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Sent: Fri 12/2/2005 10:38 AM
To: Sherry_Hutt@nps.gov
Cc: Bryan Mitchell; Archeol AP. Project
Subject: Advisory Council's Human Remains Policy

Sherry,

Thank you for giving us in the Park Service the opportunity to provide you with feedback on the work of the Advisory Council's Archeology Task Force and its proposals for updated policy and guidance on the treatment of human remains and grave goods (Federal Register Notice of September 1, 2005). I have a few comments for your consideration as you work with the Task Force in finalizing the policy.

As an historical archaeologist, I encourage the Task Force to emphasize and be very clear about the fact that this issue also concerns non-American Indian, historic period human remains. This is recognized in the Federal Register Notice (5th paragraph of the Background Information), but I've noticed in my three decades of practice that all too many people seem to automatically associate burials and human remains with American Indians. That this issue is of concern to a wide range of individuals and groups cannot be stated too strongly or too frequently.

It would be important in Principle 2 to recognize the importance of coordinating with state laws on human remains and marked and unmarked burials/cemeteries, including violation of sepulchre. This is mentioned in the second item under Principle 2, but a state may have relevant laws in addition to those that may be familiar to archaeologists. While federal actions need not be bound by state law, it can be good practice to coordinate with all relevant statutes. In addition, it may be the folks who are charged with administering these state laws who have knowledge that may be useful in effectively carrying out the federal action.

I'm not a big fan of "avoidance" as the sole mitigation strategy, since it often does not result in preservation in place. Rather it leaves the resource in limbo, deferring the decision about the resource's fate to others at a later time. Rather than viewing avoidance as the preferred alternative to disturbance (Principle 3), I recommend including "avoidance" as one of many tools and strategies available for preservation in place.

In fact, this principle should state that preservation in place is the preferred alternative to disturbance, and then discuss a variety of tools and strategies that could accomplish this. For

example, see our web site, "Strategies for Protecting Archeological Sites on Private Lands," at www.cr.nps.gov/hps/pad/strategies, for a variety of tools that are being used to preserve archaeological sites in place. This web site may also be useful to include as one approach for providing property owners with guidance on protecting archaeological sites and burials, as noted in the last item under Principle 6.

As part of Principle 4 on consultation, it would be important to emphasize that this consultation is best done as early in the project planning process as possible, and to provide guidance and examples on when "early" is (e.g., this may actually be during Section 110 activities, before a specific project is identified).

As part of Principle 6, it would be important to recommend that federal agencies should address in their Section 110 responsibilities (historic preservation program and planning) the potential to encounter human remains. An agency policy and procedure established at this stage should facilitate the response to human remains discovered during a project.

Thank you again for giving us the opportunity to review the draft principles; I hope my comments are useful. Please let me know if you have any questions.

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