

# UPAC NEWS

Published by the Utah Professional Archeological Council

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Steve Simms, President  
Signa Larralde, Editor

## PRESIDENT'S MESSAGE

The UPAC Spring meeting in Cedar City is only a few weeks away (March 12 and 13). The spring meeting is important to UPAC because it moves attention away from the Wasatch Front and reminds everyone that UPAC is a regional organization.

The symposium this year will focus on the Western Anasazi region and I know Diana Christensen and others have been working to make this an interesting meeting. So, try your best to attend, especially all the archaeologists from the Front. Hey, I have to practically drive from Idaho, so those of you in other state outliers can make it too!

In keeping with the new format, the Spring meeting will include a business meeting. I am assembling the agenda now, so if you have a topic for discussion or action, please give me a call or drop a line.

Items on the agenda include a report on a proposal for reorganization of the Division of State History. There will also be more on "Creative Mitigation."

--Steven Simms

## ELECTION RESULTS

The UPAC membership voted in Duncan Metcalfe as Vice President for Government Affairs and Dennis Weder as Secretary in the late fall election. The membership voted to change the bylaws to allow student members to receive UPAC publications with their membership.

## SPRING MEETING PLANS

The UPAC Spring meeting will be held on the Southern Utah University campus in Cedar City (not St. George, as previously announced) on Friday March 12 and Saturday, March 13, 1993. The business meeting will begin at 1 p.m. on Friday, March 12, and a symposium in honor of Dr. Richard Thompson's work is scheduled for 8 a.m. until noon on Saturday, March 13, 1993.

Both meetings will be held in the R. Haze Hunter Conference Center (Room 212) on the northeast side of the Southern Utah University campus in Cedar City, Utah (see map attached to this issue).

Scheduled speakers at the symposium on Saturday include Richard Ambler, Gardiner Dalley, Robert Euler, Joel Janetski, Margaret Lyneis, Doug McFadden, Heidi Roberts, Barbara Walling Frank and Karen Wise. We plan on publishing more extended and formal versions of these presentations at a later date. We will also conduct a field trip to at least one of the Virgin Anasazi sites presently being excavated in the area on Saturday afternoon. More information on this field trip will be provided at the symposium.

An open house will be held at Marian Jacklin's home in Cedar City Friday evening after the business meeting for all who want an opportunity to talk to fellow archaeologists. Directions will be given at the meeting. BYOB.

--Diana Christensen

## DR. RICHARD THOMPSON NAMED UPAC FELLOW

At the upcoming spring meeting in Cedar City, UPAC will make Dr. Richard Thompson a Fellow member of the organization. Dr. Thompson's academic background includes a BA in history from San Jose State University, and MS and PhD degrees also in history from the University of Wisconsin. Following the PhD he taught history at Ohio University for three years. Ric then came to Utah in 1960 where he became an assistant professor of history at Southern Utah State College, now Southern Utah University.

He has taught nearly 30 years at the university, both history and anthropology/archaeology classes, in the Department of Social Sciences. His initial interests in archaeology were with the Parowan Fremont at Evans Mound. Later he focused on the Virgin Anasazi which became his major emphasis.

His administrative achievements during his teaching career are many. Ric spent four years as the President's Assistant for Academic Affairs, and three years as Coordinator of Research. He was chairman of the Division of Behavioral and Social Sciences, and chairman of the Department of Social Sciences. In 1974 he formed an archaeological consulting group known as Intersearch (International Learning and Research, Inc.). Ric and several of his students completed archaeological inventories for various development companies throughout southwestern Utah. Funds from Intersearch were then used to begin publication of the Western Anasazi Reports which provided an outlet for reporting ongoing Western Anasazi research in southwestern Utah. Ric has been a member of the Utah Antiquities Committee and was president of UPAC in 1983 and 1984. He has over 75 papers and/or publications to his credit over the last 40 years.

He directed field classes and schools in the Grand Canyon area, at Tuweep National Monument and The Cove in the late 1960s and early to mid-1970s. From 1978-88 Ric directed field schools on Little Creek Mountain where surveys and excavations were undertaken. His field school excavations moved to Colorado City in 1990 and currently operate during spring and summer terms.

In addition to directing the field schools Ric also has been the curator of the Museum of Southern Utah at SUU for over 24 years. The museum houses collections from numerous archaeological projects conducted on the Arizona Strip and southwestern Utah. Ric was named Professor Emeritus at Southern Utah University in 1986.

To sum up Dr. Richard Thompson's work in a few lines is difficult, with his contributions to promoting archaeological studies in the state being quite numerous. Perhaps equally as important are the number of students whom he has trained and influenced during his years in the profession. Many of these students have continued in archaeology and work with state and federal agencies, museums, or private consulting firms throughout Utah.

-Lorna Beth Billat  
OPA/BYU

### **UTAH ARCHAEOLOGY** **CALL FOR PAPERS**

We are ready to begin work on our journal Utah Archaeology 1993. The most important element in producing a high-quality journal is receiving high-quality submissions, so please dust off that gem you've been laboring over. Get going on that article you've been meaning to write.

Remember, we have a new section called "Notes," which is perfect for a short description or observation. Also, we

want to expand the reviews section, so if you have any suggestions for books to review, or, even better, if you would like to review a book, please get in touch.

As we discussed at the UPAC meeting this fall, we would like to include abstracts for major, important, or interesting CRM reports. If you have completed such a project within the last year or so, please write a detailed, summary-type abstract and send it in. Let's continue the tradition of excellence Joel and others have worked so hard to achieve. Send all correspondence and submissions to:

Kevin Jones, Editor  
Utah Archaeology  
Antiquities Section  
300 Rio Grande  
Salt Lake City, UT 8410  
phone 801 533-3524

### **ISTEA UPDATE: Enhancement Advisory Committee Holds First Meeting**

The Enhancements Advisory Committee held its first meeting last week to discuss implementation of the Enhancements Program authorized by the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. As noted in Susan Miller's recent UPAC News article, ISTEA directs the government to expend 10% of the allocated Surface Transportation Program funds between 1992 and 1997 to enhance transportation projects. Utah's budget will be between \$3 and \$4 million annually.

Enhancements will be in three broad areas—pedestrian and bicycle facilities, scenic and environmental, and historic and archaeological preservation—and apply only to the specific activities listed in the ISTEA legislation. For the historic and archaeological preservation category, these activities are (1) acquisition of historic sites, (2) historic highway programs, (3) historic preservation, (4) rehabilitation and operation of historic transportation buildings, structures, or facilities, including historic railroad facilities, and (5) archaeological planning and research.

Although projects can be organized and executed by government or private groups, they must be sponsored by a public agency. Projects must provide a minimum of 20% matching funds in the form of cash or real estate. At present, it appears that federal monies cannot be used for the hard match funding. Enhancement money cannot be used for project planning or design, nor for mitigation activities that would be already required as a result of a transportation project. Project sponsors must provide for ongoing maintenance and operation of any and all facilities developed under an enhancement project. It has not been determined whether enhancements funding can be used for any necessary environmental compliance activities.

The Enhancements Advisory Committee was established by the Utah Department of Transportation (UDOT) to develop application, award, and other policies, review applications, and make recommendation to the Transportation Commission regarding the expenditure of transportation enhancement funds.

The committee is made up of 14 individuals, including several UDOT employees, a landscape architect, the State Trails Coordinator, members of the Utah Community Forest Council, the Wasatch Front Regional Council, the mayor's bicycle committee, and the Utah Professional Archaeological Council (UPAC).

We are fortunate to have two archaeologists on the committee: Susan Miller is the UDOT Archaeologist, and I am representing UPAC as the Vice President for Government Affairs. Once the early planning and organizational meetings are complete, meetings will be open to the public.

Our first meeting was primarily introductory and organizational, but things should start to move more rapidly as meetings will be held biweekly for the next few months. We are currently working on the application procedures and hope to have the application form and paperwork ready for distribution in early March. Providing we receive suitable applications, we will recommend enhancement programs for the 1992 and 1993 funds (approximately \$7 million), hopefully by April or May of this year.

We encourage each of you to consider appropriate projects and submit proposals once the application procedures have been finalized. This is a great opportunity. If you would like more information, please contact Susan Miller at 965-4157 or me at 467-5446.

—Betsy Tipps

### **PREHISTORY WEEK MAY 1-8**

Our annual celebration of Utah's rich natural and cultural history will be the occasion for numerous presentations, field trips, demonstrations and lectures in communities throughout the state. Formerly called Archaeology Week, Utah Prehistory Week is a time to learn about and appreciate Utah's fabulous past—from trilobites to dinosaurs, mammoths to rock art, pueblos to wagon trains.

A poster designed by Radford Cuch of Salt Lake City was selected in a statewide contest and will be published to promote Prehistory Week. A brochure will be available listing activities throughout the state. For information on events in your area, contact the Division of State History, Antiquities Section, at 533-3524. Local papers will also be a good source of up-to-date information on regional Prehistory Week happenings.

Utah Prehistory Week is sponsored by the Division of State History, UPAC, the Utah Statewide Archaeological Society, the Utah Friends of Paleontology, and numerous state, federal and citizen groups. It has become one of the premiere events in the state each spring and even greater participation is expected by community organizers this year.

—Kevin Jones

### **PAY 1993 UPAC DUES!**

Please send 1993 UPAC dues of \$25 for voting members and \$12.50 for student members to treasurer Evie Seelinger. A list of people who have paid their 1993 dues is appended. If your name is not on this list, **please pay your dues!** This is the last issue of UPAC News that will be sent to those who have not paid 1993 dues. (I promise I'll pay my own before the next issue comes out!)

—the Editor

### **APPROPRIATION FOR INDIAN BURIAL REPOSITORY**

House Bill 368, sponsored by Eli H. Anderson and Rob W. Bishop, is the culmination of a considerable amount of effort on the part of archaeologists, Indians, and state officials to find an appropriate place of reburial for Indian remains recovered in Utah.

Of particular importance for archaeology is the creation of a burial vault where interment can take place. It is important that human remains be protected in perpetuity, rather than reburied in places where their long-term protection cannot be assured.

You may wish to contact your legislator urging support of this important piece of legislation, which has wide support from the Native American community. The text of the bill is appended to this issue of UPAC News.

### **'FOWLER' AMENDMENT TO NHPA**

George Bush signed the Fowler (AKA Bennett-Fowler) Bill into law on October 30, amending the National Historic Preservation Act. A summary of the amendments plus commentary by Peter Eidenbach, Vice-President of NMAC, UPAC's counterpart in New Mexico, is appended. Comments about and reactions to the amendments from Utah archaeologists will gladly be printed in UPAC News. Thanks to NEWSMAC for this article.

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**ANOTHER VIEW OF ALTERNATIVE MITIGATION**

[Editors note: Everett Bassett of Dames and Moore and Marian Jacklin of the Dixie National Forest were asked to write viewpoints on alternative mitigation for this issue of UPAC News. Unfortunately, Marian Jacklin was unable to contribute a piece due to unexpected work obligations.]

\* \* \*

**Everett Bassett, Dames and Moore:**

Whenever the specter of creative (or alternative mitigation) is raised among a group of archaeologists, it immediately becomes clear that there are at least as many perceptions of what the term means as there are archaeologists. This gamut of perceptions was well represented by the position papers presented in the last issue of the UPAC newsletter. These ranged from the benevolent (Madsen) to the wary (Metcalf) to the horrified (Shroedl and Tipps). While I agree in principle with the draft 1991 programmatic agreement, its vagaries and lack of safeguards resulted in an unusable document. Obviously, any further discussion of creative mitigation must include a more thorough definition as well as concrete examples of how it might work.

My own perception of creative mitigation might seem limiting to some, but I feel it is an appropriate one for Utah, especially in the near future. That is, I suggest it can be implemented now, without the need for a completely revamped 106 process. The approach I propose would be especially useful, not on a site by site basis, but on those few extremely large projects done each year in Utah. It is here where the most money is spent, and where the most is wasted. Where large numbers of similar sites, or small portions of large sites are to be affected within the same area, overall research efficiency is usually reduced. The larger the project, it seems, the fewer research bangs are obtained for the bucks expended - and sometimes, incredibly large numbers of bucks are at stake.

On these projects, carefully thought out research strategies should be developed, but their scope would be expanded and they would be targeted only at those locations having the greatest potential for addressing research questions. For example, a project identifying four significant sites within an area of potential effect would probably continue, as is done now, to have a moderate amount of data recovery done at each site. However, a project that includes 50 significant sites might have a large amount of work done at twelve sites, a moderate amount of work done at ten sites, and no additional work, following testing, at the remainder of the sites.

In addition, sites outside of the direct impact zone could be excavated; data could be collected, for that matter, from any place it exists if it efficiently complements the original data and addresses questions stimulated by it. Also, a portion of the total budget, say not more than 5%, could be used for signage, exhibits, or education programs. However, it would be inappropriate to expend this money in regional areas or on a data sets other than those associated with the project. Under this system there would be no "General Education Fund" or "Pioneer Museum" to drain away resources. On the other hand, we must recognize that we have an obligation to

public archaeology that can be, at least partially, met in this manner.

In this way costs to the proponent would not be increased (in fact they would probably decrease - like Madsen I believe good archaeology need not always be expensive) and in addition, the proponent would get some valuable "PR" mileage out of the public programs. On top of this, scheduling would be less of a concern since fewer sites would be worked on and a greater proportion of the work might take place outside of direct construction zones. For the archaeologist, there would be more incentive up front (more flexible research designs allowed) and less stress down the home stretch (fewer scheduling hassles). More importantly, the overall quality of the data would be improved.

This system would obviously require a thorough testing program up front, and an extensive construction monitoring program on the back end. In addition, there should be a greater effort made early on to work with the proponent to avoid cultural resources in the first place. It is my experience that when time and money savings are emphasized, rather than just site significance, project engineers are more than happy to avoid sites.

Fears have been raised (Shroedl and Tipps) that proponents would fight the system or, alternatively, use it to their own advantage by "buying off" archaeology. These are both valid concerns. However, it is my experience with other resources that proponents are willing to accept alternative forms of mitigation such as wetlands banking or contributions to buy desert tortoise habitat, especially if consistency is maintained in the planning process and schedules are adhered to.

Would the proponent be "buying off" archaeology? Sure. But that is precisely what is done under the present system. No matter how hard we try to convince project engineers of the importance of archaeological sites, their concerns will always be "How much will this cost?", quickly followed by "How soon will I be able to build my project?". It will be the responsibility of the appropriate agencies to assure that archaeology and not the archaeologists are being bought off.

There is nothing to prevent us from implementing such a system now except our own perceptions of how cultural resource management must work. Nowhere does it say that project mitigation must be confined to the direct impact zones or that impacts to all individual significant sites must be mitigated. The regulations only require agency officials to *take into account* the effects of their undertakings on significant cultural resources and *seek ways to avoid or reduce* any identified adverse effects. How flexibly this mandate is interpreted is entirely up to the participating agencies. Unfortunately, the philosophy of some federal land management agencies appears to be driven more by the custodial protection needs of individual properties than the overall information values that make most archaeological sites significant (National Register criterion "d") in the first place. We need some balance here; presently the implementation of section 106 is neither efficient nor effective.

Furthermore, I do not believe that either research designs or professional archaeologists' investigative directions or interests should be dictated by committee. Not only is this approach insulting to principal investigators and agency professionals alike, but considering the politics

of high-cost projects, untenable to proponents as well. What is needed, I believe, are principal investigators who are given free rein as well as the agencies' encouragement and support to initiate innovative research. *Principal Investigators* should be just that.

Is this approach new? Not really. I cite just two examples. The Arizona Projects Office of the Bureau of Reclamation has developed and has been implementing an approach over the last 15 years which attempts to meet the vision and spirit of antiquities legislation as well as the letter of the law. The Bureau's ongoing Roosevelt Archaeology Project is a good example that includes directed research, common-sense targeting of sites, public archaeology, and positive interaction between academic and CRM professionals. My second example is the Kern River Project as it was implemented in Wyoming - where a number of identified sites were targeted for an intensive investigation in order to fully realize their potential, rather than gathering lesser quantities of data from numerous sites.

Similar programs are possible in Utah when implemented by agency personnel having the enlightenment, initiative and (most of all) perseverance to push them through. The regulatory system may be complex, but it is not restrictive with regard to developing innovative mitigation approaches. While Memoranda of Agreement with the Advisory Council might legitimize this approach in the minds of the archaeological community and spell out the issues in greater detail, nothing can be accomplished without a consensus on the validity of the approach.

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#### NAGPRA UPDATE

The Native American Graves Protection and Repatriation Review Committee met for the third time on October 8-10, 1992. The Committee concurred with the Departmental Consulting Archaeologist plan to submit the revised version of Draft 4 as proposed regulations for publication in the Federal Register.

Ms. Tessie Naranjo was unanimously elected as the Committee's Chair for a one-year term.

The Committee discussed dispute resolution procedures. It foresees that most disputes will be resolved at the local level but continues to work on procedures for resolving disputes that reach the Committee level. The next meeting is scheduled for February 1993.

Some letters of notification and listing of culturally affiliated human remains and associated funerary objects have been received by the Committee and published in the Federal Register.

For additional information regarding NAGPRA, contact C. Timothy McKeown, NAGPRA Program Leader, Archaeological Assistance Division, National Park Service, P.O. Box 37217, Washington, DC 20013-7217; telephone (202) 343-4101.

--abstracted from Federal Archeology Report 5(4):28.

#### OBITUARIES

Emil W. Haurly died at his home in Tucson on Saturday, December 5, 1992 at the age of 88, thus ending an era in American archaeology.

Haurly chaired the University of Arizona Department of Anthropology and directed the Arizona State Museum from 1938 until 1964, and he kept on teaching until 1979, when he retired at age 75. He continued to hold the post of Professor Emeritus.

On the evening of his death, the Museum's current director, Raymond H. Thompson, praised Haurly as "one of the real giants in the world of archaeology in an international as well as a regional sense. He had extensive experience in the southwestern United States that gave him knowledge no contemporary scholar has."

—Glyphs (Newsletter of the Arizona Archaeological and Historical Society) 43(7):1.

James A. Lancaster died last November in Cortez, Colorado at the age of 98. His death has also been described as ending an era in Southwestern archaeology.

Ian Thompson, a columnist for the Sunday Durango Herald, observed in his November 8, 1992 column that "Al Lancaster was the last of the great archaeologists of this century to learn his profession outside the classroom . . . What he knew about Southwestern field archaeology, which

was more than any one person will ever know again, he learned from the ruins themselves. Others before him made significant contributions to archaeology without formal academic training in the subject, but Al Lancaster will be the last to do so and the greatest."

—Colorado Council of Professional Archaeologists Newsletter 15(1):13-14.

### **NATIONAL SHPO CONFERENCE SCUTTLES SOIL CONSERVATION SERVICE PROGRAMMATIC AGREEMENT**

The Board of Directors of the National Conference of State Historic Preservation Officers voted last November to terminate their programmatic agreement with the Soil Conservation Service and the Advisory Council.

According to Eric Hertfelder, Executive Director, "The Agreement, ratified on 2-7-84, covered soil and water conservation assistance activities on private and public lands, and allowed the SCS to replace the Council's regulations with the procedures contained in the SCS General Manual Part 401, "Archeological and Historic Properties."

The termination allows NCSHPO to formulate a new PA with SCS, or states may enter into their own state-specific PAs with SCS. Eric Hertfelder encourages states to comment on the action by writing to him at NCSHPO, Suite 342 Hall of the States, 444 North Capitol St NW, Washington, DC 20001-1512.

—from Colorado Council for Professional Archaeologists Newsletter.

### **ARPA NEWS**

Utah BLM now has a "looting hotline" where anyone who observes the destruction of cultural resources can report the crime. The number is 1-800-722-3998. It will connect the caller with the BLM Utah State Office law enforcement division.

### **NEW BLM ARCHAEOLOGIST**

Melvin G. Brewster is the new archaeologist at BLM's Pony Express Resource Area, Salt Lake District. Mel, in his own words, is "a 32 year old single Native American [who] fell into Cultural Resource Management." He has worked for the Forest Service on Six Rivers National Forest in northwestern California and for the BLM/Elko District and Nevada State Office. He received his B.A. from the University of Nevada at Reno in 1988 and hopes to graduate from Sonoma State University in June 1993 with an M.A. in Cultural Resource Management. UPAC welcomes Mel to Utah.

### **MORE FALL MEETING MINUTES**

UPAC bylaws require a full rendition of the minutes to the membership. In keeping with that requirement, the minutes are appended to this issue of UPAC News, as is a 1992 treasurer's report from Evie Seelinger.

### **THIRD ANNUAL ATLATL CONTEST COMING UP IN NEVADA**

The World Atlatl Association, in cooperation with the Valley of Fire State Park, announces its third annual atlatl contest at Atlatl Rock, in the Valley of Fire State Park, Overton, NV, April 3, 1993 at 10 a.m.

Awards will be given in three categories: Men, Women, and Youth (16 and under). The WAA will present a Grand Championship Award. There will be flintknapping demonstrations on Friday and Saturday afternoon.

Camping for participants has been reserved in the Beehive Group Camping Area. For information, contact Leni Clubb, WAA, P.O. Box 56, Ocotillo, CA 92259, phone (619) 358-7835 or Jim Hammons, Ranger, Valley of Fire State Park, P.O. Box 515, Overton, NV 89040, phone (702) 397-2088.

### **CALENDAR**

**March 12-13: UPAC Spring Meeting, Southern Utah State University campus, Cedar City, UT. Details in this issue of UPAC News.**

**April 14-17: Society for American Archaeology Annual Meetings, St. Louis, Mo.**

**Week of May 1-8: Utah Archaeology Week** Contact Kevin Jones at the Division of State History for more information.

**May 7-8, 1993: "Wa aba'am—Place of Plunging Water: A Gathering to Honor Western Nevada's First People," Incline Village, NV.** "Wa aba'am" is a presentation of programs, issues, and concerns important to Native Americans throughout the West. The conference is sponsored by the Washoe Tribe of California and Nevada and the BLM, Nevada State Office. For more information or to present a paper, contact Cynthia Pinto, Native American Coordinator, BLM, Nevada State Office, (702) 785-6469.

**May 14-16, 1993: Nevada Archaeological Association 1993 Conference at the Civic Center in Elko, NV.** NAA board meeting on afternoon of Day 1; papers on Day 2 plus an evening banquet with Don Fowler as key-note speaker; field trips on day three. For more information, call Pat Hicks, BLM Tonopah Resource Area, (702) 482-6214.

September 30-October 2, 1993: 1st Biennial Rocky Mountain Anthropology Conference, Jackson Hole, WY. Theme: Human Use of High Elevation Environments. Send symposia proposals and paper titles to: David B. Madsen, Antiquities Section, 300 Rio Grande, Salt Lake City, UT 84101, phone (801) 533-3527.

### ARCHAEOLOGY JOBS

The Utah Division of State History has an opening on its staff for a **Cultural Resource Specialist in the Compliance Section**. The duties of the Cultural Resource Specialist include: section 106 review, compliance education programs, data base input, and work with Native American issues.

The Cultural Resource Specialist should have a bachelor's degree in archaeology, anthropology, history or related fields, plus three years of professional level experience in Section 106 review. A Historic Archaeologist or archaeologist with Section 106 review experience is preferred.

Starting salary is \$22,988 to \$27,812. Starting date is flexible after April 1, 1993. Place of employment is the Division of State History, Salt Lake City, UT.

Applications are due March 3, 1993.

For more information and to request an application, contact Jim Dykeman, Preservation Office, Division of State History, 300 Rio Grande, Salt Lake City, UT 84101-1182, phone (801) 533-3555.

**P-III Associates** seeks qualified archaeologists to fill the following positions: Project Archaeologist - Great Basin, Project Archaeologist - Southwest, Field Supervisors - Great Basin, Crew Chiefs - Southwest.

For more information about professional requirements for each position, as well as information about salaries and benefits, contact Dr. Alan R. Schroedl, Senior Consultant, P-III Associates, Inc., 2212 South West Temple, #21, Salt Lake City, UT 84115-2645.

### LIST OF ITEMS APPENDED TO THE FEBRUARY '93 UPAC NEWS:

1. Map of Southern Utah University campus with UPAC spring meeting location marked.
2. List of people who HAVE paid their 1993 UPAC dues, plus 1992 treasurer's report.

3. Text of House Bill 368, Appropriation for Indian Burial Repository.

4. Summary of the Fowler Act Amendments to the National Historic Preservation Act by Peter Eidenbach, Vice-President of the New Mexico Archaeological Council.

5. Minutes of the Fall 1992 UPAC business meeting.

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### UTAH PROFESSIONAL ARCHAEOLOGICAL COUNCIL

**PRESIDENT:** Steve Simms, Dept. of Sociology/Anthropology, Utah State University, Logan, UT 84322-0730 (801) 750-1277

**VICE-PRESIDENT FOR MEMBERSHIP AND ETHICS:** Stan McDonald, Manti-LaSal National Forest, 599 W. Price River Dr., Price, UT 84501 (801) 637-2817

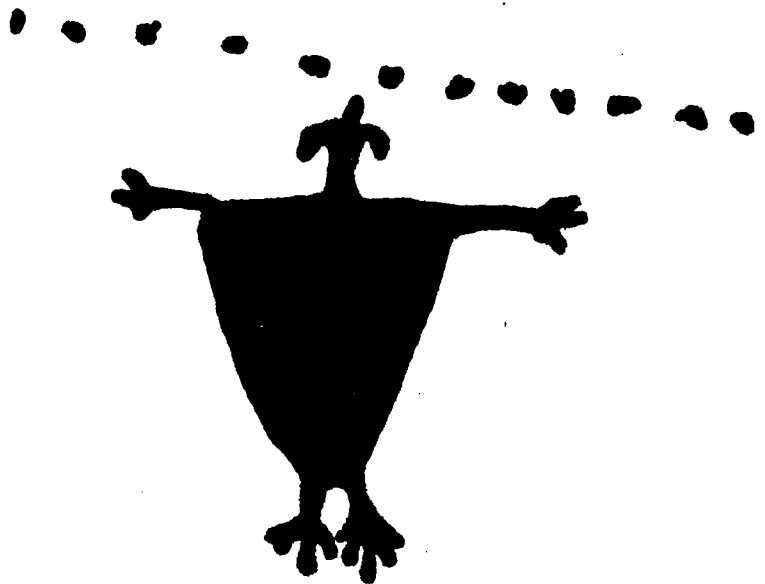
**VICE-PRESIDENT FOR GOVERNMENTAL AFFAIRS AND RESEARCH:** Duncan Metcalfe Department of Anthropology, 117 Stewart Building, University of Utah, Salt Lake City, UT 84112 (801) 581-4494

**SECRETARY:** Dennis Weder, OO-ALC/EME, 7276 Wardleigh Rd., Hill Air Force Base, UT 84056 (801) 777-0288

**TREASURER:** Evie Seelinger, Division of State History, 300 Rio Grande, Salt Lake City, UT 84101 (801) 533-3500

**JOURNAL EDITOR:** Kevin Jones, Division of State History, 300 Rio Grande, Salt Lake City, UT 84101 (801) 533-3500

**NEWSLETTER EDITOR:** Signa Larralde, Salt Lake District, BLM, 2300 West 2370 South, Salt Lake City, UT 84119 (801) 977-4357





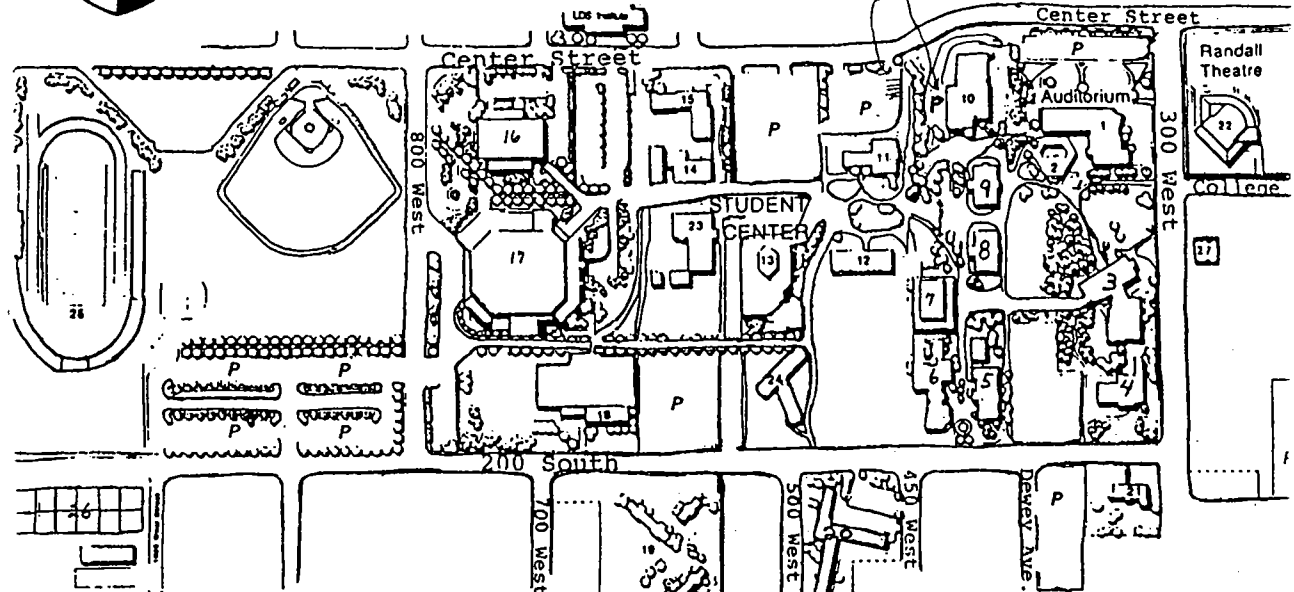


# SOUTHERN UTAH UNIVERSITY

CONFERENCE SERVICES

Cedar City, Utah 84720

*Designated visitor parking (otherwise anywhere!)*



- 1) Auditorium
- 2) Adams Memorial Theatre
- 3) Science Center
- 4) Life Science Building
- 5) South Hall
- 6) Music Building (Thorley Recital Hall)
- 7) Library
- 8) Braithwaite Liberal Arts Center
- 9) Old Main
- 10) Conference Center

- 11) Administration Building
- 12) Leavitt Business Building
- 13) Student Center
- 14) Heating Plant
- 15) Plant Operations
- 16) Technology Building
- 17) Centrum
- 18) Physical Education Building
- 19) Mansanita Court
- 20) Juniper Hall
- 21) Institutional Housing

- 22) Randall Jones Performing Arts Theatre
- 23) Technical Education Building
- 24) Oak Hall
- 25) Stadium
- 26) Tennis Courts
- 27) Childcare Nursery Center

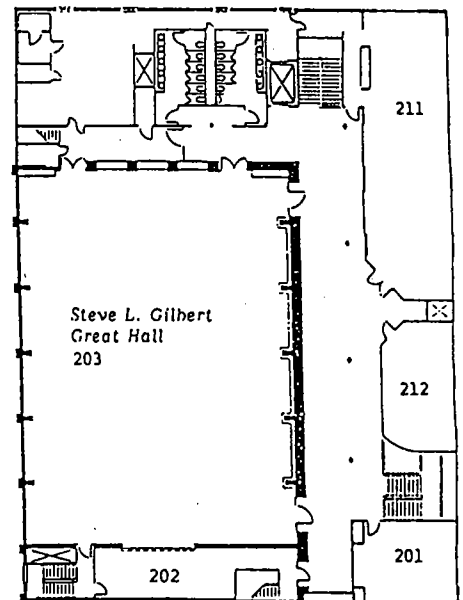
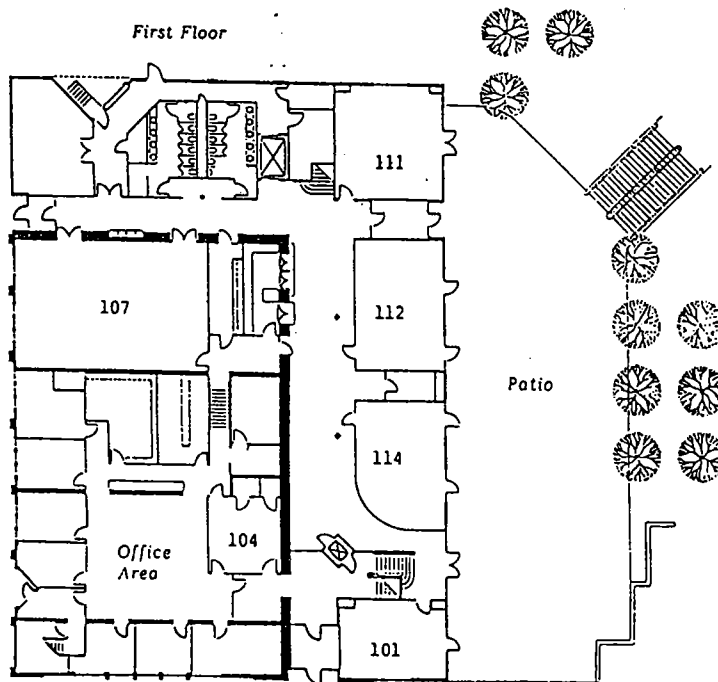
P = Parking

**Jill H. Dall**  
 Director, Conference Services  
 (801) 586-7854

## R. Haze Hunter Conference Center

First Floor

Second Floor



- Sage Valley 101
- Vermillion Cliffs 114
- Yankee Meadows 112
- Shooting Star 111
- Charles R. Hunter Room 107
- Parlor 104

- Navajo Ridge 201
- Red Hill 212
- Cedar Breaks 211
- Steve L. Gilbert Great Hall 203

1993 UPAC MEMBERS

The following are current UPAC members. You can bring your membership up to date by mailing your 1993 dues to Eyle Seelinger, UPAC Treasurer, Utah Division of State History, 300 Rio Grande, Salt Lake City, 84101. Dues are \$25.00 for voting members and \$12.50 for Affiliate, Associate, Student and Subscribing Members.

Jane L. Anderson	David Madsen
Brooke Arkush	Elizabeth Rae McDonald
Pamela Baker	Douglas McFadden
Everett J. Bassett	Duncan Metcalfe
Lorna Billat	Jeanne M. Moe
Kevin Black	Deborah E. Newman
Cory D. Breernitz	Office of Public Archaeology
Garry Cantley	Mike Polk
Laurel Castjens	Todd Prince
Diana Christensen	Evelyn Seelinger
Jim Dylkman	John & Jeanne Senuits
Robert Euler	Nancy Sharp
Rand A. Greubel	Nancy Shearin
Glade Hadden	Steven R. Simms
Mark Henderson	Shelly J. Smith
Richard Holmer	Charmaine Thompson
Julie Howard	Evelyn Tidlow
Joel C. Janewski	Dennis Wedler
Jesse D. Jennings	James D. Wilde
Carol Loveland	Kenneth Winch
Roy Macpherson	Jerry Wylie
	William Zukosky

UPAC  
Financial Statement  
1992

Balance - January 1, 1992:	\$5,174.09
Expenses 1/01/92 - 12/31/92	
Advertising	30.00
Dues Refund	150.00
Legal Costs	10.00
Non-Profit Corp. Fee	148.63
Office (Copying, Phone, Postage, Stationery)	176.79
Spring & Fall Meeting Costs	607.36
UPAC Newsletter, 3 Issues	783.50
Utah Archaeology 1991	209.25
Utah State Tax Commission	
Total Expenses	\$2,118.03
Deposits 1/01/92 - 12/31/92	
Interest	185.33
Membership Dues	1,558.50
Spring Meeting Reg'istr. Fees	134.50
Utah Archaeology Sales	140.00
Total Deposits	\$2,018.33
1/01/92 Balance:	\$5,174.09
Expenses	-2,118.03
Deposits	3,056.06
	+2,018.33
12/31/92 Balance	\$5,074.39

LEGISLATIVE GENERAL COUNSEL  
 H. B. No. 368  
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(APPROPRIATION FOR INDIAN BURIAL REPOSITORY)  
 1993  
 GENERAL SESSION  
 By Eli H. Anderson  
 Rob W. Bishop

AN ACT RELATING TO PARKS AND RECREATION; APPROPRIATING \$60,000 FOR FISCAL YEAR 1993-94 FROM THE GENERAL FUND TO THE DIVISION OF PARKS AND RECREATION FOR THE REBURIAL COSTS FOR NATIVE AMERICAN REMAINS RECOVERED FROM SITES THROUGHOUT THE STATE; AND PROVIDING AN EFFECTIVE DATE.

THIS ACT ENACTS NEW MATERIAL.

Be it enacted by the Legislature of the state of Utah:

Section 1. Appropriation.

(1) There is appropriated for fiscal year 1993-94 from the General Fund to the Division of Parks and Recreation \$60,000 for the following:

(a) the reburial costs for the Native American remains which have been recovered from various sites within the state, including those remains of the Northwestern Band of the Shoshoni Nation which have been recovered from the shores of the Great Salt Lake;

(b) the reburial vault, which shall be:

(i) located at Pioneer Trail State Park;

(ii) approximately 12 feet high by 12 feet wide by 30 feet long; and

(iii) built partially underground, of concrete and steel, with a bronze outer door, a steel inner door, and a sufficient space to provide approximately 500 reburial caskets to serve existing and anticipated future needs; and

(c) \$10,000 shall be given to the Northwestern Band of the Shoshoni Nation to build approximately 100 reburial caskets from oak or some other appropriate wood, each measuring one foot by one foot by three feet, with bronze identification tags.

(2) The funds appropriated under Subsection (1) are nonlapsing.

Section 2. Effective Date.

This act takes effect on July 1, 1993.

On October 30, George Bush signed the Fowler (AKA Bennett-Fowler) Bill into law, significantly amending the National Historic Preservation Act. While many of the changes and clarifications are minor, many more will have major effects on virtually every aspect of the federal historic preservation program. Some changes, such as the termination of the prohibition on federal grant funding for historically significant religious properties, will have little, if any effect on how archaeologists operate. Others, however, are closer to home.

In brief, here are the substantive changes that may affect archaeological resources:

1. Native Americans are explicitly included in the consultation process, along with federal, state, and local agencies, and may develop tribal preservation programs with the same rights and responsibilities as state historic preservation officers.
2. The Secretary of Interior will review threats to eligible and listed National Register properties at least every four years, broadening this type of review beyond the sphere of National Landmarks.
3. Agency-SHPD consultations are authorized from both directions, i.e., the SHPD is now explicitly responsible for consulting on federal undertakings, and plans to protect, manage, or mitigate harm to historic properties.
4. The Secretary of Interior will establish a program and regulations to assist Indian tribes in historic preservation, and may take into account and waive requirements in consultation in the tribal cultural setting.
5. The Council may enter into agreements with Indian tribes to replace Section 106 regulations with tribal regulations if the latter afford historic properties consideration equivalent to Council regulations.
6. The Secretary of Interior will develop a comprehensive preservation education and training program, including professional standards, training opportunities, financial assistance to field and tribal colleges, a Preservation Technology and Training Board to supervise a new National Center for Preservation Technology and Training.
7. Section 110, which concerns Federal agency historic preservation programs, is expanded and clarified and now contains a penalty clause for applicants who fail to comply with Section 106, or engage in "anticipatory demolition."
8. Each Federal agency will implement professional standards for employees and contractors, and ensure permit preservation and availability of records and data.
9. The Secretary of Interior will educate and encourage private owners to preserve sites and artifacts; undertake excavations in ways compatible with professional standards; and donate, loan, or allow access to their collections for research purposes.

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10. The Secretary of Interior will study and report to Congress on alternatives for controlling illegal interstate and international trafficking in antiquities.
11. An additional Native American member will be appointed to the Advisory Council by the President.
12. The troublesome term "Understanding" is finally defined with precision, incorporating language resulting from court decisions. "Preservation" is also redefined.
13. The authority to withhold sensitive information is broadened.

The Fowler Bill was the result of four years of consultation and research with a wide range of preservation interest groups, from the National Conference of State Historic Preservation Officers to the Navajo Nation. Fowler introduced earlier Senate versions in 1989 and 1991, and a counterpart, the Bennett Bill, was introduced in the House. This year's success of the Fowler amendments is credited by *Historic Preservation News* (December 1992) to the strategy of Sen. Bennett Johnston (D-LA) who attached the bill to H.R. 429, the Reclamation Projects Authorization and Adjustment Bill, a "must pass" water bill which would have been difficult to veto.

On the down side, changes to Section 106 did not survive review, and that all important, descriptively brief language remains unchanged. Other changes, however, indirectly strengthen and clarify the Section 106 and Section 110 process.

Several of the changes are worth examining in detail. Amended language is indicated by italics, and topics are presented in the order in which they appear in the amended Act. In addition to the inclusion of "Indian tribes and Native Hawaiian organizations," a policy and implementation provisions throughout the amended Act, Section 2, part 2 stating Federal policy has been expanded to read:

...provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments;\*

Section 1010(x)(8) extends the Secretary of Interior's review of threats to historic properties beyond the annual review of National Landmarks and nationally significant Register sites, authorized by Sec. 8 of the General Authorities Act Amendments of 1976:

"The Secretary shall, at least once every 4 years, in consultation with the Council and with State Historic Preservation Officers, review significant threats to properties included in, or eligible for inclusion on, the National Register, in order to-

- (A) determine the kinds of properties that may be threatened;
- (B) ascertain the causes of the threats; and
- (C) develop and submit to the President and Congress recommendations for appropriate action."

Section 101 has also been greatly revised to streamline and expand State Historic Preservation Programs, and add a parallel program for Indian tribes. Two points are worth quoting directly, although they by no means convey the full extent of the additions.

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\*A tribe may assume all or any part of the functions of the State Historic Preservation Officer...with respect to tribal lands... (101 (d)(2))

"The Council may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106, if the Council, after consultation with the tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations" (1010(x)(5)).

Section 110 has undergone significant change. Subsection a)(2), which formerly mandated federal agency programs to "locate, inventory, and nominate" and "exercise caution" has been replaced by a five part outline for establishing a thorough preservation program.

"(a)(2) Each Federal agency shall establish, unless exempt pursuant to Section 214, in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties. Such program shall ensure-

- (A) that historic properties under the jurisdiction or control of the agency, are identified, evaluated, and nominated to the National Register;
- (B) that such properties under the jurisdiction or control of the agency, as are listed in or may be eligible for a way that the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 106, and gives special consideration to the preservation of such values in the case of properties designated as having National significance;
- (C) that the preservation of properties not under the jurisdiction or control of the agency, but subject to be generally affected by agency actions are given full consideration in planning;
- (D) that the agency's preservation-related activities are carried out in consultation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations carrying out historic preservation planning activities, and with the private sector; and
- (E) that the agency's procedures for compliance with section 106-

(i) are consistent with regulations issued by the Council pursuant to section 211;

(ii) provide a process for the identification and evaluation of historic properties for listing in the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate, regarding the means by which adverse effects on such properties will be considered; and

(iii) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent

with section 3(c) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3021(c)).

Two new subsections, (A) and (1) have been added to Section 110, providing penalties to federal applicants who ignore or evade Section 106, broadening the nature of federal involvement which triggers Section 106, including actions usually termed "subsidiary demolitions" in architectural preservation, but applicable to archaeological preservation, and requiring federal agents to document all Section 106 decisions.

(B) Each federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of Section 106, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.

(1) With respect to any undertaking subject to Section 106 which adversely affects any property included in or eligible for inclusion in the National Register, and for which a Federal agency has not entered into an agreement with the Council, the head of such agency shall document any derivation made pursuant to Section 106. The head of such agency may not delegate his or her responsibilities pursuant to such section. Where a Section 106 memorandum of agreement has been executed with respect to an undertaking, such memorandum shall govern the undertaking and all of its parts.

Two new sections have been added to Title 1. Section 112, establishing professional standards, ensures permanent maintenance of records and data and directs the Secretary of Interior to develop guidelines for educating and encouraging private owners of historic resources (principally archaeological sites and artifacts) to participate more directly in Federal, State and tribal preservation programs, and voluntarily comply with the Native American Graves Protection and Repatriation Act.

Section 113 directs the Secretary of Interior to study and report within 18 months on "alternatives for controlling illegal in-terrior and international traffic in antiquities," and consult on these issues with a wide variety of Federal, State, Tribal, professional, vocational organizations, and "other interested persons."

I find it interesting that Sections 112 and 113 concern the types of questions repeatedly raised about professional relationships with private land owners who excavate their own sites (often selling some or all of the artifacts) versus looters who traffic in illegally obtained materials. Federal policy now explicitly encourages productive cooperative relationships with legitimate owners, while directing a new \$500,000 effort at finding ways to control the illegal interstate and international trade in a broad range of historical materials, including "architectural, commercial, and architectural objects, and historical documents of all kinds...." I strongly recommend that NMAC establish a study committee to assist, and voice our opinions on this issue.

Section 301 contains definitions used in the Act and has been revised to clarify and clarify many of the terms which have proved contentious since 1987 amendments. Two, in particular, are of interest to archaeologists, both in Federal agencies, and contracting for those agencies:

"Undertaking" previously defines simply as "any action as described in Section 106" has been completely rewritten. It now reads:

"Undertaking" means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including:

- (A) those carried out by or on behalf of the agency;
- (B) those carried out with Federal financial assistance;
- (C) those requiring a Federal permit, license, or approval; and
- (D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

The definition of "Preservation" has been broadened, expanding the "bounty list" to include "maintenance, research, interpretation, conservation, and education and training...."

Section 304 containing provisions for withholding sensitive locational information from public disclosure, paralleling ARPA, have been replaced with new, expanded language, and procedures for determining who should have access. The basis for withholding "...information about the location, character, or ownership of a historic resource..." has been broadened to include "violation of privacy," "risk of harm to the historic resource" and interference with traditional religious practices.

And finally, Title IV, not to be confused with Sections 401 and 402 amendments of 1980 (sometimes listed as Title IV--very confusing) which were not incorporated in the Act but appear as an appendix, and concern U.S. participation in the World Heritage Convention Committee and undertakings outside the United States.

Title IV declares "...a national initiative to coordinate and promote research, distribute information, and provide training about preservation skills and technology..." and establishes a National Preservation Technology and Training Center within the Department of Interior, supervised by a National Preservation Technology and Training Board, appointed by the Secretary of Interior.

The Center will be located at Northwestern State University of Louisiana, in Natchitoches. Its purposes will include: development and distribution of preservation and conservation skills and technologies; training for a wide variety of federal and non-federal personnel; technology transfer among agencies and institutions; and cooperation with similar centers and organizations at an international scale. Programs will be carried out internally and through grants (whose administrative costs, direct and indirect, may not exceed 25% of aggregate costs).

Funding for the Center is in addition to existing National Park Service budgets, while grant funds will be separately appropriated. No specific appropriation is included within the amendments.

**Commentary**

- In the March 1992 issue of NEWSMAC, I identified four issues which I suggested we address through NEWSMAC dialog:
1. Mitigation of Adverse Effect on Private Land;
  2. Ownership, Site, and Possession of Artifact;
  3. Sacred Objects, Sacred Places, Ancestral Resources, Cultural Partnerships, etc.; and
  4. Traditional Cultural Properties.

The first issue, mitigation on private lands, was raised several years ago, when HSR presented several papers dealing with Elk Ridge Run at the 1990 Mogolton Conference in Silver City. At that time several concerned NMAC members agreed to prepare position papers on various aspects of professional amateur intervention, disposition of artifacts, etc. Despite some heated dialog, little has been forthcoming. To date, no response on any of these issues has been received from the NMAC membership. It seems events at the federal level are about to overtake us.

The new Section 112 clearly implies federal recognition of private ownership of sites and artifacts, and begins to address the topic of Mitigation on Private Land. The Secretary of Interior is directed to develop guidelines which ensure educational outreach and cooperative efforts with private owners, assisting them in excavations on private lands. This perspective confirms that despite professional objections, private owners hold unambiguous title to artifacts obtained legally from their own land. I would suggest that any "penalty," supposedly based on ethical objections by a profession largely supported by public funds, imposed on owners who legally convey that title, is itself unethical. I would still rehash an argument on this subject.

Despite the fact that Section 106 itself remains unamended, other changes broaden Section 106, de facto. Section 2(2) establishes federal policy to administer "the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments." This language is broadened in Section 110 (2a) to include "local agencies...organizations carrying out historic preservation activities, and the private sector." Coupled with the revised definition of "Undertaking" and the new Section 110(f) requirement that agencies document any derivation pursuant to Section 106, this new language appears to demand wide outside participation in all 106 actions, well beyond those cases that, as major federal actions, were subject to such public review under NEPA in the past. In conjunction with NAGPRA, we can expect an increase in Native American (and other ethnic) participation and comment on even the most routine 106 actions.

The 106 documentation requirement combined with the Section 110(f) "penalty" clause may begin to force the issue on supposed "landowner" damage to sites by federal contractors, permittees, etc. In view of the new "Sagebrush Rebellion" (Last Cracker Sun News, Dec. 9, 1992) we can expect heated argument between ranchers, miners, and others who claim property rights on federal leases, and preservationists who will undoubtedly take one of two positions: on the one hand, if grazing or mining lease rights are recognized, then their owners can be sued for damages to other "unowned" (or federally owned) rights which are adversely affected by the exercise of those supposed property rights. On the other hand, if the courts (an opinion on constitutionality has already been sought from the NM Attorney General) uphold the "leased" interpretation, injunctions can be sought to rescind, or deny existing leases whose exercise adversely affects historic resources. Preservation case law already makes it clear that some private land uses which adversely affect others can be restricted without constituting an unconstitutional "taking." By raising this issue in an ancillary way, leases may just find that authority already exists to further restrict (voluntarily or under injunction) certain land uses on historic resources. But then again, I'm no lawyer, so we'll just have to wait and see.

In closing, I urge all NMAC members to request a "markup" copy of the amended act from the State Archaeologist, Lynne Sebastian, and read the whole thing. You may not be "them again" but your professional perspective is likely to be changed.

- Pete Eidenhech, NMAC Vice President

