

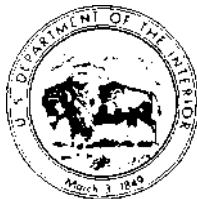
1980

1981

1982

**ARCHEOLOGICAL
AND
HISTORICAL
DATA RECOVERY
PROGRAM**

NATIONAL PARK SERVICE
U.S. DEPARTMENT OF THE INTERIOR
WASHINGTON, D.C.



NOVEMBER 1983

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United States Department of the Interior

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WASHINGTON, D.C. 20510

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DEC 11 1983

Honorable James A. McClure
Chairman, Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

It is my pleasure to transmit herewith a copy of the combined annual report to the Congress for activities carried out under authority of the Archeological and Historic Preservation Act of 1974 (Public Law 93-291, as amended) and the Archaeological Resources Protection Act of 1979 (Public Law 96-95). This report is submitted in response to my reporting responsibilities under the aforementioned statutes as required in sections 5(c) and 13, respectively, for fiscal years 1980 through 1982.

Thank you for your continued support of the national archeological and historic preservation programs.

Sincerely,

A handwritten signature in dark ink, appearing to read "William Clark", is written over the word "SECRETARY".

SECRETARY

Enclosure

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SERVICE

As the Nation's principal conservation agency, the Department of the Interior has basic responsibilities to protect and conserve our land and water, energy and minerals, fish and wildlife, parks and recreation areas, and to insure the wise use of all these resources. The Department also has major responsibilities for American Indian reservation communities and for people who live in island territories under UJS. administration.

This report is required to be submitted to the United States Congress by section 5(c) of the Archeological and Historic Preservation Act of 1974 (Public Law 93-291) and by section 13 of the Archaeological Resources Protection Act of 1979 (Public Law 96-95). The National Park Service prepared the report on behalf of the Secretary of the Interior. Copies are available in limited quantity for general distribution.

U.S. Department of the Interior

William P. Clark, Secretary

G. Ray Arnett, Assistant Secretary for Fish and Wildlife and Parks

Russell E. Dickenson, Director, National Park Service

This report was prepared under the direction of Lawrence E. Aten, Chief, Interagency Resources Division, National Park Service.

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INTRODUCTION

This report was prepared for the Senate Energy and Natural Resources Committee and the House Interior and Insular Affairs Committee of the United States Congress. It is required under section 5(c) of the Archeological and Historic Preservation Act of 1974 (Public Law 93-291) and by section 13 of the Archaeological Resources Protection Act of 1979 (Public Law 96-95).

Public Law 93-291 calls for the preservation of historic and archeological materials and data that otherwise would be lost as a result of Federal construction or federally licensed or assisted activities. It authorizes Federal agencies to obligate project funds for the recovery, protection and preservation of significant scientific, prehistoric and archeological materials and data affected by the project. It permits agencies either to undertake the requisite recovery, protection and preservation directly or, alternatively, to transfer a maximum of one percent of the total amount authorized for each project to the Secretary of the Interior for this purpose. In addition, it places coordinating responsibility with the Secretary of the Interior in order to assure a uniform Federal program.

Public Law 96-95 establishes procedures and conditions for the issuance of permits by the Secretary of the Interior or other Federal land managers to excavate or remove archeological resources on public or Indian lands. It provides for the custody and disposition of resources removed and imposes criminal and civil penalties for excavating, removing or damaging archeological resources on these lands without a permit issued under the act. The law directs the Secretary of the Interior to improve cooperation and the exchange of information between (1) private individuals with collections of archeological resources and data and (2) professional archeologists and Federal authorities responsible for the protection of archeological resources on public and Indian lands.

This report describes Federal activities during fiscal years 1980 through 1982 for the recovery of archeological and historical data under Public Law 93-291. The report discusses problems associated with implementation of the law and what the Department of the Interior is doing to resolve them. In addition, the report contains information on the numbers of projects undertaken and dollars spent by Federal agencies for archeological survey and for data recovery. Studies emanating from these efforts are listed and a policy statement regarding the disposition of archeological and historical human remains is provided. Regarding P.L. 96-95, the report describes the status of the rulemaking process associated with full implementation of the act.

THE ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974

(Public Law 93-291)

Background

Over the last century, historic preservation in the United States has grown, assisted by a comprehensive body of legislation designed to protect, preserve and conserve our nation's cultural patrimony as represented by archeological, architectural and historic resources.

The early 1980's have been a period of program introspection, reflecting upon where archeology in America has been, where it is now and more importantly — how it will be oriented for the remainder of this century. Decisions made now and over the following few years will undoubtedly continue to set an indelible direction for the future of archeology in the United States.

Federal planners often have neglected to consider archeological resources when planning construction activities. A principal goal of historic preservation is the successful integration of and timely compliance with legal requirements to ensure that project construction goals are met without incurring unnecessary costs. If recognized early, potentially negative effects to archeological resources can be either avoided or lessened. Failure by the agencies to follow required compliance procedures has led to resource destruction and contributes heavily to costly construction delays. On the other hand, documentation of hundreds of projects nationwide over the past decade demonstrates that early attention to resource recovery has seldom delayed a construction project.

As required by Executive Order 11593 and the National Historic Preservation Act, all Federal agencies must locate, identify and evaluate historic and archeological resources under their jurisdiction or control or that will be affected by their actions. Agencies must resolve questions of whether properties are eligible for inclusion in the National Register of Historic Places. If no way can be found to avoid damaging important resources, it may be decided that recovery of specimens and scientific data is in the public interest. Data recovery is the scientific retrieval and preservation of archeological and historic materials and information that would otherwise be lost, and the study of those resources in their original context. Because resources and attendant data are destroyed when excavated, conservation measures at the site to permit preservation and long-term scientific study are preferable to immediate excavation. Data recovery through salvage is regarded as a last resort to save important archeological information.

An agency may use its authority under Public Law 93-291 to undertake archeological excavation. The agency may contract directly, using the project's appropriated funding, or may request the Secretary of the Interior to assume responsibility for archeological investigations on a cost reimbursable basis.

In brief, Public Law 93-291 directs the preservation of historic and archeological materials and data that would otherwise be lost as a result of Federal construction or federally licensed or aided activities. Data recovery or in situ preservation are options available to the Secretary of the Interior and other Federal agencies. The Secretary of the Interior is responsible for coordinating activities under the law.

Scope and Effectiveness

From 1974, when Public Law 93 -291 was enacted, to 1980 the Interior Department steadily moved from funding individual data recovery projects for which other agencies did not have money to exercising broader leadership by providing guidance and expertise in data recovery. Supported by the legislative history of the act, Interior prompted agencies to secure their own funding directly from Congress. Interior began focusing on ways to improve operation of the program and to insure better data recovery. For example, Interior introduced competitive contracting methods that increased quality, reduced costs and have since become the standard Federal approach. Technical bulletins also have been produced to advise other agencies on particular procedures.

Still, through 1980, much of the focus of the program was on individual projects that needed money quickly for data recovery. Although this approach was responsive to the obligations of resource stewardship, it remained difficult to set priorities among worthy projects and to determine just what kinds and quantities of data recovery should take place. Attention needed to be focused on advance planning and on uniformity of approach rather than on sudden reaction to projects as they appeared.

While planning had received considerable attention over the past decade in the field of historic preservation, no systematic approach or central theme had been adopted. Each Federal agency and sometimes each bureau had its own approach to planning. States often had their own methods which differed in scope and depth from those of the Federal agencies. Consequently, the Interior Department and other Federal agencies spent a considerable amount of time reacting to crisis situations instead of planning programs and managing resources. Agencies sought a solution by funding more and more archeological activities. Insufficient attention was given to whether duplication of effort was occurring or whether more investigations and expenditures were required in a particular instance.

To solve these problems, the Department of the Interior resolved during FY 81 to set the pace for a fully integrated planning system which could be adopted nationwide. Over FY 82, the Department moved ahead with this purpose in mind together with recommendations received from the General Accounting Office. The initiatives, discussed below, are grouped under two major activities: 1) the implementation of a comprehensive preservation planning process and 2) the development of standards and guidelines for uniform direction.

Both issues are now being addressed through the development and implementation of the Resource Protection Planning Process (RP3). RP3 is a planning concept developed by the Department to provide State and Federal agencies with a flexible model for identifying, evaluating and protecting archeological and other historic resources. Because the approach can be applied to all levels of planning, it represents the best means for coordinating not only overviews but also for attaining high priority preservation and data recovery goals.

RP3 is simple in concept and employs well-tested planning concepts. Professionals, academic researchers, planners, and agency representatives are brought together to organize and define broadly what is known about an area's past. This overview is broken down into a series of specific historic and prehistoric contexts. These contexts form convenient units for developing finite and focused goals for surveying the area contained in the unit, evaluating properties for their importance within the historic context of the unit, and formulating options for protecting those properties considered important. Once

these goals are established they provide Federal, State and local agencies with concrete, practical guidance for fulfilling their preservation responsibilities in a timely and cost- effective manner.

Twenty States are using the RP3 system to prepare their State comprehensive preservation plans, as required under the National Historic Preservation Act. Because RP3 provides a similiar planning structure for each State, comprehensive preservation plans for adjacent States can be synthesized into larger regional plans. Such regional plans provide *a* distinct advantage to Federal agencies because their areas of responsibility often overlap State lines. Instead of coping with separate goals for each State, agencies can address a single set for the entire region.

The U.S Army Corps of Engineers is preparing this type of regional plan for the lower Ohio River Basin. The plan is a cooperative effort with the Department of the Interior and the State Historic Preservation Offices of Illinois, Indiana, Ohio and Kentucky. When this project is completed (approximately January 1984), the Corps may undertake broader application throughout the Nation. The Department of the Interior is in a unique position to foster development of these regional plans as part of a national strategy to use historic and archeological resource planning as a basis for constructing an integrated preservation planning system among Federal, State and local governments. Interior gives technical assistance, works with agencies to provide information and advice, conducts workshops, and distributes information on specific techniques. In addition, standards and guidelines are being prepared for all archeological and historic preservation activities: planning, identification, evaluation, registration, documentation and treatment.

Rather than providing assistance to agencies in a piecemeal fashion as in the past, Interior began developing policy statements that will provide uniform direction. For example, guidelines are being prepared for archeological and historical data recovery activities. A fact sheet on waiver of the one percentum limitation on data recovery has been prepared by the Department and included herein as Appendix C. The Department of the Interior provides a short course for Federal managers regarding the goals and techniques of modern archeology, the laws and regulations attendant to the preservation of archeological resources and other related subjects. Information on this course is contained in Appendix E. In addition Interior is providing archeological standards and guidelines to fulfill the requirements of the National Historic Preservation Act of 1966, as amended in 1980.

Interior is consulting with other agencies and the public in the development of these standards and guidelines. To enhance communication on archeological policies, the National Park Service formally established, in March 1983, the Departmental Consulting Archeologist position at the Assistant Director level. This office serves as the focal point within the Department for dealing with other agencies on general policy questions and directives affecting the national archeological program. In addition, the office is expected to improve coordination of the Department's archeological programs by eliminating policy duplication and inconsistencies among bureaus.

Through 1982, besides developing and implementing a new planning strategy and uniform policy statements, Interior, as coordinator under Public Law 93-291:

- advised on how to recover archeological and historical data
- served as the clearinghouse for data recovery studies
- defined adequacy in archeological recovery research plans

- provided uniform reporting requirements for contracting
- fostered communication among agencies
- enhanced consistency in information provided to the public

established procedures for notification to the Interior Department when potential damage to archeological resources arises.

Interior will continue these activities to fulfill its responsibilities as coordinator under Public Law 93-291. In addition, it will continue to exercise leadership in the conservation, preservation and protection of archeological resources nationwide. By fully exercising the Secretary's responsibilities as provided by Public Law 93-291, a more cost-effective national archeological program is being achieved.

ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979

(Public Law 96-95)

Status of Rulemaking

To meet an urgent need to provide greater protection for archeological resources on federally controlled public lands and on Indian lands, Congress enacted Public Law 96- 95. It was signed into law on October 31, 1979.

The act has two fundamental purposes: to protect irreplaceable archeological resources on public lands and Indian lands which are subject to loss or destruction from the actions of persons who would excavate, remove, damage, alter or deface them for commercial or personal reasons; and to increase communications and the exchange of information among government authorities, the professional archeological community, collectors, Native Americans and the general public toward the goal of protecting and conserving archeological resources nationwide.

The act requires a permit, issued by the appropriate Federal land manager, for any qualified person who would make use of archeological resources for the purpose of furthering archeological knowledge in the public interest. Unauthorized users are subject to criminal and civil penalties and forfeiture of equipment, vehicles, and archeological resources recovered. The Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority are directed to establish uniform regulations appropriate to carry out the provisions of the act.

On November 1, 1979, an ad hoc committee representing these agencies met by direction of the Secretary of the Interior to plan and complete interim administrative needs prior to the development of proposed uniform regulations. The committee drafted a policy notice describing how the permit program would operate until final regulations are adopted. This policy notice was endorsed by the heads of the major land managing agencies and published in the Federal Register on January 23, 1980 (45FR5302).

To afford an opportunity for full public participation in the preparation of the proposed regulations, the committee organized and scheduled four early public hearings. The hearings were announced in the Federal Register of March 19, 1980 (45FR17622). The hearings, held between March 22 and April 19, 1980, in Denver, Phoenix, Portland and Knoxville, were well attended by Native Americans, hobbyist/collectors, the professional archeological community, and various representatives of industry interested in public land policies and resource development. The hearings provided helpful advice on the rulemaking process and an opportunity to clarify misinterpretations previously held by the public sector of the act itself. The hearings also improved communication, cooperation, and the exchange of information among the various groups.

The Secretary of the Interior formally established the Interagency Rulemaking Task Force for the Implementation of Public Law 96-95 on March 24, 1980. This Task Force, also comprising representatives of the above-mentioned agencies, is charged with the development of uniform final regulations to implement all provisions of the act. The Task Force designed proposed regulations between May and December of 1980. The

proposed rulemaking document (36CFR1215) was published in the Federal Register on January 19, 1981 (46FR5566) for a 60-day commenting period. Due to requests from the private sector, the commenting time was extended through April 30, 1981. Six additional public hearings on the language of the proposed rulemaking were held between February 7 and March 14, 1981, in Chicago, Atlanta, Albuquerque, San Francisco, Anchorage, and Denver. Over 200 written comments were received from a wide spectrum of the general public including professional archeologists, Federal and State government agencies, Native Americans, collectors, hobbyists, and industry representatives.

In May 1981, the Task Force began examining both written and recorded verbal comments. The Task Force further scheduled and began work on all compliance documents required prior to completion of the final rule. By September 30, 1982, the final rule and the accompanying environmental and economic assessments were completed.

The final uniform regulations (redesignated as 43CFR7 by the Interior Department) have been endorsed by all four principal agencies. The Office of Management and Budget has reviewed the information collection requirements for compliance with the Paperwork Reduction Act and has approved the regulations which will soon be published in the Federal Register and forwarded to the Chairmen of the Senate Energy and Natural Resources and the House Interior and Insular Affairs Committees for final review before becoming effective during fiscal year 1984.

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APPENDIX A

Expenditures by Federal Agencies for Archeological Survey Activities and Data Recovery

The figures in the following two tables give the number of projects and the funds expended by Federal agencies during fiscal years 1980 through 1982 for archeological survey activities and data recovery investigations.

Data for inclusion were supplied directly by the agencies. In some cases, data were not submitted or were incomplete. In other instances, these figures are agency estimates based on limited internal project records.

While this compilation is the most comprehensive and reliable set of funding data obtained to date under the authority of Public Law 93-291, it probably does not represent true amounts spent because Federal agencies do not categorize funding data according to commonly agreed definitions. These data are most reliably viewed in light of the trends they indicate. Most notably these trends are for increasing expenditures for survey/evaluation activities and decreasing expenditures for archeological data recovery. We suggest, however, that the reported survey costs also include amounts spent for historic and architectural resources as well as for archeology.

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FEDERAL AGENCY EXPENDITURES FOR ARCHEOLOGICAL DATA RECOVERY PROJECTS
FY 80-82

	FY 80		FY 81		FY 82		TOTAL No. of Projects	TOTAL Dollars Spent
	No. of Projects	Dollars Spent	No. of Projects	Dollars Spent	No. of Project	Dollars Spent	i	
DEPARTMENT OF AGRICULTURE	i		i		i		i i	
	i		i		i		i	
	i		i		i		i	
Agric. Stabilization and Conservation Service	N'	0	N i	0	N i	0	N i	0
Farmers Home Administration	U i	U	20 i	115,500	13 i	108,000	33 i	223,500
Forest Service	24 i	48,000	NP i	NP	NP i	NP	24 i	48,000
Rural Electrification Service	N i	0	N i	0	16 i	U	16 i	U
Soil Conservation Service	U'	309,519	12 i	58,410	7 i	179,056	19 i	546,985
	1		1		1		i	
DEPARTMENT OF COMMERCE	1		1		1		i	
Econ. Develop. Admin.	Ni	0	1 i	U	2 f	35,000	3 i	35,000
Nat. Oceanic & Atmos. Admin.	Ni	0	N i	0	1 i j	1,800	1 i	1,800
	1		1 J				i	
DEPARTMENT OF DEFENSE	1		1		i i		i	
Department of Air Force	11	300,000	N i	0	i	0	1 i	300,000
Department of Army	721 i	7,001,896	15 i	1,422,689	23 i	1,218,186	759 i 9	,642,771
Department of Navy	N i	0	N i 1	0	N i	0	N i	0
	1		N i	0	1	0	N i	0
DEPARTMENT OF EDUCATION	N i	0	/		1		N i	
	1				1			
DEPARTMENT OF ENERGY		0	2 i 1	71,000	1 i	56,000	3 i	127,000
	N i		1		1		i	
DEPARTMENT OF HEALTH AND HUMAN SERVICES	1		1		1		i	
Indian Health Services	N i	0	1	0	5 /	19,000	5 i	19,000
	1		N i		t			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	1		1		1		i	
	N »	0	Np i i i i	NP	NP i	NP	NP i	NP
	i i				i i		I i	
	i							

Bureau of Indian Affairs
Bureau of Land Management
Bureau of Mines
Bureau of Reclamation
Fish and Wildlife Service
U.S. Geological Survey
Minerals Management Service
National Park Service
Office of Surface Mining

Federal Aviation Admin.
Federal Highway Admin.
Federal Railroad Admin.
Maritime Administration

Appalachian Regional Com.
Environ. Prot. Agency
Export-Import Bank, U.S.
Farm Credit Admin.
Federal Communication Com.
Fed. Home Loan Bank Board
Federal Maritime Commission
General Services Admin.
Interstate Commerce Commission
Nat. Aeronautics & Space Adm.
Nat. Endowment for the Arts
Nat. Endowment for Humanities
Nat. Science Foundation
Nuclear Regulatory Commission
Penn. Ave. Development Corp.
St. Lawrence Seaway Dev. Corp.
Tennessee Valley Authority
U.S. Postal Service
U.S. Small Business Admin.
Veterans Administration

1,248 1 \$23,870,756

NP= Data not provided by agency
1= Incomplete data provided N/A- Not applicable

FEDERAL AGENCY EXPENDITURES FOR ARCHEOLOGICAL SURVEY ACTIVITIES
FY 80-82

	FY 80			FY 81		FY 82		TOTAL No.	TOTAL
	Nd. of	i Dollars i	No. of	Dollars Spent	No. of	Dollars	of	Dollars	
	Projects	Spent	Projects		Projects	Spent	Projects	Spent	
DEPARTMENT OF AGRICULTURE									
Agricultural Stabilization and Conservation Service	N	i 0	N	0	N	0	N	0	
Farmers Home Administration	153	i 262,090	529	192,631	273	53,741	955	508,462	
Forest Service	7,100	i 1,540,000	NP	NP	NP	NP	7,100	1,540,00	
Rural Electrification Service	N	i 0	54	U	56	U	110	U	
Soil Conservation Service	U	i 250,142	152	394,818	201	299,015	353	943,975	
DEPARTMENT OF COMMERCE									
Economic Develop. Admin.	N	i 0	26	10,600	25	11,300	51	21,900	
National Oceanic and Atmospheric Administration	N	i 0	1	16,900	4	39,800	5	56,700	
DEPARTMENT OF DEFENSE									
Department of Air Force	1	i 300,000	20	347,138	34	597,138	55	1,234,276	
Department of Army	94	i 9,569,168	323	3,436,068	291	3,570,263	708	16,575,499	
department of Navy	20	i 674,000	18	508,700	16	450,430	54	1,633,130	
DEPARTMENT OF EDUCATION									
	N	i 0	N	0	N	0	N	0	
DEPARTMENT OF ENERGY									
	N	i 0	69	583,583	57	909,260	126	1,492,843	
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Indian Health Service	0	i 0	0	0	217	120,000	217	120,000	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
	N	i 0	NP	NP	NP	NP	NP	U	

DEPARTMENT OF INTERIOR

Bureau of Indian Affairs	I ¹	I	I ¹	I	I ¹	I	I ¹	I
Bureau of Land Management	N/A ¹	0	N/A ¹	0	N/A ¹	0	N/A ¹	0
Bureau of Mines	N ¹	0	N	u	N	u	N	0
Bureau of Reclamation	163 ¹	2,899,996	104 ¹	963,550	113 ¹	1,337,697	380 ¹	5,201,243
Fish & Wildlife Service	104 ¹	266,164	85 ¹	268,179	48 ¹	189,769	237 ¹	724,112
U.S. Geological Survey	1200 ¹	200,000 0	1 ¹	6,500 0	12 ¹	2,000	1,213 ¹	208,500
Minerals Management Service	N ¹		N ¹		3 ¹	101,800	3 ¹	101,800
National Park Service	50 ¹	949,323	106 ¹	1,697,644	127 ¹	1,903,300	283 ¹	4,550,267
Office of Surface Mining	N ¹ I	0	94 ¹	11,000	169 ¹ i	15,000	263 ¹ i	26,000

DEPARTMENT OF TRANSPORTATION

Federal Aviation Admin.	56 ¹	133,000	27 ¹	79,866	23 ¹	53,424	106 ¹	266,290
Federal Highway Admin.	250 ¹	10,000,000	275 ¹	15,000,000	325 ¹	20,000,000	850 ¹	45,000,000
Federal Railroad Admin.	5 ¹	881,000	7 ¹	150,000	6 ¹	50,000	18 ¹	1,081,000
Maritime Administration	N ¹	0	1 ¹	0	N ¹	0	1 ¹ 1	0
	I		1		I		1	
	i				i			
Appalachian Regional Com.	N ¹	0	N ¹	0	N ¹	0	N ¹	0
Environ. Prot. Agency	U ¹	U 0	811 ¹	2,241,600 0	824 ¹	1,5/6,00U 0	1,635 ¹ N ¹	3,817,600 0
Export-Import Bank, U.S.	N ¹		N ¹		N ¹		" ¹	
Farm Credit Admin.	N ¹	0	N	0	N ¹	0	N	0
Federal Communication Com.	N ¹	0	N ¹	0	N ¹	0	N	0
Fed. Home Loan Bank Board	N ¹	0	N ¹	0	N ¹	0	N ¹ MT	0
Federal Maritime Commission	N ¹	0	N ¹	0	N ¹	0	N ¹	0
General Services Admin.	N ¹	0	1 ¹	30,000	N ¹	0	1 ¹	30,000
Interstate Commerce Commission	3 ¹	U	3	0	2	u	8	u
Nat. Aeronautics & Space Adm.	N ¹	0	1 ¹	1,500	N	0	1 ¹	1,500
Nat. Endowment for the Arts	N ¹	0	N ¹	0	N	0	N	0
Nat. Endowment for Humanities	1 ¹	31,447	N ¹	0	N ¹	0	N ¹ MT	31,447
Nat. Science Foundation	N ¹	0	NP ¹	NP	NP ¹	NP	NP ¹	U
Nuclear Regulatory Commission Penn.	N ¹	0	6 ¹ N ¹	U 0	2 ¹	U	8	u
Ave. Development Corp.	3 ¹	2,709			N ¹	0	3 ¹	2,709
St. Lawrence Seaway Dev. Corp.	N ¹	0	N ¹	0	N ¹	0	N	u
Tennessee Valley Authority	N ¹	0	21 ¹	663,000	16 ¹	511,000	37 ¹	1,174,000
U.S. Postal Service	N ¹	0	4 ¹	74,431	2 ¹	400	6 ¹	74,831
U.S. Small Business Admin.	N ¹	0	N ¹	0	N ¹	0	N ¹ MT	(J)
Veterans Administration	N ¹	0	6 ¹	29,000	4 ¹	45,117	10 ¹	74,117
TOTALS	9,203 ¹	127,959,039	2,745 ¹	\$26,706,708	2,850 ¹ 1	\$31,836,454	1	

N/A- Not applicable N= No Archeology to report

U= Unknown amount spent

NP= Data not provided by agency

1= Incomplete data provided

APPENDIX B

FEDERAL AGENCY ARCHEOLOGICAL STUDIES COMPLETED

Studies resulting from archeological investigations completed under Public Law 93-291 are frequently available through the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Va. 22161. To secure information about those not available through NTIS, Interior asked Federal agencies for data on those studies conducted during fiscal years 1980-82. The agencies that replied and their studies are listed below. Inquiries about a particular report should be addressed to the agency under which the report is listed.

Department of the Air Force

A Research Design to Mitigate the Adverse Effect on New Mexico 0:3:1:11 (CAS), Kirtland AFB, New Mexico, 7 April 1981, Center for Anthropological Studies, University of New Mexico

A Salvage Excavation at SBa 534 and SBa 680 for STA 69KV Transmission line, Vandenberg AFB, California (This is the Haley study on National Park Service list.)

A Test Excavation at Sites in Vicinity of Oil Well Canyon, Vandenberg AFB, California

An Intensive Archeological Survey of the DOE Sandia National Laboratory Live Fire Range, 9 June 1981 - Center for Anthropological Studies, University of New Mexico

Archaeological Survey - Bellows AFS, Hawaii, Report ARA - 20 - 0220781 February 1981

Archeological/Historical Inventory of George AFB, California

Archeological Salvage Excavation for V31 M-X Project, Vandenberg AFB, California

Archeological Testing and Evaluation of 8BY138 on Tyndall AFB, Bay County, Florida, Aug 1981

Cultural Resource Assessment of Yuba County Water Agency's South County Irrigation Project, Beale AFB, California, 9 January 1981

Cultural Resource Evaluation US Coast Guard Station Point Arguello, Vandenberg AFB, California (This is the Stone-Gamble study on the National Park Service list.)

Cultural Resource Evaluation of Vandenberg AFB, California, Security Clear Zones

Draft Environmental Assessment, Surf Prospect (Grace Petroleum), Vandenberg AFB, California

Draft Report Archaeological Survey, Melrose Bomber Range, Cannon AFB, New Mexico

Draft Supplement to Final EIS for Space Shuttle Program at Vandenberg AFB, California

Environmental Assessment, Hypergolic Propellant Storage Facility, Vandenberg AFB, California

Environmental Resource Survey Geophysical Evaluation for Vandenberg AFB, California (Union Oil)

Historic Background of Red Roof Canyon, Vandenberg AFB, California (This is the Ava Kahn study on the National Park Service list.)

Kirtland AFB 1981 Archeological Survey Project, 3 March 1981, Center for Anthropological Studies, University of New Mexico

Kirtland AFB 1981B Archeological Survey Project, 15 April 1981, Center for Anthropological Studies, University of New Mexico

Kirtland AFB 1981C Archeological Survey Project, 31 July 1981, Center for Anthropological Studies, University of New Mexico

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APPENDIX C

FACT SHEET ON THE DEPARTMENT OF THE INTERIOR'S PROGRAM APPROACH ON EVALUATING FEDERAL AGENCY REQUESTS FOR A WAIVER OF THE ONE PERCENT LIMITATION ON ARCHEOLOGICAL AND HISTORICAL DATA RECOVERY ACTIVITIES

1. BACKGROUND

The Archeological and Historic Preservation Act of 1974 (Public Law 93-291) authorizes Federal agencies to spend project monies to undertake the recovery, protection and preservation of significant scientific, prehistorical, historical or archeological data that may be lost or destroyed as a result of its undertakings, projects and programs. Section 7(a) of the Act authorizes agencies to "...assist the Secretary of the Interior and/or it may transfer to him such funds as may be agreed upon, but not more than 1 per centum of the total amount authorized to be appropriated for such project, except that the 1 per centum limitation of this section shall not apply in the event that the project involves \$50,000 or less..."

In a Statement of Program Approach explaining the meaning of various sections of the Act and indicating how they will be implemented, published March 26, 1979, the Department stated that the 1 percent provision was a limitation on the amount that an agency could transfer to the Secretary (except for projects costing \$50,000 or less) as well as a limitation on the amount that an agency could utilize itself on data recovery activities. Since that time, we and other agencies have recognized that there are certain instances where there is justification to spend more than 1 percent of project funds on needed data recovery. Until passage of the National Historic Preservation Act Amendments of 1980 (Public Law 96-515), alternatives available to agencies to exceed the limit were to request additional funds from the Secretary or directly from Congress. Both alternatives often delayed projects while monies were authorized and appropriated. Section 208 of the National Historic Preservation Act Amendments responds to the need to waive the 1 percent limitation in certain instances: "Federal agencies, with the concurrence of the Secretary and after notification of the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, are authorized to waive, in appropriate cases, 1 per centum limitation contained in section 7(a)..." of Public Law 93-291. Congress described those instances where data recovery costs in excess of 1 percent would be appropriate as "...unusual cases, such as where rich concentrations of historic materials will be destroyed or where the project costs are not commensurate with the necessary mitigation to be accomplished...." (House Report No. 96-1457, page 40).

On behalf of the Secretary of the Interior, the Departmental Consulting Archeologist coordinates and oversees activities under the Archeological and Historic Preservation Act. This includes receiving, reviewing and concurring with requests from agencies to waive the 1 percent limitation. This Fact Sheet sets forth the process to be used by the Departmental Consulting Archeologist in reviewing requests for a waiver. The following section describes issues or areas of concern and the kinds of information and documentation the Departmental Consulting Archeologist will consider in examining and making decisions on each request received.

2. AREAS OF CONCERN AND DOCUMENTATION INVOLVING WAIVER REQUESTS

Types of Situations

There are three types of situations where an agency may determine that it is necessary to exceed the 1 percent limitation for data recovery, protection and preservation activities. The first situation involves projects that are still in the planning stages and estimates indicate anticipated costs will exceed the limitation; the second situation involves projects that have completed the section 106 consultation process under the National Historic Preservation Act and initial estimates indicated anticipated costs would not exceed the limitation and revised estimates indicate costs will exceed the limitation; and the third situation involves projects where the section 106 consultation process has been completed, construction has begun, important archeological and historical properties not previously identified have been discovered during construction, and the need for additional data recovery activities that require exceeding the limitation is identified. Subsections below describe these three situations in detail and identify areas of concern and documentation necessary when reviewing agency requests for waiver.

Calculating the One Percent Figure

Section 208 of the National Historic Preservation Act Amendments of 1980 authorizes agencies to charge identification, survey and evaluation activities against planning accounts, and states that these costs as well as data recovery costs may be charged to Federal permittees and licensees. Activities to survey, test, and evaluate archeological resources are considered to be project planning activities, not data recovery activities. Such planning activities should be charged to projects as planning costs and should not be charged against the 1 percent limitation for data recovery, protection and preservation activities. Preparation of data recovery plans as a part of the section 106 consultation process with the Advisory Council on Historic Preservation may be considered a planning activity. In many instances, excluding planning activity costs when calculating expenditures under the 1 percent limitation may obviate the need for a waiver.

When calculating the 1 percent figure authorized for data recovery activities, it has been our experience that in cases where a project may be composed of several small structures, 1 percent of costs for individual structures often are insufficient while 1 percent of costs for the entire project may be sufficient. For example, a flood control project having 5 structures in a watershed is included in a single construction contract. The authorized cost for all structures is \$2,000,000. Four of the structures will have no affect on archeological properties. One of the structures, costing \$380,000, will affect a complex archeological site containing significant information. The cost of data recovery at the site is estimated to be \$20,000. Although 1 percent of the individual structure (\$3800) is insufficient, 1 percent of the watershed project (\$20,000) is sufficient to undertake the necessary data recovery. In these cases, we recommend that agencies calculate the 1 percent figure on total project costs, thereby eliminating the need for a waiver.

Finally, the 1 percent figure should be calculated on the cumulative total of all appropriations for the project, not on the original project authorization alone.

Situation I

In this situation the agency is still planning the project, preliminary estimates indicate data recovery costs will exceed the 1 percent limitation, and the section 106 consultation

process with the Advisory Council on Historic Preservation may or may not have yet been initiated. In these situations, agencies should consult with the Departmental Consulting Archeologist as early as possible in project planning so that the Department may assist the agency and the Advisory Council in exploring all possible alternatives to avoid and minimize adverse effects to important archeological and historical resources. Such early consultation can be initiated when agencies notify the Department, pursuant to sections 3(a) and 3(b) of the Archeological and Historic Preservation Act, that its activities may cause irreparable loss or destruction of significant scientific, prehistorical, historical or archeological data. Early consultation with the Departmental Consulting Archeologist would enable the Department to provide technical assistance and advice on the complete data recovery program instead of only a portion of it. In this way the Department would be able to work with the agency to develop a reasonable and cost- effective program and assure that all steps are taken to avoid needing to request a waiver.

In Situation I, the following information and documentation should be examined when reviewing requests for waiver from the 1 percent limitation:

1. Evidence that the agency is considering alternatives that would allow the proposed data recovery work to be completed within the 1 percent limitation. Submission of a proposed archeological and historic data recovery program being prepared for a Memorandum of Agreement or a Determination of No Adverse Effect under the section 106 consultation process would provide satisfactory evidence.
2. Budgetary information, including the total authorized project cost from which the 1 percent figure is computed and amounts for each proposed activity to mitigate the project's effects.
3. (a) A concise statement of significance of the archeological and historical properties which identifies those qualities for which they were listed or determined eligible for listing in the National Register of Historic Places. Statements contained in National Register forms, section 106 preliminary case reports or Determinations of No Adverse Effect may be submitted as suitable documentation.

(b) A separate discussion of the relationship of the proposed data recovery program to the significance of the resource (that is, how the proposed data recovery program will contribute to the recovery and preservation of significant information).

Situation II

In this situation the agency has completed the section 106 consultation process, initial estimates indicated anticipated data recovery costs would not exceed the 1 percent limitation, and revised estimates indicate costs will exceed the limitation. Completion of the section 106 consultation process would ordinarily be evidenced by the signing of a Memorandum of Agreement or concurrence on a Determination of No Adverse Effect with the Advisory Council and the State Historic Preservation Officer. Memoranda and Determinations of No Adverse Effect usually contain stipulations by which the agency is to mitigate some of the undertaking's effects on those qualities of the archeological and historical properties that made them eligible for listing in the National Register. In some instances, however, stipulations may require additional survey and testing in the area of impact to identify and evaluate archeological resources and to determine appropriate measures to mitigate adverse effects. As stated above, these kinds of activities are considered to be project planning activities, not data recovery activities, and as such should not be charged against the 1 percent limitation for data recovery, protection and preservation activities.

In Situation II, the following information and documentation should be examined when reviewing requests for waiver from the 1 percent limitation:

1. As appropriate, a Memorandum of Agreement and preliminary case report or Determination of No Adverse Effect.
2. Evidence that the agency considered alternatives that would allow the necessary data recovery work to be completed within the 1 percent limitation. Submission of an on-going archeological and historic data recovery program, approved during the section 106 consultation process, would provide satisfactory evidence.
3. Budgetary information, including the total authorized project cost from which the 1 percent figure is computed, amounts for each completed data recovery activity and amounts for each proposed activity.
4. (a) A concise statement of significance of the archeological and historical properties which identifies those qualities for which they were listed or determined eligible for listing in the National Register of Historic Places. Statements contained in National Register forms, section 106 preliminary case reports or Determinations of No Adverse Effect may be submitted as suitable documentation.

(b) A separate discussion of the relationship of the data recovery program to the significance of the resource (that is, how the on-going data recovery program will contribute to the recovery and preservation of significant information).

Situation III

In this situation the section 106 consultation process has been completed, construction has begun, important archeological and historical properties not previously identified have been discovered during construction, and the need for additional data recovery activities that require exceeding the limitation is identified by the Secretary (through the Departmental Consulting Archeologist) or the Advisory Council (the Secretary has the option to refer the case to the Advisory Council). Under section 800.7 of the Advisory Council's procedures (36 CFR Part 800), when archeological and historical properties which may meet the National Register criteria are discovered during construction or implementation of a Federal undertaking, the agency may fulfill its responsibilities under section 106 of the National Historic Preservation Act by fulfilling the requirements of the Archeological and Historic Preservation Act, as implemented by the Secretary of the Interior. In these situations, when the Secretary is notified by an agency or appropriate historic or archeological authority that significant historical or archeological properties have been discovered, the Departmental Consulting Archeologist will initiate investigation within 48 hours of notification and determine any necessary steps to recover the endangered data. When the agency agrees with the Departmental Consulting Archeologist's evaluation of the cultural resources and recommendations for additional data recovery which exceed the 1 percent limitation, the agency need not request a formal waiver. Such a waiver is implicit at the time the Department recommends additional data recovery over the 1 percent limitation. The ability to waive the 1 percent limitation in discovery situations will enable agencies and the Department to avoid costly project delays by allowing agencies to notify the appropriate congressional committees and proceed directly with any necessary additional data recovery. However, when the agency disagrees with the Departmental Consulting Archeologist's evaluation of the cultural resources or the recommendations for additional data recovery which exceed the 1 percent limitation, the agency will be referred to the Advisory Council pursuant to section 800.7 of the Advisory Council's procedures. When

eases are referred to the Advisory Council, the Departmental Consulting Archeologist will follow the steps outlined for Situation I or n, as appropriate, when reviewing any subsequent requests for a waiver from the 1 percent limitation.

Approved by Mr. G. Ray Arnett, Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, on June 16, 1982.

SEND REQUESTS FOR WAIVER OR FURTHER INFORMATION TO: Departmental Consulting Archeologist, National Park Service, Department of the Interior, Washington, D.C. 20240. FTS and commercial (202) 343-4101.

APPENDIX D

Guidelines for the Disposition

Archeological and Historical Human Remains

Background

Archeological investigations frequently encounter various types of interred human remains which are important for their cultural, religious and scientific values. While a number of bureaus and offices within the Department of the Interior conduct archeological programs, the Department has never developed a consistent approach toward the disposition of archeological and historical human remains. These Guidelines set forth the approach which the Department will pursue in relation to such remains.

Over the past few years the Departmental Consulting Archeologist has received numerous requests from Federal, State and local agencies and professional archeologists for guidance on the appropriate disposition of historical and archeological human remains. In an effort to provide such guidance, an interim statement on the disposition of human remains was developed and issued in 1979. In response both to comments on this interim statement and to the increasing numbers of requests for further guidance, the Departmental Consulting Archeologist undertook the development of a Department wide policy. This policy was developed k consultation with archeologists in other Interior bureaus, the Department's Solicitor's Office and the National Park Service's Office of Management Policy. These guidelines were approved by the Assistant Secretary for Fish and Wildlife and Parks, on July 19, 1982. For further information, contact the Departmental Consulting Archeologist, National Park Service, Washington, D.C. 20240.

Guidelines

The Guidelines outline the approach of the Department of the Interior on the disposition of archeological and historical human remains disturbed during archeological investigations conducted or authorized by the Department's bureaus and offices. These guidelines are in addition to and are not meant to replace or supplant any planning procedures established by Federal law or regulations. In order to deal with a variety of legitimate views of living groups toward the exhumation, analysis and disposition of human remains, the Department seeks to establish a consistent approach for its bureaus and offices to follow in determining the proper treatment of such remains. This approach will be applicable when investigations of archeological resources, conducted by or through the Department as an authorized Federal undertaking, will knowingly disturb interments of human remains, when interments are inadvertently disturbed on property owned or managed by the Department, either through natural causes or through human activities, and in any other situation in which the Department must decide on the disposition of disturbed interments of human remains.

While preservation of human remains in situ is generally preferable to removal, preservation in situ is not always feasible. In cases where it is not, it is recognized that proper treatment often involves especially sensitive issues in which scientific, cultural and religious values must be considered and reconciled. It is therefore the policy of the Department of the Interior to provide reasonable opportunity for consultation by the

responsible bureau or office with groups or individuals interested in the disposition of disturbed human remains. This opportunity should be provided at the earliest feasible time after disturbance or, in the case of planned activity, as soon as it becomes apparent that disturbance of human remains will occur. Each bureau or office shall consider courses of action suggested during construction as well as any requirements of other entities having legal jurisdiction in particular cases while still fulfilling its responsibilities under historic preservation law and Executive Orders.

1. Where the disturbance involves marked or identified interments of human remains, a reasonable effort will be made to identify and locate individuals who can demonstrate direct kinship with those interred individuals. The bureau head or designated representative will consult with such persons who respond in a timely fashion to the notification in the determination of the most appropriate treatment for the interments.

2. Where the disturbance involves interments of human remains known by the bureau to have affinity to specific living groups such as federally recognized Indian tribes or ethnic groups (for example, the Hutterites, Amish and non-federally recognized Indian groups), a reasonable effort will be made to identify, locate and notify leaders, officials or spokespersons for these groups. In the case of Indian tribes, notice shall be given to the recognized tribal governing body. The bureau head or designated representative will consult with such persons who respond in timely fashion in the determination of the most appropriate treatment for the interments.

3. Where the disturbance involves interments which the bureau cannot identify with a specific living group, the bureau will make a reasonable effort to notify groups who may be expected to have an interest in the disposition of the remains based on a professional determination of generalized cultural affinity. If such groups identify themselves as having such an interest, they will be provided a reasonable opportunity to consult with the bureau head or designated representative in regard to appropriate treatment of the interment. If any group claims an affinity with the remains, the responsibility for documenting and validating that claim rests with the group.

4. Any bureau or office of the Department charged with the care or custody of human remains will maintain the collection in keeping with the dignity and respect to be accorded all human remains. Costs accruing as a result of consultation, treatment or curation of human remains are to be borne by the bureau, office or Federal agency responsible for the disinterment.

5. The bureau head may request the Departmental Consulting Archeologist or a designated representative to conduct the consultations required by the policy or to provide advice or assistance in related matters.

6. As used above, the interpretation of "reasonable" and "timely" will consider the cultural or scientific value of the human remains and the cost to the government of locating interested parties and providing consultation opportunities.

APPENDIX E

Archeology for Federal Managers

A one week training course is offered by the Department of the Interior, National Park Service. A brief overview of the nature of modern archeology, its goals and techniques, and the general composition of archeological sites and data are presented. It also includes information on the laws and regulations pertaining to archeological properties and presents a discussion of Federal agency responsibilities for such properties. The roles of various agencies which participate in the preservation and conservation of archeological resources are discussed. Other topics include curation, human remains treatment, stabilization *of* archeological sites, and subjects of particular interest to the participants.

This class is open to all Federal managers. With special permission, state and local managers may also attend. There is no charge for the class, but host agencies are required to cover expenses of the instructor. For additional information, contact the Departmental Consulting Archeologist, National Park Service, Washington, D.C. 20240.

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