

Laura Dean

From: Archeol AP. Project
Sent: Wednesday, October 19, 2005 7:19 AM
To: Laura Dean
Subject: FW: Principles for Revising ACHP 1988 Burial Policy, comments

From: Robert L. Kelly [mailto:RLKelly@uwyo.edu]
Sent: Tue 10/18/2005 6:40 PM
To: Archeol AP. Project
Subject: Principles for Revising ACHP 1988 Burial Policy, comments

ACHP Working Principles for Revising the ACHP 1988 Policy Statement on the Treatment of Human Remains

Colleagues:

Thank you for the opportunity to comment on the working principles guiding ACHP's proposal to revise its 1988 Policy Statement on the Treatment of Human Remains, as published in the Federal Register (vol. 70, No. 169, pp. 52066-52068). It is clear that the ACHP task force is giving careful and thoughtful consideration to this difficult problem. I offer the following to assist in this process.

Under the section entitled "objectives of an updated policy," the ACHP states it desire to "*offer leadership in solving how to balance the public interest in the desire to treat human remains in a respectful and sensitive manner, while recognizing the public interest in knowing its collective past.*" This section also states that, in keeping with the Section 106 consultation process "*any new policy would not direct Federal agencies to make specific decisions.*" My concern is that Principle 3 seems to contradict these worthwhile guiding ideas.

Principle 3 states that "*the policy statement should emphasize that avoidance, followed by preservation in place, is the preferred alternative to disturbance of human remains and funerary objects.*" Thus, the principles have already stipulated what the ideal outcome should be; in addition, this principle obviates any need to "balance" the various public interests, and thus it too contradicts one of the objectives.

I would use language that would place principle 4 above principle 3, such that the "preferred" course of action would be whatever course of action arises from a process of consultation, which could be avoidance, or something else. This would permit characteristics of the encountered archaeological record and the concerns of specific descendants and local communities to be considered. The degree to which burials merit excavation depends on the degree to which they can provide data to relevant research questions. And the extent to which "preservation in place" versus excavation might be preferable depends on the thoughts and sentiments of the parties relevant to the consultation process. In sum, the principles should advocate that the consultation process define the course of action with no bias towards any "preferred alternative." A process of consultation could very well reach a conclusion that could satisfy all interested parties (such as excavation with analysis and rapid reburial). This would, of course, be the ideal "preferred alternative" given the stated objectives of the updated policy; if no conclusion can be reached through a process of consultation, then principle 3 might be called upon as the default.

However, the language in principle 3 needs to be carefully considered. What is implied by "preservation in place"? The phrase is somewhat misleading because preservation implies that something is being held for the future, but nothing preserves in place forever. In addition, any undertaking might very well draw attention to the presence of burials which could result in their destruction through unlawful excavation, i.e., looting. Thus,

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the principles should anticipate such an unwanted effect and recommend that if “preservation in place” is the implemented option then a plan for the burials’ protection should be linked to it. Perhaps this is what is meant by “Federal agencies must recognize that simple avoidance of a site does not necessarily ensure that site’s long-term preservation.” But this only asks agencies to recognize the problem and not necessarily to take steps to prevent it. The last paragraph of Principle 6 returns to this issue, but the principles should advocate it as an important element of the process of consultation. That is, the parties in the consultative process should be apprised of the potential dangers of “preservation in place;” apprised of such dangers, the consulting parties might elect excavation as a means of protection.

Likewise, under Principle 6, I would emphasize the importance of consultation as a critical element of the policies and procedures that Federal agencies are encouraged to develop in advance of the inadvertent discovery of human remains and funerary objects.

I appreciate the opportunity to comment on these principles. These comments are my personal opinions and do not reflect a position of the University of Wyoming or its Department of Anthropology.

Sincerely,

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