



INTRODUCTION TO ARCHAEOLOGY Office of Federal Agency Programs

What is archeology and why is it important? Archeology is the scientific and humanistic study of the human past through the physical remains that people left behind. The quest for explanations of past behavior is perhaps the most important aspect of archeology because it has the potential to aid in our understanding of the present in addition to the past. (See the attached National Park Service (NPS) article, “What Is Archeology?”)

Archeology is not merely the recovery and description of arrowheads or even the reconstruction of the lives of prehistoric peoples; it is, ultimately, a scientific endeavor that recovers and analyzes data that reflect the vast diversity of human societies and human beings—data that also allow all of us an appreciation for how we are different, how we are alike, and the reasons for cultural change, stability, and transformation. Archeology helps us to better understand ourselves.

Archeology matters today because it addresses these important questions about who we are, where we have come from, and where we are going. Archeological investigation satisfies our curiosity about the past. It is a problem-oriented science that seeks answers to big questions like the physical origins and peopling of North America, the social adaptations of people to drought in the Southwest, or political change in society, from small wandering bands to permanent State-type governments such as the Maya or Roman Empire.

Archeology is equally important at the local level because it can provide detailed information about the history of specific communities, Indian tribes, and others. For example, the African Burial Ground has been called

one of America’s most significant archeological finds of the 20th century....[I]t is destined to redefine the history of one of the world’s greatest cities, change the way African Americans are viewed, and perhaps most importantly, how they view themselves. [See enclosed GSA brochure about the African Burial Ground, “Return to the past to build the future”]

In this light, archeology has educational value that can contribute to the cultural life of a community. It also has potential for economic development because of the public’s demonstrated interest in learning about and visiting places important in our history.

What are archeological sites? An archeological site is a location that contains the physical evidence of past human behavior. Archeological resources may include items of human manufacture or use (the artifacts) as well as the effects of human activity on the environment. A wide variety of archeological sites exist. Prehistoric sites (occupied prior to the written record) range from modest campsites or a stone workshop, to huge settlements like the Cahokia World Heritage Site in East St. Louis, and Mesa Verde World Heritage Site in southwestern Colorado, to smaller villages and Indian mound complexes. The

ACHP membership will visit one historic period archeological site at Londontown (see enclosed brochures “Historic Londontown and Gardens since 1683” and “Tidewater Travel and Trade”). Virtually all cities still have archeological resources buried under parking lots and buildings (such as the African Burial Ground in New York City), and numerous archeological sites exist underwater (shipwrecks like the *Titanic* and *Hunley*). Sites can reflect human occupation and use for only a short time—for example, a temporary hunting camp—or they can be occupied for thousands of years. Some cities, such as Rome or Jerusalem, for example, are, in fact, living archeological sites.

With some 741 million acres of land under its control, the Federal Government’s responsibilities to identify and manage archeological sites are challenging. Only a small fraction of the archeological sites in the United States have been identified. The Bureau of Land Management, for instance, estimates that only six percent of the archeological sites on its lands have been identified and recorded. Most are not discovered until archeologists go out to look at what may be disturbed as part of a Section 106 review for a Federal undertaking.

Site discovery methods such as archival research, inspection of the ground surface, or limited probing to look for artifacts—and newer high-tech methods such as ground-penetrating radar—may provide evidence for buried archeological sites (see the Maryland State Highway Administration brochure, “Preserving Maryland’s Heritage”). Subsequent excavation is only one step in a long process that leads to the publication of reports describing and interpreting the excavated site and materials recovered from it. Excavation is a destructive process, as it permanently destroys the original archeological site as we retrieve its artifacts.

Thus, archaeologists have an obligation to carefully and scientifically analyze and document what has been disturbed for future generations. This guarantees that information about the sites and the recovered artifacts remain available for study and interpretation by future scientists, or used by educators and students.

This preservation of records and curation of artifacts for the future is a very important but often neglected part of archeological research; many people think that archeology is finished when the actual field excavation stops. In fact, because technologies and research questions change over time, archeological research today depends upon the restudy and reinterpretation of existing collections and information already reported in scientific publications. Thus, providing for the appropriate curation of the archeological collection is an essential consideration. (See the attached National Park Service’s article, “Managing Archeological Collections,” and the Maryland Archeological Conservation Laboratory brochure.)

Section 106 and archeology: The ACHP’s primary involvement with archeology is through Section 106 review. Estimates are that over 90 percent of archeological excavations in America are conducted pursuant to Section 106 of the National Historic Preservation Act; the rest are purely research projects, often funded through universities.

Responsibilities for archeology under Section 106 extend to undertakings such as construction projects and land and resource planning efforts occurring on Federal lands, as well as those where Federal agencies such as the Federal Energy Regulatory Commission and the U.S. Army Corps of Engineers issue licenses, permits, or approvals for actions on non-Federal lands.

Like other types of historic properties, archeological sites are identified and evaluated under Section 106 by Federal agencies for their eligibility for listing in the National Register of Historic Places. The Federal agencies determine the effects of their undertakings on the properties, and resolve adverse effects through consultation. The agency and consulting parties consult on ways to avoid, minimize, or mitigate any

adverse effects, and it is in the consultation process that the finite and non-renewal nature of archeological sites are considered, as well as the varying meanings archeological resources may have to different peoples (See the attached NPS article, “What Are Our Personal and Professional Responsibilities?”).

Preserving for future generations the extraordinary diversity of our Nation’s archeological heritage is only one of the many national historic preservation issues that fall within the ACHP’s broad agenda. The identification, analysis and treatment of archeological resources have always been a mainstay of the Section 106 process, and by his recent appointment of an archeology task force to address outstanding issues, ACHP Chairman Nau has recognized this importance. The archeology task force’s actions will help to focus the ACHP’s involvement in the Federal archeology program to ensure that the universe of our Nation’s archeological resources are given full and complete consideration in the Federal planning process.

Attachments:

“What Is Archeology?” (*NPS*)

“Managing Archeological Collections: Introduction to Curation” (*NPS*)

“What Are Our Personal and Professional Responsibilities?” (*NPS*)

April 29, 2005

UPDATE ON ARCHEOLOGY TASK FORCE ACTIVITIES

Office of Federal Agency Programs

Background. In 2004, ACHP Chairman John L. Nau, III, appointed a task force on archeology to identify issues that should receive priority consideration and action by the ACHP. The task force consists of:

- Julia King, chair;
- Mark Rey, representing the Secretary of Agriculture;
- Phil Grone, representing the Secretary of Defense;
- Fran Mainella, representing the Secretary of the Interior;
- George Schoener, representing the Secretary of Transportation;
- Jay Vogt, president of the National Conference of State Historic Preservation Officers; and
- Alan Downer, chairman of the National Association of Tribal Historic Preservation Officers (observer status).

The task force recognized that an essential first step was to consult broadly with stakeholders and Indian tribes to help shape the agenda of the task force, and set its priorities. Outreach was extensive; between May and November 2004, views were sought from State Historic Preservation Officers; Federal Preservation Officers; professional archeological organizations (Society for American Archeology, Society for Historical Archeology, American Cultural Resources Association, Archeological Institute of America, and the National Association of State Archaeologists); more than 550 federally recognized Indian tribes and Native Alaskan corporations; more than 200 tribal preservation officials; and 12 Native Hawaiian organizations.

In addition, these issues were discussed at the annual meetings of the National Association of Tribal Historic Preservation Officers, the United South and Eastern Tribes, and the National Conference of State Historic Preservation Officers, and with the Executive Board of the Society for American Archeology.

This input confirmed initial assumptions that the task force needed to focus its efforts in three key areas:

1. the need to update the ACHP's 1988 "Policy Statement Regarding Treatment of Human Remains and Grave Goods";
2. the need for new Section 106 archeology guidance, and
3. the development of strategies to better capitalize on the rich potential of archeological resources for heritage tourism and public educational opportunities.

Action needed. On April 13, 2005, the task force met to weigh the responses it received from stakeholders and formulate a strategy for how these three issues could be advanced at the May 2005 ACHP business meeting. Attached below are reports on each of these three topics. These reports convey the initial findings of the task force and conclude with recommendations on actions the ACHP members should take to further the task force's work to address each of these topics.

POLICY ON TREATMENT OF HUMAN REMAINS AND GRAVE GOODS

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The ACHP's current "Policy Statement Regarding Treatment of Human Remains and Grave Goods," published in 1988, does not take into account current Federal law and regulation. The 1992 amendments to the National Historic Preservation Act (NHPA), the revised ACHP regulations (2004), and the 1991 passage of the Native American Graves Protection and Repatriation Act (NAGPRA), affect how human remains are considered in Section 106 review.

Human remains, associated grave goods, and the sites where they are found often possess values beyond their being very important sources of information about the past when studied by archeologists and other specialists. Section 106 stakeholders often vehemently disagree about what to do when human remains may be uncovered. Some believe that, once found, human remains should not be disturbed at all, or if they must be removed, then they should immediately be reburied. Other argue that human remains, usually prehistoric in date, not directly affiliated with any living group, and removed from the ground at public expense, should first be subject to investigation.

The ACHP's current human remains policy states that if human remains must be disinterred, "scientific studies should be performed as necessary to address justified research topics." but that, ultimately, "human remains and grave goods should be reburied, in consultation with the descendants of the dead." This language has created a formal consultative role for those who can claim descendency, defined in a subsequent guidance memorandum as "any group, community, or organization that may be related culturally or by descent to the deceased persons represented by the human remains."

Some stakeholders insist that those most closely connected should have a stronger voice in decisions over the fate of the remains than those with less or no connection. However, both the 1992 amendments to NHPA and the ACHP's current regulations make clear that *any* federally recognized tribe or Native Hawaiian organization ascribing religious and cultural significance to the historic property can provide their views to the responsible Federal agency—no biological or cultural relationship is necessary for consulting party status.

In the course of Section 106 review, it is the responsibility of the Federal agency official to make decisions about the treatment of both prehistoric and historic human remains after seeking the views of the consulting parties. Issues to be decided here often include: Who are the consulting parties? How much scientific investigation is enough? Who should ultimately take possession over the remains? Should the remains be reburied or retained? Are there other Federal laws (e.g., the Native American Graves Protection and Repatriation Act [NAGPRA]), or do State burial laws come into play here and circumscribe a course of action?

It is in reaching these decisions that Federal agencies especially look to the ACHP's human remains policy for guidance.

The task force recommended that in revising the policy statement, the following principles should guide development of a revised policy. These principles were distilled out of the comments of the task force, the commenters, and the experience of the ACHP's professional archeologists.

The policy statement should emphasize that avoidance, followed by preservation in place, is the preferred alternatives to disturbance of human remains.

The policy statement should strongly reiterate the ultimate decisionmaking role of the Federal agency after consultation with all stakeholders.

The policy statement should not be tribal- or archeo-centric.

The statement should clarify the legal framework of our policy—what the intersection of NAGPRA and State burial laws in Section 106 decisionmaking.

The policy should clarify issues of descent as a factor in making decisions.

Action needed. Because the original human remains policy statement was adopted by vote of the ACHP membership in 1988, any action to develop a revised policy requires the consent of the full ACHP membership. Accordingly, at the May 2005 ACHP business meeting, the task force recommends that the ACHP members:

1. Determine that the ACHP's current policy statement on the treatment of human remains and grave goods should be revised and brought up to date under the direction of the ACHP's Archeology Task Force.
2. Recommend that the task force move forward on developing an outline for a new policy statement (based on the principles cited above), and work with the ACHP's Native American advisors to develop a preliminary tribal and stakeholder consultation plan for review by the membership at either the summer 2005 or fall 2005 ACHP business meeting.

ACHP ARCHEOLOGY GUIDANCE

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Six topics for archeological guidance have been identified for priority treatment. The intent is for the ACHP archeological staff to prepare, under the direction of the Archeology Task Force, this guidance for dissemination in both print and electronic format. Preliminary plans are to bring all ACHP archeology guidance together in a new edition of the ACHP's Treatment of Archeological Properties, A Handbook originally published in 1980 and still used by Section 106 practitioners. The six recommended topics are as follows.

Making Section 106 Consultation More Effective

Many Federal agencies are inadequately prepared to consult with Indian tribes on archeological matters and sometimes experience difficulty developing working relationships with tribes during the Section 106 process. Often Federal agencies are not aware of who should be consulted or what their legal consultation responsibilities are. Consequently, Indian tribes and others often express frustration at the lack of timeliness and substance of Federal agency consultations with them. Little or no consultation has resulted in Federal agencies identifying historic properties inadequately; not evaluating all of the kinds of significance a property may possess to be listed in the National Register of Historic Places; and inadequately considering alternatives that could avoid, minimize, or mitigate adverse effects to archeological sites.

In consultation with other Federal agencies, the task force proposes to develop "best practices" consultation models that specifically focus on Section 106 archeological issues, with particular attention to consultation with Indian tribes. This guidance will draw on existing ACHP tribal consultation guidance, and will be developed in consultation with the ACHP's Native American Advisory Group.

What Constitutes a "Reasonable and Good-Faith Effort" to Identify Historic Properties

Federal agencies sometimes have difficulty determining the adequacy of their efforts to locate archeological sites in planning for their undertakings. The ACHP's regulations (at 36 CFR Part 800.4(b)(1)) require Federal agencies to make a "reasonable and good-faith effort" to identify historic properties prior to a Federal undertaking that may affect them. Significantly, the regulations do not require the identification of *all* historic properties. This distinction, however, is not always understood by many Section 106 practitioners. Further, there is confusion about whether the regulations require identification of archeological sites below the Area of Potential Effect. While the ACHP's regulations provide some information on the expected level of effort and scope of an adequate, effective, and flexible identification effort, these are not easy to interpret or implement.

Using real case examples, the task force proposes to develop guidance to assist Federal agencies in understanding what is required to meet the letter and intent of the ACHP's regulations.

Applying the National Register Criteria to Archeological Properties in the Section 106 Process

The National Park Service (NPS) has produced several guidance documents on applying the National Register criteria to identify historic properties, including *How to Apply the National Register Criteria for*

Evaluation [Bulletin #15], *Guidelines for Evaluating and Registering Archeological Properties* [Bulletin #36], and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* [Bulletin #38]. However, Section 106 practitioners need greater clarity on the application of the National Register criteria to archeological sites, especially use of criterion “d” (which states that sites may be eligible for the National Register if they have integrity and “have yielded, or may be likely to yield, information important in prehistory or history”) and in the identification of sites as traditional cultural properties.

The task force and ACHP staff will work with NPS’s National Register staff to solicit input from Indian tribes and professional organizations to more precisely define the specific problem areas in applying the NR criteria to archeological sites in the Section 106 process. ACHP will address these specific problem areas in guidance on how site significance is considered in reaching treatment decisions under Section 106, the role of regional syntheses in making decisions, and consultation with stakeholders.

Responsibilities of Federal Agencies for Undertakings on Private Lands

Section 106 requires Federal agencies to “take into account” the effects of their undertakings on Federal, tribal, State, and private lands. However, Federal agencies that provide technical assistance and funding, and those that issue a permit or a license for work on private land, often face constraints not found when working on public or tribal lands, including issues of access, ownership, and security.

Not all States have laws regulating matters of artifact ownership or the protection of associated records, archeological sites, and human remains. Section 106 actions on private lands also introduce other participating parties, including the landowner and local/county planning committees, into the consultation process with the State and Tribal Historic Preservation Officers (SHPOs/THPOs), tribal governments, and other interested parties. Competing demands and agendas often leave the Federal agency unclear about how to meet their Section 106 consultation and decisionmaking responsibilities in these situations.

Working with Federal assistance agencies, the task force proposes to develop guidelines for application of Section 106 to actions to private lands. Guidance to include discussion of the limits of Federal authority in the absence of State and/or local laws to protect archeological sites, their artifact collections, and associated records; treatment of human remains on or removed from private lands; when Section 106 responsibilities begin, and its limits; and the roles and responsibilities of the SHPO/THPO at various stages of the Section 106 process. Various incentives for private landowners to preserve their historic properties will be discussed.

Opportunities for Creative Approaches to Resolving Adverse Effects to Archeological Sites

One criticism of the archeological work undertaken during the Section 106 process has been that it often results in stock solutions to archeological problems—solutions that are expensive and result in the destruction of sites, while providing little benefit to the general public. Some practitioners assume that the only means of resolving adverse effects is through archeological data recovery, and that the law or regulations require this outcome. In fact, given the goals and inherent flexibility of the Section 106 process with its emphasis on resolution through consultation, a much broader and more creative range of archeological solutions are possible but considered too infrequently.

The task force plans to prepare guidance that would discuss alternative approaches to archeological resolutions in the Section 106 process other than simply mitigation through data recovery. The foundation of the proposed guidance will be the need to think creatively in the consultation process, and keep the focus on the broader public interest.

Curation of Archeological Collections and Permanent Recordation of Archeological Properties

Archeological site identification, evaluation, and data recovery result in collections of artifacts, records, photographs, and other materials that must be appropriately cared for to ensure retention of critical information. Federal regulations at 36 CFR Part 79 (1990) establish the standard for the curation of federally owned archeological collections. However, many repositories are full, others are running out of space, and some have increased their costs to curate to meet their expenses.

What do Federal agencies do when storage space is limited and costly? Many Federal agencies do not have a formal policy on whether they should retain everything that is excavated as a result of their undertakings, or just a sample. When is it appropriate to make this decision, and who should make it? Further, what are existing collections being saved for, and in what condition?

The task force plans to consult with NPS to develop guidance to assist Federal agencies and others in better integrating curation and collection management decisionmaking in Section 106 review. In addition, the ACHP will continue to participate with the NPS curation and collections management Federal agency working group.

Action needed. The task force seeks the concurrence of the ACHP membership in the recommendations that these six issues are its first priority for guidance.

**IMPROVING THE USE OF THE HERITAGE TOURISM AND EDUCATIONAL
POTENTIAL OF ARCHEOLOGICAL RESOURCES
Office of Federal Agency Programs**

One of the stated intents of the National Historic Preservation Act is “to ensure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation.” Several Federal agencies, professional organizations, States, and Indian tribes are actively engaged in archeological outreach and heritage tourism, and most States today now have “archeology weeks” where SHPOs and others work with local societies to educate and inform their citizens about the values of archeology.

There is also general agreement that the potential of archeological resources to contribute to heritage tourism and education is underused and should be improved. Estimates are that well over 90 percent of the archeological survey and excavation that take place in the U.S. are conducted pursuant to Section 106. Because the vast majority of archeological research in this country is carried out with public funds, archeological outreach, education, and interpretation are ways to provide the public with a return on its archeological investment. As the American Cultural Resources Association noted,

Archeology has a charisma that other aspects of historic preservation sometimes lack. The process of discovery of the past from the ground excites and interests many people who are otherwise indifferent to or even hostile to history and historic preservation. In many ways it can be a flagship for the rest of historic preservation.

Several Indian tribes noted in their comments to the task force that they wished to be involved in decisions about how to interpret prehistoric archeological sites to ensure that the sites are treated with respect, and human remains should not be exhibited. Further, several tribes raised concerns that increased archeological tourism will require addressing issues of site stabilization, protection, and vandalism.

Action needed. The task force seeks the concurrence of the ACHP membership to:

1. Coordinate with the Preservation Initiatives Committee to examine pertinent issues and recommend possible action by the members at a future ACHP business meeting;
2. Compile a set of Federal, State, and private “best practices” on archeological heritage tourism and education, and
3. Direct the staff to consider ways to encourage outcomes reached under Section 106 that, where practical and feasible, will use archeological resources to promote heritage tourism.

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