



# UPAC NEWS

NEWSLETTER FOR THE UTAH PROFESSIONAL ARCHAEOLOGICAL COUNCIL

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## VOTE FOR UPAC OFFICERS!

Ballots have been enclosed in the newsletters of those who have paid their 1995/96 dues. A list of the candidates is included in the Minutes from the last meeting. The only change is that Signa

Larralde withdrew. Send your ballot to Diana Christensen (UPAC Secretary) by March 1, 1996. If you did not receive a ballot, and believe you should, contact Bill Davis.

## EDITORIAL: PUBLICATION & PEER REVIEW OF OVERVIEWS

Recently I saw the overview of the Uinta Basin prepared by Jerry Spangler for the BLM. It represents a tremendous amount of work and a timely synthesis of the available archaeology. Federal, state, and other groups often use such overviews to evaluate the significance of specific sites and to guide the investigation of cultural resources. Considerable time and money are often involved in the preparation of such overviews, and yet the product--a report-- seldom receives wide distribution through publication or other means. Many of the documents are useful, but we could improve the quality of the end-product through peer review. Since the overviews are often used to justify management and planning decisions, they should make them available in draft form for comments. Overview and other efforts to synthesize the wealth of data accumulating from individual CRM projects need to be encouraged, and the end projects

deserve wider distribution. --Bill Fawcett

## **MINUTES FROM THE FALL UPAC MEETING**

On Friday, November 17, 1995 at the Museum of the College of Eastern Utah President Bill Davis opened UPAC's business meeting at 1:45 pm. Thirty-one members were present. He began with a discussion of the current status of the wilderness bill. SUWA is lobbying for more wilderness and asked Bill Davis to send a letter supporting more wilderness. More wilderness designation means less roads, and therefore, less vandalism to archaeological resources.

Treasurer's report by Nancy Shearin followed. 1996 dues are due in 1996. but you are welcome to pay them in 1995, if you want. If you don't pay your 1995 dues, you will not receive *Utah Archaeology* \$5,664.00 is the balance in the checking account. Most of the new money is from member dues. Expenses have been meeting expenses, publication and mailing for *Utah Archaeology*, postage, taxes and some travel expenses. Membership summary: 156 names on the mailing list, 82 current paid members (95 and/or 96 paid), 74 members are not current having only paid up to 1994.

Davis asked how we can get people to pay their dues, how can we increase the membership. Pam Miller suggested sending envelopes printed with the amount of dues on -this works for the museum.

Minutes from last meeting which were in the newsletter were approved.

Old Business: Kevin Jones update of *Utah Archaeology 1994* is completed and will be sent in about 2 weeks. 1995 is pretty well set and will be out in spring of 96. 650 copies of 94 will be printed. Cost will be less than \$5 for a 130 page journal. They are sold for \$15 -so a profit is

accrued. We can help with the journal by sending back reviews promptly or sending back papers with changes in a timely manner. Committee to assist with the journal has been very helpful.

Duncan Metcalf- anything new on curation guidelines? He is the new curator at the Museum of Natural History and has an office there now. He is still Halftime at the Dept. of Anthropology and is not sure how that will work out yet. He may go on leave from the Department of Anthropology for 2 years. The only worry at the museum is NAGPRA. The museum has huge holdings - 1200 unassociated funerary objects, 100 associated funerary objects, 700 human individuals. They are about to begin consultation with Native Americans. Interesting history at the museum was that during the 1920-30s pots were bought by the dollar from the Blanding area and this is why they have such a huge collection. They are probably going to up their curation rate \$297/cubic foot. Right now they are full. An alternative location may appear at Fort Douglas but it is not clear yet. Within the next 6 years they will attempt to get a new museum. But Duncan doesn't think this is a realistic option at this point. They have land but need to come up with the money. Curation fees of \$97 is allowed to be spent to handle the curated materials (microfiche, repackaging, etc). And \$200 goes into a fund he can't touch but can only use the interest. This is a way of maintaining the curation program. It lacks any firm institutional support. Duncan is the only permanent employee in the curation program. He needs to get better support to obtain a staff. A comparison of curation rates from those attending the business meeting was \$350 at Price and \$600 at Nevada.

Update of Native American remains - Kevin Jones says that the committee finally has a set of rules they can agree on, so the quorum will approve them today and they will be published. Then in 30 days they will be final. This only covers burials on state lands. When a burial is encountered, you notify the police, state Division of history and the Division of Indian Affairs. Only Native American remains fall under the provision of this law. The first job is to determine whether the remains are Native American or not. The new rules reflect this. They have had a hard time getting a quorum together. Tomorrow Brook Arkush can let us know.

Copies of the new certification course proposed by USAS are available. Get them from Diana Christensen (see copy in this newsletter).

Mike Polk discussed on a new organization called the American Cultural Resources Association (ACRA) -put together by people from the East in 1994. They have concerns about a trade association, discount rates for insurance, forum for discussing issues relevant to CRM companies, etc. Most professions have these and CRM does not yet. A lot of interest was shown in Kentucky at the initial meeting. During the SHA meeting in January 1995 another meeting was held and a steering committee was set up. They have found a tremendous amount of interest in this. Historians, architects, landscape architects, etc. and other professions are also involved in this. In Denver a board of 21 people was set up (April) from all across the west. Loretta Newman is on the board (with CEHP) and is their lobbyist. They got sidetracked when Congress made moves to cut funding for historic preservation and the Advisory Council. They began lobbying and found

there is an extremely fast time frame with only several days turn around before committees act in congress. So immediate lobbying efforts are critical. They tried to use EMAIL to get notices to people. They used several lists -HIST ARC, etc. with hundreds of people on them. So they reached several thousand people on EMAIL. In California they used Clearinghouses to get information out to CRM folks. They blitzed congressmen so that they were sick of hearing from archaeologists. Congressmen had never heard from this many constituents on any topic before. ACRA really helped preserve the funding for the Advisory Council.

Mike predicted that we will have the same budget fight for the next two years, at least. So we will have to continue to be vigilant. ACRA is not based around lobbying but rather in promoting the private sector, the business aspect of CRM and what we can do for them across the country.

A big issue is wage determinations. The Labor Department has established a wage rate for archaeological technicians (\$16.32/hour in Utah). This rate varies by state and county. ACRA is arguing that this is an outrageous cost that will drive companies out of business. They are looking into exactly how the Labor Dept. came up with these rates from a legal standpoint. Professional liability is another issue ACRA will address. Mike has some materials for those interested (newsletters, brochures on ACRA).

Kenny Wintch talked about Trust Lands. They have a new director, David Terry. And they have new cultural rules as of mid- October. Obtain copies from Kenny. They have turned a corner with their sales policy regarding cultural resources. The previous stance was that they only sold land with no sites or no significant sites or

mitigated sites. In order to increase sales of land, they now want to do deed restriction sales where the land is sold with restrictions to preserve the site even after it leaves state ownership. They have found a way to have their cake and eat it, too, says Kenny. They will actively market land with significant sites on them hoping to increase the land value. Deed restrictions would protect the sites and allow land owners to have a site in their backyard. The first parcel is 80 acres near Torrey which had some sites destroyed by a road to a quarry. Kenny states that the sites on trust land have no protection anyway. State Lands says that this is one way to protect sites they otherwise couldn't protect. By being in someone's backyard, then they will protect it. The question was "Who would enforce the deed restrictions. The answer was "no one." It was felt that adjacent landowners will police each other. The parcels will go as units, i.e. "Fremont Acres." Penalties can go onto the deed restrictions. Trust lands are not considered public lands. Discussion followed on some negative aspects of the proposal. UPAC can watchdog this effort. Joel Janetski stated Utah County sites on private land are being watched, while sites on State Land are being ripped to shreds. So there may be some merit in this proposal. We need to exercise caution because the rules are changing rapidly. State lands which used to be managed for maximum revenues are now not being done so in other states, i.e. Nevada.

We might consider having Kevin Carter come and discuss these issues with UPAC. Do we need an oversight committee for these sales of state lands? That might be helpful. The new VP for Governmental Affairs might look into this. John Senulis was suggested as the chair for this

committee because he suggested it.

All companies and institutions on State History permit list will get a document from Trust Lands to get on a short list for cultural resource work. They will make up a list of consultants for each of 5- areas in the state with only 2-3 permit holders on each area. Then they can get expedited bids and telephone bids at short notice from these companies.

Evie Seelinger reported on the GIS site and project files which are being done with ISTEAM money. Two people have been hired fulltime to do this. They are trying to clear up all of the site and report files and incorporate these into the files. Then they will digitize the sites and projects into the GIS.

Preservation Section of SHPO will put out a glossy publication next spring. Any short articles (1,000 to 1,500 words) on any preservation topic (archaeology, rock art, etc.) is welcome. Contact Roger Roper at the Utah SHPO. Also, if anyone is interested in getting him to give a run through on recording historic sites, let him know. Members were interested so we may invite him to the next UPAC meeting. UPAC was asked to send letters to Judge Winder before December 15 (Shumway's sentencing date) to encourage a stiff sentence so that a strong message is sent to the public. Other individuals can be sent this letter as well. Kevin Jones has addresses.

Nancy Coulam and Al Schroedl gave a discussion on who owns archaeological data. Nancy stated that a private landowner (of a mine) came into her office and asked for an archaeological report to deal with creationists who were hassling him over a site. In 1990 the Moab Archaeological Society (USAS Chapter) excavated a site (The Keystone Site) on private land

assisted by UPAC members. The site has a long history of investigation beginning with Marwitt in 1971. At the end of the excavation in 1990, nothing happened. The landowner asked the archaeologists to leave. Julie Howard returned to the site in 1991 and made some notes on what they did that year. Notes exist from multiple people and lots of photo logs, etc. Massive data was deposited at Edge of Cedars Museum in 1993 by Julie Howard. It was never accessioned into the Edge of the Cedar museum collections. Bruce Louthan took collection to try to piece it together. The landowner now wants a report to stop the Creationists from trespassing on his land. Coulam and Schroedl drafted a popular paper at the request of the landowner to piece the investigation together. A copy was sent to Kevin Jones for publishing in *Utah Archaeology*. Julie Howard was angered because her intent had been to prepare the report on the site. Discussion which followed stated that a popular report on the work was all right. It was not a technical report. To get the information out to the public is the appropriate approach. There should be a "statute of limitations" on the ownership of data because so many times, the data is never published. The data was turned over to a public curation facility and it thereby became publicly owned. Discussion ensued on who owns the notes and the intellectual data. The private landowner does not own this information. There is a legal and an ethical issue here. Legally the information is in a public repository and is, therefore, public information. Ethically, you should have the permission of the originator of the data (note writer) to publish the material.

Don Southworth from Utah Dept. of Transportation stated that UDOT is reorganizing. They have hired two new

archaeologists, Reed Soper and Chris Lazotte. They will take over in Ogden and Orem after the first of the year. Susan Miller will be in Richfield beginning on Monday. Don Southworth will remain in Salt Lake City. Road Commission is considering a change in the ISTE A money to encourage the cities to improve walkways and sidewalks (Bikes and Trikes). So this may cut out funds that would have gone to historic preservation projects. If you want ISTE A monies to continue to be used in archaeological projects, you need to lobby the Road Commission. There has been a constant fight to include historic preservation projects in ISTE A grants. These kinds of projects have hitherto been the major source of ISTE A funds in the past. ISTE A funds may be cut off in two years. UPAC will send a letter requesting that historic preservation should be considered for ISTE A funds.

Don Southworth stated that possible historic inscriptions are being erased because it is not felt they are real (Jim Bridger signature, for example). Precedence should not be given to the prehistoric inscriptions over historic inscriptions. Buckhom Panel had some historic inscriptions removed to which the Utah SHPO objected. Don wanted to make sure it does not happen again.

New officers taking office today: Vice President for Governmental Affairs-- David Madsen, and Secretary-- Diana Christensen

Nominations were taken for new officers  
President--

Signa Larralde  
Stan McDonald  
Michael Polk

Vice President for Membership & Ethics—  
Nancy Coulam  
Lee Kreutzer

Treasurer--  
Kenny Wintch

Editor--  
Jerry Spangler  
Pam Miller

Outgoing officers for these positions are:  
President--Bill Davis, Vice President for  
Membership and Ethics--Charmaine  
Thompson, Treasurer--Nancy Shearin,  
Newsletter Editor--Bill Fawcett.  
---Diana Christensen

### **VIRGIN ANASAZI CERAMICS WORKSHOP**

A workshop on Virgin Anasazi Ceramics will be held on March 1-2, 1996 (Friday and Saturday) at the Archaeology Laboratory on the Southern Utah University campus in Cedar City. We envision this workshop as a necessary point to compare working ceramic knowledge of the Virgin Anasazi area. We will notify all who are currently working on ceramics in this area, but we may miss some of you. If you are interested and can contribute to the body of knowledge on Virgin Anasazi ceramics, contact Diana Christensen at (801) 628-4491 ext. 266.

### **UTAH AVOCATIONAL ARCHAEOLOGY EDUCATION PROGRAM**

The following proposal for a revision of the certification course sponsored by the Utah Statewide Archaeological Society is being discussed. It was proposed by Jeff Roberts in consultation with representatives from some chapters across the state. It was then discussed and further refined by the USAS board.

The objective of the Utah Avocational Archaeology Education Program (UAAEP) is to provide education and training for avocational archaeologists for the purpose of preserving and protecting

Utah's cultural resources by retrieving information in the most responsible and relevant manner. USAS will administer the program with coordination from it's chapters and support from Utah Professional Archaeological Council and the Antiquities Section of the Division of State History. Level and skill certificates will be awarded to participants who complete program requirements. The USAS Education Committee will issue certificates, guidelines and updates to the program. UAAEP will consist of four achievement levels and skills certification.

Note: It is suggested that the 5 member USAS Education Committee be composed of 2 professional archaeologists who are participating certification teachers, the USAS Vice President and 2 USAS members with certification experience. The committee will issue certificates signed by the USAS President and the teaching professional. The committee will keep record of statewide member certification status and publish yearly membership activity.

Level 1: Introduction to Archaeology  
Course Description: Introduction to Archaeology will be a basic introduction and survey course to archaeology and anthropology with class work and instruction. The required text will be Thomas? Fagan? Objectives and resources will be written for each of the following subsections;

- What is archaeology?
- Principles and history of anthropology and culture
- Cultural resource preservation and ethics
- Early peoples of the earth
- An overview of U.S. Prehistory
- Prehistoric peoples of Utah

Note: Level one should be taught /directed by an archaeologist with assistance from

Level 2+ avocational archaeologists. The curriculum will be developed by each directing archaeologist with a statewide outline with written objectives, recommended texts and available resources. Our goal is also to enable all members to receive college credit for each level completion.

#### Level 2: Methods and Skills

Methods Course description: Overview of Data Recovery Strategies and Site Recording with class instruction, laboratory and fieldwork, objectives and resources will be written for each of the following subsections;

- Overview of data recovery strategies (basic excavation, dating, mapping, lithics, ceramics, floral and faunal remains, ???)
- Site recording and surveying
- Making sense of data: analysis and interpretations

Skills Course Description: 3 skill options will be required to complete Level 2. Class instruction, laboratory and fieldwork, objectives and resources will be written for each of the following skills;

- Basic excavation
- Survey
- Lab work
- Mapping
- Rock Art Recording
- Illustration and photography
- Lithics
- Ceramics
- Faunal remains
- Floral remains
- Historic archaeology
- Site Stewardship (based on Arizona program -Diana Christensen)
- Flintknapping
- Basketry

Note: Skill classes for certification status

are intensive, comprehensive hands on experiences that can be taught by certificate holders directed by professional archaeologists. Written objectives and resources for each skill will be developed on a statewide level. A video series will be produced using the talents and specialization of Utah's professional archaeologists. Certification and level achievement does not necessarily certify any recipient to legally do anything in cultural resource endeavors. It does denote education, skill and experience. Professional archaeologists will benefit from avocational participation with certification skill and status. A certification record will be on file with USAS for professional access. The USAS Education Committee will receive recommendations and make decisions regarding additional skill classes.

#### Level 3: Projects

Note: Professionals must supervise Level 3 projects. They should give Great flexibility to the types and scope of projects. Basic guides will be developed on a statewide level.

Level four: Publishing of research or project Note: Professionals may assist in Level 4 projects. Great flexibility should be given to the types and scope of projects and research. Basic guides may be developed on a statewide level. *Utah Archaeology* is in part a USAS publication where members are encouraged to submit work for reporting. USAS encourages comments and suggestions on this revision. Please direct comments to Jeff Roberts (PO Box 66, Annabella. UT 84711 (801 896-5332) c/o USAS or Diana Christensen (1075 N. 1400 W. #43, St. George, UT 84770 (801) 673- 1878).

### **PROF. CAROL LOVELAND**

Carol Loveland passed away on December 26, 1995. She was Associate Professor and Program Coordinator for anthropology at Utah State University. She began teaching at USU in 1975, offering courses in human evolution, adaptation and variation, human osteology, and paleopathology. She received her undergraduate degree at the University of Utah and a Ph.D. from the University of Tennessee, where she was a student of noted osteologist William Bass. She applied this background to analysis of human remains from the Great Salt Lake and east Texas, and also worked on forensic cases for law enforcement agencies. Her love of teaching led her to develop exhibits in anthropology that eventually grew into a museum. Each year she would develop a new exhibit and after years of display in the basement hallway of Old Main, the USU Anthropology Museum was formally founded in 1992 when Carol managed to secure a large room. She was also instrumental in developing an undergraduate major in anthropology, first offered in 1992. She requested no memorials be made, but suggested that those so inclined could make donations to the USU anthropology scholarship endowment which she helped found. --Steve Simms

*Editor's Note:* Donation checks made out to Utah State University -Anthropology Scholarship can be sent to Pat Wilson, Utah State University, Logan UT 84322-0730.

### **CONGRATULATIONS UPAC FELLOW JESSE D. JENNINGS**

Congratulations to Jesse D. Jennings recipient of the 1995 Alfred Vincent Kidder award. The award is presented every three years by the Archaeology Division of the American Anthropological

Association, alternating between scholars who have contributed greatly to archaeology of either the American Southwest or Mesoamerica. Jennings was honored at the November meeting of the AAA in Washington DC for his contributions to the understanding the prehistory of the Great Basin and Southwest.

### **3rd BIENNIAL ROCKY MOUNTAIN CONFERENCE 18-20 SEPT 1997 HOLIDAY INN, BOZEMAN MT**

Interested individuals are encouraged to organize forums as a possible alternative to symposia, to enable thoughtful, focuses, and more open discussion of carefully delineated themes/topics. Please contact conference organizers for information about organizing a forum. The organizers encourage the participation of researchers from all areas of anthropological and paleoenvironmental study pertaining to the Rocky Mountains. Deadline for symposium/forum proposals 15 March 1997. Contact organizers: Ken Cannon (NPS Midwest Archaeological Center, 100 Centennial Mall N, Lincoln NE 68508-3873402/437-5392. FAX -5098. Email ken-cannon@nps.gov) or Jack Fisher (Sociology Dept, MT State U, Bozeman MT 59717 406/994-5250 F AX -6879. Email: isjif@msu.oscs.montana.edu).

### **ARCHAEOLOGICAL POTTERY OF COLORADO**

The Colorado Council of Professional Archaeologists announces availability of its second volume of the CCPA Occasional Papers Series, Archaeological Pottery of Colorado, a collection of papers (from 1994) written as part of a CCPA archaeological ceramics symposium. Topics covered include ceramics of the Anasazi, Fremont, Woodland, Upper

Republican, Dismal/Apachean, and Utes.  
Order your copy from: Robert Brunswig,  
Dept of Anthropology, University of N.  
Colorado, Greeley CO 80639. Make  
checks for \$17.50 payable to Colo. Council  
of Professional Archaeologists.

**STATE ARCHAEOLOGY  
WEEK/MONTH POSTER CONTEST  
FOR 1996 SAA MEETING IN NEW  
ORLEANS**

The Archaeology Week & Network  
Subcommittees of the Public Education  
Committee, and the Council for Affiliated  
Societies are organizing Celebrate  
Archaeology 1995-96, a display of  
Archaeology Day, Week or Month posters  
as part of the SAA Annual Meeting Public  
Session, Apr 13, 1996. Awards will be  
given for the best posters. Posters should  
be from events scheduled from June 1995 -  
May 1996. Please send 3 unmounted  
posters to Ann Valdo Howard, SHPO,  
1300 W Washington, Phoenix AZ 85007  
by Mar 1, 1996. If your poster will not be  
ready by then call Ann at 602/542- 7138.

**UTAH PREHISTORY & HERITAGE  
WEEK 1996 (MAY 4-11)**

Whether it's prehistoric homesteading,  
Pleistocene probasidians, or Fremont  
farmers, it's time to start soliciting speakers  
projects, and activities. Prehistory and  
Heritage Week will kick-off Saturday,  
May 4 with an afternoon celebration at the  
Division of State History, 300 Rio Grande,  
in Salt Lake City. If you have any  
activities in mind or require additional  
information, contact Renae Weder  
(801/533-3529) or Dave Schmitt (801/533-  
3577) at State History.

**NATIVE AMERICAN REMAINS  
REVIEW COMMITTEE RULES**

The Native American Remains Review

Committee has approved the rules for  
compliance with the state Native American  
Grave Protection and Repatriation Act.  
The rule (R 230) was published on January  
1, 1996, with a thirty day comment period.  
As of January 31, no comments had been  
received by the Division of Indian Affairs.  
Since there were no comments, the rules  
will take effect within 60 days. The  
complete text of the rule is attached

**R230. Community and Economic Development, Indian Affairs.**

**R230-1. Native American Grave Protection and Repatriation.**

**R230-1-1. General Policy Statement Regarding Native American Burials.**

1. Native American burials are regarded as spiritual and sacred ceremonies where the deceased is prepared for their journey into the next dimension of life. Once the deceased, the grave and the funerary objects are blessed, consecrated and dedicated to the care and keeping of the creator the burial site is then considered "holy ground," never to be disturbed.

2. Native American burial sites discovered on state lands must not be disturbed except as allowed by this rule and other applicable law. Any disturbances that are allowed should be conducted in a manner that minimizes desecration of the site.

**R230-1-2. Purpose.**

1. This rule provides procedures designed to preserve the sacred nature of Native American burials by protecting Native American burial sites and insuring that the final disposition of unidentified Native American remains, discovered on state lands, shall be in keeping with that sacred nature.

**R230-1-3. Authority.**

1. This rule is authorized under Section 9-9-403 and Section 9-9-405, the Native American Grave Protection and Repatriation Act and Section 9-9-104(2)(c).

**R230-1-4. Definitions.**

1. Terms used in this rule are defined in Section 9-9-402.

2. In addition, as used in this rule "agency" means the state agency having primary management authority over the land where Native American remains are found.

3. "Committee" means the Native American Remains Review Committee.

4. "Director" means the Director of the Division of Indian Affairs.

5. "Division" means the Division of Indian Affairs.

6. "Scientific testing" means physical or chemical tests such as radiocarbon dating and DNA analysis, performed by a qualified technician to determine the age, ethnicity or any other pertinent information.

**R230-1-5. Scope and Applicability.**

1. This rule applies to all Native American remains found on state lands.

**R230-1-6. Duties Upon Discovery of Remains.**

1. Remains are to be treated at all times with dignity and respect. Any person who discovers a dead body shall not damage the body and shall not disinter or remove the body without proper authority. Any person who discovers a dead body shall report the discovery to a local law enforcement agency. A violation of these rules may constitute a criminal offense and may subject the offender to criminal sanctions under Section 76-9-704.

2. Any person or entity who discovers Native American remains must cease all activity which might disturb the remains and take reasonable steps to protect the discovered remains. Such steps may include, but are not limited to, restoring the site to its original condition or otherwise securing and protecting the site to prevent any possible desecration or destruction.

3. If it is unclear whether the remains are of Native American origin upon a cursory examination, the agency must take reasonable steps to determine the ethnicity of the remains.

a. The agency may further investigate the ethnicity by retaining the services of a qualified archeologist to conduct a physical examination of the remains.

b. If a physical examination of the remains is not sufficient to determine ethnicity, the agency may seek an excavation permit by the Division of State History pursuant to Section 9-8-305 in order to conduct limited excavation to search for associated funerary objects.

c. If no other method of investigation is sufficient to determine ethnicity, the agency may allow limited scientific testing on the remains, by the least intrusive and least destructive means possible to determine ethnicity.

4. Any person or entity who discovers Native American remains on state land must promptly notify the Division by telephone. As soon as is reasonably possible, but not later than five business days, written notification of the discovery must also be provided.

a. Written notification shall include a detailed description of what was found, the place where the remains were found, the conditions under which the person discovered the remains and any other facts that may help identify the remains.

b. Written notification shall be provided to:

i. the state agency having management authority over the land where the remains were discovered;

ii. the Division of Indian Affairs; and

iii. the Division of State History.

#### R230-1-7. Resumption of Activity.

1. The activity in which the remains were discovered or any further excavation may not resume until a plan for the preservation of the remains has been adopted by the Director, in consultation with the entity who discovered the remains, the agency, and a designated representative from the Division of State History.

a. Preference shall be given to a plan which provides for restoration of the site to its original condition and discontinuing all activity in the area to limit any further disturbance of the site.

b. If it is not feasible to discontinue the activity, excavation may continue pursuant to a permit issued under Section 9-8-305 and in accordance with a plan designed to minimize any further desecration of the remains.

2. The consultation shall take place as soon as reasonably possible after the Director and the agency have been notified of the discovery. The authority to determine the disposition and treatment of remains shall not be exercised in a manner that would unreasonably delay completion of a construction project or any other project.

3. Activity may not resume until the Director has been given reasonable notice of when the planned excavation shall take place and the Director or his designee has the opportunity to be present at the excavation.

a. The cost of the excavation shall be borne by the party requesting the excavation.

b. If the remains are excavated and ownership has not yet been determined, the Division may take temporary possession of the remains pending a final determination of ownership.

#### R230-1-8. Notification of Possible Owners of the Remains.

1. Once the Division has been notified of the discovery of Native American remains, the Director shall notify any known or possible lineal descendants.

2. If no lineal descendants can be ascertained, the Division shall notify all Indian tribes and Navajo tribal chapters located in Utah and any other interested parties who have requested notification and have designated a contact person.

3. Notice to the tribes shall include a request that the tribes take reasonable steps to notify their members of the discovery and of the process and time limits for filing a claim by posting the notice in a public place and/or by including it in tribal news media.

4. Any interested party may request notification of the discovery of Native American remains by sending a letter to the Division, specifying a contact person to be notified in the event of a discovery and an address where they can be reached.

#### R230-1-9. Claims of Ownership.

1. Lineal descendants or Indian tribes may assert a claim of ownership

for the remains by notifying the Division of their claim within sixty days from the date that notification is sent out by the Division.

#### R230-1-10. Determination of Ownership.

1. When only one claimant has asserted a claim of ownership, the Committee shall request a written petition from the claimant, substantiating the claim. If the claimant makes a substantial showing of lineal descent or cultural affiliation with the remains, the Committee may grant ownership or control of the remains to that claimant.

2. When two or more claims have been submitted, the determination of ownership shall be made in an informal proceeding which shall comply with Section 63-46b-0.5 et seq., the Utah Administrative Procedures Act.

#### R230-1-11. Dispute Resolution of Competing Claims.

1. After the expiration of time for claims to be submitted, the Committee shall schedule a time to hear the matter and shall notify the claimants.

2. The Committee shall conduct an informal hearing at which the competing claimants shall be allowed to testify, present evidence and comment on issues concerning their claim.

a. Lineal descent or cultural affiliation may be established by genealogical records, archeological records, oral or written history, scientific analysis, relevant Tribal records, associated funerary objects and any other supporting material.

b. If the evidence presented at the hearing is not sufficient to resolve the disputed claims or enable the Committee to make a recommendation of ownership, upon a majority vote of the Committee, scientific testing may be permitted to determine ethnicity.

3. The Committee shall attempt to facilitate a settlement of the dispute and shall grant ownership to the claimant that has shown the closest lineal descent, or if none, to the tribe that has shown the strongest genetic or cultural relationship with the remains by a preponderance of the evidence.

#### R230-1-12. Adjudication of Disputed Claims.

1. If competing claimants are unable to resolve their dispute at the informal hearing, the Committee shall issue findings relating to the identity of or the cultural affiliation of the remains and a decision of disposition.

2. A copy of the Committee's findings and decision shall be mailed to each of the claimants along with a notice explaining the procedure for seeking an appeal of the Committee's decision in the District Court.

3. If none of the claimants have filed an appeal in the District Court within 30 days, the Committee's decision shall be binding upon the parties.

#### R230-1-13. Disposition of Remains Once Ownership has been Determined.

1. If the remains have not been excavated, the owner of the remains may excavate the remains pursuant to Section 76-9-704, for the purpose of repatriation elsewhere or may leave the remains in place, subject to agreement by the agency.

2. If the remains have already been excavated pursuant to R230-1-6, the owner may then take possession of the remains from the Division or the agency that has temporary possession of the remains.

#### R230-1-14. Disposition of Unclaimed Remains.

1. When the plan that is adopted for preservation of the unclaimed remains directs that the activity be re-routed and the site be restored, the remains may be permanently left in place upon final approval by the agency and in agreement with the Division.

2. When no claim of ownership has been made for discovered remains and the remains are excavated pursuant to R230-1-6, they shall be reinterred in the Indian Burial Repository.

#### R230-1-15. Scientific Investigation of Unclaimed Remains.

1. No scientific investigation beyond that allowed in R230-1-6 shall be conducted on unclaimed remains except upon written permission granted by the Committee