). Human remains excavated from the Rapidan Mound site (44OR1) between 1988 and 1990 were reburied by the Monacan Indian Nation in 1998 (Dunham et al. 2003:116, Waugaman and Moretti-Langholtz 2006:63), who in 2000 also reburied the remains of 105 individuals excavated from the Hayes Creek Mound site (44RB2) in 1901 (Valentine 1903, Hantman et al. 2000, 65 F.R. 6622-6623). A notice of inventory

completion published in 2009 affiliates human remains disinterred from caves in southwestern Virginia with the three federally recognized Cherokee tribes (74 F.R. 21389-21390).

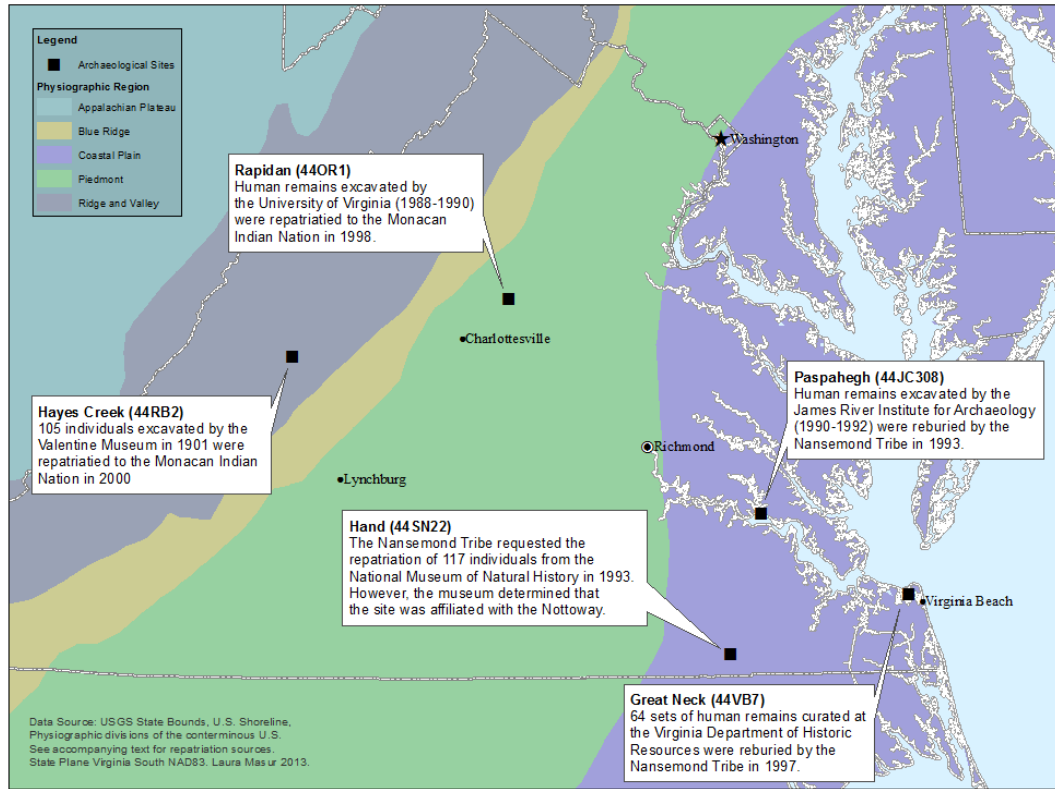


Figure 2: Archaeological sites involved in repatriation cases, 1993-2000

It is notable that all repatriation efforts in Virginia have been carried out under NAGPRA rather than NMAIA. Virginia Indians have had success reburialing ancestral remains in the possession of state-level entities like the University of Virginia and the VDHR, but not the Smithsonian Institution. Then Assistant Chief Oliver Perry's 1993 request to the National Museum of Natural History for the repatriation of human remains from the Hand Site (44SN22) led to a 1994 report that determined the site was affiliated with an Iroquoian-speaking group, presumably Nottoway. However, the report recommended that the 117 individuals excavated from the Hand Site should be retained in NMNH collections because there were no longer any

federally recognized Nottoway groups (Mudar et al. 1998, National Museum of Natural History 1994).

While early repatriations served as a unifying force for Virginia Indians, repatriation efforts seem to have reached a standstill. Danielle Moretti-Langholtz (1998:281) estimates that about 1,400 sets of human remains from Virginia are held in museum collections, particularly at the National Museum of Natural History.¹⁷ State recognition of Virginia Indian tribes appears to be an adequate credential for consultation with state-level universities and agencies, but federal recognition remains nearly always essential to dealings with federal agencies and museums like the Smithsonian Institution.¹⁸ It remains to be seen whether the 2010 Rule on the disposition of culturally unidentifiable human remains will have a significant effect on repatriation efforts in Virginia or whether the significant proportion of human remains housed at the National Museum of Natural History will be held until one or several Virginia Indian tribes are acknowledged by the federal government. The future of repatriation in Virginia is hinged both on legal definitions of “Indian tribe” and specific museum policies regarding consultation with nonfederally recognized Indian tribes as well as the official status of Virginia Indian tribes at both the state and federal level. Yet beyond legal questions, the way that the cultural affiliation of Virginia Indian archaeological cultures and burial traditions are determined will be crucial to both intertribal relations and the success of repatriation efforts.

¹⁷ National Museum of Natural History statistics from 2007 list 1,862 sets of human remains from Virginia, though at least some of these remains are from Euroamerican archaeological sites (National Museum of Natural History 2007).

¹⁸ In select cases, human remains from SI collections (specifically NMAI) have been repatriated to state recognized tribes or a collective of state recognized tribes and sponsoring federally recognized tribes.

III. ETHICS AND THEORY

Archaeological ethics provide a means of regulating practice and negotiating politics, of formulating how we as archaeologists deal with others – the people whom we study, their descendants, and all who are affected by the outcomes of our work.

Mary Beaudry (2009:26)

In practice, most tribes and museums have avoided the thorny theoretical thicket of modern identity studies altogether in the implementation of NAGPRA...[they] have chosen to simply maintain the status quo and assume a relatively straightforward link between modern tribes and the “identifiable earlier groups” in question.

Matthew Liebmann (2008:78)

The line between legal mandates, political activism, ethics, and critical theory is poorly defined within anthropology. While professional ethical codes distinguish between these terms (e.g. Gusterson et al. 2012:3), they are difficult to separate in practice, particularly in NAGPRA compliance. Ethics, “the rules or standards of behavior that govern how a profession is practiced” (Ferguson 1996:73), inform, but are distinct from legal requirements enforced by various levels of government. In many cases, professional ethics require consideration beyond the law. Likewise, *critical theory*, defined as “a set of varied attempts to adapt ideas from Marx to the understanding of events and circumstances of 20th century life” (Leone et al. 1987:283), alongside postmodern theories, influence not only scholarly research but political activism and law.

Though interrelated, these important subjects are considered here separately. In the second chapter, I discussed legal and political issues relating to repatriation; in this chapter, I focus on the ethical codes and contemporary theories of identity and landscape that inform the process by which archaeologists and NAGPRA professionals determine cultural affiliation. While it may appear that NMAIA and NAGPRA compliance takes place in a theoretical vacuum, culture history and the direct historical approach, far from value neutral, frequently inform determinations of cultural affiliation. Several recent studies (e.g. Beisaw 2010, Bernardini 2005,

Colwell-Chanthaphonh and Powell 2012, Dongoske et al. 1997) exemplify the ways that applying postmodern theories can lead both to successful repatriations and to empowering collaborative research.

The first section reviews contemporary perspectives on ethics and ethical practice in anthropology, especially ethical codes that govern interaction with descendant and stakeholder communities. Next, I consider theoretical problems that have resulted from the definitions and categories of NMAIA and NAGPRA and the way that researchers have responded to these problems. In the third section, I assess literature on the relationship between ethnic identities and landscape, discussing the ways that archaeological cultures have informed cultural affiliation under NAGPRA in conflict with contemporary theories of identity. Finally, several examples of cultural affiliation in the Southwest and mid-Atlantic demonstrate how postmodern theories have helped to resolve more complex issues of identity, spatiality, and temporality.

Ethics in (bio)archaeological practice

Ethics is central to the contemporary practice of archaeology and bioarchaeology, especially when research will significantly involve or impact contemporary communities. The landmark 1989 Vermillion Accord (see chapter two) was foundational to the ethical responsibilities that are now essential to the discipline. As stated in the most recent (2012) American Anthropological Association (AAA) code of ethics, a researcher's responsibility is to not only conserve physical collections and data, disseminate findings, and maintain intellectual honesty, but also to find balance between conflicting ethical responsibilities. "Anthropologists must weigh competing ethical obligations...recognizing that obligations to research participants are usually primary. In doing so, obligations to vulnerable populations are particularly important" (Gusterson et al. 2012:9). The authors distinguish between ethics and morals, political positions, and laws (Gusterson et al. 2012:3).

Beaudry (2009:19) states that professional ethics are “shared ideals, values, and guidelines for right conduct of members of a particular profession.” She outlines important aspects of the ethical practice of commercial and academic archaeology, arguing that training in ethics should be a key component of graduate training in archaeology. While legal burial protection codes like NAGPRA outline specific requirements governing the excavation and reburial of American Indian remains, ethical considerations extend beyond legal mandates. Beaudry discusses the New York African Burial Ground and an early colonial burial ground in Cape Town, South Africa as examples of public and stakeholder engagement that rise above legal codes. She also notes that “it goes beyond saying that our sensitivity toward stakeholders in the past cannot be limited to grave sites alone, but to all aspects of the material record that speak to the conditions of life for groups whose descendants are affected by the results of what we do” (Beaudry 2009:21). Ethical practice also involves full consideration of available resources, including archaeological data, historical documentation, and oral history, in an interdisciplinary or “transdisciplinary” approach (Beaudry 2009).

Michael Blakey’s (2010) discussion of ethics at the New York African Burial Ground demonstrates how the ethical considerations discussed by Beaudry have been operationalized. He outlines a four-part model used during the African Burial Ground project: vindicationist and socially empowering critical theory, public engagement with descendant communities, the incorporation of multiple lines of evidence, and an African diasporic frame of reference. Particularly important is the implementation of a client model that recognizes obligations to both the ethical client (descendant community) and the business client (funding source), but privileges the prerogatives of the ethical client. Blakey advocates finding a balance between scholarship and community interests and also suggests using a “‘tool kit’ of theories for purposes of different research questions” (Blakey 2010:531). Furthermore, “we need to be more circumspect and aware

of how our interpretations may be used and influenced by societal interests beyond the academy walls” (Blakey 2010:527).

Whereas Beaudry (2009) and Blakey (2010) illustrate situations in which ethical codes supersede legal requirements, literature on collaboration between archaeologists and American Indians is usually framed in terms of NAGPRA compliance and ancillary changes to the discipline. Several prominent archaeologists have discussed these changes in recent decades. Joe Watkins (2004) reviews indigenous views on archaeological practice worldwide, highlighting conflicts between science and traditional worldviews, written and unwritten history (see also Echo-Hawk 2000), and the contemporary politics of heritage and ownership. Ferguson (1996) writes specifically about the effect of NAGPRA on archaeological practice in the United States, describing how legally-mandated consultation and postprocessual theories have led to collaborative projects and the incorporation of multiple viewpoints and lines of evidence into research. Rubertone (2000) assesses the history of Native American historical archaeology, emphasizing a critical approach that incorporates multiple lines of evidence.

In addition to collaborative archaeological projects like Northern Arizona University’s program with the Navajo Nation and the Hopi Tribe (Ferguson 1996:69), there have been several successful collaborative bioarchaeological projects. Physical anthropologist Phillip Walker of UC Santa Barbara (now deceased) collaborated extensively with the Chumash in Southern California; Karl Reinhard at the University of Nebraska has worked collaboratively with the Omaha Tribe since the late-1980s (Buikstra 2006:406-407, Thomas 2000:216). In Virginia, a collaborative relationship between Jeffrey Hantman, Gary Dunham, and Debra Gold and the Monacan Indian Nation led to significant research on accretional burial mounds and two repatriations (Dunham et al. 2003; Gold 2000, 2004; Hantman 2001, 2004; Hantman et al. 2000). Collaboration between anthropologists at the College of William and Mary and coastal Virginia Indian tribes has contributed to the Werowocomoco Research Project and reanalysis of the Chickahominy River

Survey as well as the King William Reservoir Project (Adkins 2009; Gallivan and Moretti-Langholtz 2007; Gallivan 2009; Gallivan et al. 2009, 2011). These relationships, initiated in response to the legal requirements of NAGPRA and ethical responsibilities to descendant communities, have also influenced the directions of archaeological and bioarchaeological research in Virginia.

Ethics, epistemology, and postcolonial theory

Navigating an array of seemingly contradictory legal and ethical obligations in the practice of repatriation is not a simple task. NAGPRA practitioners are charged both with legal compliance and with following the ethical codes of professional organizations like the AAA, a task that is greatly complicated by the definitions and categories codified in repatriation legislation. It has been rightly argued (e.g. Gosden 2001) that NMAIA and NAGPRA are built on antiquated notions of cultural stasis and an essentialized “native” identity. Indeed, postcolonial archaeologist Chris Gosden (2001:242) argues that repatriation legislation requires American Indians “to prove that they are not creolized or hybrid cultures, but have maintained some essential identity through time and into the present.” While Gosden (2001) finds it impossible to reconcile the language of NAGPRA with contemporary concepts of identity and cultural change, Liebmann (2008) employs the postcolonial concept of hybridity to make sense of change and continuity in order to satisfy legal requirements and facilitate empowering scholarship. Additionally, Matthews and Jordan (2011) and Tweedie (2002) discuss the difficulties inherent repatriating objects that fall under NAGPRA’s non-archaeological categories: sacred objects and objects of cultural patrimony. Foundational to these categories are widespread assumptions about religious practice and communally held property among North American Indians. Matthews and Jordan (2011) and Tweedie (2002) deconstruct the assumptions behind NAGPRA’s categories, calling for a more open and flexible perspective towards items claimed for repatriation under

these categories. In this section, I will discuss the relationship between ethics and theory in NAGPRA, focusing specifically on these two debates: intellectual honesty and the practice of NAGPRA among postcolonial archaeologists, and issues arising from the differences between NAGPRA's categories and various native epistemologies.

Gosden (2001:241) outlines the foundation of postcolonial theory, "a series of discussions about the sorts of cultural forms and identities created through colonial encounters." Postcolonial theory moves away from essentialized notions of culture and towards a universal recognition of agency and the importance of involvement in contemporary political struggles; central is the idea that colonialism led to the development of hybrid and creole cultures rather than static and separate identities (Gosden 2001:241-243). In particular, Gosden discusses the 1991 repatriation of human remains to Larsen Bay, Alaska, purporting that the repatriation occurred for political reasons and that "the Larsen Bay villagers may not have been able to mount a claim to all the remains that would have been upheld by the law as it then stood" because biological and archaeological evidence suggested a break in cultural continuity and a shift towards biological and cultural hybridity (Gosden 2001:253). He argues that archaeologists must be more open to different types of knowledge, including oral history and contextual, spatial knowledge and should seek to influence the direction of relevant lawmaking (Gosden 2001:258).

Liebmann (2008) acknowledges the argument that NAGPRA and its definition of cultural affiliation¹⁹ are incompatible with contemporary anthropological theory, "that NAGPRA utilizes an untenable concept of identity that contradicts contemporary social theory and, as a result, is difficult, if not impossible, to implement in an intellectually honest manner" (Liebmann 2008:74). However, Liebmann (2008) critically applies postcolonial theory to NAGPRA, arguing that the definition of cultural affiliation is more malleable than others have allowed. He highlights the

¹⁹ *Cultural affiliation*: "there is a relationship of shared group identity which can be reasonably traced historically and prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable earlier group" (25 U.S.C. § 3001, Section 2(2)).

importance of the word 'relationship' in the definition of cultural affiliation, suggesting that it allows for a more flexible understanding of changes in identity through time. According to Liebmann, the postcolonial concept of hybridity, "the complex transcultural forms produced through colonization that cannot be neatly classified into a single cultural or ethnic category" (Liebmann 2008:83), can be used to interpret classes of material culture, like Lakota star quilts, which integrate native and Euroamerican ideas and practices. The concept of hybridity can be used to subvert traditional colonial narratives, allowing native people to combat essentialist notions of identity, while still establishing cultural connections with material culture (Liebmann 2008).

Theoretical and epistemological problems in NAGPRA are not limited to skeletal and archaeological collections. NAGPRA requires that items held in non-archaeological (or ethnographic) collections are claimed as either objects of cultural patrimony or sacred objects.²⁰ However, these bounded, inflexible, western categories do not allow for differences between various American Indian worldviews and the dominant society, complicating an already difficult process. Christopher Matthews and Kurt Jordan (2011) explore problems encountered by American Indians who seek to repatriate items that they consider sacred. The authors employ a critical Marxist perspective, recognizing the problems created by ideologies – particularly the masking ideology of secularism prevalent in American society – during the repatriation process. Controversies over attempts to repatriate Haudenosaunee (Iroquois) wampum belts, understood to be sacred by the Haudenosaunee but civil by the dominant society, date back to the 1960s. The authors argue that the division between sacred and secular, as well as other dualistic divisions, must be deconstructed in order to understand past and contemporary societies in which these categories do not exist. This process will allow the "morally and ethically correct" practice of

²⁰ There are some cases in which items are claimed under multiple categories; certain objects held in ethnographic collections today were intentionally left at Alaskan Native burial sites and thus are considered both unassociated funerary objects and sacred objects.

repatriation to move further outside the realm of ideological secularism (Matthews and Jordan 2011).

Similar problems have been encountered by other American Indian communities. For the Makah of northwest Washington, objects associated with whaling, used both in preparation and for the whale hunt itself, are considered sacred. Yet because these objects are held as private property, they cannot be claimed as objects of cultural patrimony, nor does a secularist American worldview consider them to be sacred (Tweedie 2002:14-16). However, flexibility in the interpretation of cultural and legal categories can lead to successful repatriations: whaling objects were repatriated from the National Museum of the American Indian to a Makah elder in March 2012 (Lauren Sieg, personal communication, see also Buchanan 2011). Repatriation of cultural objects under the categories of NAGPRA requires openness to a wide array of epistemologies regarding on the role of sacred practices, objects, and property holding across North America.

Identities and boundaries

Cultural affiliation has been called “the cornerstone of NAGPRA” (Lovis et al. 2004:177), but the aforementioned debate among postcolonial archaeologists is demonstrative of its controversial nature. Repatriation legislation requires NAGPRA practitioners to establish “a relationship of shared group identity...between a present-day Indian tribe...and an identifiable earlier group” (25 U.S.C. § 3001, Section 2(2)). Traditionally, an earlier group is identified as an *archaeological culture*, defined by Childe (1929:v-vi) as “certain types of remains – pots, implements, ornaments, burial rites, house forms – constantly recurring together.” The use of this term is predicated on a normative culture concept, which holds that cultural practices and beliefs within a group of people reflect a set of norms or rules. A group who followed these norms would, subsequently, produce and use relatively homogenous material culture that would change little unless they interacted with other individuals or groups (Jones 2007:45). Anthropologists in

the late nineteenth and early twentieth century thought that each distinct, bounded group of people, synonymous with an ethnic group, also spoke a unified language (Díaz-Andreu and Lucy 2005:2, Jones 2007, Lucy 2005:87-88). Such culture historical models, which tracked the origin and spread of archaeological cultures, shaped the course of most of twentieth century archaeology (Díaz-Andreu and Lucy 2005:2-3). Even with the advent of “New Archaeology” at midcentury, the prevailing archaeological culture concept changed little and even today, much of “prehistoric” archaeology is built on the assumption that material culture distributions represent bounded, homogenous cultural groups (Jones 2007:46-47, Lucy 2005:89-91).

Given the history of the culture concept (see Stocking 1982:195-233), archaeological cultures, and culture areas, the definition of cultural affiliation is unsurprising. The task of NAGPRA practitioners is to establish a connection between easily identifiable archaeological cultures and federally recognized Indian tribes using one of several allowable lines of evidence. However, anthropological and archaeological research pursued since the 1960s (see Barth 1969, Hodder 1978, Shennan 1978) complicates the relationship between identity and the use of material culture over space and time. Following contemporary identity theory, identities are not “objective, inherent, and primordial” (Díaz-Andreu and Lucy 2005:2), but “fluid, dynamic, and contested” (Jones 2007:47). Nor is there a direct linkage between cultural practices, material culture, language, and ethnicity (Jones 2007, Lucy 2005:91). In this section, I introduce contemporary theories of identity and landscape that have informed the course of anthropological research in recent years. These theories, I argue, require NAGPRA practitioners to think more deeply about the methods they use to determine cultural affiliation. These theories do not inhibit the repatriation process, but allow NAGPRA practitioners to approach the process with greater cultural sensitivity and, in some cases, affiliate previously culturally unidentifiable human remains.

Contemporary archaeological and bioarchaeological studies of identity (e.g. Díaz-Andreu et al. 2005, Insoll 2007, Jones 1997, Knudson and Stojanowski 2009) are diverse and multifaceted. They consider many aspects of group and individual identity, such as age, gender, disability, ethnicity, religion, class, and status and seek to interpret the means by which these varied identities are expressed in the material record. For the purposes of this thesis, I will focus on theories of ethnic and linguistic identity, which are most appropriate for drawing connections between past and present American Indian groups. Jones (1997) defines *ethnicity* as “that aspect of a person’s self-conceptualization which results from identification with a broader group in opposition to others on the basis of perceived cultural differentiation and/or common descent” (Jones 1997:xiii). Contrary to previous definitions of archaeological cultures and their association with ethnicity, contemporary views recognize ethnicities to be chosen, and distinctly *in opposition to* others rather than arising from geographic and cultural isolation (Lucy 2005:96).

In *Ethnic Groups and Boundaries* (1969), Fredrik Barth seeks to debunk the “simplistic view that geographical and social isolation have been the critical factors in sustaining cultural diversity” (Barth 1969:9). People, Barth argues, constantly move across boundaries, and the maintenance of social relations across those boundaries solidifies, rather than erases, ethnic difference (Barth 1969:9-10). Stephen Shennan (1978) and Ian Hodder (1978) question the principle that group identities are directly aligned with material culture, arguing instead that people use material objects in actively constructing their identities (Buikstra and Scott 2009:28). Shennan (1978) challenges the concept of a qualitatively deduced archaeological culture, as a reflection of human group territoriality, arguing that there should be a greater focus on the flow of objects and on behaviors associated with material culture.

Difference, as represented in material remains and nonmaterial attributes like language, does not always reflect ethnicity. In *Symbols in Action* (1982), Hodder uses ethnographic studies to show that while the use and distribution of certain items correlates with ethnicity, other items

do not follow expected patterns. He determines that groups choose to “use, manipulate, and negotiate material symbols” as a strategy for interacting with other groups, whether these groups are formed along lines of ethnicity, age, or gender (Hodder 1982:185, Díaz-Andreu and Lucy 2005:6-7). Meskell (2001:190) concurs that while certain “markers” such as foodways and household arrangements can be good reflections of ethnicity, others like language or pottery may not be. She argues that “it is not enough to provide a list of salient identity markers, we must interrogate the very foundations of our imposed categories and try to understand social domains in their cultural context” (Meskell 2001:197). A contextual framework, according to Jones (2007, 2010) is also necessary for studying style. If a researcher bases stylistic analysis on the normative assumption that change is regular and gradual, occurring constantly over time, this will obscure any variations that could lend themselves to studying ethnicity. Whenever possible, methods exterior to seriation and stratigraphy, such as absolute dating and historical sources, should be used to date archaeological contexts (Jones 2007:52-53). These methods would clarify debates on style, function, and ethnicity that date back to Binford (1973) and Bordes (1973) (Lucy 2005:91).

These concepts – individual choice and the active construction of identities through the use of material culture – are foundational to contemporary identity theory. Although habitus (Bourdieu 1977) structures the way people understand and live in the world, there is a greater emphasis on the role of individual agents in social practice and transformation. As such, material remains are not a direct representation of social structure or any other past reality, but rather a reflection of the materiality that shaped and was shaped by past social practices (Díaz-Andreu and Lucy 2005:5-6). Jones (2007, 2010) proposes a practice theory of ethnicity that contextually considers agents’ notions of their own identity. She draws from Bourdieu’s concept of habitus, suggesting that ethnicity is expressed in both “inscription” (writing, art, symbolism) as well as “incorporation” (everyday practices, performance, and bodily comportment) and that these are

reflected differentially in the historical and archaeological records. Ethnicity cannot be understood fully without both lines of evidence.

Buikstra and Scott (2009:28-29) propose that a practice theory of ethnicity is useful for interpreting bioarchaeological evidence as well. They also suggest that ethnicity can be studied skeletally through embodiment, “the manner in which the body is shaped individually and socially during ontogeny” (Buikstra and Scott 2009:44). Musculoskeletal markers, cultural modifications to the skeleton like cranial modification, and contextually-considered inherited features can be indicative of social identity and not simply biology or “race.” Indeed, there are great benefits to studying both the physical and social body, alongside historical documentation and material culture (Buikstra and Scott 2009:25, Knudson and Stojanowski 2009:5-7, Lucy 2005:92-93).

Language, alongside history, material culture, and bioculture, is useful in the study of identity. While early culture historical models aligned language and culture with ethnicity, numerous studies refute this idea. Language, like material culture, can be used strategically in the negotiation of identity. “Language change can be a strategic choice in response to political, economic and cultural factors, and the possible role of specialist languages (trade, prestige, gender-associated) should be considered” (Lucy 2005:92). Bilingualism is extremely common and anthropological case studies represent ethnic groups that share no common language (Lucy 2005:92). Linguist Michael Silverstein (1997:127) questions the assumption that “stable, language-bounded, one-language cultural units” were the norm for Native Americans before the arrival of Europeans in the Americas. Rather, plurilingualism was often present within American Indian speech communities, which often did not overlap strictly with language communities²¹ and other types of cultural communities. Silverstein offers an ethnohistorical

²¹ According to Silverstein, a *speech community* is defined as a group of people who regularly communicate with each other and obey certain “rules of use,” while a language community is a population that adheres to a specific language or dialect (Silverstein 1997:129).

study of communication in order to “distinguish the organization of people’s relationships in language and speech communities from named ethnic and other cultural or sociopolitical units” (Silverstein 1997:130). The accepted use of language families and culture areas to map out bounded “communities,” which are used to define Native Americans and determine cultural affiliation thus misses the potential for cultural complexity and multivalency (Silverstein 1997). Silverstein’s arguments echo the basic principles of identity theory.

Theories of landscape also provide important ways of understanding differential expressions of identity in the archaeological record. Rather than thinking of cultural affiliation in terms of bounded geographic spaces, it is useful to conceptualize it in terms of movement across landscapes and the (re)definition of social, political, and linguistic identities. Ingold (2010) lays out a theoretical framework for examining landscape within archaeology and anthropology. Critical to this framework is the concept of a “dwelling perspective,” by which “the landscape is constituted as an enduring record of – and testimony to – the lives and works of past generations who have dwelt within it, and in so doing, have left there something of themselves” (Ingold 2010:59). Ingold discusses three key terms: landscape, temporality, and taskscape. Landscape, “the world as it is known to those who dwell therein, who inhabit its places and journey along the paths concerning them” (Ingold 2010:62) is inseparable from temporality, a conception of time that is based on the relationship between past and future rather than the delineation of concrete, isolated events, and taskscape, the array of related activities that “are the constitutive acts of dwelling” (Ingold 2010:64). Drawing together aspects of Marxist and practice theory, the author seeks to do away with both the fundamental separation of landscapes, temporalities, and taskscapes and the metaphorical boundaries between sub-disciplines. This perspective is reminiscent of Matthews and Jordan’s (2011) discussion of cultural categories – calling for more openness to the variety of ways cultural groups understand space, time, and dwelling (Ingold 2010:59-69).

The work of Keith Basso among the Western Apache demonstrates the way that one group of native people conceptualize the landscape. He writes:

Places, to be sure, are frequently mentioned in anthropological texts (“The people of X...,” “The hamlet of Y...,” “The market-place at Z...”), but largely in passing, typically early on, and chiefly as a means of locating the texts themselves, grounding them, as it were, in settings around the world...Apache constructions of place reach deeply into other cultural spheres, including conceptions of wisdom, notions of morality, politeness and tact in forms of spoken discourse, and certain conventional ways of imagining and interpreting the Apache tribal past” [Basso 1996: xiv-xv].

I mention this as a means of contextualizing the way that early European colonists and Virginia Indians discuss space and landscape. When determining cultural affiliation, many academic researchers use a “People of X...” perspective based on historical accounts as well as burial traditions and ceramic types (see Custer 1986, MacCord 1991). These accounts should be considered, but with trepidation, and whenever possible should be discussed alongside native accounts in order to achieve both legal compliance and socially empowering research.

One archaeological theory of mortuary landscapes and identity is presented in Buikstra and Charles’ (1999) study of Mississippian mounds and territoriality. Buikstra and Charles investigate large complexes of burial mounds in floodplains and on bluff-tops in west central Illinois. Early work was guided by “Hypothesis 8,” (see Saxe 1970, Binford 1971, Rakita and Buikstra 2005:1-11) a processual theory that connects “the development of specialized, permanent and bounded areas for exclusive disposal of the dead to ritual affirmation of corporate group control of crucial, restricted resources” (Buikstra and Charles 1999:203). Yet the postprocessual critique of this hypothesis emphasizes the fact that mortuary ritual can be manipulated to serve the needs of the living. The authors discuss a variety of burial traditions, located in different geographic spaces across time, arguing that group identity is sometimes expressed and negotiated through competitive grave offerings – shown by quantitative rather than qualitative differences in the archaeological record. Thus the determination of ethnic or specific

kin-related identities is much more difficult and mortuary contexts reflect the priorities of the living as well as the social rank of the dead (Buikstra and Charles 1999).

It is clear from the theories discussed in this section that cultural affiliation should be determined, wherever possible, using multiple lines of evidence. Indeed, NAGPRA specifically outlines ten categories of evidence²² by which linkages between past and present groups can be established. In some cases, oral history or tradition alongside postmodern theories of identity may help to clarify archaeological, bioarchaeological, linguistic, historical, and anthropological evidence. Boundaries, whether physical boundaries between ethnic groups and across landscapes, or metaphorical boundaries between disciplines and lines of evidence, are rarely as distinct as culture historical models would lead us to believe. Nor does a theoretical framework used to interpret patterns represent reality. “Hybridity,” Liebmann (2008:85) notes, “is not an ethnographic object in and of itself but, rather, a theoretical lens that can prove useful for viewing familiar ethnographic objects in a new light.” It is the ethical responsibility of NAGPRA practitioners to consider the history and context of both their theoretical positions and the data they use to determine cultural affiliation.

Theorizing cultural affiliation

On several occasions, archaeologists have looked to theory in order to resolve problems of cultural affiliation. This is particularly the case when there is a history of migration across landscapes – both before and after the arrival of Europeans. Four case studies, two from the American southwest and two from the mid-Atlantic, show how collaborative, theoretically informed research can shed new light on difficult cases of cultural affiliation. In the southwest, cultural affiliation is often clearer in language, religious practices, and clan and lineage

²² “Cultural affiliation is established when the preponderance of the evidence — based on geographical, kinship, biological, archeological, linguistic, folklore, oral tradition, historical evidence, or other information or expert opinion — reasonably leads to such a conclusion” (25 U.S.C. § 3001, Section 2(2)).

movements than archaeological cultures or present-day tribal affiliation (Dongoske et al. 1997, Bernardini 2005). The mid-Atlantic cases demonstrate how kinship ties, despite significant time depth, structured the ways that American Indian communities constructed their identities (Beisaw 2010, Colwell-Chanthaphonh and Powell 2012). These cases should be used as examples of a theoretically-informed repatriation process that places indigenous knowledge on par with “scientific” evidence.

Dongoske and colleagues (1997) explain the conflict between the way archaeologists and American Indian groups understand cultural affiliation. They specifically look to Hopi and Zuni examples, which show that the use of material culture is secondary to religious beliefs and language in the contemporary definition of ethnic identity. Though this makes determining cultural affiliation a challenge, other lines of evidence like oral history, ethnographic data, folklore, and biology are also specifically allowable under NAGPRA. The authors particularly advocate the use of oral history in the southwest rather than archaeological cultures, which do not always line up with cultural, ethnic, and tribal affiliations (Dongoske et al. 1997:604-606). Bernardini (2005) also calls on archaeologists to reevaluate traditional culture area or culture historical models when working in repatriation. He advocates considering time rather than space as a major organizational principal for social identity. Bernardini, like Lucy (2005:99-100) also suggests that identity be understood in terms of scale since “identity is always a nested phenomenon, and different socio-demographic conditions will activate different levels of identity” (Bernardini 2005:35). The author argues that in the southwest, clans and lineages often have a different scale of movement than larger tribes, and that these movements can be understood through petroglyphs and ceramic compositional analysis.

Case studies from the mid-Atlantic also address questions of migration and scales of identity. Beisaw (2010), like Liebmann (2008) suggests a more flexible reading of the definition of cultural affiliation, which uses anthropological theories of memory and identity to interpret

burials at a multicomponent site in New York. While the use of traditional culture historical models resulted in the identification of burials as ‘Onondaga or Cayuga,’ ‘Unaffiliated,’ or ‘Unaffiliated-Susquehannock,’²³ Beisaw used taphonomic approaches to determine that individuals were purposefully reinterred with other individuals, inferring a kin relationship between individuals identified as Iroquois and Susquehannock. The author suggests that these burials should be taken as evidence of a “web of identity” present during the late-prehistoric and early-historic periods on the east coast. Colwell-Chanthaphonh and Powell (2012) also discuss the affiliation of Susquehannock burials with the Haudenosaunee (Iroquois). The authors weigh evidence in each of the ten categories allowed under NAGPRA, determining that human remains from Lancaster County, Pennsylvania are related closely enough to the contemporary Haudenosaunee to permit cultural affiliation. In this article, Colwell-Chanthaphonh and Powell also advocate greater transparency in determining cultural affiliation and seek to make their methods and thought process available to the scholarly community. Their method of presenting evidence on cultural affiliation will be utilized in chapter four, which discusses the cultural identity and affiliation of Virginia’s archaeological cultures and contemporary tribes.

These case studies provide examples of the way that cultural affiliation before and after the arrival of Europeans can be discussed in a nuanced and effective way. However, they raise further questions: Are there circumstances in which culture historical models can be used in effective and empowering ways in order to achieve repatriation? Do the methods used to determine cultural affiliation matter, or do the ends of repatriation and reburial justify the means? In what circumstances can and should anthropological and archaeological theories be used in the process of determining cultural affiliation? Though the answers to these questions is the subject of debate and beyond the scope of this thesis, they contribute to the structure of subsequent

²³ Even in the event of affiliating a site with the historic Susquehannock, human remains would still be considered culturally unaffiliated because there is no contemporary federally recognized Susquehannock tribe. This is also in issue in Virginia (e.g. Mudar et al. 1998, National Museum of Natural History 1994).

chapters, which will focus specifically on cultural affiliation and the future of repatriation in Virginia.

IV. CULTURAL AFFILIATION IN VIRGINIA

These racial considerations are entirely aside from the determination of their social tradition. The latter is emphatic and consistent. It is the one bond by which the various Indian communities cohere. And there is no fair basis of ethnic or historical evidence which would lead the open-minded to distrust it, unless beheld through the eyes of those bound to the deadly routine of race or class prejudice.

Frank Speck (1925:viii)

Determining the cultural affiliation of human remains in the Chesapeake, as elsewhere, is clearly fraught with a number of serious challenges.

Martin Gallivan (2011:301)

Chip Colwell-Chanthaphonh and Jami Powell (2012) critique the often opaque and isolated process by which museums determine cultural affiliation. They note that “only a handful of papers consider detailed aspects of the cultural affiliation decision-making process,” (Colwell-Chanthaphonh and Powell 2012:192) calling for greater methodological transparency in scholarly dialogues. This statement certainly holds true with respect to cultural affiliation and repatriation in Virginia. Few published or publicly available works, with Mudar and colleagues (1998) as the exception, detail the process by which cultural affiliation is decided. While sources discussing cultural affiliation in the Coastal Plain (e.g. Gallivan et al. 2009) and the Piedmont and Ridge and Valley (e.g. Dunham et al. 2003, Hantman 2001) discuss basic logic for cultural affiliation, they do not thoroughly review the lines of evidence that have led to these conclusions.

To date, human skeletal remains have only been repatriated to Virginia Indians on four occasions. Human remains from Paspahugh (44JC308) and Great Neck (44VB7) were reburied by a collective of tribes led by the Nansemond in 1993 and 1997, following their excavation in recent decades (Gallivan and Moretti-Langholtz 2007:57, Hodges 1998, Hodges and Hodges 1994, Moretti-Langholtz 1998:268-281, Rountree and Turner 2002:228, Waugaman and Moretti-Langholtz 2006:62-63, 62 F.R. 14701-14702). In 1998 and 2000, the Monacan successfully reburied recently excavated remains from the Rapidan Mound (44OR1) as well as remains

excavated from the Hayes Creek Mound (44RB2) in 1901 (Dunham et al. 2003:116, Hantman et al. 2000, Waugaman and Moretti-Langholtz 2006:63, 65 F.R. 6622-6623). It is of note that these decisions were made with a broad and inclusive definition of cultural affiliation. Historical and archaeological evidence suggests that burials from Great Neck are associated with ‘Chesepiooc’ or Chesapeake, an Algonquian-speaking village on the periphery of the Powhatan territory of Tsenacommacah. The remains were repatriated to the Nansemond because history and oral tradition confirmed the existence of an alliance between the two groups in the late-sixteenth and early-seventeenth centuries. None of the Virginia Indian tribes recognized in 1997 objected to the Nansemond’s claim (62 F.R. 14701-14702). The argument supporting the cultural affiliation of remains from the Hayes Creek Mound with the contemporary Monacan is based predominantly on Jeffrey Hantman and colleagues’ recent archaeological and ethnohistorical research (e.g. Hantman 1990, 2001; Gold 2004). This research “indicates the Monacan and Manahoac were loosely confederated with each other and linked to the earlier mound-building peoples in the Virginia Piedmont and eastern mountain regions generally known as the Lewis Creek Mound Culture” (65 F.R. 6622-6623). These cases set a precedent for the affiliation of human remains and burial sites from Virginia with allies or groups that had similar cultural traditions.

In this chapter, I review evidence for cultural affiliation in eastern and central Virginia. This evidence comes from many different sources: historical accounts and maps, late-nineteenth and early-twentieth century ethnographies, linguistic analysis, archaeological research, and human skeletal analysis. It would be impossible to discuss every aspect of Virginia Indian society, every tribe, or every theoretical perspective and I do not specifically address every type of evidence allowable under NAGPRA. Rather, my goal is to introduce NAGPRA practitioners and archaeologists working in the Chesapeake to many of the available resources and to highlight the ways that researchers have approached cultural affiliation and group identity in the past. This provides researchers with a starting point and the scholarly resources necessary to make informed

decisions about the cultural affiliation of burial contexts and human skeletal remains from Virginia. Additionally, consultation with one or more of Virginia's eleven recognized tribes is both legally and ethically necessary to the cultural affiliation and repatriation process. Tribal members may also be able to offer additional evidence relevant to specific repatriation cases, particularly in terms of oral tradition or kinship.

History, anthropology, and geography

There is substantial documentary evidence of people living along Virginia's Coastal Plain during the seventeenth and early eighteenth centuries. First-hand accounts (e.g. Beverley 1947, Harriot 1893, Lawson 1709, Lederer 1672, Smith 1986, Spelman 1872, Strachey 1953) have frequently been summarized and analyzed by late-nineteenth and twentieth century anthropologists (e.g. Binford 1967; Bushnell 1908, 1920, 1930, 1935, 1940; Douglas 1933; Mook 1943, 1944; Mooney 1894, 1907; Speck 1924; Swanton 1946; Willoughby 1907). However, contemporary researchers must extract relevant information from the documents while also accounting for the writers' cultural biases. For example, historical accounts (e.g. Beverley 1947, Jefferson 1999, Mooney 1907) often erroneously report the disappearance of Virginia Indian tribes. Additionally, Hantman (1990) reviews the scanty historical evidence available on the seventeenth century Monacan, debunking myths that the Monacan were a decentralized, disorganized, and nonagricultural people. The documentary history of geographically distant groups like the Monacan, with whom the English rarely interacted during the seventeenth century, is informed both by English notions of civilization and by Powhatan political maneuvers. Hantman proposes that archaeological evidence provides a more detailed and unbiased perspective on Monacan settlement patterns, subsistence, social structure, and mortuary ritual. However, the documentary record is essential to determining cultural affiliation throughout Virginia.

Research in historical anthropology (e.g. Sahlins 1985, Wolf 1982) and ethnohistory²⁴ (e.g. Nabokov 2002) decries the notion that “history” is a uniform, written, western phenomenon. Indeed, Echo-Hawk (2000) proposes replacing the term “prehistory” with “ancient human history,” a semantic shift that gives greater credibility to oral tradition as a line of evidence contributing to cultural affiliation. Likewise, archaeologists have questioned the concept of “contact,” and the arbitrary division it creates between “prehistoric” and “historic” periods, while also emphasizing short-term encounters over a long history of cross-cultural interactions (Lightfoot 1995, Loren 2008, Silliman 2005). Recent archaeological research additionally questions the assumption that the presence of European material culture in native spaces signifies degrees of contact or acculturation. Rather, this evidence should be interpreted contextually, acknowledging that the presence of European trade items may indicate creativity and persistence through the incorporation of new material culture into pre-existing or hybridized traditions (Rubertone 2000, Silliman 2009; see also Galke 2004, Liebmann 2008, Mouer 1993, Scaramelli and Scaramelli 2005).²⁵

When Europeans arrived around the turn of the seventeenth century, Virginia was home to populations that aligned themselves along related but not entirely coinciding political, cultural, and linguistic boundaries. Frank Speck, who carried out ethnographic work among Virginia

²⁴ *Ethnohistory*, a hybrid approach to historical evidence that focuses on the cultural or social aspects of history, was introduced during the 1950s (Axtell 1978:112-113). Since that time, the field has evolved to promote the study histories and historicities from an indigenous perspective, using both documentary sources and oral history and tradition. Raymond Fogelson (1989) calls for an “ethno-ethnohistorical approach,” which “insists on taking seriously native theories of history as embedded in cosmology, in narratives, in rituals and ceremonies, and more generally in native philosophies and worldviews” (Fogelson 1989:134-135). The American Society for Ethnohistory states: “ethnohistory reflects the wide range of current scholarship that is inspired by anthropological and historical approaches to the human condition. Of particular interest are those analyses and interpretations that seek to make evident the experience, organization and identities of indigenous, diasporic and minority peoples that otherwise elude the histories and anthropologies of nations, states and colonial empires” (American Society for Ethnohistory n.d.).

²⁵ I mention scholarly dialogues on history, historicity, and the historic/prehistoric divide in order to highlight several semantic and analytical choices that are apparent in this thesis. I do not use the terms “prehistoric” or “protohistoric” except when quoting NAGPRA or paraphrasing another author’s argument. In its place, I refer to specific historical epochs, including the Late Woodland period (AD 900-1600), further subdivided into Late Woodland I (AD 900-1200) and Late Woodland II (AD 1200-1600) and (following Loren 2008), the Early Historic Period (c. AD 1600-1700).

Indians in the 1910s and 20s, was careful to distinguish between Algonquian culture, language, and political affiliation in history (Speck 1928:227-228, 232). John Smith's 1612 map of Virginia is used frequently by researchers to examine political affiliation in the early seventeenth century. Smith identifies dozens of villages, marked with symbols denoting "King's houses" and "Ordinary houses,"²⁶ along the Eastern Shore, Coastal Plain, and beyond. More prominent labels identify Smith's perception of larger sociopolitical entities: most noticeable on the coast are the Powhatan, whose territory falls between the Powhatan (James) and Patowomeck (Potomac) rivers and extends west to the fall line.²⁷ Other identified peoples beyond Smith's boundary of exploration include the Susquehannock north of the Potomac, Manahoacks along the Rappahannock River beyond the fall line, Monacans along the upper James River, and Massawomecks²⁸ somewhere far to the northwest (Smith 1624). It is important to note, however, that the map represents Smith's and not Virginia Indians' understanding of political identity.

²⁶ Archaeologists usually interpret "King's houses" as villages and "Ordinary houses" as smaller hamlets.

²⁷ See Turner (1976:127-135) for a more comprehensive discussion of the Powhatan chiefdom's boundaries.

²⁸ Jefferson (1999:102-103) identifies the Massawomecks as the Five Nations (Iroquois or Haudenosaunee), who adopted tribes from the Virginia and North Carolina interior during the eighteenth century. While Jefferson's note is conjecture, the Massawomecks mentioned by Smith were likely related to the Haudenosaunee. The Tuscarora, who lived in North Carolina upon the arrival of Europeans, became the sixth nation of the Haudenosaunee in 1722. Jefferson also cites the Meherrin and Tutelo as joining the Haudenosaunee in the mid-eighteenth century. This narrative bears many similarities to the Susquehannock incorporation into the Six Nations (see Beisaw 2010, Colwell-Chanthaphonh and Powell 2012).



Figure 3: John Smith's map of Virginia (Smith 1624)

It is clear from this map that sociopolitical affiliation – at least to Smith – was forged at several different scales,²⁹ which archaeologists interpret as hamlets, villages, or larger polities. Sources narrate Virginia Indian history at these various scales, typically using the names assigned to King's houses as the names of individual “tribes,” many of which belonged to larger “chiefdoms” or “paramountcys” like the Powhatan.³⁰ In 1607, there were between 27 and 34 tribes aligned with the Powhatan paramountcy, which had recently grown from a collective of six tribes under the leadership of Wahunsenacawh or Powhatan (Williamson 2003:41). Although

²⁹ See Lucy (2005:99-100), Dunham et al. (2003:112).

³⁰ While I prefer to avoid the evolutionary implications of Sahlins and Service's (1960) classification (see also Pauketat 2007), I will use the term “tribe” to refer to smaller sociopolitical groups, while employing the term “chiefdom” or “paramountcy” to refer to larger polities. See Gleach (1997:22-24) and Williamson (2003:47-59) for further discussion of classificatory terms in Tsenacommacah.

evidence for inland tribes is sparse, Hantman (1990, 2001) argues that the Monacan and their neighbors, the Manahoacs, were probably governed by similar sociopolitical principles as the Powhatan. Yet, unlike many of their Powhatan, Monacan, and Manahoac neighbors, the Nottoways and Meherrins farther south lived in autonomous independent villages (Woodard 2010:26).³¹

The Monacan and Manahoac of Virginia's Piedmont are defined historically as tribes or small confederacies of eight to twelve tribes (Swanton 1946:148-149, 152; Mooney 1894:19); Swanton (1946) notes that the neighboring Saponi and Tutelo are often included historically with the Monacan. Bushnell (1930, 1935) discusses the specific Monacan and Manahoac towns identified by Smith in the early seventeenth century. While a 1702 traveler's account documents one persistent Monacan town in the region mapped by Smith, the Manahoac migrated to the falls of the James with the Tutelo in 1654. Sources attribute the movement to Susquehannock aggression from the north. In subsequent years, Manahoacs moved farther south of the James (see Lederer 1672) and their presence was also recorded at Fort Christianna³² in 1714. The fort, established by Virginia governor Alexander Spotswood for the protection and education of interior Indian tribes, operated only a few years before closing. In 1728, William Byrd (1866) noted the Manahoacs were living with the Saponi and Occaneechi. Swanton (1946) suggests that many Monacans and Manahoacs, alongside the Tutelo, Saponi, and Occaneechi migrated to New York to live with the Haudenosaunee (Mooney 1894:18-37; Swanton 1946:148-149, 152, 157). The contemporary state-recognized Monacan tribe is located in Amherst County around Bear Mountain, near Lynchburg (see Whitlock 2008).

³¹ Inland tribes south of the James River receive comparatively less attention than the Powhatan and Monacan in recent scholarship, despite a rich documentary record (but see Binford 1967, Woodard 2010). However, they are often considered alongside coastal and Piedmont peoples of North Carolina (e.g. Killgrove 2009, Lambert 2000, Ward and Davis 2001).

³² Also spelled 'Christiana' or 'Cristiana'.

Early records of the Saponi, Occaneechi, and Tutelo date to the second half of the seventeenth century and early eighteenth century. John Lederer (1672) visited the Saponi, who were living along a tributary of the Roanoke River, in 1670. Lederer also documents the Occaneechi living on an island in the Roanoke River at this time, acting as middlemen in trade. The Saponi later moved to an island at the confluence of the Roanoke and Dan Rivers. At the time of Lawson's expedition in 1701, the Saponi and Tutelo were living along the Yadkin River in North Carolina. The three tribes migrated to Fort Christianna in 1714, after which they lived for a short time along the Roanoke River before migrating to Pennsylvania and New York. Some Saponi (including Occaneechi who had previously joined them) and Tutelo were adopted by the Cayuga in 1752 (Swanton 1946:178). Swanton (1946:178) and Bushnell (1908:536-537) also note that some Saponis remained in North Carolina and Virginia (Mooney 1894:37-56; Swanton 1946:164, 178-179, 200-201). The state of North Carolina recognizes three Saponi and Occaneechi tribes: the Haliwa-Saponi Tribe of Halifax and Warren Counties, Sappony of Halifax County, Virginia and Person County, North Carolina, and the Occaneechi Band of the Saponi Nation in Brunswick and Greensville Counties in Virginia and Northampton County, North Carolina.

The Nottoway and Meherrin are recorded historically as living south of the James River along the rivers that bear their names. Explorer Edward Blande visited both tribes in 1650 and William Byrd notes that the Nottoway were living in a stockaded town in 1728. At that time the Meherrin had abandoned their village near the confluence of the Meherrin and Chowan rivers; by 1761 they were living near the Roanoke River with the Saponi and Tuscarora. The Nottoway remained in Southampton County, Virginia and lived on a reservation until 1792. Both the Nottoway and Meherrin have a history of cultural ties and political interaction with Iroquoian-speakers to the north, such as the Susquehannock and the Five Nations (Bushnell 1940:140; Swanton 1946:149, 163-164; Woodard 2010:31-33). The Nottoway were heavily involved in the

fur trade and other trades during the eighteenth century (Woodard 2010:29-31). Today, Virginia recognizes two Nottoway tribes, both of which are centered in Southampton County. North Carolina recognizes the Meherrin Nation of Hertford County.

Tribes of the Coastal Plain are undoubtedly the best documented in Virginia. They are variably identified collectively as the Powhatan and by individual tribe names. Rountree (e.g. 1989, 1996) has written extensively on various aspects of Powhatan history. Turner (1976, 1986) and Rountree and Turner (1998) examine the Powhatan chiefdom from an evolutionary perspective. Gleach (1997) and Williamson (2003) have published ethnohistories of the Powhatan. Swanton (1946) notes that few of the Powhatan tribes left the tidewater region and many of the tribes persist into the present (Swanton 1946:175-176). While many of the Piedmont and Inner Coastal Plain tribes – the Manahoac, Saponi, Tutelo, Occaneechi, and Meherrin – migrated out of Virginia, coastal tribes for the most part remained in the locales where they lived in the seventeenth century.

The Patawomeck, identified in historical literature as Algonquian-speakers who were at least marginally associated with the Powhatan paramountcy, lived in present day Stafford and King George Counties; Smith notes a King's house at the mouth of Potomac Creek near Fredericksburg. In the early seventeenth century, the Patawomeck were friendly with the English, frequently acting as trading partners. Eighteenth century records suggest the migration of some Patawomecks north to Pennsylvania and New York, but Speck (1925:vii, 35; 1928:282-284) cites the persistence of a Patawomeck community around Potomac Creek (Clayton 2007, MacCord 2007). The contemporary state-recognized Patawomeck Tribe is located around White Oak in Stafford County. The ethnic origin of the Patawomecks and their northeastern neighbors (such as the Piscataway) is the subject of archaeological debate, the prevailing theory suggesting they were originally Iroquoian speakers who migrated southeast from the Susquehanna (see Blanton 1999:102-104, Gallivan 2010, Gallivan 2011:281-282).

The Rappahannock, who historically lived in Essex and King and Queen Counties along the river that bears their name,³³ were also Algonquian-speakers and Powhatan tributaries. They are identified by Smith as ‘Toppahannock’ and are also commonly referred to in literature by the name ‘Nantaughtacund’ (Speck 1925:28-30). While they were displaced by European settlers during the seventeenth and early eighteenth centuries, they eventually moved back to their ancestral territory. Speck (1925; 1928:vii, 280-282) discusses their history and also makes ethnographic observations about the tribe, who in 1921 formed the Rappahannock Indian Association and in 1923 united with the Chickahominy, Nansemond, Mattaponi, and Nanticoke to reestablish the Powhatan Confederacy. He cites political and social similarities to the more southerly Powhatan tribes, but also notes cultural distinctions (Speck 1925:31-35).³⁴ In the 1920s, Speck (1925:48) also notes a historical memory of past affiliation with the Powhatan and that “in respect to their consciousness the Rappahannock may be said to possess the same tenacity of feeling and purpose as regards their tribal identity as the kindred Powhatan bands” (Speck 1925:38). Today, Virginia recognizes a Rappahannock tribe, whose members still live in their ancestral territory (McCary 2007b, see also Bastow 1975).

While the Mattaponi “have not been conspicuous in literature” (Speck 1928:259), their presence is noted in many early twentieth century works. Mooney (1907:148) and Speck (1928:254) describe them as an offshoot or branch of the Pamunkey. Their heartland is along the Mattaponi River near West Point in King William County, where the state-recognized Mattaponi Tribe has held a small reservation since 1658 (Speck 1928:249). Virginia also recognizes the Upper Mattaponi Tribe, who are descended from a group also known as the ‘Adamsdown

³³ Speck (1928:36) explains that most of the villages mapped by Smith are on the northern shore of the Rappahannock, suggesting that the river provided some protection from the aggressive Powhatan paramourty.

³⁴ According to Speck, the twentieth century Rappahannock had distinct hunting practices from the Pamunkey and a basketry construction technique also seen among the Nanticoke of Delaware but not the more southerly Powhatan tribes (Speck 1925:55-63). Like the contemporary Chickahominy but no other tribes, they practiced “head-flattening” of the occipital area “to make the head beautiful” (Speck 1925:81-83).

Indians,' also of Powhatan ancestry (Speck 1928:263-267). Speck (1928:267) speculates that they may be related to the Rappahannock.

Historically, the Pamunkey were the largest and most politically powerful tribe in Tsenacommacah and they are signatories on many seventeenth and eighteenth century treaties (see McCartney 2006). Their heartland is on the Pamunkey River in King William County, where they have held a reservation on Pamunkey Neck since 1677. The Pamunkey have retained their own government, social tradition, and geographic location since the seventeenth century (Mooney 1907:147-148; Pollard 1894:6-9,16; Speck 1928:237-248) and they carry on distinct material traditions, such as pottery-making (Pollard 1894:18-19, Speck 1928:253, see also Atkins 2009). The Pamunkey are recognized by the commonwealth and will shortly be considered by the Bureau of Indian Affairs for federal acknowledgement (BIA 2012).³⁵

The Chickahominy, historically identified as Algonquian-speakers but also as politically and socially distinct from the Powhatan paramountcy, have a heartland along the Chickahominy River in Charles City and New Kent Counties (Mooney 1907:148-149). Historical records show that the Chickahominy paid tribute to Wahunsenacawh but would not allow him to govern them. They were governed instead by a council of priests and eight elders rather than a *werowance* or chief until the far-reaching rule of Opecanough in the seventeenth century (Speck 1928:267-275, Woodard and Moretti-Langholtz 2009). The Chickahominy were displaced to Pamunkey Neck in the mid-seventeenth century but eventually returned to their ancestral territory on the Chickahominy Ridge. Speck (1928:276) also notes some cultural differentiation between the Chickahominy and other contemporary tribes (see also Stern 1952). Two state-recognized Chickahominy tribes (Chickahominy and Eastern Chickahominy) still live in the vicinity of their heartland along the Chickahominy River (see Adkins 2007, Hertz 1996).

³⁵ See also Bradby (2008) on the Pamunkey.

Although the Nansemond were not the particular focus of anthropological study during the twentieth century, “their name has hardly disappeared from the pages of history for more than a few years at a time” (Speck 1928:278). They were tributaries of the Powhatan paramountcy and lived south of the James River along the Nansemond River near Portsmouth and Suffolk, where they held a reservation until 1792. Mooney (1907:150-151) and Speck (1928:278-280) note their persistence into the twentieth century; in 1923 they organized the Nansemond Indian Organization. Mooney (1907:151-152) and Speck (1928:284-286) also cite the presence of other present day Virginia Indians. Additional historic Powhatan tribes included (among others) the Chesapeake, who lived east of the Nansemond along the Chesapeake Bay, the Kiskiak living south of the York River (McCary 2007a), the Appamattoc on the Appomattox River (Gilliam 2007), the Tauxenent in present-day Fairfax County (Moore 2007), and the Accomac and Accohannock on the Eastern Shore (Weslager 2007).

I have detailed at length the historic territories, heartlands and migrations of Virginia Indians in order to demonstrate the wide variety of historical trajectories in the region. Some tribes migrated out of the state while others remained; some joined neighboring tribes while others remained socially and politically distinct. No one narrative defines or explains the historical experiences of Virginia Indians. It is therefore essential to look closely at historical documentation alongside other lines of evidence when considering cultural affiliation. Seventeenth and eighteenth century migrations and alliances complicate simplistic models of linguistic and political affiliation; so too do the possibly multilingual tribes on Tsenacommacah’s periphery (e.g. Gallivan 2010). In light of historical evidence, researchers should pay special attention to the dating of archaeological sites, particularly in the southern Piedmont, where displacement appears to have been more frequent during the seventeenth and eighteenth centuries.

Linguistics

The use of language family or sub-family names is widespread in historic and contemporary scholarly dialogues about group affiliation and cultural practices. Put simply, the Coastal Plain was inhabited by Algonquian speakers, while Siouan and Iroquoian speakers lived in the interior (e.g. Gallivan 2011:285). The term “Algonquian” (“Siouan” or “Iroquoian”) is used synonymously with “Algonquian-speaker,” implying that the classification of a group’s spoken language was essential to broader identity and affiliation. Chesapeake archaeological cultures,³⁶ while usually based on material evidence, are often named using early historical accounts of spoken language or tribal group. As previously discussed in this thesis, cultural affiliation in Virginia is often approached at the scale of language families rather than more specific cultural or political groups (e.g. Mudar et al. 1998).

³⁶ E.g. the “Dan River Culture” or the “Lewis Creek Mound Culture,” (see MacCord 1991).



Figure 4: Language families in eastern North America (Goddard 1996d)

Both ethnohistorical evidence and linguistic analysis confirms that Virginia Indians, upon the arrival of Europeans in the late-sixteenth and early-seventeenth centuries, spoke languages that are classified broadly as Algonquian, Siouan, and Iroquoian (Goddard 1996c:4-8). Algonquian languages fall under the Algic language family, which also includes Yurok and Wiyot in northwestern California, although many linguists challenge the inclusion of these two languages in the family. There are at least three dozen Algonquian languages spoken east of California (Foster 1996:97). Virginia Algonquian, alongside Carolina Algonquian and Nanticoke-Conoy (or Nanticoke-Piscataway) are classified as Delawarean languages of the Eastern

Algonquian sub-family (Goddard 1996c:5-6). Contemporary theories suggest a Great Lakes homeland for Proto-Algonquian around 1200 B.C., with shifts in regional plant and animal terms beginning around 900 B.C. as groups moved into different geographic regions (Foster 1996:99, Siebert 1967:39).

Siouan languages are categorized under the broader Siouan-Catawba family, with Tutelo, Saponi, and Occaneechi falling under the southeastern Ohio Valley category (Foster 1996:100). A current estimate dates proto-Siouan to about 1000 B.C. and two hypotheses place the Siouan-Catawban homeland alternately in the Ohio and Mississippi Valleys, with migration to North Carolina and Virginia occurring fairly early (Foster 1996:102-103). Catawba and Woccon, Catawban languages spoken historically in North and South Carolina, are more distantly related to Tutelo, Saponi, and Occaneechi (Goddard 1996a:322, Goddard 1996c:8). While there are no known records of a Monacan or Manahoac language, archaeological reports typically refer to these Piedmont peoples as Siouan speakers, ostensibly related to the Siouan speakers farther south.

Iroquoian languages are split into Southern and Northern groups, with Cherokee as the only Southern Iroquoian language and all other languages classified as Northern Iroquoian. Glottochronology suggests a separation between groups around 1800-1500 B.C. (Foster 1996:105). A majority of both linguists and archaeologists support an Iroquoian homeland in the St. Lawrence Lowlands rather than the south, but the question of both origins and the route taken by groups to their historic locales is still under debate (Foster 1996:106-109). Speakers of three Northern Iroquoian languages, Tuscarora, Nottoway, and Meherrin, lived in North Carolina and Virginia when Europeans first arrived. Analysis of well-documented Tuscarora and poorly-documented Nottoway suggests that the two are related, and Meherrin place names also indicate it is probably related to Tuscarora. These groups most likely diverged from other Northern Iroquoian speakers between 400 B.C. and A.D. 100 (Foster 1996:105-106, Goddard 1996a:320).

While knowledge about languages spoken in Virginia and surrounding areas during the seventeenth century is generally poor, Tutelo and Tuscarora are comparatively well-documented (see Landar 1996:726). There is limited documentation of Nottoway, Saponi or Occaneechi, and Virginia Algonquian (see Landar 1996:745-746, 750, 758). Virginia Algonquian is best known from William Strachey's notes, with small contributions by John Smith. However, Smith's vocabulary is a pidgin rather than a fully grammatical language (Goddard 1996b:18). Goddard also notes that languages in the Virginia Coastal Plain are poorly documented. Specific languages like Pamunkey and Nansemond are classified as Algonquian because of political affiliation with the Algonquian speaker-dominated Powhatan chiefdom, but nineteenth century language documentation from these tribes does not follow expected patterns for Virginia Algonquian (see Mooney 1907:146). Goddard suggests that there may have been additional languages or dialects present prior to European colonization and calls for linguists to reexamine language categorization in eastern Virginia (Goddard 1996a:299, Goddard 1996c:10).

Beverley notes that there was linguistic diversity in early seventeenth century Virginia such that speakers from various regions could not understand each other. He also alludes to the existence of an Algonquian lingua franca, "which is understood by the chief Men of many Nations" (Beverley, quoted in Silverstein 1996:119). Beverley also notes that a language spoken originally by the Occaneechis is used widely; this may refer to the aforementioned lingua franca or to a different trade language. Silverstein (1996:119) proposes that 'Saponey,' a language recorded at Fort Christianna in the early eighteenth century (see Alexander 1971) may be the lingua franca referred to by Beverley. While most of the recorded words are of a Siouan language similar to Tutelo, the numerals are in Algonquian and Iroquoian languages. This mixed language may have been used for trade or other purposes (Goddard 1996b:25, Silverstein 1996:119).

It is clear that there was great linguistic diversity in Virginia when Europeans arrived and that many languages, dialects, and associated social complexities eluded recorders like Strachey

and Beverley. Therefore, the association of spoken language with cultural practices and political groupings should be undertaken with trepidation. As Lucy (2005:92) comments, languages can indicate a strategic choice in negotiations of identity for any number of reasons. This is not to say that linguistic evidence should be discounted when researching cultural affiliation, only that the likelihood of linguistic diversity and plurilingualism is at odds with essentializing notions of Virginia Indians living within bounded, homogenous language family groupings.

Archaeology

Shortly after the passage of NAGPRA, Virginia avocational archaeologist Howard MacCord published an article entitled “Linking Archaeological Cultures with Historic Indian Groups.” MacCord (1991) outlines nine distinct, bounded archaeological cultures, arguing that researchers should assume cultural continuity between these archaeological cultures and the historic occupants recorded by Europeans, unless historical or archaeological evidence suggests otherwise, “since most primitive people are conservative” (MacCord 1991:141). He briefly describes each of these cultures, which are based primarily on ceramic types, burial practices, and historical evidence. Many of the listed archaeological cultures span the Late Woodland period (AD 900-1600) and end shortly after the arrival of Europeans. MacCord’s classification reflects the prominent role of diagnostic artifact-focused avocational archaeology in Virginia. To a certain extent, “such efforts have provided effective frameworks for material culture, settlement patterns, and subsistence regimens,” but they have also “placed interpretive constraints on the region’s archaeology” (Gallivan 2011:282). Linking archaeological cultures to historic and contemporary Virginia Indian tribes is a nuanced process that should be informed by contemporary theories of identity, boundary, and landscape. As Hodder (1982) and Meskell (2001) argue, not all material culture correlates with identity. Archaeologists must investigate more deeply the role of agency in material expressions of identity, focusing on the way people interact with objects rather than

solely on the objects themselves. In this section, I focus on two types of archaeological evidence and their relationship to identity: ceramics and burial practices.

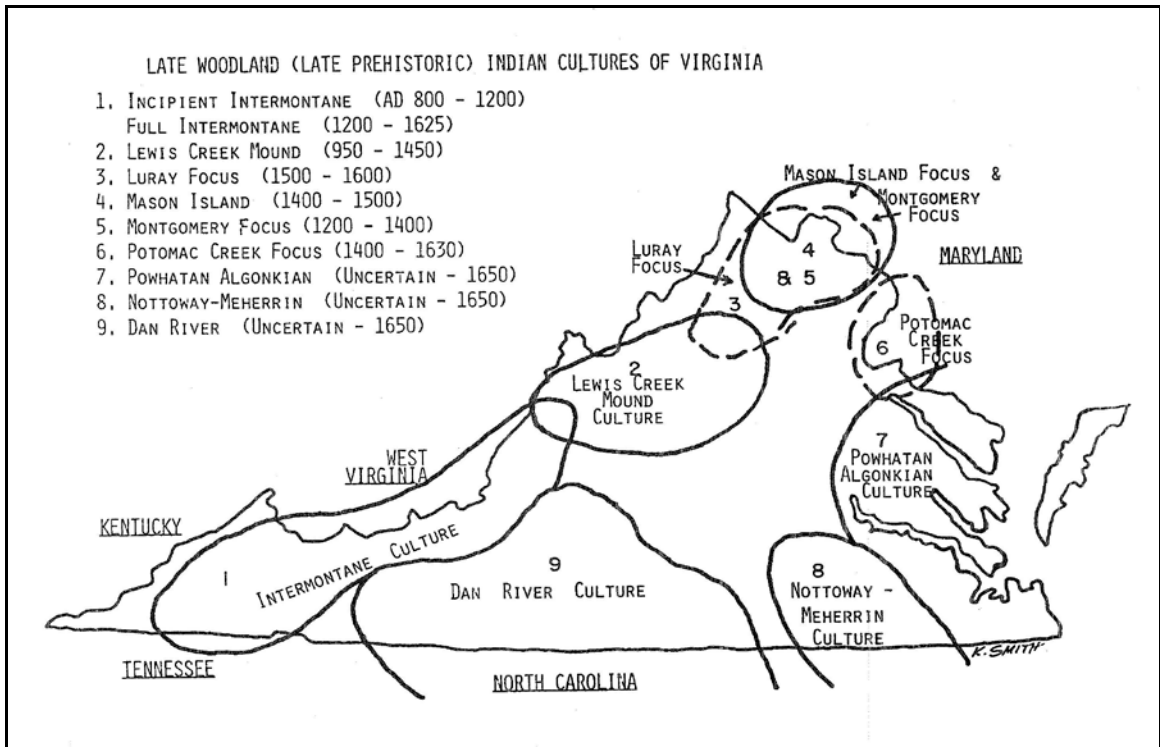


Figure 5: Late Woodland archaeological cultures in Virginia (MacCord 1991:142)

While MacCord’s classification highlights many of the key material distinctions I discuss in this section, in most cases it does not acknowledge similarities among and variability within the given archaeological cultures. MacCord’s standards for defining a culture group are ambiguous: while the “Intermontane Culture” of southwestern Virginia is based on structure types, burial types, ceramics, and subsistence practices, the “Lewis Creek Mound Culture” is defined entirely by the geographic extent of accretional burial mounds in the Piedmont and Ridge and Valley. A review of MacCord’s classification reveals that structure shape and burial position and direction do not differ in distinct and measurable ways throughout Virginia. However, variations in ceramic temper and surface treatment as well as burial number, type of interment, and the prevalence of funerary objects may reflect ethnic or political identity during the Late

Woodland and Early Historic periods. I discuss recent literature on the regions occupied by five of MacCord's nine archaeological cultures: the Lewis Creek Mound Culture, the Dan River Culture, the Potomac Creek Culture, the Powhatan Algonquian Culture, and the Nottoway-Meherrin Culture.

Throughout the Coastal Plain, Piedmont, and Ridge and Valley, ceramics vary in several distinct ways, including temper, vessel form, thickness, decorative style, and surface treatment. Ceramics are usually classified as wares and types (e.g. Evans 1955, Egloff and Potter 1982) based on specific attributes such as vessel form or temper, which is usually lithic, sand, or shell in Virginia. Types are often designated by stylistic variations such as rim decoration and surface treatment. Gallivan (2003:131-133) proposes that variations in surface treatments, which consistently include fabric impression, net impression, cord marking, simple stamping, and plain (scraping or smoothing), may reflect regional interaction through time more accurately than ware types. Like ceramics, burial practices also vary widely within Virginia. Archaeological reports usually distinguish between burials that contain one or more than one individual (designated as single or multiple) and classify burials as primary or secondary interments. Primary interments are identified when human remains are articulated in anatomical position, while individuals in secondary burials have undergone a process of partial or full decomposition prior to final deposition. In Virginia, individuals subject to primary burial are usually interred in extended, flexed, or semi-flexed positions. Secondary interments often include bundles of one or more individuals, but often skeletal remains have been interred in a less restrained and comingled manner. It is of note that there is also evidence of cremation or other burning of human skeletal remains throughout Virginia and that primary and secondary burials sometimes occur together, whether in ossuaries, accretional mounds, or individual graves.

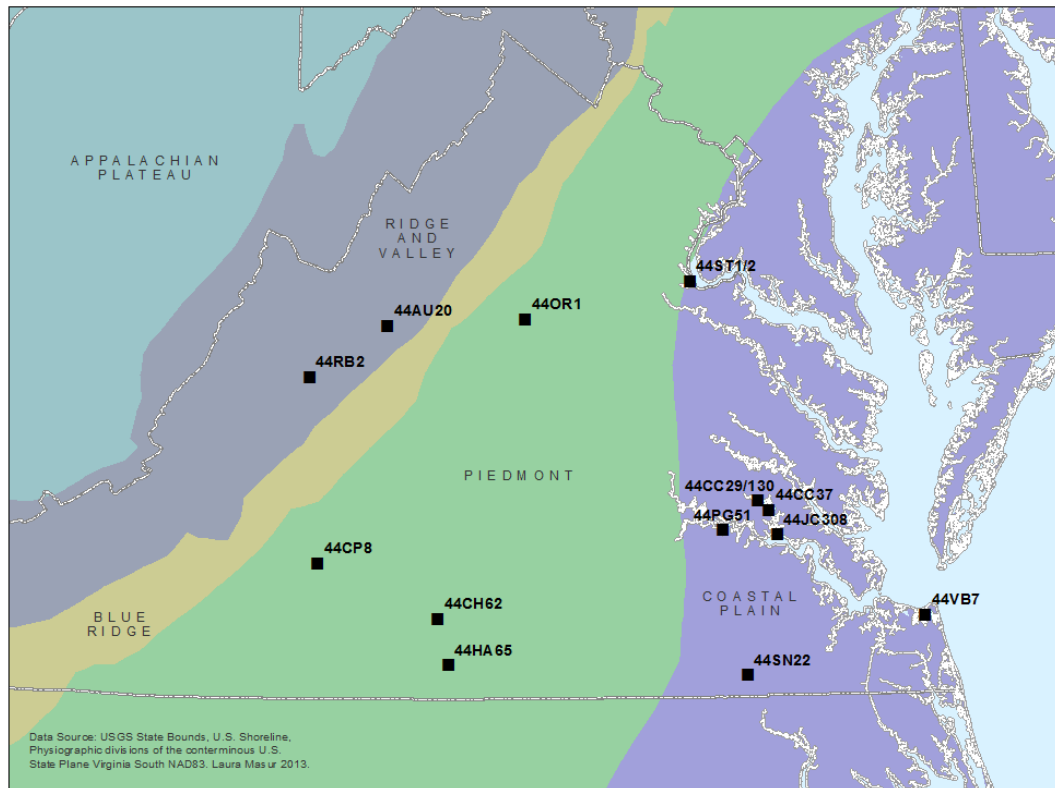


Figure 6: Archaeological sites discussed in the archaeology section

MacCord (1991) draws the boundaries of the Lewis Creek Mound Culture to coincide with the geographic extent of twelve of the thirteen accretional burial mounds located in the upper James and Shenandoah River Valleys. He does not name a historical group with whom the mounds are affiliated but Jeffrey Hantman (1990, 2001, 2004, Hantman et al. 2004), Gary Dunham (Dunham et al. 2003) and Debra Gold (2000, 2004) argue that the complex is most closely affiliated with the present-day Monacan tribe. These mounds date to the Late Woodland period and while MacCord specifies a time range of AD 950-1450, Dunham and colleagues (2003:112) suggest that the Piedmont mounds were used into the seventeenth century. Although all of the mounds are accretional, burial practices differ geographically and temporally from mostly single or small multiple bundle burials accompanied by some grave goods at the earlier Lewis Creek and Hayes Creek Mounds to large (30-50) disarticulated collective burial events

without grave goods at the later Rapidan Mound (Gold 2004:112-120, Hantman 2001:121-122 see also Holland et al. 1983).³⁷ Gold (2000) argues that large collective secondary burials are more common in the Piedmont than in the Ridge and Valley because Piedmont peoples sought to build group solidarity against large coastal polities. It is of note that mound burials are by no means the only form of interment in this region; individual extended burials and rock cairn burials³⁸ are also present in the Piedmont and Ridge and Valley (Hantman 2001:121). Although the region is usually identified in terms of burial practices, Hantman (2001) also reviews general archaeological investigations in the northern Piedmont. Villages and hamlets are usually located in fertile areas of major rivers (Hantman 2001:115). The dominant Late Woodland ceramic ware is the crushed-quartz tempered Albemarle series, but other ceramic wares such as Stony Creek, Potomac Creek, and Dan River are also present. There is an increase in fabric-impressed and simple-stamped surface treatments during the Middle and Late Woodland periods. The presence of simple-stamped ceramics in the James River Valley suggests a relationship with southern and eastern peoples while a small quantity of Potomac Creek ceramics in the region indicate a connection to the north and east (Hantman 2001:110). The relationship between northern and southern Piedmont groups is unclear. While some sources suggest a historic connection between the regions, most archaeological classifications separate them.

³⁷ Gold (2004) also cites more evidence of rodent gnawing and cut marks on skeletal remains from the Rapidan Mound, which suggests a different regime of mortuary ritual than at the Hayes Creek and Lewis Creek Mounds.

³⁸ According to Bushnell (1940:148-149), cairn burials are most often associated with the Late Woodland ancestors of the Cherokee who lived in the mountains of western Virginia.

Table 1: Common ceramic wares in the Virginia Coastal Plain and Piedmont

Type	Chronology	Geographic Range	Temper	Surface treatments	Source
Marcey Creek	1200-800 BC	Potomac valley, piedmont, coastal plain north of the James	Steatite	Net or fabric impressed	Egloff and Potter 1982:95-97
Mockley	AD 200-900	Coastal plain north of the James	Shell, usually oyster	Net impressed, cord marked, plain	Egloff and Potter 1982:103-104
Hercules	AD 200-900*	Inner coastal plain south of the James	Granite and gneiss	Fabric impressed, cord marked	Egloff and Potter 1982:106
Roanoke	AD 800-1600	Southern coastal plain, inner coastal plain	Shell	Simple stamped	Egloff and Potter 1982:109-111
Albemarle	AD 900-1600	Northern piedmont	Quartz	Plain, cord marked, fabric impressed, net impressed, simple stamped, scraped	Evans 1955:39-44
Stony Creek	AD 900-1600	Northern piedmont	Sand and quartz	Cord marked, Fabric impressed, net impressed, simple stamped, plain	Evans 1955:69-74
Townsend	AD 950-1600	Coastal plain north of the James	Shell, usually oyster	Fabric impressed, incised, plain, cord marked	Egloff and Potter 1982:107-109
Dan River	AD 1000-1450	Southern piedmont	Sand	Net impressed, simple stamped	Ward and Davis 2001:134
Clarksville		Southern piedmont	Sand	Fabric or net impressed, cord-marked, plain	Evans 1955:49-54
Cashie/Gaston	AD 1150-1700	Inner coastal plain south of the James	Quartz	Fabric-impressed, simple-stamped, plain	Egloff and Potter 1982:109
Moyaone	AD 1300-1650	Northern Neck	Sand or quartz	Plain, cord impressed, incised	Egloff and Potter 1982:112
Potomac Creek	AD 1300-1700	Potomac valley, northern coastal plain	Quartz or sand	Cord marked, plain	Egloff and Potter 1982:112
Yeocomico	AD 1500-1700	Northern Neck	Oyster shell	Plain, scraped, cord marked	Egloff and Potter 1982:112-114

The Dan River Culture, located in the Staunton River drainage as well as the James and New River Valleys, is distinguished from the Lewis Creek Mound Culture because Dan River

ceramics are tempered with sand rather than lithics and burials tend to be individual rather than collective. However, the presence of the accretional Leesville Mound in the Roanoke River drainage and sand-tempered ceramics in the James and Rappahannock River Valleys complicates this classification. (MacCord 1991:143; Hantman 2001:110, 121). Most recent literature on the Dan River area focuses more prominently on North Carolina but includes Virginia sites near the state border. Ward and Davis (2001:132-137) outline two phases for the region, the Dan River Phase (AD 1000-1450), and the Saratown Phase, divided into Early (1450-1620), Middle (1620-1670), and Late (1670-1710) periods. Dan River ceramics are sand tempered and primarily net-impressed; village settlements were initially dispersed but became more nucleated and were often palisaded after AD 1300 (Ward and Davis 2001:132-134). During the Early and Middle Saratown phases, settlements were most often located near the mouths of rivers and creeks. Large “roasting pits” suggest communal feasting and the increase in grave goods, including European trade goods during the Middle Saratown phase, indicate an increase in social complexity and trade (Ward and Davis 2001:134-135). The Late Saratown phase is defined by large cemeteries, dispersed settlements, and a variety of ceramic traditions, which are indicative of epidemic disease and the migration and coalescence of multiple cultural groups during the Early Historic period (Ward and Davis 2001:135-137). Recent excavations at the Wade Site (44CH62) reveal a mostly permanent village dating to AD 940-1425. Ceramics are primarily net-impressed and there is evidence that both ditches and palisades surrounded the village, although not contemporaneously. Individual burials are flexed and semi-flexed and archaeologists have also identified one primary multiple burial and one small bundle burial (MNI 3). Burials are often associated with grave goods (Bates 2010, 2012). Salvage excavations at Abbyville (44HA65)³⁹, a collection of sites that were flooded by the John H. Kerr Reservoir, took place between 1965 and 1970. Ceramics include Hyco and

³⁹ Abbyville is more accurately referred to as a collection of sites along the boundaries of several counties. One site name and number is used for the sake of simplicity.

Clarksville types. While ceramics show a variety of surface treatments, net-impressed and fabric-impressed treatments predominate (Wells 2002:207-267). Primary burials are most common at the Abbyville sites, although there are several bundle burials. There are also eight or nine instances of multiple burial and one possible example of a charnel house structure. Funerary objects are associated with just over a third of the burials and persistence to the seventeenth century is evidenced by the presence of European material culture (Wells 2002:165-189, Killgrove 2002:52-54). Although MacCord (1991), Ward and Davis (2001), Bates (2010, 2012), and Wells (2002), associate the Dan River Culture with Siouan-speakers such as the Saponi, Occaneechi, and Tutelo, Killgrove (2002) identifies Abbyville as “Iroquoian” due to the presence of multiple burials.

In Virginia, Iroquoian-speakers are documented historically along the Nottoway and Meherrin Rivers. MacCord notes the presence of palisaded villages, lithic-tempered ceramics, and individual, multiple, and ossuary burials in this region (MacCord 1991:143). The best known archaeological site from the region is the Hand Site (44SN22) (Smith 1984, Mudar et al. 1998). Early ceramics from the Hercules Phase (AD 800-1300)⁴⁰ are not associated with other archaeological features, but settlements during the Southampton Phase (AD 1580-1640) include a palisaded village and associated cemetery (Mudar et al. 1998:136-137). During this phase, ceramic surface treatments are primarily fabric-impressed and plain and are classified as shell-tempered Chickahominy series wares (Smith 1984:91), better known now as Townsend ware (specifically, Rappahannock fabric-impressed) and Yeocomico ware (Egloff and Potter 1982:107). Burial practices are varied and include primary interments, of which several are multiple burials, as well as secondary bundle burials and cremations. There is also evidence of a “fire ceremony” accorded to nine burials. Funerary objects are present in approximately twenty

⁴⁰ The dates given by Mudar and colleagues for this phase disagree with Egloff and Potter’s (1982) classification, which dates the Hercules Phase to the Middle Woodland period.

percent of burials (Mudar et al 1998:147-150). Both Smith (1984:102-106) and Mudar and colleagues (1998:150-151) affiliate the burials with the historic Nottoway, which fits with MacCord's classification.

The Powhatan-Algonquian culture is defined primarily on a historical basis, but there are also distinct ceramic types associated with the region, namely Middle Woodland Mockley ceramics and Late Woodland Townsend wares. Martin Gallivan (2011) argues that while Townsend ceramics are common along the Chickahominy River from the ninth to seventeenth centuries, settlements along the James River dating to the fourteenth century and later used Roanoke and Gaston ceramics, which are typically associated with more southern traditions. At the Great Neck site (44VB7), earlier components are associated with Townsend wares, but in the sixteenth century, Roanoke wares become more prominent (Gallivan 2011:297). Gallivan's (2003) study of James River Valley settlements tracks a "clinal" or gradual variation between surface treatment types in the Coastal Plain, Piedmont, and Ridge and Valley during the Middle Woodland and Late Woodland I periods. However, surface treatments do not follow the same spatial and temporal patterns during Late Woodland II (Gallivan 2003:131-143). The region occupied historically by the Powhatan paramountcy is known for the prevalence of collective, secondary ossuary burials.⁴¹ Like western mounds, they are composed of multiple individuals whose bodies underwent a primary burial process before final deposition in an ossuary. At variance with mound burials, however, ossuaries were constructed in a single event. Ossuaries located in the southern Coastal Plain are generally small (10-20 individuals) compared to the northern Coastal Plain (Gallivan 2011:300; Turner 1992:118). There is also evidence of individual primary burials in the region. During the course of excavation at Paspahugh (44JC308), which dates to the sixteenth and early seventeenth centuries, the remains of at least

⁴¹ Curry (1999) also reviews the tradition of ossuary burial in coastal Maryland. Although this region is outside of the boundaries of the Powhatan paramountcy, its inhabitants likely spoke Algonquian languages and buried their dead in a similar manner to many coastal Virginia Indians. This publication, Curry notes, arose from the difficulty of the NAGPRA inventory process in Maryland.

eighteen individuals were identified in twelve burial features, which included ten primary interments and two small ossuaries (MNI 4 and 6). Several burials are also associated with funerary objects (Boyd and Boyd 1994:169). At the Hatch site (44PG51), most of the burials are individual primary interments, but there are also possible cremations and a possible secondary burial. Burials are located in close association with one another, often overlapping (Dore 2011:58-59). Interments excavated as part of the Chickahominy River Survey⁴² are ossuaries as well as individual bundle burials and individual primary interments, none of which are accompanied by funerary objects (Mahoney 2009). At Great Neck, there are both small ossuary and single primary interments; the latter are accompanied by funerary objects (Hodges 1998:206-207). Burials in the northern Coastal Plain follow a similar pattern, but northern ossuaries are much larger than collective interments the southern Coastal Plain.

Traditionally, the region occupied by the Potomac Creek Culture is considered part of the Powhatan paramountcy, but historical evidence suggests that areas north of the Rappahannock River were on the periphery of Wahunsenacawh's polity. There are also distinctions made between the ceramic types and burial practices in these regions. As in the southern Coastal Plain, Mockley ceramics are common during the Middle Woodland Period and varieties of Townsend ceramics (particularly Rappahannock fabric-impressed) are diagnostic for the Late Woodland Period. However, quartz or sand-tempered Potomac Creek and other similar wares emerge in the region after AD 1300 and persist into the seventeenth century (Potter 1993:114-125). Archaeologists have debated the origin of the "Potomac Creek people," citing migrations from the western Potomac Valley (Montgomery complex), the Susquehanna Valley (Owasco tradition), or the Eastern Shore. Potter (1993:134-138) argues for the Montgomery hypothesis, while Blanton et al. (1999:102-104) and Gallivan (2011:281-282) favor an Owasco migration. Burials

⁴² The Buck Farm (44CC37) and Edgehill (44CC29) sites are discussed in this thesis; see Gallivan et al. 2009 for further discussion of the Chickahominy River Survey.

in this region are well-known from decades of excavation and analysis (e.g. Stewart 1992, Ubelaker 1974, Potter 1993, Potter 2006, Jirikowic 1990, Blanton 1999). The Potomac Creek Site (44ST2) has been excavated since the 1930s. Stewart (1992:80-91) describes a multiple primary burial as well as single primary interments and numerous ossuaries. Jirikowic (1990) argues that Potomac Creek people created ossuaries in order to define group identity and lay claim to territory. She also suggests that ossuaries may represent elites' effort to legitimize inequality (Jirikowic 1990:368-371). Potter (2006) interprets the transition from ossuary to primary burials and the influx of funerary objects in the seventeenth century as evidence of trade and the weakening of elite power. McCary (2007b) also notes a significant number of funerary objects in ossuaries near Mount Airy on the Northern Neck. In general, Potomac ossuaries contain more than fifty individuals and often as many as two hundred, much larger than southern Coastal Plain ossuaries. They also appear to contain a greater proportion of funerary objects, both before and after the arrival of Europeans.

As Gallivan (2003) proposes regarding ceramic surface treatments along the James River, material traditions in Virginia appear to vary clinally rather than forming distinct archaeological cultures. However, MacCord's (1991) classificatory system does extract many of the key historical and archaeological distinctions between regions. The problem therein is discerning boundaries between these larger groups and their smaller constituents through time for the purposes of cultural affiliation. It is important to reflect on the context of individual sites within local and regional material traditions in order to discern patterns and anomalies that tie a site to a particular historic group. In Late Woodland and Early Historic Virginia, there is a complex interplay between cultural practices, language, and political affiliation; individual and group choices in identity expression should be considered in each case.

Skeletal Biology

Before cultural affiliation can be considered, NAGPRA requires human remains to be classified as *Native American*, which is defined as “of, or relating to, a tribe, people, or culture that is indigenous to the United States” (25 U.S.C. § 3001, Section 2(9)). Researchers typically approach this classification using contextual archaeological evidence (e.g. remains are from an American Indian site) or biological evidence of ancestry. Biological evidence also contributes to cultural affiliation decisions. Biology can be used in many ways to better understand ancestry and cultural practices. For example, mitochondrial DNA (mtDNA) as well as skeletal metric and nonmetric data are often used to monitor genetic relationships between persons and populations. Additionally, skeletal biologists study the subsistence, health, and activity patterns of populations using human skeletal remains. However, NAGPRA practitioners must distinguish between evidence of ancestry and evidence of a group’s cultural practices. While shared group identity often coincides with shared genetic background, this is not always the case. Therefore, researchers should prioritize other allowable lines of evidence over DNA and skeletal markers of ancestry when studying cultural affiliation (c.f. Boyd 1995). Instead, I argue that biodistance and biocultural skeletal markers of subsistence and health (e.g. dental caries prevalence, rates of linear enamel hypoplasia, stable carbon and nitrogen isotope ratios, and prevalence of skeletal pathologies like osteoarthritis and porotic hyperostosis) can be used comparatively to evaluate differences between populations and can contribute to cultural affiliation studies. Unlike the racially-based models prevalent in nineteenth and early twentieth century skeletal biology, biocultural traits point to variations in cultural practices, highlighting the ways that agency is imprinted on human skeletal remains (see also Buikstra and Scott 2009:25).

Historically, skeletal biology was used to distinguish differences (and inequalities) among “racial” and cultural groups. Aleš Hrdlička compared the cranial indices of American Indians from the eastern United States in order to determine whether linguistically-defined

populations were more dolichocephalic (long headed) or brachycephalic (short headed) (Hrdlička 1916:110-126). According to Kristina Killgrove (2009:87), these methods are still prevalent in North Carolina archaeology: “literature is full of statements such as ‘long-headed population,’ ‘robust Algonquian’ (Lofffield 1990:119), and ‘gracile Siouan’ (Coe et al. 1982).” Killgrove challenges the attribution of specific cranial morphologies to linguistic and cultural groups, proposing instead a study of biodistance in order to determine biological relatedness between populations in coastal North Carolina and Virginia. The study compares 25 nonmetric cranial traits, primarily sutures, ossicles, and foramina on crania excavated from eleven sites on the northern Coastal Plain of North Carolina and two sites from southeastern Virginia. While this biodistance study showed that there is little significant biological variation between populations in the study area, cluster analysis grouped sites roughly into geographic regions, a correlation that fits since populations living close to one another are more likely to interact. Killgrove (2009:97) proposes that future bioarchaeological research should focus on “spheres of interaction among Native Americans” rather than biological distinctions between bounded groups. Ortner and Corruccini (1976) also look to comparative studies of skeletal biology in order to understand the nexus between biology and geography. They study microdifferentiation among three Late Woodland or Early Historic populations (Potomac Creek (44ST2), the Shannon Site (44MY8), and a collection from Alleghany County) using craniometrics, odontometrics, and cranial nonmetric traits. Ortner and Corruccini find that geographic distance correlates with biological distance, but that there is greater differentiation in males than in females, suggesting that females moved between populations more often than males. This finding would seem to support William Strachey’s comment that women and children frequently moved between sociopolitical groups as the result of warfare (Ortner and Corruccini 1976:722). In sum, biodistance studies in Virginia and surrounding regions support the notion that inherited biological traits do not correspond with

bounded groups, but shift gradually with distance. Additionally, there is evidence that instead of living in isolation, populations – and particularly females – repeatedly crossed boundaries.

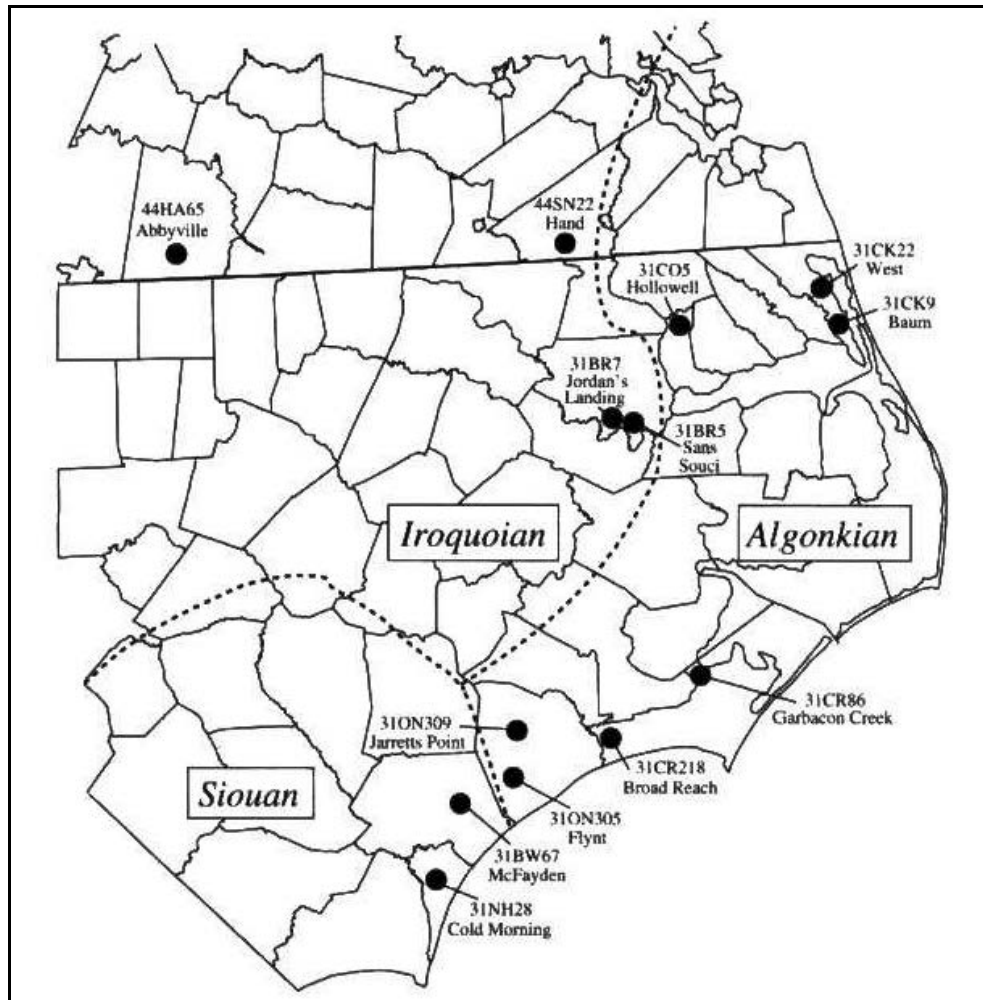


Figure 7: Archaeological sites and linguistic boundaries in southern Virginia and North Carolina (Killgrove 2009:89)⁴³

Certain skeletal traits and pathologies are more indicative of diet and health than of ancestry. Linear enamel hypoplasias (LEH) are “quantitative defects characterized as deficiencies in the amount or thickness of enamel” (Larsen 1997:44), and they are often attributed to systemic metabolic stress (usually nutritional deficiencies) during childhood (Larsen 1997:44-46). In pre-

⁴³ Note that Killgrove (2009) utilizes a different spelling of the language sub-family ‘Algonquian’ and does not discuss a western boundary between Siouan, Iroquoian, and Algonquian-speakers in Virginia, classifying Abbyville as an “Iroquoian” site while other studies typically associate it with Siouan-speakers.

Columbian North America, the shift to agriculture is usually marked by an increase in LEH frequency (Larsen 1997:51-52). Rates of dental caries (cavities) are also related to the transition from hunting, gathering, and foraging to agriculture. Dental caries is “a disease process characterized by the focal demineralization of dental hard tissues by organic acids produced by bacterial fermentation of dietary carbohydrates, especially sugars” (Larsen 1997:65). Populations that consume predominantly maize-based diets are particularly prone to caries, but other sugary or abrasive foods can lead to caries as well. Turner’s comparative study of caries rates revealed an average rate of 1.7 percent among foragers, 4.4 percent for mixed foraging and agriculture, and 8.6 percent among agricultural populations. Generally, the shift to agriculture in the Eastern Woodlands is marked by a transition of caries prevalence below seven percent to above seven percent (Larsen 1997:67-72).

Stable isotopes of carbon and nitrogen, studied in parts per thousand (‰) and compared to an international standard (indicated by δ), can illuminate the relative importance of different dietary components. The relative values of $\delta^{13}\text{C}$ and $\delta^{15}\text{N}$ are measured in bone collagen and dental apatite. The consumption of temperate C_3 plants such as wheat or rice typically presents more negative values of $\delta^{13}\text{C}$ than consumption of tropical C_4 plants like maize and sugar cane (Larsen 1997:271-272). Likewise, $\delta^{15}\text{N}$ values indicate the differential consumption of marine and terrestrial organisms, with higher values indicating a greater reliance on marine plants and animals and lower values suggesting terrestrial food sources (Larsen 1997:282-284). Considering both carbon and nitrogen isotopes aids researchers in determining the relative role of maize and both marine and terrestrial resources, particularly in coastal areas (Larsen 1997:286-288). While other skeletal indicators of health, diet, and activity, such as porotic hyperostosis, cribra orbitalia, periostitis, and osteoarthritis have great comparative potential for cultural affiliation in Virginia, they are not discussed as systematically as the aforementioned indicators in recent literature.

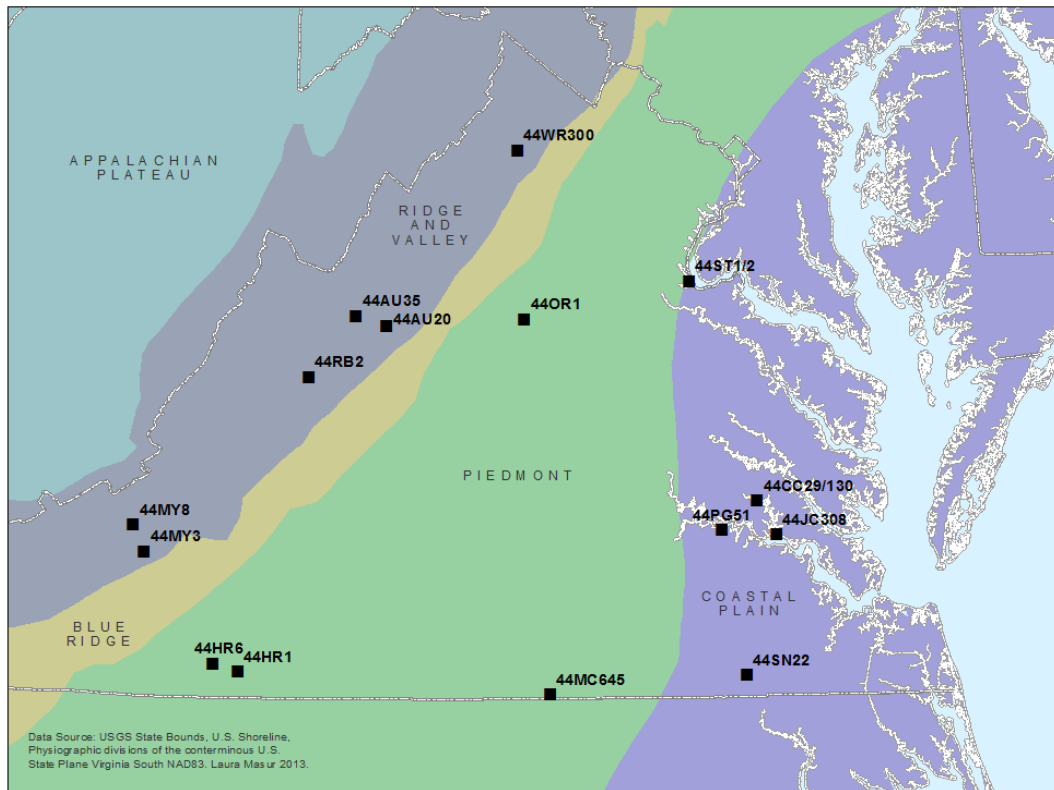


Figure 8: Archaeological sites discussed in the bioarchaeology section

A variety of studies (Boyd and Boyd 1994; Dore 2011; Driscoll and Weaver 2000; Gold 2000, 2004; Lambert 2000; Mudar et al. 1998) discuss the prevalence of dental caries and linear enamel hypoplasia in Late Woodland and Early Historic Virginia. At Paspahugh (44JC308), a Late Woodland and Early Historic site located at the confluence of the Chickahominy and James Rivers, there is a total caries prevalence of 8.39 percent. While other pathologies like LEH and porotic hyperostosis indicate some nutritional stress, they are not particularly common in this population. These data indicate an agricultural population, but perhaps less dependence on maize than neighboring populations (Boyd and Boyd 1994:173-181). At the Hatch site (44PG51), which dates to Late Woodland I and is located further up the James River, caries prevalence is higher (22.16%) and there is also a greater proportion of LEH within the population (Dore 2011:64-65). The Edgehill site (44CC29), located up the Chickahominy River from 44JC308, exhibits a caries

prevalence between 44JC308 and 44PG51 at 14.5 percent, but a significantly higher percentage of LEH (Dore 2011:81-82). Dore (2011:89-100) notes an increase in dental caries and LEH over time within these sites, attributing this trend to increasing dependence on maize during Late Woodland I. Both caries and LEH prevalence are lower at the Late Woodland and Early Historic Hand site (44SN22), which is located south of the James River, along the Nottoway River (Mudar et al. 1998:142-144). While the authors only observe that these figures indicate an agricultural population, the caries rate is very low for the Late Woodland in Virginia and LEH frequency suggests better childhood nutrition and health than most other sites as well.

Table 2: Prevalence of dental caries and enamel hypoplasia at select sites

Site	Period ⁴⁴	MNI	% Caries ⁴⁵	% LEH	Source
Paspahegh (44JC308)	LW II, EH	18	8.4	5.0	Boyd and Boyd 1994
Hatch (44PG51)	LW I	36	22.2	17.8	Dore 2011
Edgehill (44CC29)	LW I	44	14.5	36.3	Dore 2011
Hand (44SN22)	LW II, EH	117	7.2	21.0	Mudar et al. 1998
Gaston Reservoir (44MC645)	LW I	27	79.2	45.5	Lambert 2000
Leatherwood Creek (44HR1)	LW II	9	88.9	80.0	Lambert 2000
Rapidan (44OR1)	LW II		22.8	77.5	Gold 2004
Lewis Creek (44AU20)	LW I	37	24.9	58.4	Gold 2004
Hayes Creek (44RB2)	LW I/II	47	29.2	39.1	Gold 2004

In the southern Piedmont of Virginia, the prevalence of dental caries and LEH is much higher than in other parts of Virginia. At the Gaston Reservoir site (44MC645), due west of 44SN22 near the border with North Carolina and the Leatherwood Creek site (44HR1) farther west, as well as other nearby Late Woodland sites (see Lambert 2000:171-172) there are very high rates of dental caries and LEH. Lambert (2000) notes that health in this region is poorer than in the southern Piedmont and mountains of North Carolina, which she attributes to less

⁴⁴ LW I: Late Woodland I (AD 900-1200), LWII: Late Woodland II (AD 1200-1600), EH: Early Historic (AD 1600-1700).

⁴⁵ Percentage of permanent teeth with at least one carious lesion or one hypoplastic defect present.

agricultural productivity and the absence of larger polities for resource distribution. While figures from the Rapidan (44OR1), Lewis Creek (44AU20), and Hayes Creek (44RB2) mound sites exhibit fewer carious lesions than southern Piedmont sites, rates of LEH are still very high and are comparable to 44MC645 and 44HR1 (Gold 2004:90-97). Gold argues that these data indicate significant but not total maize dependence, and while episodes of childhood stress were frequent, individuals often survived into adulthood. Overall health at each of the three sites was good, although there is more evidence of periosteal lesions, cribra orbitalia, and porotic hyperostosis at the earlier 44AU20 (Gold 2004:123-129).

Table 3: Mean stable isotopes of carbon and nitrogen (from Trimble 1996)

Site	Period	n	Mean $\delta^{13}\text{C}$ (‰) ⁴⁶	Mean $\delta^{15}\text{N}$ (‰)	% C ₄ plants
Cabin Run (44WR300)	LW I	3	-14.2	9.4	50
Paspahegh (44JC308)	LW II, EH	11	-13.7	11.6	50-75
Hayes Creek (44RB2)	LW I/II	1	-13.4	10.0	50-75
John East (44AU35)	LW I	3	-19.6	8.6	0-50
Koehler (44HR6)	LW II, EH	8	-14.3	10.4	50-75
Lewis Creek (44AU20)	LW I	9	-12.4	9.5	50-75
Potomac Creek (44ST2)	LW II, EH	14	-16.5	11.5	25-50
Rapidan (44OR1)	LW II	10	-17.2	10.0	25-50
Shannon (44MY8)	LW II	16	-11.0	9.3	75-100
Trigg (44MY3)	LW I/II, EH	17	-12.6	9.4	50-75
C ₃ plant consumer			-24.0	6.0	
Freshwater fish consumer			-22.0	18.0	
C ₄ plant consumer			-8.0	8.0	

Carmen Trimble's (1996) thesis compares stable isotopes of carbon and nitrogen in Virginia and North Carolina. Maize was an important contribution to Late Woodland subsistence throughout Virginia, but the relative importance differs within geographic regions. Piedmont subsistence was the most diverse, while Coastal Plain populations depended more significantly on

⁴⁶ Mean stable isotope values calculated from adult samples.

marine resources and Ridge and Valley diets were more notably maize-based. Stable isotopes from the 44OR1 (Piedmont) suggest less than fifty percent reliance on maize, while isotopes from 44RB2 and 44AU20 (Ridge and Valley) indicate that maize comprised 50-75 percent of diets (Gold 2000:206-207, 2004:87-89). Values of $\delta^{13}\text{C}$ and $\delta^{15}\text{N}$ from 44JC308 (Coastal Plain) fall between these sets of figures, with maize comprising approximately half the diet (Trimble and Macko 1994:298-303).

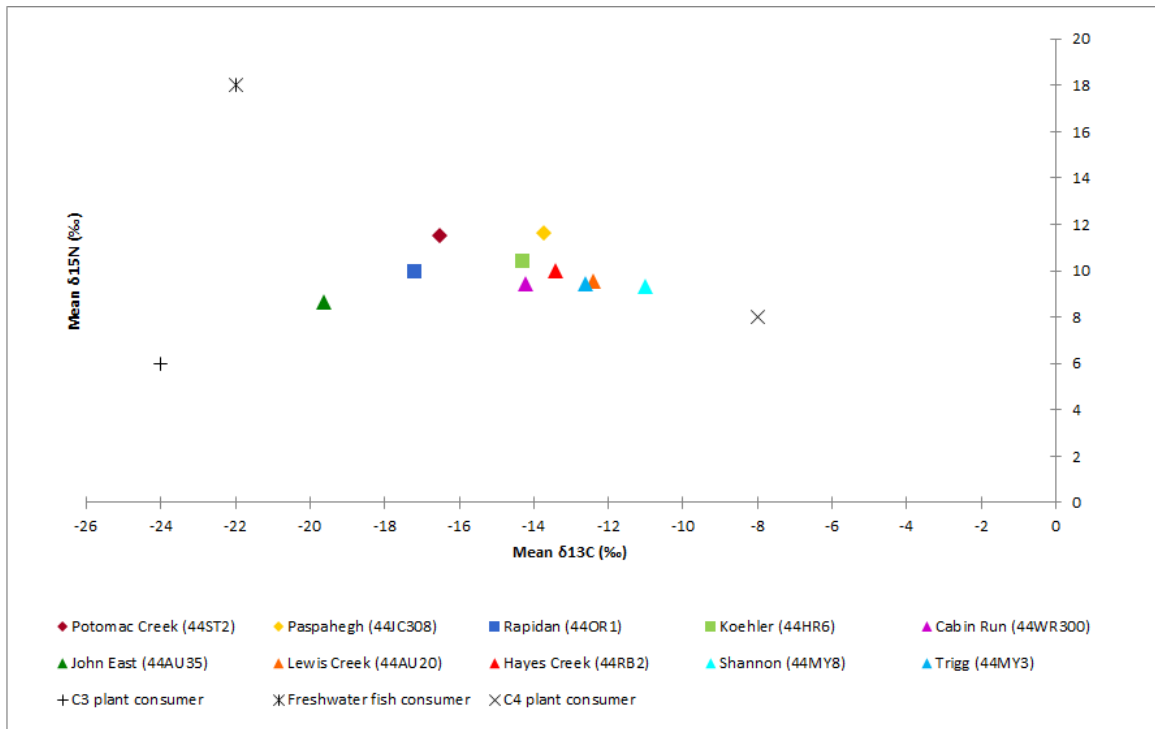


Figure 9: Mean stable isotopes of carbon and nitrogen (data from Trimble 1996)

Considered together, skeletal indicators of diet and health suggest distinctions between populations in different physiographic regions. Maize dependence appears to be highest in the Ridge and Valley and southern Piedmont, while populations living in the northern Piedmont and coastal regions had access to more varied diets. Additional evidence by Boyd and Boyd (1992) and Driscoll and Weaver (2000) agrees with this hypothesis. Certainly resource availability plays a significant role in diet, but not all populations living in coastal areas took equal advantage of estuarine resources (see Blanton 1999:100-102). Figure 9, which maps mean $\delta^{13}\text{C}$ and $\delta^{15}\text{N}$

values from ten sites in Virginia, demonstrates that factors other than simply physiographic region contribute to variation in stable isotope levels. I discuss the relationship between environment, diet, material culture, and group identity in chapter five. The discussion of biocultural traits in Late Woodland and Early Historic Virginia would benefit from more studies and larger sample sizes. However, such studies should always be pursued in accordance with the wishes of and in continual consultation with affiliated descendant communities, particularly when destructive testing is involved.

V. REVISITING ANCESTRAL BURIALS

Discussing a theoretically informed cultural affiliation process, April Beisaw (2010) calls researchers to acknowledge the complexity of identity. In particular, she promotes an approach that takes into account the role of social memory in burial practices, “because mortuary rituals are among the most archaeologically visible acts of social memory and are reflective of both individual and group identities” (Beisaw 2010:245). Mortuary practices in Late Woodland and Early Historic Virginia are saturated with memory: from the Powhatans, Patawomecks, and Tuscaroras who revered their deceased kings in mortuary temples to eighteenth and nineteenth century Indians who continued to visit ancestral mounds in the interior, decades after migration. Ethnic and political groups used burial practices to denote boundaries, like the border between the Powhatan paramountcy and Monacan and Manahoac polities. Yet south of the James River, cultural and linguistic boundaries between groups were more fluid, indicating perhaps the prominent role of trade in the region.

In this chapter, I critically review the ways researchers have assigned cultural affiliation in three short case studies or ‘vignettes.’ In particular, I review and analyze the role of mortuary ritual as active expressions of political or ethnic identity. After all, “the deceased and their deaths are opportunities for the active manipulation of social, political, ethnic, and material structures” (Rakita and Buikstra 2005:8). I use data discussed in chapter four, as well as historical accounts of burial practices in Virginia, in order to open dialogues about political, cultural, and linguistic boundaries in the Piedmont, Coastal Plain, and the “southern frontier,” south of the James River.

Monacans as moundbuilders

In their 2003 article, Gary Dunham, Debra Gold, and Jeffrey Hantman discuss and analyze recent excavations at the Rapidan Mound (44OR1), one of thirteen accretional mounds in

Virginia. The authors maintain that the mound complex is “internally variable but ultimately [a] bounded and definable cultural phenomenon,” but choose not to use MacCord’s term “Lewis Creek Mound Culture” because it “does not acknowledge a connection between the Monacan people of central Virginia and the mound complex” (Dunham et al. 2003:113). Building on prior research (e.g. Hantman 1990), they argue that they will consider collectively the historically identified territories occupied by Monacan and Manahoac allies, “noting that variations in personal and tribal identity existed at different spatial scales within the region and over time” (Dunham et al. 2003:112). The origin of Virginia’s mound complex and the cultural relationship between the Monacans and Manahoacs has been the subject of academic discussion at least since the days of Mooney (1894) and Bushnell (1914). Following this tradition, Dunham and colleagues’ article sparked a response from archaeologist and skeletal biologist Clifford Boyd.

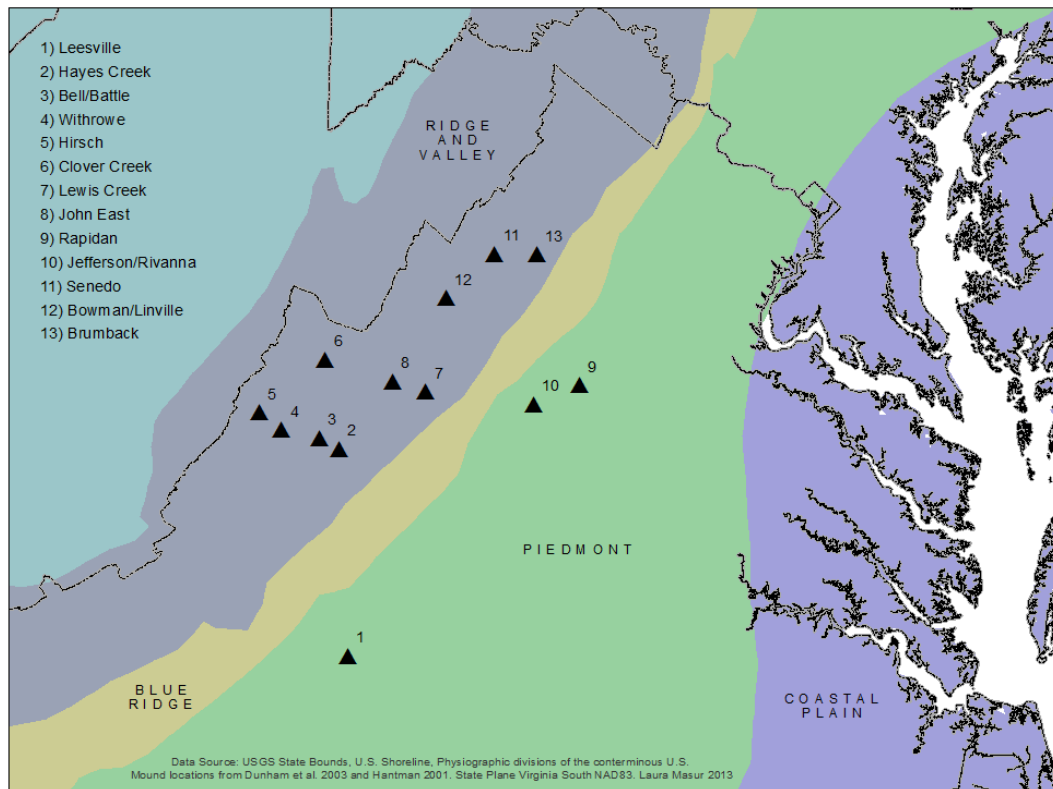


Figure 10: Accretional mounds and physiographic regions in Virginia

Boyd (2004) suggests that Dunham and colleagues have “misapplied” the direct historical approach by establishing a connection between the present-day Monacan and Late Woodland moundbuilders. Reviewing (primarily temporal) archaeological and historic evidence, Boyd concludes that evidence does not support Dunham and colleagues’ “parsimonious” conclusion. In particular, he notes the absence of European material culture or radiocarbon dates which would establish the mounds in the seventeenth century as well as the absence of historical documentation of mound building as a “Siouan” burial practice (Boyd 2004:361-363). Hantman, Gold, and Dunham (2004) respond to Boyd’s criticism by arguing that the later Piedmont burial mounds rarely include funerary objects of any kind and that the radiocarbon dates come from the earliest layers (base) of the mounds. The authors also emphasize that they do not seek to establish a connection between Monacans and moundbuilders as an incontrovertible fact: “we think the Monacan connection is the best and most logical one, pending other data” (Hantman et al. 2004:583).

Such articles, however conflicting, are an important outlet for debates about controversial issues like cultural affiliation. In supporting “the best and most logical” affiliation, Hantman et al. (2004) reflect NAGPRA’s stipulation that “cultural affiliation is established when the preponderance of the evidence...reasonably leads to such a conclusion” (25 U.S.C. § 3001, Section 2(2)). A preponderance of evidence is not scientific certainty and one determination of cultural affiliation should certainly not put an end to scholarly debates. It is clear that in drawing attention to the close connection between contemporary Monacans and Late Woodland moundbuilders, Hantman, Dunham, and Gold sought to provide a framework for cultural affiliation and the repatriation of human remains collected from Virginia’s mounds. Moreover, the debate between Hantman, Dunham, and Gold and Boyd brings to the foreground two critical questions about establishing cultural affiliation in Virginia. First, to what extent are historical

accounts of Virginia Indian homelands and burial practices necessary for cultural affiliation?

Second, what is the most appropriate scale for cultural affiliation in Virginia?

As Boyd (2004:362-363) rightly notes, the burial practices of interior tribes are not well-documented during the seventeenth century. John Lederer observes of the Nahyssan⁴⁷ that “They commonly wrap up the corpse in beasts skins, and bury with it Provision and Household stuff for its use in the other world. When their great men die, they likewise slay prisoners of War to attend them” (Lederer 1672:5, see also Mooney 1894:33). However, Boyd’s assertion that this description is “generic for the Virginia Siouans” (Boyd 2004:363) is questionable, both because of significant mortuary variability in the Piedmont and because it assumes cultural homogeneity among Virginia’s Siouan-language speakers. In addition, there are several eighteenth and nineteenth century accounts that note the connection of historic Indians to the mounds.

Jefferson’s famous account states that the mounds:

are of considerable notoriety among the Indians: for a party passing, about thirty years ago, through the part of the country where this barrow is, went through the woods directly to it, without any instructions or enquiry, and having staid about it some time, with expressions which were construed to be those of sorrow, they returned to the high road, which they had left about half a dozen miles to pay this visit, and pursued their journey [Jefferson 1999:106].

Bushnell (1914) also notes several other accounts of Indian visits to mounds in the nineteenth century. An African-American woman who lived at or near Monticello stated that “when she was a child she several times saw parties of Indians stop there, and at night dance around a fire on, or near, ‘the Indian Grave’” (Bushnell 1914:111). Another account states that “Indians from the southwest” visited a Louisa County mound; yet another source asserts that a group of Indians, “all young men except one, who seemed to be born down with extreme old age,” (Bushnell 1914:112) visited a mound in Bath county.

⁴⁷ The Nahyssan are probably related most closely to the Tutelo, Saponi, and Occaneechi of the southern Piedmont or Roanoke River drainage.

These accounts clearly establish a connection between the Late Woodland mounds and historical Indian groups who lived close enough to various mounds to visit on at least several occasions. Whether or not these visitors were ‘Monacan,’ the affiliation of the mounds with the historical Monacan or Manahoac is supported by a preponderance of available evidence.

Historical evidence establishes the Monacans in the general vicinity of the mounds during the seventeenth century. While linguistic evidence is poor, archaeological and bioarchaeological evidence suggest shared group identity among the people who built the mound complex.

Mound burial is by no means the only form of interment in the Piedmont: individual primary and small secondary non-mound burials are also common throughout the region. However, the construction of large accretional mounds reflects a degree of political organization. Following Dunham and colleagues (2003) and Hantman (1990), Martin Gallivan states that “piedmont burial mounds marked by uniform treatment of the dead may record a hierarchical political order, with power manifested in historical associations between ancestors and territory” (Gallivan 2011:300). Perhaps the geographic extent of burial mounds reflects the boundaries of a political entity, distinct from other Virginia Indians groups in the Piedmont, among whom cultural practices varied “clinally” or gradually. The Leesville Mound (44CP8) located in the Roanoke River drainage (see MacCord 1986:17), may represent political expansion, migration, or perhaps the local development of an opposing polity.

Identities and boundaries in the Coastal Plain

Most archaeologists agree that the people who created the Potomac Creek complex migrated to the lower Potomac River during the fourteenth century. Dennis Blanton and colleagues (1999:92) describe them as “uncomfortable immigrants,” who lived in a heavily defensible village at Potomac Creek (44ST2) and neighboring sites like Moyaone (18PR8). Yet by the fifteenth century, a significant proportion of the community had moved to dispersed

settlements outside of palisaded 44ST2, which “assumed an increasingly specialized function” (Blanton et al. 1999:97). During this period, there is evidence of a large post-in-ground structure associated with two ossuaries, a material complex also noted at the Buck Farm site (44CC37) along the Chickahominy River (Shephard 2009:115-116, Stewart 1992:6, Blanton et al. 1999:97). Set apart from larger settlements, temples or *quioccassans* were the domain priests or *quiyoughcosoughs*, who played an important role in politics and served as intermediaries between deities and the state (Shephard 2009:213-214, see also Williamson 2003). Several historical accounts discuss the relationship between quioccassans, quiyoughcosoughs, and mortuary practices.

John Smith writes, “for their ordinary burials, they digge a deep hole in the earth with sharpe stakes, and the corpes being lapped in skins and mats with their jewels, they lay them upon sticks in the ground, and so cover them with earth” (Smith 1986:169). Henry Spelman also describes mortuary practices among the Patawomeck: “If he dies his burial is thus ther is a scaffould built about 3 or 4 yards hye from the ground and the deade bodye wrapped in a matt is brought to the place,” where it is left until only the skeletal remains are left, after which they are removed from the structure (Spelman 1872:15). Thomas Harriot describes a similar practice:

They builde a Scaffolde 9. or 10. foote highe as is expressed in this figure vnder the tombs of their Weroans, or cheefe lordes which they couer with matts, and lai the dead corpses of their weroans theruppon in manner followinge. first the bowells are taken forthe. Then layinge downe the skinne, they cutt all the flesh cleane from the bones, which they drye in the sonne, and well dryed they inclose in Matts, and place at their feete. Then their bones (remaininge still fastened together with the ligaments whole and vncorrupted) are couered agayne with leather, and their carcase fashioned as yf their flesh wear not taken away. They lapp eache corps in his owne skinne after the same is thus handled, and lay yt in his order by the corpses of the other cheef lordes...Moreouer vnder the foresaid scaffolde some one of their priests hath his lodging, which Mumbleth his prayers nighte and day, and hath charge of the corpses...Thes poore soules are thus instructed by nature to reuerence their princes euen after their death [Harriot 1893:135].

William Strachey also notes the common practice of interring chiefs with objects such as copper, beads, and pearls, as well as tobacco and personal objects (see Swanton 1946:719). Robert Beverley describes the persistence of these burial traditions into the seventeenth century: “Their Fortifications consist only of a Palisado of about ten or twelve foot high...They never fail to secure within the Palisado, all their Religious Reliques, and the remains of their Princes” (Beverley 1947:177).



Figure 11: P. D. H. Page (n.d.) after John White, “Indian Charnal House” (1585-1586)

These accounts demonstrate the variety of mortuary rituals in sixteenth through eighteenth century coastal Virginia. Smith’s account appears to describe a primary burial ritual,

although it may represent an early stage of burial that culminated in final ossuary interment. While both describe a ‘scaffold’ burial ritual, Spelman does not describe the tradition as restricted to elites, and notes the eventual removal of human remains from the structure (see also Potter 1993:210-211). Harriot notes a similar but distinct tradition for weroances that involves more active processing and the permanence of human remains within *quioccassans*, a description that agrees with Beverley’s early eighteenth century observations. Although none of these accounts refers directly to ossuary interment, the practices bear many similarities to Huron or Wyandotte traditions, which culminated in a “feast of the dead,” a secondary burial ritual held about every ten years (see Ubelaker 1974:8-10). According to Samuel de Champlain, Huron primary interments were either made in the ground covered by a cabin or aboveground in a cabin (Ubelaker 1974:8). Historically documented Huron mortuary practices bear many similarities to archaeologically documented burial features in Virginia’s Coastal Plain and offers one explanation for the burial of individuals under or near inferred *quioccassans* (see Stewart 1992:6, see also Potter 1993:219-220). It is important to note that while the presence of an increased number of primary interments during the Early Historic period may denote a shift in mortuary traditions, it may also reflect the inability of Virginia Indians to complete multi-part burial rituals due to warfare or migration. After all, in many societies death is understood to be a process rather than an event (e.g. Parker Pearson 1999:22, see also Fogelson 1989:144-145).⁴⁸

Historical and archaeological evidence suggests that Potomac Creek population (or Patawomecks) did not remain “uncomfortable immigrants” living in a palisaded settlement. The two most prominent migration theories cite migration from the Virginia or Maryland Piedmont (Montgomery tradition) or the Susquehanna Valley in New York (Owasco Tradition). These arguments are based largely on similar decorative techniques on quartz-tempered ceramics

⁴⁸ Shaffer (2005) points out the challenges in identifying burials associated with the present-day Nanticoke, because “some of the observed mortuary variation could derive from a particular grave representing just one stage in the series of events constituting Nanticoke burial practices” (Shaffer 2005:153).

(Blanton et al. 1999:102). Yet other lines of evidence are at odds with these migration theories. If the Patawomecks migrated from the Piedmont, they may have originally spoken an Algonquian language but drastically modified their burial practices after arrival on the Coastal Plain.⁴⁹ Conversely, migration from New York would suggest that the Patawomecks were most likely Iroquoian speakers, but were familiar with ossuary burial (Snow 1984:255, Gallivan 2010). In either case, the Patawomecks chose to align themselves culturally and linguistically with coastal Algonquian-speakers. However, archaeological evidence of subsistence suggests that the Patawomecks maintained a more inland diet rather than adopt the marine and estuarine diet of local Algonquian-speakers (Blanton et al. 1999:100-102). These cultural changes may reflect a political choice if not to align themselves with local polities, to at least speak the same cultural or spiritual (and literal) language, while still maintaining a distinct identity. The complex and conflicting association of Patawomecks and other northern Algonquian-speaking tribes with the Powhatan paramountcy during the seventeenth century could reflect the persistence of fourteenth century political choices.

Throughout the Coastal Plain, Virginia Indians have demonstrated remarkable resilience to centuries of oppression. Patawomeckes, Rappahannocks, Pamunkeys, Mattaponis, Chickahominies, and Nansemonds still live close to their ancestral homelands. Although historic maps, such as John Smith's 1612 map of Virginia, document the location of seventeenth century village sites with great accuracy, they reflect European perspectives on political affiliation and identity. The boundaries of cultural affiliation will be difficult to draw in eastern Virginia. Ethnohistory and the study of oral tradition are two approaches that may shed light on the intricacies of political and cultural affiliation during the Late Woodland and Early Historic periods. In addition, the study of language and skeletal markers of diet and health have the

⁴⁹ Burials from the "Montgomery Complex" are usually individual primary or secondary burials, sometimes with funerary objects, bear the greatest similarities to mortuary traditions of the Virginia Piedmont, particularly the southern Piedmont during the Late Woodland period (Chase 1988:64-74).

potential to augment historical and archaeological evidence of cultural practice and group identity. In the end, it is the prerogative of Virginia Indians in the Coastal Plain and throughout the Commonwealth to decide how their political allegiances will lie in the twenty-first century and to determine the scale at which they will claim human remains for repatriation. This situation also presents anthropologists, archaeologists and NAGPRA practitioners with an opportunity for civic engagement with descendant communities.

The southern frontier

Distinct from the large polities that dominated Virginia's northern Piedmont and Coastal Plain during the Late Woodland period, the region south of the James River is marked by shifting linguistic, ethnic, and political boundaries. Martin Gallivan (2010) calls this region "a frontier between culturally- and socially-distinct traditions...replete with rival Algonquian weroances, powerful Iroquoian traders [and] Siouan cultural influences." In this region, people, material objects, and cultural practices frequently crossed ethnic and linguistic boundaries, constantly modifying their notion of identity. Kent Lightfoot and Antoinette Martinez call frontiers "socially charged places where innovative cultural constructs are created and transformed," calling for researchers to look at frontiers as "zones of cultural interfaces in which cross-cutting and overlapping social units can be defined and recombined at different spatial and temporal scales of analysis" (Lightfoot and Martinez 1995:472). Although a tradition of fluid boundaries makes assigning cultural affiliation more difficult, it also offers an opportunity to examine more deeply the ways that Virginia Indians expressed identity over time through ceramic traditions, mortuary rituals, dietary choices, and spoken language.

It is clear that material traditions did not shift drastically north and south of the James River. Although Roanoke and Gaston wares and simple-stamped surface treatments are usually associated with the region south of the James, (Egloff and Potter 1982:107-109, Gallivan

2011:297), there is evidence of simple-stamped ceramics in the upper James River Valley (Hantman 2001:110), shell-tempered plain and fabric-impressed Townsend ceramics, more typical to the northern Coastal Plain, at the Hand Site (Smith 1984:91), and a combination of Roanoke and Townsend ceramics at Great Neck (Gallivan 2011:297). Moving west into the Roanoke River drainage, however, ceramics are increasingly sand-tempered and net-impressed as well as fabric-impressed surface treatments become more prevalent (e.g. Wells 2002:207-267; Bates 2010, 2012). Yet, southern Piedmont ceramic wares (e.g. Dan River, Clarksville) are also present in small quantities farther north (Hantman 2001:110). These trends denote connections between cultural groups on the southern frontier and their northern neighbors. It may also be useful to understand these groups as culture brokers living at the confluence of northern and southern, eastern and western cultural and linguistic traditions.

While large secondary communal interments such as accretional mounds and ossuaries are common north of the James River, mortuary traditions are more variable Southside. Lederer (1672) describes a burial tradition attributed to the Nahyssan, by which burial sites were divided into four sections for tribes (or perhaps clans), “for, to mingle their bodies, even when dead, they hold wicked and ominous” (Lederer 1672:5). The description strongly suggests individual primary interment as a common burial regime as well as occasional multiple interments. Lawson (1709:179-183) gives a lengthy account of mortuary practices among the Iroquoian-speaking Tuscarora,⁵⁰ in which he describes a process of primary and secondary burial. An individual is wrapped in a blanket or coat, then in woven reeds, before he is placed in a six by eight foot vault under a pine log and bark shelter. The secondary burial practices described by Lawson bear many similarities to the accounts of Spelman, Harriot, and Beverley:

When the Flesh is rotted and moulder'd from the Bone, they take up the Carcass,
and clean the Bones, and joint them together; afterwards, they dress them up in

⁵⁰ Bushnell (1940:148) and Swanton (1946:719-721) attribute Lawson's description to the Tuscarora of North Carolina, though Swanton also connects it to the mortuary practices of “the Siouan tribes.”

pure white dress'd Deer-Skins, and lay them amongst their Grandees and Kings in the *Quiogozon*, which is their Royal Tomb or Burial-Place of their Kings and War-Captains. This is a very large magnificent Cabin, (according to their Building) which is rais'd at the Publick Charge of the Nation, and maintain'd in a great deal of Form and Neatness. About seven Foot high, is a Floor or Loft made, on which lie all their Princes, and Great Men, that have died for several hundred Years, all attir'd in the Dress I before told you of. No Person is to have his Bones lie here, and to be thus dress'd, unless he gives a round Sum of their Money to the Rulers, for Admittance. If they remove never so far, to live in a Foreign County, they never fail to take all these dead Bones along with them, though the Tediousness of their short daily Marches keeps them never so long on their Journey [Lawson 1709:182].

Lawson, like Harriot and Beverley, describes differential burial treatment based on status. It is possible that the majority of a population was accorded a similar initial burial treatment, but was later buried in single or multiple secondary burials.

Archaeological evidence of burial practices varies gradually along the Virginia-North Carolina border, but both primary and secondary, single and multiple burials are present from the upper Roanoke and Dan Rivers to the Chesapeake Bay. Ward and Davis (2001) describe almost exclusively individual primary burials along the Virginia-North Carolina border during the Dan River and Saratown phases (AD 1000-1710). The dense burial areas dating to the Late Saratown phase (AD 1670-1710) offer some of the best evidence for the devastation wrought by epidemic disease in Virginia and North Carolina (Ward and Davis 2001:135-137). At the Wade Site, located along the Roanoke River north of its confluence with the Dan River, the mortuary regime is characterized by mostly individual burials, both primary and secondary, but there is at least one example of multiple burial (Bates 2010, 2012). At Abbyville, located under the present-day John H. Kerr Reservoir, individual primary burials are most common, but there is also evidence of secondary and small multiple burials (Wells 2002:165-189). Mortuary practices at the Hand site are similar (Mudar et al. 1998, Smith 1984), but burials are located close to one another and often overlap in what Killgrove (2002:55) describes as an ossuary with “a Tuscarora or more northeastern influence.” At Great Neck, there is evidence of both primary and secondary,

individual and multiple burials as well (Hodges 1998). At each of these sites, funerary objects are common but not ubiquitous, present in less than half of burials on average.

Historical and archaeological evidence of mortuary traditions, then, does not delineate clear boundaries between these groups. The high degree of interaction in this region is also marked by linguistic evidence. Robert Beverley refers to a widely-used lingua franca and a ‘Saponey’ word list collected by John Fontaine at Fort Christianna in 1716 draws from Siouan, Algonquian, and Iroquoian languages (Alexander 1971, Silverstein 1996). However, biocultural evidence reflects distinct differences in diet and health south of the James River. At the Gaston Reservoir and Leatherwood Creek sites, caries prevalence is 79.2-88.9 percent and there is a 45.5-80.0 percent rate of enamel hypoplasia (Lambert 2000:171). In contrast, only 7.17 percent of teeth show evidence of dental caries, and the prevalence of enamel hypoplasia is lower at 21.0 percent (Mudar et al. 1998:144). These figures speak to significant differences in maize or starchy plant consumption as well as childhood health and nutrition.

Cultural affiliation south of the James River, on the periphery of large polities and spanning the traditionally-drawn geographic boundaries of language families, requires careful case-by-case examination. The blurring of cultural traditions and boundaries between “cross-cutting and overlapping social units” (Lightfoot and Martinez 1995:472) on Virginia’s southern frontier challenges antiquated notions of bounded, homogenous, language-bearing units. In order to determine cultural affiliation, NAGPRA practitioners would do well to examine quantitative and not just qualitative distributions of burial type and number as well as the role of funerary objects and biocultural markers of health and diet alongside other lines of evidence.

VI. CONCLUSION

For archaeologists, anthropologists, and museum professionals who study the American Indian past, NAGPRA compliance is as much an ethical obligation as it is a legal mandate. Repatriation legislation and postmodern theories have changed the face of American archaeology and bioarchaeology, calling for a greater commitment to collaborative research and accountability toward various stakeholders. Professional societies like the AAA request that members find ways to balance their ethical commitments to both the discipline and descendant communities. There is additionally a more significant focus on cultural affiliation in archaeological and bioarchaeological studies and researchers are also compelled to think carefully about the political implications of scholarly ideas. NAGPRA has fostered the creation of mutually beneficial partnerships between archaeologists and native communities; mutual respect and trust can lead to both deeper research questions and a wider array of evidence for cultural affiliation.

Unfortunately, these trends are far from universal, especially in states like Virginia where Indian tribes are not acknowledged by the federal government and few repatriations have taken place. Burial protection and repatriation have only recently begun to impact archaeological and bioarchaeological methods in Virginia, although they have been the subject of debate since the 1970s. The study of cultural affiliation, too, is fraught with challenges, particularly because a significant proportion of past archaeological research was carried out by avocational archaeologists. Constrained by past researchers' methodologies and research questions, material typologies and published data are often poorly suited for a holistic, multifaceted, and theoretically-informed analysis of cultural affiliation. However, contemporary archaeologists, bioarchaeologists, linguists, and cultural anthropologists have the unique opportunity to revisit material, skeletal, and documentary evidence and to collaborate with Virginia Indian tribes, asking innovative questions about individual and group identity in the past and present. This

thesis calls to attention these researchers' ethical responsibilities as well as several research areas and geographic regions that, in particular, require further study.

Almost twenty years ago, Ives Goddard (1996a:299) called for the reexamination of linguistic categories in eastern Virginia. This topic still awaits study, largely untouched since the work of Frank Siebert (1975). However, many anthropologists in Virginia and surrounding areas continue to use linguistic terms (e.g. Algonquian or Siouan), referring broadly and loosely to not only language communities, but also to cultural and political groups, and to a certain extent, biological populations (see Killgrove 2009). The widespread notion that language families overlap with political entities, material traditions, geographic regions, or biological populations reflects the continued prevalence of outdated and inaccurate cultural theories of ethnic identity. Anthropologists and NAGPRA practitioners studying Late Woodland and Early Historic Virginia must acknowledge that these lines of evidence indicate a fluid and dynamic matrix of individual and group identities rather than static, bounded archaeological cultures or linguistic groups.

Additionally, archaeologists and skeletal biologists studying Virginia's American Indian past are ethically – if not legally – bound to consult with culturally affiliated descendant communities regarding ongoing research projects as well as the disposition of human remains and funerary objects. Collaborative and theoretically-informed projects directed by anthropologists at the College of William and Mary and the University of Virginia have shed new light on archaeology in the central Coastal Plain and the central Piedmont. For example, investigations of the Rapidan Mound, the Werowocomoco Research Project, and the reanalysis of the Chickahominy River Survey provide excellent frameworks for the future of collaborative research with Virginia Indians. In particular, the Potomac River Valley and the region south of the James River would benefit from large-scale, collaborative reanalysis of archaeological as well as skeletal collections. The comparative skeletal biology and archaeology of health and

subsistence (e.g. Driscoll and Weaver 2000) has great potential to shed light on previously neglected aspects of Virginia Indian identity.

Although NAGPRA and NMAIA have until recently strictly applied only to federally recognized tribes, the 2010 rule on culturally unidentifiable human remains and the GAO audits of the National NAGPRA program and the Smithsonian repatriation departments show a shift in federal attitudes toward repatriation, prioritizing the expeditious return of human remains over study and documentation. The 2010 rule provides recourse for nonfederally recognized tribes to claim human remains for repatriation under NAGPRA but not NMAIA. Additionally, the forthcoming consideration of the Pamunkey Indian Tribe for federal acknowledgement could open new doors to repatriation, especially the repatriation of human remains at the National Museum of National History, which is not subject to the 2010 rule. Virginia Indian tribes, academic researchers, and museum professionals should consider carefully the role that contemporary and historic politics, as well as the legacy of archaeological and anthropological research, will play in cultural affiliation and repatriation. These parties would benefit from collective and ongoing dialogues about research and legal recourse for reburial of Virginia Indian ancestral remains. The study of human remains and burial contexts in preparation for cultural affiliation and repatriation, after all, provides a unique opportunity to both learn about the Virginia Indian past and to engage with the questions, ideas, and concerns of descendant communities.

In light of the status and the priorities of the eleven state-recognized Virginia Indian tribes and recognizing the recent changes to NAGPRA as well as possible changes to the federal acknowledgement status of one or more tribes, Virginia Indian tribes, academic researchers, and museum professionals must acknowledge and consult on a number of difficult issues. What is the relationship between historically identified “tribes” such as Pamunkey and Saponi and larger “chiefdoms” such as Powhatan and Monacan? How do these different scales of identity

correspond with our current understanding of material culture and, subsequently, with cultural affiliation? Can and should these larger sociopolitical entities be considered Indian tribes as codified in NAGPRA, or should NAGPRA professionals seek to determine cultural affiliation on a smaller, more specific scale? In addition, what is the most ethically appropriate way to address the cultural affiliation of human remains when the most likely affiliated Late Woodland or Early Historic group is not recognized as a present-day tribe?

The relationship between different scales of sociopolitical entities is undoubtedly complicated. While the Monacan Indian Nation has successfully established an identity as descendants of a chiefdom rather than a tribe, Virginia Indian tribes in the east chose to be recognized individually rather than collectively by the commonwealth of Virginia. The scale of state and federal acknowledgement as well as NAGPRA practitioners' understanding of the relationship between linguistic, political, and ethnic boundaries will have a significant impact on the future of repatriation. In the past, the National Museum of Natural History has affiliated human remains with members of a language family and may do so in the future. If acknowledged by the federal government, the Pamunkey will likely be afforded stewardship by federal museums and agencies over human remains excavated within the historic boundaries of Tsenacommacah.⁵¹ Indian tribes in Virginia, particularly tribes whose ancestors were part of the Powhatan paramountcy, may have increased success collectively claiming human remains for repatriation, particularly if one or more tribe is federally recognized. I suggest that the affiliation of human remains with larger sociopolitical entities may enable anthropologists and NAGPRA practitioners to fulfill their ethical obligation to facilitate repatriation and reburial in Virginia. Ultimately, however, it is the ethical right of Virginia Indian tribes to define their identities and boundaries, past and present, and to determine the process by which they wish to rebury their ancestors.

⁵¹ I base this statement on NMNH's previous affiliation of human remains from the Hand Site generally with "Iroquoians," using historical records to name a specific tribe. It remains to be seen whether this precedent will continue for Algonquian-speaking tribes in eastern Virginia.

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2006 *We're Still Here: Contemporary Virginia Indians Tell Their Stories*. Richmond, VA: Palari Publishing.
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2002 *Abbyville: A Complex of Archaeological Sites in John H. Kerr Reservoir, Halifax County, Virginia*. R. P. Stephen Davis and Howard A. MacCord, eds. *Archaeological Society of Virginia Special Publication, No. 39*. Courtland, VA: Archaeological Society of Virginia.
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2003 *Powhatan Lords of Life and Death: Command and Consent in Seventeenth Century Virginia*. Lincoln: University of Nebraska Press.
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1907 *The Virginia Indians in the Seventeenth Century*. *American Anthropologist* 9(1):57-86.

Winfree, R. Westwood

1973 Archaeology and the Law: Can “Red Power” Block Archaeological Excavation of Indian Burials? Can Illicit Grave Looting be Stopped? *Quarterly Bulletin of the Archaeological Society of Virginia* 27(3):158-161.

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Woodard, Buck

2010 An Ethnographic View of the Nottoway, 1700-1750. *In* Dotratung: New Moon: Our Story, Nottoway Indians. Pp. 23-43. Capron, VA: Nottoway Indian Tribe of Virginia.

Woodard, Buck and Danielle Moretti-Langholtz

2009 “They will not admit of any Werowance from him to governe over them,” The Chickahominy in Context: A Reassessment of Political Configurations. *Journal of Mid-Atlantic Archaeology* 25:85-96.

1989 National Museum of the American Indian Act. Public Law 101-185, 20 U.S.C. 80q.

1990 Native American Graves Protection and Repatriation Act. Public Law 101-601, 25 U.S.C. 3001 et seq.

1997 Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From the Great Neck Site, Virginia Beach, VA, in the Possession of the Virginia Department of Historic Resources, Richmond, VA. 62 FR 14701-14702, March 27.

2000 Notice of Inventory Completion for Native American Human Remains From Rockbridge County, VA in the Possession of the Virginia Department of Historic Resources, Richmond, VA. 65 FR 6622-6623, February 10.

2009 Notice of Inventory Completion: Virginia Department of Conservation and Recreation, Division of State Parks, Richmond, VA and Southwest Virginia Museum Historical State Park, Big Stone Gap, VA. 74 FR 21389-21390, May 7.

2010 Disposition of culturally unidentifiable human remains. § 10.11. 75 FR 12403, March 15.

2011 Native American Graves Protection and Repatriation Regulation. § 10.1-10.17. 43 CFR 10, October 1.

Laura E. Masur (née Buchanan)

EDUCATION

The College of William and Mary, Williamsburg, VA

Master of Arts in Anthropology (sub-discipline: Historical Archaeology), May 2013

GPA: 3.94

- Thesis: "Virginia Indians, NAGPRA, and Cultural Affiliation: Revisiting Identities and Boundaries in the Chesapeake"

The Pennsylvania State University, World Campus

Postbaccalaureate Certificate in Geographic Information Systems, December 2011

GPA: 3.94

The College of William and Mary, Williamsburg, VA

Bachelor of Arts in Anthropology and History, May 2010

GPA: 3.91, *Summa Cum Laude*

- Study Abroad: University of Arizona at the Centro de Investigaciones Regionales de Mesoamérica (CIRMA) in Antigua, Guatemala, Spring 2009

RESEARCH INTERESTS

Historical archaeology, NAGPRA, Bioarchaeology and mortuary studies, Public and community archaeology, GIS, Identity, Landscape

RELEVANT COURSEWORK

Anthropology: Anthropological Theory, Archaeological Theory, Historical Archaeology, Artifact Analysis (focus: 1600-1850), Native Archaeology of the Chesapeake, Human Skeletal Biology, Bioarchaeology, Linguistic Anthropology, Archaeology of North America, Mesoamerica, and Africa, Native Cultures of Latin America

Geography (GIS): Cartography and Visualization, GIS Database Development, Problem Solving with GIS, The Nature of Geographic Information

History: Native Americans and Nature, Early American History: American Revolution, Antebellum America, Abolitionists and American Society, Atlantic Slave Trade, Central American History

EXPERIENCE

The College of William and Mary Williamsburg, VA

2012-Present

Research Assistant, Center for Geospatial Analysis

- Compiled, edited, and analyzed spatially-referenced data on trade products moving through the Mexican state of Quintana Roo, primarily using Microsoft Excel and Access
- Researched literature on political ecology and production networks relating to the Central American cattle economy

DATA Investigations Gloucester Courthouse, VA

2011-Present

Field and Lab Technician

- Assisted in Phase I-III excavations at c. 18th-19th century historic sites in eastern Virginia
- Sorted, washed, and bagged c. 18th-19th century artifacts from Phase I-III excavations

The Fairfield Foundation White Marsh, VA 2012
Archaeologist/Intern Coordinator

- Instructed interns in archaeological field techniques including test unit excavation, mapping, feature and artifact identification, and taking measurements with a total station
- Supervised excavations at Fairfield, a 17th-19th century plantation in Gloucester County, Virginia, when principal investigators were not present

National Institute of American History and Democracy Williamsburg, VA 2010-2011
Resident Program Assistant, Pre-Collegiate Program in Early American History

- Supervised and chaperoned high school students participating in a summer program in American history at the College of William and Mary

National Museum of the American Indian, Smithsonian Institution Washington, D.C. 2011
Contractor, Repatriation Department

- Researched two repatriation claims made by lineal descendants of the Makah Indian Tribe and Kaw Nation and evaluated primary and secondary sources in research summaries
- Completed the reorganization of over 400 repatriation case and tribal files, assisting in their centralization under Client Profiles case management software
- Assisted staff in fulfilling requests associated with an audit by the Government Accountability Office (GAO), including the compilation of repatriation data on catalog number, object, and MNI counts

Intern, Repatriation Department
2010

- Investigated repatriation case histories and produced a report for museum director Kevin Gover, which analyzed reasons why objects had been declined for repatriation
- Assisted staff in the multi-year reorganization of physical repatriation case files

Crow Canyon Archaeological Center Cortez, CO 2010
Research Intern

- Excavated, photographed, mapped, and recorded test units in sites surrounding Goodman Point Pueblo on Hovenweep National Monument
- Supervised and instructed lay participants in basic excavation techniques and archaeological concepts

Alexandria Archaeology Museum Alexandria, VA 2009
Intern (unpaid)

- Excavated and interpreted Shuter's Hill, an 18th-19th century plantation in Alexandria
- Researched and synthesized the history of the African American community that lived at post-Civil War Fort Ward, using documents, maps, and oral histories
- Assisted Museum Educator in teaching archaeology lessons and guiding site tours for school groups

Colonial Williamsburg Foundation Williamsburg, VA 2008
Participant, Field School in Public Archaeology

- Attained basic field and laboratory skills including mapping, elevation measurement, and ceramic analysis
- Interpreted Ravenscroft site to the public, including work with educational programs for children

VOLUNTEER EXPERIENCE

Fairfield Foundation White Marsh, VA 2010-Present

Field, Lab, and GIS Volunteer

Colchester Archaeological Research Team Fairfax, VA 2011-2012
Field Volunteer

Alexandria Archaeology Museum Alexandria, VA 2009-2011
Field and Lab Volunteer

Centro de Investigaciones Regionales de Mesoamérica Antigua, Guatemala, C.A. 2009
Intern, Central American Social Sciences Library

GRANTS AND HONORS

William and Mary Student Activities Conference Attendance Grant, Fall 2012
William and Mary Arts and Sciences Graduate Research Grant, Spring 2012
William and Mary Student Activities Conference Attendance Grant, Spring 2012

ACADEMIC PRESENTATIONS

"Life and Limb in Early America: A synthesis of mortuary archaeology and skeletal analysis from Historic Gloucester Point, Virginia." William and Mary Graduate Research Symposium, Williamsburg, VA. March 2013.

"How NOT to Bulldoze a Burial: Creating a geodatabase of human interments at Gloucester Point." Archaeological Society of Virginia Annual Meeting, Wytheville, VA. October 2012.

"The Representation and Analysis of Archaeological and Historic Landscapes Using Geographic Information Systems (GIS)." William and Mary Graduate Research Symposium, Williamsburg, VA. March 2012.

ADDITIONAL SKILLS

Language: Proficient in Spanish and French

Technology: ArcGIS 10.1, Microsoft Word, Excel, and Access, KE EMu Collections Information System, Client Profiles Legal Case Management Software.

PROFESSIONAL MEMBERSHIPS

Society for Historical Archaeology
Middle Atlantic Archaeological Conference
Archaeological Society of Virginia