

UPAC NEWS

NEWSLETTER FOR THE UTAH PROFESSIONAL ARCHAEOLOGICAL COUNCIL

Published Quarterly
January 1998

Stan McDonald, President
Jerry D. Spangler, Editor

UPAC Officers

President: Stan McDonald, Manti-LaSal National Forest, 599 W. Price River Drive, Price, Utah 84501. 435-637-2817

Vice-President, Membership/Ethics: Nancy Coulam, Canyonlands National Park, Box 813, Moab, Utah 84532. 435-259-3911 ext-2134.

Vice-President, Government Affairs/Research: Position open for special election.

Secretary: Marian Jacklin, Dixie National Forest, P.O. Box 580, Cedar City, Utah, 84720. 435-865-3746

Treasurer: Kenny Wintch, Office of Trust Lands Administration, 157 E. Utopia Ave., Salt Lake City, Utah 84115. 801-538-5168 (w) or 801-486-8115 (h).

Newsletter Editor: Jerry D. Spangler, Uinta Research, 6400 E. Emigration Canyon Road, Salt Lake City, Utah 84108. 801-582-2900.

Utah Archaeology Editor: Kevin Jones, Division of State History, 300 Rio Grande, Salt Lake City, Utah 84101. 801-533-3524, FAX 533-3503.

SUBMISSIONS: UPAC News welcomes all submissions by Utah archaeologists and others working in Utah in archaeology or related fields. Issues of relevance to UPAC News readers include ongoing research, education and preservation efforts, ARPA investigations, new hires, conferences and symposia, etc. Please submit to Jerry D. Spangler, 6400 E. Emigration Canyon Road, Salt Lake City, Utah, 84108 (801-582-2900). Whenever possible, please submit in Word Perfect 5.1 format. The deadline for the Spring issue is April 30, 1997.

PRESIDENT'S MESSAGE:

For the past few months, the executive committee of UPAC has been involved in discussions with the Utah School and Institutional Trust Lands Administration (TLA) and the Utah SHPO's office regarding TLA's proposed changes to Utah's Antiquities Law as it pertains to the sale of state trust lands. Since this is discussed elsewhere in this issue of the UPAC News (see Ken Wintch's update on Trust Lands Administration's proposed legislative changes and the minutes of the fall UPAC meeting), I'll try not to duplicate those discussions here.

The legislative changes, which were to be introduced in the 1998 legislative session, were presented to UPAC members at the fall UPAC business meeting. Not surprisingly, considerable concern was raised by UPAC members to TLA's proposal to exclude School Trust and Institutional Lands land sales from the definition of an undertaking. Even though the conveyance of title would be accompanied by restrictive covenants requiring private owners to assume the State's obligations to inventory, evaluate and protect significant sites, many UPAC members expressed concerns with this approach. Many of those concerns are displayed in the attached minutes of the meeting.

On November 20, former UPAC Vice-President Signa Larralde and I (representing UPAC) and state archaeologist Kevin Jones, deputy Utah SHPO Wilson Martin and State History legal advisor Tom Roberts (representing the Utah SHPO) attended the School Trust and Institutional Land's Board of Trustees meeting.

TLA's proposed legislative change and the rationale behind it were presented to the Board by TLA Director Dave Terry and Assistant Director Kevin Carter. Mr. Terry indicated that the cost of cultural resources survey was a major impediment to proposed land sales. Because impacts to sites are most likely to occur during ground-disturbing activities, TLA felt that sites could be adequately protected after sale

with protective covenants requiring the landowner to notify TLA of proposed land development and to assume the responsibilities for inventory, evaluation and protection. It was suggested that this approach would lower TLA's overall cultural resource costs for land sales. Since the proposed use of deed restrictions would violate the Antiquities Code, Mr. Carter proposed that the statute was in need of amendment. TLA staff indicated that Representative Tom Hatch, R-Panguitch, was willing to sponsor a bill in this year's legislative session to incorporate TLA's proposed changes.

Following the presentation by Messrs. Terry and Carter, there was considerable discussion. Concerns were raised about the financial liabilities and burdens being assumed by land purchasers. For instance, one member of the audience raised concerns regarding how land values could be affected when purchasers assumed financial responsibilities for protection and mitigation of sites whose quantity and character were unknown at the time of sale.

Based on UPAC members input, I presented UPAC's concerns emphasizing that the current legislation provides a well thought-out process with a proven record of success to consider cultural resources for a variety of actions including land sales which might threaten their preservation. While the proposed legislative change would decrease the up-front costs for inventory and evaluation, it would result in financial obligations for the state down the road to monitor the activities of private landowners. In the end, there may be no actual financial savings.

Furthermore, the proposed, we also noted that the legislative changes could create political liabilities for the state to police the activities of private landowners--liabilities which the state might not want to assume given the current political climate. Finally, lacking inventory data on parcels to be sold, the State could waive all rights to study and develop non-threatened cultural resource sites once these parcels were sold.

Kevin Jones, Wilson Martin and Tom Roberts suggested that rather than changing the statute, the concerns of TLA might be best addressed through rules changes or a programmatic agreement with State History. Wilson Martin urged the Board to refrain from tampering with the legislation, suggesting that this was a risky venture and could produce results that none of us could predict and potentially yield unacceptable results once decision-making was put into the legislative arena.

I am pleased to report that in early January, TLA backed off their earlier proposal and chose instead to make only minor changes to the Antiquities Code and to begin developing a programmatic agreement with SHPO for trust lands sales

(see Ken Wintch's article in this issue for the proposed minor statute change and synopsis of the proposed PA). Currently, the PA requests the endorsement of UPAC. After reviewing the proposed changes, interim Vice President John Senulis and I believe the new changes were acceptable to UPAC. We subsequently wrote to TLA and indicated that the proposed minor statute change and the general intent of the PA as presented were acceptable to UPAC.

We think the PA has a ways to go yet. But in comparison to the earlier TLA proposal, the current approach puts archaeologists (at TLA and SHPO) more firmly in position to assess needed inventory and appropriate survey strategies, to evaluate potential effects to sites involved in proposed sales and to agree on needed protection measures. While we may see some sales with deed restrictions enacted (which will require monitoring by UPAC), the current approach is a far sight better than what we could have ended up with.

Without the spirited discussion, participation and careful thoughts and suggestions of UPAC members at the fall meeting, I question if we would have ended up where we are today. Both John Senulis and I were prepared to coordinate a lobbying effort to oppose the original TLA proposal. Fortunately, such an effort is not needed. This underscores the strength of a unified UPAC voice in influencing government decision-making that will affect the fate of Utah's prehistoric and historic heritage.

Stan McDonald
President

CHANGES IN UPAC VICE-PRESIDENT FOR GOVERNMENTAL AFFAIRS AND RESEARCH

Signa Larralde recently accepted a position with the Bureau of Reclamation in Albuquerque. In the interests of UPAC, Signa chose to resign her position as Vice-President. As accorded by the bylaws, John Senulis was appointed interim Vice President while a special election is being held to fill the Vice President vacancy. The elected Vice President will take office after the close of elections. The newly elected Vice President will serve out the remainder of Signa's term which ends in the spring of 1999.

I'd like to thank both Signa and John on the behalf of UPAC for their work for UPAC. We wish Signa the best of luck with her new job in Albuquerque. --Stan McDonald--

**UPAC SPRING 1998 MEETING
HURRICANE, UTAH
APRIL 24-25**

Mark your calendar for the Spring UPAC meeting which will be held this year in the Little Creek Mesa about 12 miles southeast of Hurricane April 24-25. While plans are still being developed, the meeting will be camp out. All USAS members are also invited to attend. A short business meeting and a symposium of current research, including presentations of research being conducted by students and field trips, are being planned. Research by professionals, USAS members and students are encouraged.

Professional research being conducted on the effects of fire and fire treatments are strongly encouraged. Research papers should be no longer than 20 minutes; shorter reports are also invited. Please submit a title and brief abstract to Vice President Nancy Coulam by April 3, sooner if possible. A slide projector and an overhead will be available if you need them. Please let Nancy know if you need or will be using any other special presentation equipment. Please submit agenda items for the business meeting to Stan McDonald.

Further details on the meeting will be mailed out shortly to all UPAC members, universities/colleges and USAS in the near future. Please plan to attend. We could also use UPAC members help with several aspects of the meeting; please give Stan McDonald a call if you can help.

Student Research Symposium

The Spring UPAC meeting will feature presentations of student research. We already have expressions of interest from students to present research papers dealing with ceramics and mobility; excavations on the edge of the Great Salt Lake; fire-cracked rock as an indicator of site-use intensity; and Formative adaptations.

A \$100 cash prize will be provided for the best student paper; the paper will also be published in the journal Utah Archaeology. The participation of all archaeology and anthropology students whether presenting a research paper or not is strongly encouraged. Please let students know about the upcoming meeting! For students who would like

to present a paper, please submit a title and brief abstract to Vice President of Membership and Ethics Nancy Coulam by April 3. Papers should be no longer than 20 minutes.

TRUST LAND NEWS

At the Fall Business Meeting last November, I indicated that the School and Institutional Trust Lands Administration was considering a substantial set of changes to Utah law during the upcoming legislative session, changes that would allow the Trust Lands Administration ("TLA") to bring parcels of raw, undeveloped land to auction much quicker and with much less compliance effort.

The proposed changes were driven by a desire to spend much less trust money on intensive surveys, testing and data recovery projects conducted to facilitate Antiquities Act compliance for an ever-expanding program of raw land sales. Previous efforts by TLA to get legislative appropriation of either trust funds or general (i.e., general tax) funds had repeatedly met with failure, yet the land grant beneficiaries and the Trust Lands Board of Trustees were directing TLA to sell more and more land each fiscal year in order to reach ever-increasing monetary sales targets for each fiscal year. The trust lands community (i.e., the Board of Trustees, TLA management, the beneficiaries and various elected officials) have gotten very serious the last couple of years about making substantial money from the sale of raw trust land and from the direct agency development of trust lands for commercial, residential and industrial use (in addition to the steady, yet uncontrollable mineral lease revenues). *Much* more serious than a few years ago, when trust land management was still vested in the Department of Natural Resources. But given the current political and taxation climate, this situation is understandable and expected. All this is not necessarily important, except to lend context about the desire for the proposed change.

Concerns presented to TLA and the Board of Trustees by Stan McDonald and by Division of State History staff were taken to heart. To make a long story short, these concerns led to the distillation of the proposed change into a new proposal that involves very minimal, low-risk legislative changes and the creation of a programmatic process that endeavors to minimize risk to archaeological resources within the proposed sale parcels. Currently, the Programmatic Agreement (PA) detailing this process is being negotiated between TLA and State History with close involvement by Stan and the acting VP for Government Affairs, John Senulis.

The cornerstone of the PA is early consultation between SHPO and TLA archaeological staffs regarding the compliance "path" each parcel will take prior to auction. The

remaining building blocks of the PA include various supporting programs (e.g., a reconnaissance survey program, a parcel documentation program, post-sale review and covenant-enforcement programs) that will be used as appropriate to support the various compliance "paths." Execution of the PA is expected to occur within the first half of 1998. TLA's other compliance programs (direct agency developments, mineral lease activities, surface leases and easements) will not be covered by the PA.

While the proposed changes involve some risk to archaeological resources contained within proposed sale parcels, all three parties (TLA, SHPO and UPAC) are working to keep that risk acceptably low. The benefits associated with taking this risk *should* include (1) better preservation of the cultural resources in sale parcels through active, positive involvement of parcel purchasers/owners; (2) greater education of folks in the real estate market about the value of cultural resources and the need to preserve this finite, non-renewable resource; and a greater sense of cooperation and appreciation for the professional archaeological community by the trust lands community. Already since UPAC's Fall Business Meeting, I've noticed a more positive attitude among trust land managers toward cultural resource needs and concerns.

One final note on this subject. The traditional compliance method of clearing sale parcels through intensive inventories and, if necessary, subsequent investigations, will still be an option and will probably still be used when appropriate. Also, parcels which appear to probably contain -- or are found to contain -- substantial or highly significant cultural resources will likely *not* proceed to auction, simply because of the financial considerations and/or the unacceptability of taking risk for those resources. I get the sincere feeling that the trust lands community wants to do the right thing, and I am gratified that UPAC and State History are assisting them in fulfilling that desire.

Last but not least in trust lands news is the hiring of Kristine Curry, a recent graduate of Utah State University's program, to assist TLA's cultural compliance program on a full-time, temporary basis. Kristine will assist with a number of tasks, but primarily with the sales program. --Kenny Wintch--

HERITAGE GRANTS

The Utah State Historical Society wishes to encourage, support and assist the programs and activities of Utah's history and heritage groups. Therefore, the society's grants and technical assistance program is offering matching grants of up to \$3,000 to eligible groups. These groups include, but

are not limited to, local prehistory and history groups, certified local governments, towns, cities, counties, colleges, universities and statewide heritage organizations. Grant funds are to be used to document, collect, preserve, exhibit and interpret Utah prehistory and history. High priority will be given to projects that build community partnerships or involve the public.

In the past, grant funds have been spent for projects that strengthen local history organizations, like board and staff training; document history, including collecting oral histories, photographs and manuscripts; research and write community histories, guides and brochures; design and install markers that interpret significant events or places; stabilize or conserve monuments; survey archaeological sites, conduct excavations, analyze artifacts and publish results; exhibit and curate museum collections; educate with outreach programs; promote heritage tourism; and stabilize or conserve prehistoric and historic sites.

The application deadline is April 1 for projects beginning July 1, 1998. Heritage grants may run for up to two years from the beginning date. To apply, contact the Grants Program, Utah State Historical Society, 300 Rio Grande Street, Salt Lake City, Utah, 84101-1182, or phone 801-533-3500 (FAX 801-533-3504). Email: ddahl@history.state.ut.us.

TREASURER'S REPORT

In a nutshell, UPAC is financially stable and more solvent than ever. As the Year-End Financial Statement (attached to the newsletter) shows, UPAC's total monetary worth at the end of 1997 was \$7,145.33 - a whopping \$1,781.08 more than UPAC was at the end of 1996! Things are already even a little better now, thanks to those who have paid their 1998 dues since New Years Day. Speaking of which...

1998 dues are now due! The bylaws specify that the new year's dues come due the first of that year. Also specified is the Treasurer's duty during the month of January to inform the membership of their dues coming due. So please pay up! Don't put it off - get out your checkbook and an envelope and send me your 1998 dues before going any further in this newsletter. Remember, UPAC is only as strong and stable as its members make it through their contributions in dues and service.

PLEASE don't send your dues to my office at the Trust Lands Administration! Our receptionists have been trained to mindlessly open all mail and stamp every check therein for deposit in the Trust Lands Administration's bank account.

That makes it impossible for me to deposit that check in UPAC's bank account. I guarantee if you send a check to me at TLA you'll be getting it back with a little note asking for you to send a new check to me at my home address. So please save us both the extra work. (And, of course, make the check out to UPAC, not me...)

Regarding my home address, please be aware that I've moved recently, and my new residence is:

UPAC % Kenny Wintch
157 East Utopia Avenue
Salt Lake City, Utah 84115

Remember, voting (or regular) member dues are \$25.00 per year, Associate and Student members are half that, \$12.50 per year. (And you deserving Fellows get your goods *on the house*.) Finally, take a quick look at your mailing label - it shows your current membership status and dues year paid. Thanks very much. If any of you have any questions about your dues or UPAC's financial status please give me a call at either (801) 538-5168 (work) or 486-8115 (home).

Yours,
Kenny Wintch



**Utah Professional Archaeological Council
1997 Year-End Financial Statement
December 31, 1997
FIN: 870414800**

January 1, 1997 beginning balance: \$5,364.25

Expenses January 1, 1997 to December 31, 1997:

February UPAC News printing cost	\$159.76
February UPAC News mailing cost	\$159.60
Spring Meeting reservation cost	\$50.00
Bank charges	\$3.95
Copying, postage, faxes, mailings	\$476.32
Non-profit Corporation fee	\$15.00
Mailing labels (for October newsletter)	10.60
October UPAC News printing cost	\$137.51
October UPAC News mailing cost	\$51.20
Autumn 1997 business meeting costs	

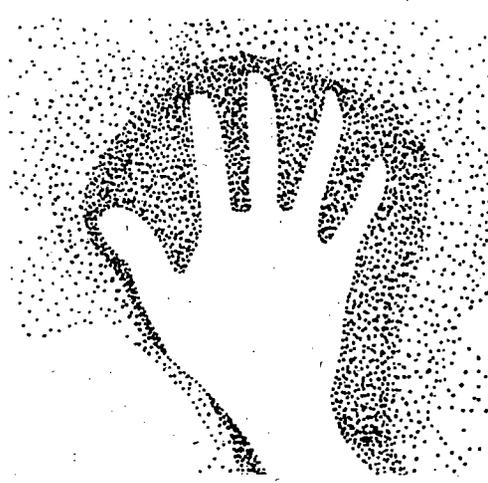
\$91.83

TOTAL EXPENSES \$1,155.77

Deposits Earned January 1, 1997 to December 31, 1997:

Membership dues deposited	\$2,540.00
Interest earned on checking balances	\$61.96
Interest earned on money market account	\$143.42
Reimbursement from USAS	\$191.47
TOTAL DEPOSITS	\$2,936.85

January 1, 1997 balance:	\$5,364.25
1997 expenses:	\$1,155.77
1997 deposits and interest earned:	<u>\$2,936.85</u>
December 31, 1997 balance:	\$7,145.33



**MINUTES OF THE
UPAC FALL MEETING
CEU Prehistoric Museum
Price Utah
Nov. 7, 1997**

President Stan McDonald called the meeting to order. Thirty-seven people were present at the start of the meeting, 44 by the end of the meeting. Stan introduced Don Burge director of the Museum and asked him to speak for a few minutes. Don talked briefly about the history of the museum from its beginnings 30 years ago.

Those members present introduced themselves and Signa explained about the research symposium to be held on the 8th. Minutes from the Spring meeting in Vernal were approved.

USAS Certification Program. Margene Hackney, USAS Castle Valley Chapter and Ron Rood Assistant State Archaeologist outlined the changes they are suggesting for the USAS Certification Program. The first thing will be to change the name from "Certification" to "Education Program." The basic format of the program will remain at four levels.

Level 1: Basic introduction to archaeological ethics and the law, a 15-hour course divided into sections. Section 1 is "what is anthropology." Section 2 is the history of archaeology. Section 3 is cultural preservation and ethics. Section 4 is dating methods. Section 5 is an overview of Utah prehistory. Level 1 will have a handbook/student guide and a teachers guide. Ron asked for opinions from members on the draft booklet they had at the meeting.

Margene Hackney also outlined the "Passport" concept. A small "Passport" booklet will be given to each student. The USAS Code of Ethics, Mission Statement and a signature section to be signed by the state archaeologist and instructors' for workshops completed will be included in the Passport. It was suggested that workshops be held at state conventions. It was suggested that workshops add more variety and will be better attended by USAS members.

Level 2: Site recording and mapping will continue, but a section on a site stewardship program will be added wherein USAS members could monitor sites.

Level 3 & 4 will remain essentially unchanged. Research projects identified by members working under the direction of professionals will be the primary emphasis of Levels 3 and 4.

By revising the program, the state will be able to keep better track of those completing the education program. Plus, by adding a site stewardship program, new members would be drawn to USAS, forming closer relationships between professionals and amateurs. A goal in teaching the program is to move from lecture type classes to one with more activities. Site preservation and ethics are key emphases. The lab will remain at 10 hours.

A discussion followed on what the goal of the old program was (helping professionals). Would this new program help the student to work in the local schools? A non-professional advocate working at the community level could be a very powerful ally for preservation.

Ron hopes by early spring to have Level 1 and 2 rewritten. There are plans to possibly pilot the program in the spring with the St. George group.

Stan talked about the Los Padre National Forest (southern CA) site steward program. Metal register boxes with preservation education materials are placed at sites of high visibility. Information on how to get involved in the steward program is also provided. In Utah, perhaps putting a steward concept forward as a USAS program and not as a federal/state agency program might get more people involved and send a stronger public involvement message. State Parks is currently working on a site steward and partnership program. By the spring meeting more information should be available.

Treasurer's Report. Kenny Wintch gave a treasurer's report. At the earlier spring meeting, it was decided to take money out of checking account and put it into a money market account. That has been done. Of the \$6,400 total at this time, \$6000 was put into a money market account in May 1997, from which \$100 in interest was generated. Another \$300 was kept in the original checking account. That total is up \$1,000 from January 1997. A financial statement will be attached to future newsletters at least twice a year (see pg. 5 of this newsletter). Dues are now due for 1998. Official dues should be paid on January 1 of each year. Kenny's address to where to send dues has changed to 157 E. Utopia, Salt Lake City, Utah, 82115). Please do not send dues to Kenny at Trust Lands Administration. Please back pay if you are missing last year so you can get the 1997 journal. The label on your newsletter states year of last dues. UPAC has 160 dues-paying members, most of them voting members.

There was discussion on adding a subscriber category to membership rolls. Subscribers would only get the journal. It was decided this was not necessary as they are other ways to get the journal through State History. Please defer requests for the journal to Kevin Jones at State History.

Intrigue of the Past--UPAC financial support. Jeanie Moe, Utah BLM, talked about the Intrigue of the Past program, which began in 1990. A teachers guide was completed in 1992. Jeanie runs teachers in-service workshops and other work projects. Newsletters are sent out twice a year to those having taken the course. Advanced workshops are offered, as are fieldwork classes. To date 1,100 teachers have attended the course. The 1993 the program was evaluated and positive responses received. It's hard to know if the program is meeting its long-range site protection goals, but 98% of the teachers sending back a response mentioned that students were concerned about the preservation of sites. A teacher and an archaeologist teach the course to other teachers. Having the archaeologist there has an effect on the teachers.

Support for the program has been through the BLM up until now. They are trying to broaden the support financially. A budget of \$325 supports a workshop, while \$600 supports the newsletter for a year.

A proposal was made to provide support from UPAC for Intrigue of the Past. David Madsen proposed \$1,000 dollars and a motion passed with the condition that BLM report to UPAC on where the money went and that it receives recognition for the contribution.

Miscellaneous Announcements.

— UPAC received offers to host the spring meeting in either southwestern Utah or Boulder. A decision will be made soon.

— Kevin Jones announced that Joel Janetski is now on Board of State History, Lee Kreutzer is on the advisory board for Utah Historical Quarterly and Marianne Nelson (USAS Provo) was given an antiquities award for her help developing a Archaeology Merit Badge for the Boy Scouts of America.

— Forrest Cuch is the new director of the Utah Division of Indian Affairs.

— State History grants have been given to Jeanie Moe for Mill Creek, and to the Archaeology Conservancy for Headly Pueblo.

— Utah Archaeology is late due to editorial difficulties. Hopefully it will be ready by December 1. Articles on sandals, the Grand Staircase-Escalante National Monument, a Clovis site and a list of state projects are included. Papers are in for the 1997 journal and there are no big problems. Kevin pledged to have it out by the spring meeting. The one problem he has had in the past is not enough people interested in conducting peer review. If anyone wishes to be on the review team please contact Kevin Jones. No articles from USAS were submitted for publication. Only one entry is included from Utah archaeologists, the rest coming from out of state.

— Members were updated on the Redd' ARPA case. The judge dismissed the charge of disturbing human remains. The attorney general's office has appealed the ruling. The appeal was filed in August. A rejoinder should be filed shortly. The Court of appeals has set a date for a court hearing. TLA has filed a civil suit, but it is on hold until the criminal case against the Redds has been heard. It may take several years to get finalized (see page 9 of this newsletter for an update).

Nomination of Officers. Signa Larralde is leaving for a job in Albuquerque and needs to be released from her position as Vice-President for Governmental Affairs. An interim person will be appointed until spring elections are complete.

Positions up for election: President, Vice President for Membership, Treasurer, Newsletter Editor, and Vice President for Governmental Affairs. Motion for special election for V.P. of Governmental Affairs was moved and seconded.

Nominations: For president, Bill Fawcett. For Vice President of Government Affairs, Betsy Skinner and Shane Baker. Vice-President for Membership and Ethics, Kenny Wintch, Ron Rood and Shane Baker. For Newsletter Editor, Doug Melton and Lee Kreutzer. For Treasurer, Jim Dykman and Chris LaZotte.

Trust Lands Administration. Kenny Wintch talked about a new proposal from TLA on land issues. A lot has happened since the spring meeting. The Board of Trustees has set a sale program with a \$2 million target this year and \$3 million next year. There are no funds available to the School Trust Fund for getting the lands surveyed for cultural resources prior to their sale, and they have problems selling lands with deed restrictions. Under the current process, land with sites that are significant can only be sold if the sites have been mitigated. The problem is that the cost of data recovery is often greater than the value of the land. The only options available to TLA are to 1) reserve ownership of the site to the state and sell the rest of the land, which has negative

effects and may put the site at risk; 2) cancel or shelve the sale of land with significant sites, which causes serious discontent among the representatives of the trust beneficiaries; or 3) spend a whole lot of money testing or

completely excavating all significant sites on parcels, thus provoking a negative reaction by representatives for trust beneficiaries, the governor's office and legislators. This might result in many, many sites not being preserved for future research.

The solution offered by TLA is to insert a definition of "undertaking" in U.C.A. 9-8-302 that would clarify that an undertaking does not occur when trust land is sold with a document of conveyance requiring the purchaser to take responsibility for compliance with the state's cultural resource protection law (equivalent to Section 106). In other words, restrictive covenants could be attached to the deed. Also, TLA would set up a policing/monitoring system that works, and state law would be amended to insert appropriately stiff civil damages that would allow TLA and or other parties to bring civil suit against the purchaser for not following through with commitments to facilitate compliance with the law. The proposal also requires an audit of the system after five years to objectively assess the success of the proposed system.

Some 50 percent of the land that TLA sells is surrounded by private land, and it does not have high site potential. TLA management knows that this solution will not work in all areas (e.g., San Juan County).

In the UPAC discussion that followed, concerns were expressed as to how we can hold the purchaser or any subsequent landowners responsible. It was suggested that survey needs should be considered up-front as part of the sale. The prospective buyer could hire to have survey done prior to close of sale. Concern was also expressed about needing broader public scoping on the issue (e.g. tribal concerns). It was noted that TLA had not involved the tribes at this point. It was brought up that TLA needs to consult with tribes as a good neighbor about this issue. UPAC will talk with TLA about its concerns. It was noted that TLA seemed resistant to involve the public more in this concern. UPAC will attend the meeting of the Board of Trustees on November 20.

BLM Fire Issue. Bill Fawcett and Dave Madsen reported on the fire issue from the spring meeting. A letter was drafted to the BLM raising UPAC's concerns and questions. One question was why some treatment methods were used in lieu of other types. If chaining was not done, site preservation concerns would be considerably less. Bill and David indicated that there was need to incorporate the

results of past research on effects to sites in fire rehabilitation efforts and to use treatment measures commensurate with anticipated effects to sites. A letter was sent September 10 to the State Director; there had been no official response by

the time of the fall UPAC meeting. Discussion followed that UPAC needs to stay involved and to review implementation of the Utah-Advisory Council memorandum of understanding and to look at Nevada BLM's fire review procedures. Many felt that discussion between the UPAC community and state BLM needs to continue in order to develop a strategy for all agencies to use when involved with fire rehabilitation efforts. Signa brought up the idea of holding a symposium at spring or next fall meeting on fire issues and archaeology. Papers could be presented on this issue and perspectives from other states could be brought to the symposium.

Proposed Revision to 800 Regulations. Jim Dykman handed out a chart on the new 36 CFR 800 regulations. Proposed new regulations are at OMB and he has no idea when they will be out. The National Trust for Historic Preservation collaborated with tribal representatives to propose a revision requiring a significantly strengthened tribal voice for undertakings on non-tribal lands. The proposal has initiated considerable interest and debate. Some have argued that under the new revisions, projects could be held up indefinitely until agreement with tribes has been obtained. The process appears to be much more complex than the existing regulations. OMB could have the regulations out in spring or as short as 30 days.

Other Issues. Blaine Miller discussed linear sites and the concern by some about what to do with long linear sites. Blaine suggested there is need for improvement in the way such sites are identified, recorded, numbered and evaluated. The discussion centered around developing consistently applied strategies to better manage linear sites including sufficient historical records searches, looking at linear sites from a broader, regional or local perspective to know how segments of linear features (e.g. roads/trails and ditches/canals) fit into historical contexts. No decision was made for further UPAC action.

Upcoming Meetings: Mike Polk announced that Society for Historical Archaeology (SHA) and Underwater Archaeology conferences will be held in Salt Lake City in 1999. The SHAs are anticipated to attract more than 1000 archaeologists to the conference. If you want to help please contact Mike Polk at Sagebrush Archaeology. In addition, if you have nominations for outstanding historic preservation or historical archaeology research projects in Utah, contact Mike Polk.

Meeting adjourned at 5:10 pm

REDD ARPA CASE UPDATE

Oral arguments were held January 26, 1998, in the case against James and Jeanne Redd, accused of vandalizing an Anasazi site and desecrating a dead human body in San Juan County two years ago. James Redd, a Blanding doctor, and his wife, Jeanne, are accused in court documents of digging in the midden of site 42Sa23040 situated on State Trust Lands in Cottonwood Wash northwest of Bluff on January 6, 1996. Subsequent investigation revealed that human remains had been disinterred from the midden.

The Redds were charged with trespassing on Trust Lands, a misdemeanor, and with desecration of a dead human body, a third-degree felony. Charges were filed in San Juan County by Grand County Attorney William Bengé (San Juan County Attorney Craig Halls recused himself because of a conflict of interest). At a preliminary hearing in 7th District Court on March 20, 1997, Judge Lyle Anderson dismissed the felony counts against the couple, arguing that the statute was not applicable to bones "thousands of years old." He also indicated that he did not want to put the couple through the trauma of a trial.

In an appeal filed August 25, 1997, state Assistant Attorney General Joanne Slotnik argued that the law as written did indeed apply to persons long-deceased, and that the Legislature had clearly intended it to apply as is evident by the statutory exclusion to those acting lawfully under provisions of the state Antiquities Act. She further argued that it is incorrect to interpret the law in such a way that it applies only to those buried in established cemeteries but not to those buried centuries ago in ways customary to their own culture. "The obvious racism inherent in such an interpretation renders it contrary to both common sense and public policy. There is no reason to surmise that the Legislature intended such a result."

A reply brief filed on September 18, 1997, by the Redds' attorneys, Rod Snow of Denver and William Schultz of Moab, argued that scattered bones are not a dead human body and that despite the fact that Judge Anderson said at the hearing that he found probable cause that the couple did disinter the remains, Anderson omitted that from the written findings and therefore it should not be part of the appeal.

The reply brief filed by the state on November 3, 1997, argues that the oral findings should be considered, and that Judge Anderson's statement that there was probable cause to believe that the Redds did disinter the remains should be considered by the court. The brief also reiterates the

argument the bones of an ancient Anasazi do, in fact, constitute a dead human body according to state law, and that the charges should be reinstated.

In oral arguments heard January 26, defense attorney Rod Snow agreed that there should be no distinction between unauthorized digging in an Anasazi burial site and a formal cemetery. "But that's not the issue here. The issue is whether you can substitute bone fragments [to mean the same as as] a dead human body under the statute" Snow said. Assistant Attorney General Slotnik countered that portions of human remains--rather than the sum total of a human corpse or skeleton have historically been considered as worthy of respect. For examples, she cited recovered body parts of soldiers killed in war, people who died in natural disasters and victims of the Oklahoma federal building bombing. The Redd case is more about intent, argued Slotnik. "They [the Redds] were digging only in the midden area, the place where Anasazi traditionally put their dead" she said. By shifting the emphasis to only the items exhumed, the trial court missed the point of the Utah's grave-robbing law, Slotnik said. "It shifts the emphasis to what the perpetrator finds at the bottom of the hole, instead of the actual intent of the law to prevent the intruding into the privacy of another space" Slotnik argued. She drew an analogy to a thief claiming that he did not commit a crime because he stole \$1 rather than \$100 from a victim's pocket.

The appellate court took the case under advisement; a ruling is expected by late February. -- Kevin Jones

INTRIGUE OF THE PAST WORKSHOP FOR ARCHAEOLOGISTS

If you'd like to be an Intrigue of the Past workshop facilitator or just want to learn more about presenting archaeology to children, join us for a workshop on February 26, 1998. We will meet in the West Meeting Room at the Division of State History, 300 Rio Grande, Salt Lake City, Utah at 8:00 am and end the session at 5:00 pm. The workshop will include a condensed version of an Intrigue of the Past teacher workshop, some useful educational tools, and a chance to teach some lessons yourself. For more information call Jeanne Moe at 801-539-4060 or E-mail: jmoe@ut.blm.gov.

