

November 1, 2005

John M. Fowler
Archaeology Task Force
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue NW, Suite 809
Washington D.C. 20004

Re: Working Principles for Revising the Advisory Council for Historic Preservation's
"Policy Statement Regarding Treatment of Human Remains and Grave Goods" (Federal
Register Vol. 70, No. 169, September 1 2005)

Dear Mr. Fowler:

The American Cultural Resources Association is pleased to offer comments on the Working Principles developed by the Archaeology Task Force. We applaud the Council's efforts and stand ready to assist in any way we can.

As we emphasized in our July 15th letter, no area of the Council's responsibilities is more complex than the issue of human remains and associated grave goods. The subject arouses strong emotions and has the potential to create polarized positions of the type that are only too familiar today in our wider culture. The chief dichotomy is normally seen as that between a secularist "scientific" worldview, and a religious or "spiritual" one. The former view, at its most extreme, sees human remains as essentially another type of archaeological resource to be studied in whatever way seems appropriate in order to extract from them information about the human past. The latter view, at its most extreme, sees human remains as inviolable entities falling completely outside other categories of material from the past, and therefore not to be subjected to any form of human disturbance or invasive investigation.

As with all extreme positions, we believe that these ones are held by only a small number of those with an interest in this matter. There is a large and, we believe, a growing middle ground on which discussion and agreement is possible.

The situation is of course made more difficult by the fact that, until the relatively recent past, variations of the scientific worldview have been imposed by the dominant culture on groups who did not share it. These groups, particularly of course Native Americans and people of African descent, often held more closely to the second viewpoint, but were unable to have their voices heard. Disrespectful and cavalier treatment of human remains has undoubtedly occurred against the wishes of those with strong ties to those remains. It is not hard to understand that there are issues of power and racism embedded deep within this issue.

The reflexive, emotional, concern in the archaeological community has been that its reasonable and legitimate interests in furthering understanding of the human story,

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through the scientific examination of human remains, will be overlooked in an overzealous interest in following the wishes of groups having, or claiming affinity with, the remains. We say this not because that has necessarily been the general experience in reality, but rather to make explicit some of the feelings that remain associated with this topic.

The Working Principles have been reviewed by our Government Affairs Committee and by Cory Dale Breternitz, President, Soil Systems, Inc., Christine K. Robinson, Vice President, Soil Systems, Inc., and Rebecca Hill, Staff Osteologist, Soil Systems, Inc. Soil Systems, Inc. has excavated, analyzed, and repatriated over 3,000 human remains and associated funerary items to various Tribes throughout the American Southwest in the past 15 years, and therefore have much experience in this complex area.

The four preliminary points set out the parameters of the policy. The inclusion of "all people" in the policy is to be welcomed.

Principle 1 is an obvious but important one.

Principle 2 is a very-much needed objective. Clarification of the relationship between Section 106 and NAGPRA, for example, will be very helpful for Federal agencies and those working on their behalf.

Principle 3. Is it the implication of this principle that human remains are de facto eligible for the National Register? The question of the eligibility of human remains is likely to come up in a Section 106 context. In view of the current moves in Congress to limit the applicability of 106, this may be a matter that the Task force should consider.

Principle 4: "...meaningful consultation with all *interested parties*..." (emphasis added).

It has been the experience of our member company, Soil Systems Inc., that the concept of interested parties is currently a gray area and one that is, or can be, a source of frustration on the part of the participants during consultation. The concept of "interested parties" seems vague. Perhaps this is the intent, but in our experience it can lead to frustration and potential conflict during the consultation process. We suggest that the Working Principles include a list of "potential" interested parties that include; groups claiming ethnic and/or genetic affiliation, archaeologists, osteologists, the agency responsible for compliance under Section 106, the company or agency responsible for the development project, SHPOs, THPOs, etc.

Principles 5 and 6 are very helpful and should provide clarity for Federal agencies working with 106.

Overall, the Working Principles as outlined in the Federal Register make an effective basis for the policy revision, and we believe that the future development of these principals will clarify the repatriation and consultation process to be conducted under Section 106.

Thank you again for allowing us to comment on this issue. We look forward to continuing to work with the Council.

Yours sincerely

A handwritten signature in blue ink that reads "Ian Burrow". The signature is written in a cursive style with a long horizontal stroke at the end.

Ian Burrow, Ph.D., RPA, FSA
President

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