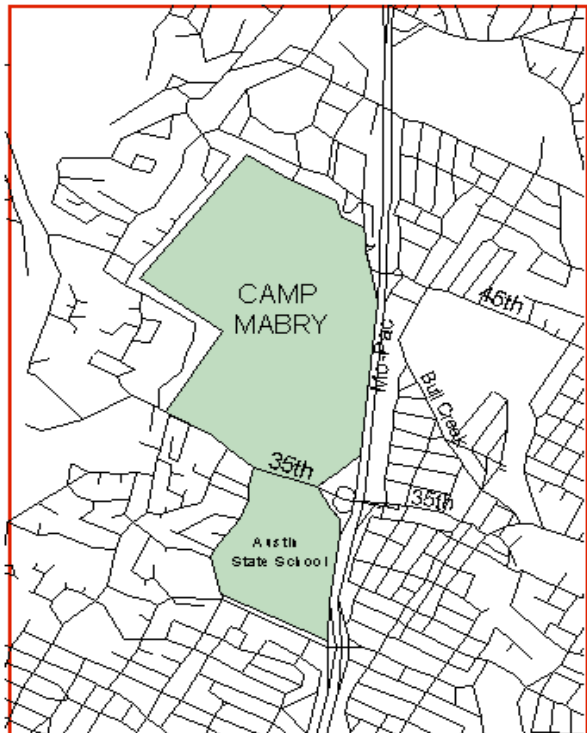


CTA Spring Meeting

Camp Mabry, Austin

April 6, 2001

The spring meeting of the CTA will be held at Camp Mabry on 6 April 2001. As with last year's meeting there will be a business meeting in the morning and a social down at the picnic area in the late afternoon evening. We're hoping to organize a session on GIS systems in archaeology for the afternoon. More details will be forthcoming in the next issue. Meanwhile, if you are working with GIS projects and are interested in participating in the afternoon session, get in touch with me at <david.brown@mail.utexas.edu>. We look forward to seeing you there.



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Presidents' Forum

David O. Brown

CURATION SPACE – THE FINAL FRONTIER?

Curation is usually the last thing I think about on any archaeological project. Of course that's more or less the way it's supposed to work, with curation generally the culmination of the archaeological investigative process. That is changing, however. With increasing costs and decreasing space in curatorial facilities, curation has become a widely discussed topic, not just an afterthought. The most recent flap over the THC Disposal, Deaccession, and Destructive Analysis policy was just the latest and most public in a series of curation-related issues to confront the archaeological community. With the so-called 3D issue effectively resolved (see discussion elsewhere in this newsletter), there are still several nagging issues regarding curation that linger. It may be time for archaeologists to confront these squarely.

In the good old days, it was easy. Archaeologists just dug up exhibit-quality stuff and much of it went directly to museums. What didn't go to displays went to museum basements for occasional refreshing of exhibits and future scientific studies. Since these were mostly complete items, whole pots, complete stone tools, human skeletal remains, and well-preserved fiber and other perishable materials, the chances were actually pretty good that future archaeologists would be interested in looking at them.

Somewhere along the line, archaeologists realized that there was scientific value in many non-museum-quality cultural materials. Before long, even sherds from only partly reconstructible vessels, and broken stone tools were included. After the war, the continued pressure to be scientific led most archaeologists to begin collecting all or at least most of the artifacts recovered from excavations – all the flakes, all the sherds (or at least all the decorated ones at first), and even such marginal stuff as animal bone from middens. Whole branches of archaeology even sprang up

around these newly collected materials. While the amount of material collected jumped tenfold or even a hundred fold in some cases, the amount of information on past societies also made radical gains. Suddenly, there seemed no end to what we could learn about the past if we could just collect enough data.

This positivistic, scientific optimism led to new horizons in archaeology – new methods and new targets for collection, including environmental and geological samples. New recovery methods were devised to collect what we had missed – fine screening and flotation became *de rigueur* and samples were collected for various types of physical and chemical analysis as archaeologists, geoarchaeologists and scientists of all persuasions were studying sites and site assemblages from every conceivable perspective. Once again there was an enormous leap in the amount of material collected and an equally important step forward in what we could learn about sites from things that no one had ever thought to collect before. People even began to bemoan the fact that we hadn't collected these materials before, and projects were mounted to go back and collect this previously neglected data from sites that still existed. And every site, no matter what its then current value, seemed a candidate for future analysis.

Archaeological legislation and regulations, still in their formative years during this process, were modified to keep up with the newly broadened concepts of preservation. The collection and curation of such massive quantities was not only approved but required under many regulatory situations. Keeping pace with this, many curatorial facilities began to think more seriously about how such materials should be stored. Initially targeting perishable and fragile remains, it soon became clear that all curated materials would need a greater degree of initial preparation and more stringent environmental control than previously thought.

As archaeologists began bringing in tons of materials from the field, it became abundantly clear to curatorial facilities that it would be impossible to process and store all this for free, particularly

under newly developing standards for environmentally controlled collections. Most facilities began to charge a nominal fee for curation and the fees began to become widespread and perhaps not so nominal within just a few short years.

While increased curation costs and the first inklings that some day space would become limited may have led to some curatorial restraint, continued progress in analytical techniques meant that even more materials that could be sampled, dated, characterized, or otherwise considered as a likely candidate for such analysis in the near future. But with the cost of these more sophisticated scientific analyses also soaring, it was now often more cost effective to curate collected materials than to analyze them. The result – not only do we curate more things in the hopes that some day some one will want to analyze them, but we can curate things that we could analyze now, but would rather wait until the price falls.

But few institutions were charging enough to process and permanently maintain archaeological collections, much less enough to provide replacement space when available space ran out. With increased standards for maintaining collections looming on the horizon, this has become all the more true. So with the real cost of processing and permanent maintenance of collections and the limitations of real space in most institutions, we may be facing some hard choices in the years ahead. Several major institutions have suggested that at current curation rates we may only have 5 to 25 years space left. Clearly we need to start planning now for new construction to house future collections, since the process of construction in state institutions can often take 10 years or more from planning stage to ribbon cutting. But at the same time we must begin to think clearly about what it is we want to keep and why.

To this end, the CTA has convened a small task force. Our first meeting, on the 18th of December at TARL, included myself, Darrell Creel, Laura Nightengale, Karen Gardner, Margaret Howard, Aina Dodge, and Marybeth Tomka. While some of those of us present may have thought that it might be as simple as saying that we can start throwing

away flakes, or that non-diagnostic historic materials were the problem, the preliminary answers to our questions were much more complex and ultimately much more satisfying in a scientific sense. Rather than target individual categories of materials (some came with a list of favorites for discard), it became quickly clear that there was no collected material without some potential value under the right conditions. So the discussion instead shifted to the scientific value of the collections. What is the potential future research value of a site, given its contextual value, and the possible redundancy or lack thereof in the information contained? And how can you possibly estimate what that value will be at some point in the future? Well, it's obviously difficult but there are some clues based on current patterns of collections studies. While we can't precisely predict the materials some future researcher will want to look at, few investigators have shown serious interest in materials from highly mixed contexts or from ephemeral sites with small and poorly documented collections. This trend is likely to continue.

Given some of the difficult and uncharted conceptual terrain here, the task force came to a surprisingly quick agreement on a series of preliminary priorities. Among the key curation issues discussed were research design, site and unit context, and the redundancy and/or uniqueness of various materials within the collection. In the long run, of course, this puts additional burden on the researcher since we have eschewed the concept of intrinsic value of materials in favor of situational/contextual value. The archaeologist will have to make tough decisions regarding present and future research potential, and will have to justify them in both the research design and possibly even in the curatorial agreement. Better, however, that this decision remain at least partly in the hands of the investigator than dictated by regulators or curators who do not truly understand the potential of a site, or worse still, dictated by a series of inflexible rules which do not account for the unique potential and/or problems found at every archaeological site and with each region and time period.

The task force will continue to meet to grapple with these ideas and hopes to have a preliminary

statement ready for the next newsletter. In the long run, we feel that the professional archaeological community as represented by the CTA should play a key role in decisions regarding future curation priorities and hope that this task force will be able to voice some of those priorities. Meanwhile, we welcome your input on the issue. Let us know what you think about possible solutions to the coming space crunch in curatorial facilities. Get in touch with me at <david.brown@mail.utexas.edu> or Karen Gardner at <kgardner@paiarch.com>.

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Officer's Reports

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Douglas K. Boyd, Immediate Past President

WHY JOIN THE AMERICAN CULTURAL RESOURCES ASSOCIATION?

The 6th annual meeting of the American Cultural Resources Association (ACRA) was held in Phoenix, Arizona on November 1-5, 2000. For those cultural resources contractors out there who didn't make it (almost every firm in Texas), you missed out. The meeting, which was sponsored by Statistical Research, Inc. of Tucson and Archaeological Consulting Services, Inc. of Tempe, was very informative and enjoyable. Sessions were held on such diverse topics as: "Ten Tips for Managing Technology in Your Office," "Human Resources Checklist: The Do's and Don'ts of Employee Relations," "How to Survive a FAR Audit," and "The Service Contract Explained." While they may not sound all that exciting, what I learned was really good stuff. ACRA is a great organization for those of us (probably the majority) who got into the business of archeology because we love archeology, not business. ACRA is essentially a trade organization for all types of firms/individuals involved in the CRM business, and they exist to serve their members.

The meeting wasn't all work, and we were treated to a tour of historic downtown Phoenix and of the Hohokam village of Pueblo Grande. For me, one of the most important aspects of the meeting was getting to network with other CRM professionals

from around the country and talk about all kinds of CRM topics. If you are involved in any aspect of the CRM business, ACRA probably has something to offer.

For more information about ACRA, check out their website at www.acra-crm.org. Here is what the website says about ACRA:

The American Cultural Resources Association (ACRA) was incorporated in March, 1995, to serve the needs of the cultural resources industry. The cultural resources industry is estimated to be made up of over 500 firms employing over 10,000 people working in a wide variety of fields, including historic preservation, history, archaeology, architectural history, historical architecture, and landscape architecture. *No other association addresses the business needs of this diverse community.*

Our mission is to promote the professional, ethical and business practices of the cultural resources industry, including all of its affiliated disciplines, for the benefit of the resources, the public, and the members of the association by:

- *Promoting and supporting the business needs of cultural resources practitioners*
- *Promoting professionalism in the cultural resources industry*
- *Promoting and providing educational and training opportunities for the cultural resources industry*
- *Promoting public awareness of cultural resources and its diverse fields*

Missi Green, Secretary-Treasurer
CTA FALL MEETING MINUTES
 27 October 2000
 2:00 pm

The Fall meeting of CTA was called to order by President David O. Brown. The first item on the agenda lines...”, the sentence should read “...membership that the *THC*’s first set of guidelines...”. Mark Denton verified via telephone with Missi Green prior to the meeting day that this was the correct statement. Missi Green agreed to make the correction known in the meeting minutes. A motion was made to accept this correction, and was seconded.

The next order of business was **Announcements**. Pat Mercado-Allinger, having just arrived from the THC quarterly meeting in Brenham, was pleased to announce the Awards of Excellence in Archeological Research. This award is presented by THC to acknowledge good work conducted in the field of archeology in the state. Two awards were presented. One went to Doug Boyd and Gemma Mehalchick for the geoarcheological and historic research of San Felipe Springs in Val Verde County. The other award was presented to Alston Thoms for his work at Camp Ford in Smith County. Congratulations to all recipients!

Pat also spoke of the Texas Preservation Trust Fund and that the Texas Legislature will make a change, that currently 90% of the funds go to architecture and only 10% for archeology. There have been five archeology applications, totaling more than the \$40,000 allotted. THC has final decision on what will be funded. The rules changes will eliminate the 2 to 1 funding, bringing dollar to dollar funding rather than two dollars to one dollar as it previously funded. There should be details in the next newsletter.

The THC acknowledges and appreciates all the donations and grants for Archeology Awareness Month materials.

On the 3D Policy, it was recommended at the meeting in Brenham that the THC staff develop rules that will be presented to the THC Board at the

January meeting.

Officers’ Report:

President’s Report: David informed the membership that most of his time since taking on the position has been dealing with the 3D policy. Based on input from CTA members, it is believed that the policy is a fairly decent document. The Antiquities Advisory Meeting, held on the 26th of October, were still looking over the document. David also introduced the organizing of a new Anti-looting Committee and expressed the interest in its input.

David and Pat Mercado-Allinger have been discussing the possibility of opening the membership to the Archeological Stewards. The membership would be a special one since their charter does not allow for professional standing. The membership options would hopefully increase and strengthen the working relationship between CTA and the Stewards.

About the 3D policy, David recommended that CTA really needs to think about the curation and collections proposal, possibly acting through a task force on curation initiatives. Through this task force, the feelings, concerns, and suggestions of the CTA membership would be known — just what does CTA think about the curation policy.

The next newsletter is going to be electronic. We hope to make them bigger, more interesting, and even controversial if possible.

Past President’s Report: Past President Doug Boyd had no report. All looks good.

Secretary/Treasurer’s Report: Missi Green noted that membership was up 8% overall this year, particularly in the Student category. The to-date 2000 Income/Expense Report was presented to the membership indicating that there was \$9,458.75 of total income and \$5,267.18 of expenditures. The Proposed 2001 Budget was also presented (discussed later under New Business) for review. Currently the Money Market account contains \$8,341.93 and the Scholarship Endowment Fund contains \$4,147.92.

Newsletter Editor's Report: Editor Marybeth Tomka reminded the membership that the next newsletter would be electronic — delivered via e-mail and CTA's Web page. It is important that we know your current e-mail address. It was asked what the publication dates for the newsletter are. There are normally three newsletters a year: one in December, one in March (prior to the spring meeting) and one during the summer. The deadline for the next newsletter is December 1.

Standing Committee Reports:

Governmental Affairs: Chair Eric Schroeder reported that the Unmarked Burial Bill was a possibility again this year. Sen. Barrientos' office is "looking at the political climate" whether to bring it up or not. There are still the Native American issues to be considered.

Also, the Section 106 Regulations will be suspended in November for two weeks. This suspension is due to the lawsuit between the Advisory Council and the mining industry and what its outcome will be. Eric recommends writing the Advisory Council. Bill Martin mentioned that the issue was that the new regs were voted on by two members of the NHPO and not the president. Duane Peter stated that the ACRA Board's stand on the issue was to write a letter to the Advisory Council disagreeing with the Council — that they were not in favor of suspending the rules, but implement changes.

Eric also told the membership that Section 401 of the Clean Water Act (regulation of storm water runoff, etc.) does not adequately state how the regs apply to dealing with historic properties. He suggested that a forum on Section 401 be considered for the Spring meeting since there seems to be some differing interpretations and compliance procedures being practiced. David suggested that a clarification on the issue be provided for the next newsletter.

Contractors' List Committee Report: Chair Amy Holmes expressed her thanks to those who helped with the Contractor's List. Renewals were made by e-mail in order to save time and money.

Public Education Committee: Chair Karen Harry introduced the CTA annual E. Mott Davis Award for Excellence in Public Outreach. Those eligible for nominations can be cultural resources firms, individuals, groups, etc. that excel in a cultural resources setting. Deadlines for nominations will be February 1st every year, with presentation to be made at the Spring meetings.

Multicultural Relations Committee: Chair Alston Thoms announced that the *Austin Statesmen* published a Glen Goode letter to the editor concerning statues on the Capital grounds. Alston also spoke about the unmarked burial law and that the consensus among archeologists is that this is not the year. Native Americans, however, want to move forward. A grass roots organization and rally will be held on the Capital grounds on January 20, 2001 to move for support. The Caddo, Tonkawa, and Wichita are behind this movement. Also there is an African American group, the African Texas Trailblazers, who are concerned about cemeteries. They are looking to archeologist for help. They are hoping to develop different workshops that would garner support in promoting graves and Texas heritage.

Bill Martin noted that in the last CTA newsletter the THC was chastised for not bringing Native Americans into the burial legislation discussion. He noted that the meeting was an initial meeting looking for information and input from CTA and archeologists first rather than open the discussion to everyone. David Brown apologized that he had misread the intent of the burial bill meeting.

CTA Web Page Committee Report: Dan Julien reported that the Web sites is up and working fine on the THC server. The number of hits appears to be stable, not raising significantly. They hope to upgrade the Web page and improve it over the next 6 months. It was noted, however, that the current (fall) newsletter was not up yet.

Membership Committee: Chair Karl Kibler announced that the membership survey had been completed and the report is found in the current (fall) newsletter. The results indicate a lack of

members from contractors and institutions, although student membership has increased. He asked that contractors encourage their personnel to join. With more students joining CTA, he also stated that more members need to contribute to the Student Scholarship Endowment fund. Karl also would like the Executive Committee and the Membership Committee to meet before the Spring meeting in order to obtain input for getting membership up across the board.

David Brown also encouraged the group to contribute to the scholarship fund by giving Karl a check before leaving the meeting. The entire membership should contribute!

Special Committee Reports:

Accreditation and Review Council: Chair Pat Claybaugh reported that ARC had met the day before (26 October) for their business meeting and deliberated on the ARC review institution. The first review process went very well, though there are a few rough edges were pointed out. These will be worked out over the next year. She announced that the Corpus Christi Museum of Science and History has submitted its application for review. The field reviewers are adequately trained, and the next field team will get the benefits of the previous team and the committee for a smooth review.

Pat also mentioned that the Department of the Interior would be in Austin in November at a meeting dealing with curation. They are looking at this program (ARC) for leadership. There has also been a request from the Caddo for help in attempts to do the right thing in curating materials they have as they prepare for the Tribal Museum they are building.

Archeological Survey Standards: Chair Marianne Marek apologized for the comments made in the fall newsletter criticizing the THC and CTA concerning the standards, but it was a way to look at the survey standards issue.

Bill Martin noted that THC began to look at the standards issue in 1994. The THC versions have varied over the years but have seemed to work.

The standards in place were a working effort between CTA and THC. Coming from a cumbersome document to a one page document might be extreme, but the standards are working. There still a need for a little work, particularly in reference to linear surveys.

Marianne continued her report stating that seventeen states responded to the committee's request for information, and that analysis has been conducted. The results of this analysis will be posted on the Web page.

Anti-Looting Committee: Chair Todd McMakin began by stating how important this committee is to the state, to heritage, and such. There are seven members of the committee spread around the state and proposes a chat room meeting of the committee. He would like to have folks from TxDOT and the Forest Service to volunteer as members as well. Todd would like to initiate a dialog about looting incidents and suggestions on what can be done. The committee is looking for a catchy slogan or theme for radio and TV spots that will reach a larger public. Also, there is a TAS committee on this subject being proposed and he would like for the CTA committee and the TAS committee to work together on the subject. He is also hoping that a dialog with Native Americans will benefit. Pat Claybaugh, who is on the TAS Native American Burial committee, volunteered to work with Todd in this effort.

Ad Hoc Guidelines Committee: Though Chair Karen Gardner was not at the meeting, and time ran out for the reading of her report, it is presented here. "As tasked by President David Brown, the Ad Hoc Guidelines Committee (Karen Gardner, Marianne Marek, Melissa Green, and Diane Dismukes) are in the process of reviewing the Guidelines and preparing suggestions for changes/additions/updates. The guidelines were last revised in 1992, and consist of the following sections:

- Preface, Amendment Procedure, Development of the Guidelines and Updates
- Guidelines for Professional Performance Standards
- Guidelines for Curation Standards and

- Procedures
- Guidelines for Cultural Resource Management Reports
- References Cites, Regulation and Statutes
- Curation Appendix

The committee is in the process of reviewing the Guidelines and preparing suggestions for updates and revisions. The Survey and Standards Committee has submitted suggestions for adding the survey standards to the Guidelines, which will be incorporated into the suggested updates. Additionally, the Accrediation and Review Committee is reviewing the curation standards to determine what information needs to be revised and/or updated. The committee hopes to have the suggested revisions and updates in place to be presented to the membership for their consideration at the Spring 2001 meeting.”

After presenting these reports, there was no more Old Business.

New Business

Darrel Creel wants to build a large comparative ceramic analysis database that would be developed based on chemical analysis of sherds. The analysis would take place in Missouri and the data would be taken from curated specimens. The use of curated specimens is a requirement in order to get NSF grant monies. It costs \$20 a sherd and 400 sherds from across the state are proposed for the building of the database. A total of \$12,000 is needed for the project. He requested CTA monies from this fiscal year and next to support the building of this database. David is in favor to putting CTA monies into this research project. The database would need to be an open tool for contractors as well as universities' use. After limited discussion and a challenge donation by Elton Prewitt to other cultural resources firms to donate, a motion to expend \$1000 from CTA this year towards the database development was made, and seconded. The motion was approved. Darrel will have to send a formal written request to CTA in order to get the donation.

A request was also made for \$500 to be allotted to

the Anti-Looting Committee for their use. The motion was made and seconded.

Elton Prewitt moved to adopt the budget as stated with these amendments: that \$1000 would be provided for Darrell's database, an additional \$50 will go to the Public Education Committee, and \$500 allotted to the Anti-Looting Committee. It was moved, seconded, and approved.

Charlie Locke is looking to create some TAS news releases. He'd like to create a series of eight releases in 2001 that would increase archeology awareness to the general public concerning stewardship, site protection, and other such issues. He asked for cooperation from the CTA membership about any news-worthy projects that they may be involved. Some of the things Charlie would need are content of the projects being use and help in identifying media folks that are sympathetic to cultural resources issues and concerns. Also some funding for expenses when a project is used or filmed would be helpful. He can be reached through his e-mail address: charleslocke@prodigy.net.

Elton Prewitt spoke about ROPA certification. The SAA, SHA, AIA realize that the certification of archeologists on the national basis is an issue and sponsored a forum discussing the issue. Apparently a very vocal individual (no name was given) is pushing for all archeologists in Texas to be certified or registered. He encouraged the membership to join and maintain their ROPA certifications.

Nominations/volunteers for the Nomination Committee were made. The committee will be Duane Peter, Darrel Creel, Lenny Voellinger, Aina Dodge, and Steve Black.

As time was running out, no other new business items were presented and the meeting adjourned.

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Committee News



Karen Harry, Public Education, Co-Chair
E. Mott Davis Award for Excellence in Public Outreach

The Public Education Committee is soliciting nominations for the newly established E. Mott Davis Award for Excellence in Public Outreach. The purpose of this award is to encourage contract archeological firms and their clients to include outreach efforts in cultural resource management projects. The award, to be conferred at the Spring Council of Texas Archeologists Meeting, will recognize outstanding efforts made by a firm, agency, or institution to advance public awareness and appreciation of archeology, and to foster support for the preservation and protection of archeological resources. Projects that promote anti-looting messages, that foster an understanding of how archeologists answer research questions, or that cultivate an awareness of how archeology differs from artifact collecting are encouraged for submission.

Nominations can be submitted by any CTA member using the enclosed nomination form. Nominees will be scored using the following criteria:

- The degree to which the project educates the public about archeology and/or fosters public support for the preservation and protection of archeological resources (45 points)
- The degree of initiative exhibited by the nominee in developing the project or program (30 points)
- The amount of creativity reflected in the project or program (25 points)

Nominations are due February 1, 2001 and should be mailed to Karen G. Harry, Co-Chair of the Public Education Committee, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744-3292.



Sue Linder-Linsley, CTA Web Page, Chair

The December 1, 2000 web activity report indicates that the CTA Web site is being visited about 21 times per day. We have had 401 unique visitors and of these 82 visited more than once. The Contractors List, ARC page, and Newsletter archive are the most requested pages. Nearly half of the downloads (47.5%) were Newsletter Volume 24, Number 3. The second most frequently downloaded document was Newsletter Volume 24, Number 2 but the Contractors List came in third with six downloads (7.5%). We expect the number of downloads for the current Newsletter to increase greatly since this will be the distribution method.



Karl W. Kibler, Membership Committee Report, Chair

The Membership Committee is planning on meeting with the CTA Executive Board after the first of the year (and before the Spring meeting) to hammer out some of the details and guidelines regarding the CTA Student Scholarship Endowment Fund. In particular, we hope to have in place soon a separate tax-exempt charitable-status fund for the money raised so far. We will also be looking at the results of the questionnaire presented to CTA members at the Spring 1999 (see CTA Newsletter 23(3):5-6 for the results) as to how the monies should be allocated and awarded.



Council of Texas Archeologists

*E. Mott Davis Award
for Excellence in Public Outreach*

Nomination Form

CRM Project
Name:

Status of Nominee

Principal
Investigator

Contract
Firm

Project
Sponsor

Name of Nominee

Mailing
Address

Telephone
Number

Describe the Public Outreach Effort

(Open House, Educational Materials, Televised Coverage, Public Dig, Web Page, etc.)

Discuss Why the Nominee Deserves this Award

(What special initiative did the nominee take to promote archeological awareness? How did this outreach effort contribute to a greater understanding of archeology by the public, or promote public support for protection of resources? What aspect of the effort achieved excellence? Attach additional pages if necessary.)

Name of Nominator

Mailing Address

Telephone Number

Eric Schroeder, Governmental Affairs, Chair

No new business on the governmental affairs front; however, I would like to take this opportunity to revisit the issue I brought up at the Fall meeting, namely stormwater- runoff and wastewater-discharge permits. As I understand it, these permits are issued under the auspices of Section 401 of the Clean Water Act, therefore compliance with Section 106 of the National Historic Preservation Act is required. In the past, the Environmental Protection Agency administered these permits, but recently (I think it was sometime in 1999) EPA delegated the administration of these permits to the Texas Natural Resources Conservation Commission (TNRCC). As I recall, when EPA administered these permits, Section 106 was complied with in a selective manner. In other words, projects deemed as high profile, such as a pig or chicken processing plant, or a papermill would receive some level of cultural resources management. Other permit applications such as one associated with a residential subdivision were generally considered low profile, and thus would likely “fall through the cracks”. Since the TNRCC has taken over the administration of the program, they have made verbal assurances to the Texas Historical Commission (THC) that they are concerned with cultural properties, but if you look at the TNRCC’s application instructions it says that applications may be reviewed by such agencies as the THC. Whatever has been said, to me it looks like the same selective review process is still in effect. I’ve spoken to people at the THC and they tell me that the TNRCC is indeed sending applications for their review; however, my question is, is this all the applications or just a selected few? Because these projects do not fall under the jurisdiction of the Antiquities Code, the THC is only considered a consulting party under the regulations, and thus can only comment and make recommendations. What I’ve tried to present here is a brief synopsis of how I understand the process. I’m interested in how the membership perceives this issue, and would welcome your comments. Please e-mail me at paleoman@academicplanet.com, or send written comments to: Eric Schroeder, 165 Lois Ln. Cedar Creek, Texas 78612.

Patricia A. Clabaugh, Accreditation and Review Council, Chair

ARC’s Role in Protecting Archaeological Collections

The state of Texas has its first certified Accredited Archaeological Repository (AAR): the Museum of Texas Tech University, Anthropology Division. ARC deliberated on this review during our Fall business meeting held in Austin on October 26, 2000. We credit this institution and its staff for being committed to the preservation of Texas’ cultural heritage by using credible curatorial standards in policy, practice, and procedure. This marks an important direction in state curation. Everyone involved in the Texas Tech field review agreed that the ARC process worked well.

Indeed, it is also encouraging to see that CTA is adapting well to its long term commitment to achieve credible standards for curating archaeological collections. Through ARC, CTA’s leadership role in ARC certification was particularly notable during the recent Department of the Interior Museum Program *Third Conference on Partnership Opportunities for Managing Federally Associated Collections* sponsored by Texas Association of Museums (November 13-15) (see <http://www.io.com/~tam/doiabstracts.html#8C> for conference abstracts and follow links for the full text) (also see related article).

Being held in Austin, this conference was attended by many Texas contingents including all ARC members and representatives from CTA, THC, state and federal agencies, museums, repositories, universities, and interested parties. The “Texas Accreditation Program for Museums and Repositories that Manage and Care for Held-in-Trust Archaeological Collections” symposium was well attended. Several individuals I spoke with referred to Texas as a model for other state and federal agencies who are attempting to develop their own accreditation programs. Most importantly, the ARC program offers a contemporary solution for accrediting institutions that primarily serve as repositories for housing mandated archaeological collections, state or federal. It also serves well as an educational outlet for teaching responsible

curatorial practices.

For many museums and repositories in Texas with state-permitted collections, the Texas Historical Commission deadline to become accredited by the year 2002 is pending. ARC is very aware that the next two years will be even more busy. As an unfunded mandate, the accreditation process has obvious limitations in being able to handle an influx of applications. It would become necessary for ARC to establish a waiting list. Clearly, funding beyond that provided by CTA (FY2001- \$1200.00) will be necessary in the near future. Regardless whether or not the THC deadline is extended or other stipulations are applied, institutions seeking accreditation need should get the process started as early as possible. The following flow chart provides a handy reference for understanding the "Steps to ARC Accreditation".

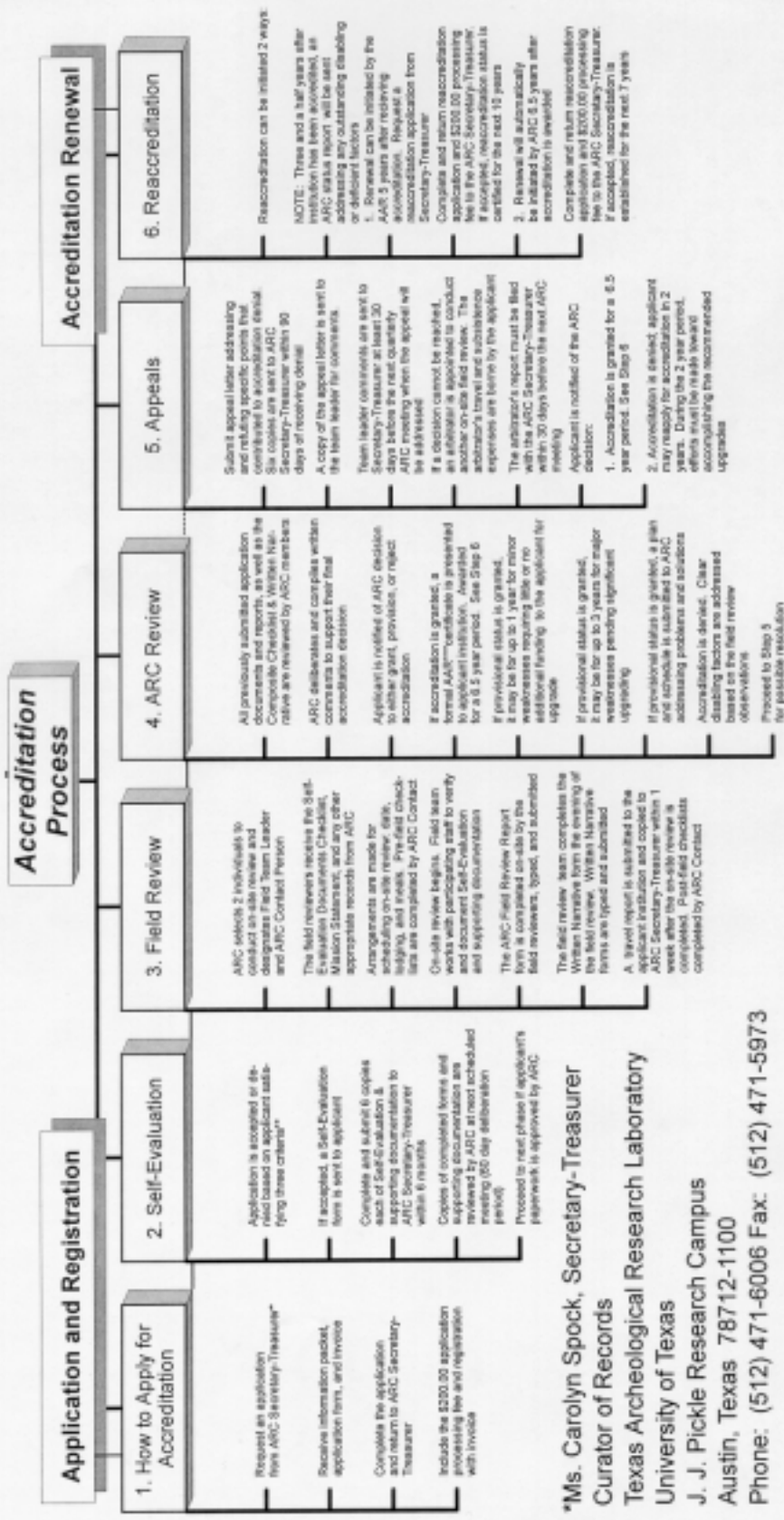
Plans are being made for our working sessions this coming year. Foremost on our agenda in January 2001 is to begin working on our second application. Applying what we learned from the first review, the next review should be easier. We have switched to color-coded forms and data screens will be re-formatted to save time and space. ARC plans to hold pre- and post-field conferences with the field review team leader to emphasize standard ARC procedures and summarize ARC's focus of the applicant's review. ARC Field Reviewer refresher courses will be offered in conjunction with the Spring CTA business meetings and the Fall TAS meeting. Details will be discussed at our January meeting and printed in the CTA spring newsletter and posted on the ARC Web page.

These courses are required for certified Field Reviewers every 2 years.

In October during a Texas Archeology Society Caddo Nation consultation meeting in Binger, Oklahoma, I was asked by Mary Cecile Carter to share information to their museum board members about the ARC accreditation program. The tribe recently completed a museum building at their tribal complex and is very interested in what it takes to become accredited for planning and development purposes. As this program gains momentum, there will be many more challenges in curation that all CTA members can become involved in. By design, ARC's role in protecting cultural resource collections in Texas is now firmly established.

CTA members are asked to keep informed about state and federal curation issues and continue to help shoulder ARC's efforts to assure that the collections we generate are cared for using the most current curatorial standards. Advancing sound collections management is one of CTA's most important challenges and the next few years will be closely scrutinized. We hope that you follow our collective progress in establishing archeological accreditation throughout this state and feel free to contact us with any questions or comments. Please visit the ARC web for practical information on curation and collections management and for current news on these important issues at (http://www.c-tx-arch.org/cta_ARC/ARC.html).

**Accreditation and Review Council (ARC)
Steps to ARC Accreditation**
(Also visit http://www.c-tx-arch.org/cta_ARC/ARC.html)



***Ms. Carolyn Spock, Secretary-Treasurer**
Curator of Records
Texas Archeological Research Laboratory
University of Texas
J. J. Pickle Research Campus
Austin, Texas 78712-1100
Phone: (512) 471-6006 Fax: (512) 471-5973

****Criteria for accepting Application (institution must satisfy all three):**

- 1) Fit the definition of a museum or repository
- 2) Have a Mission Statement or Statement of Purpose (including Scope of Collections)
- 3) Have a written Collections Management Policy

*****AAR--Accredited Archaeological Repository**

*Alston V. Thoms, Multicultural Relations
Committee, Co-Chair*

Round 15: Perseverance in the Fight to Protect Unmarked Graves in Texas

Round one of a Texas political fight for enactment of legislation to protect unmarked graves began in the Texas Senate in 1986. During the 14 years since then, numerous attempts, orchestrated by a diversity of supporters, have been made to secure passage of protective legislation. Each round, however, ended in the proponents' defeat, with each defeat attributed to a different set of circumstances.

Enactment of NAGPRA in 1990 served to broaden the concept of graves-protection legislation in Texas and shift its focus from anti-looting and archaeological preservation issues into a civil-rights arena. Accounts of unmarked graves protection issues in Texas are presented in a series of political, legal, and archaeological articles published in the *Texas Forum on Civil Liberties & Civil Rights* (1998, Vol. 4[1]), a journal published by The University of Texas School of Law and the Individual Rights and Responsibilities Section of the State Bar of Texas. Those articles, along with a multitude of CTA committee and officer reports published in our newsletter over the years, demonstrate that CTA is among the strong and consistent proponents for the protection of Texas' unmarked graves.

Round 15 of the graves-protection fight should be underway in January 2001 with the onset of the 77th Texas legislative session. Proposed legislation is being finalized by members of the Texas Indian Bar Association, notably Mr. Paul Shunatona and Judge Steve Russell, in light of what has been learned during previous rounds of this fight. A copy of the proposed legislation should be available on the Texas Legislature website in January: <http://www.capitol.state.tx.us/>. [see *Articles and Updates, this newsletter. Editor.*] As presently envisioned, the bill will be sponsored/co-sponsored by Representative Elliott Naishtat, Senator Gonzalo Barrientos, and Senator Carlos Truan.

A grassroots-support movement is also well underway. It is led by Annette Arkeketa, President of the Native American Student Association at Texas A&M University-Corpus Christi (TAMU-CC) and a long-time Native American issues activist in Texas. In September 2000, her group organized a conference at TAMU-CC entitled "Spiritual Existence: Reclaiming Our Past and Protecting Our Future." Among those who attended and participated were representatives from the Tonkawa Tribe, Kickapoo Traditional Tribe of Texas, American Indians in Texas at Spanish Colonial Missions, other Native American groups and individuals. Students and faculty from TAMU-CC, TAMU, Baylor, the University of Texas, and UTSA were also in attendance, along with archaeologists from TAMU, TAMU-CC, THC, and TxDoT.

Most-discussed at the conference was an urgent need for passage of unmarked graves protection legislation in Texas and how best to bring that need to the attention of state legislators and the public in general. Toward that end, ideas were presented for a public-awareness rally in Austin. Plans are still being finalized, but the rally will be held in the south-steps area of the State Capitol Building on Saturday, January 20, 2001, from noon until 3:00 pm. Additional information about the rally, its speakers, and co-sponsors is available from Ms. Arkeketa (e-mail: arkeketa@ciris.net). David Brown expects that the rally will be well attended by CTA members and that some of them will carry a CTA banner to voice support of unmarked graves protection legislation.

The rally was also a subject of the Human Remains Committee report at the Texas Archeology Society's annual business meeting last October. President Joan Few noted that the organization would be represented at the rally by TAS members and a banner. Duane Peter, President of the Texas Association for Public Archaeology, reported that members of his group also planned to attend the rally and would carry a banner as well. In October, I visited with Steve Sims about the rally and its relevance to African-American and Hispanic communities. Mr. Sims is a member of the board of directors of Trail Blazing Texans, a 501-C3

(pending) group dedicated to identifying present-day and past contributions of women and people of color in Texas.

On behalf of the Multicultural Relations Committee, I encourage CTA's membership, as a group and as individuals, to continue to persevere, strengthen old alliances, and endeavor to form new ones that will help Texas join the ranks of the 35 or so states that already have graves-protection legislation. An important measure of our support will be how many of us attend the public-awareness rally on January 20, 2001, encourage others to do so, and inform them about unmarked graves-protection issues and encouraging them.

From where I stand, it is all too clear seems clear that TEXAS' INVISIBLE HISTORY: UN-MARKED GRAVE SITES REVEAL TEXAS' MULTI-ETHNIC HERITAGE



Todd McMakin, Anti-Looting Committee, Chair

The Anti-Looting Committee met for the first time at the TAS Conference in Houston. Although many of the members were not able to attend, the ones that did attend were able to accomplish quite a bit. First on our list of accomplishments was setting up a chat room for the committee members to meet on a regular basis. It is very difficult to get so many people in the same room at the same time. As such, a chat room seemed like the best solution. The room is now set up and we will be having our fist chat session the second week of December.

David Brown, Dan Julien, and I have been working on a new discussion list called Anti-L. I have been designated as the owner of the list and will be adding and removing names from the discussion as necessary. Professional and amateur archeologists will be allowed to joint this list. Likewise, I will be contacting a number of Native American tribes with the offer of joining the list. Anyone who may be interested in joining should contact me at

todd.mcmakin@tpwd.state.tx.us.

You may have noticed that we have been concentrating on chats and discussions more than anything else. There is a reason for this. The issue of looting has been around for a long, long time. It seems that each person you talk to has a different idea about how to tackle the problem. Should we concentrate on stronger legislation or should we concentrate on enforcing the laws we have? Should we educate the adults or focus on the children? Should we work with looters to study their collections or does this only validate their collections and result in more looting? All of these are good questions and the only way we can effectively address the issue is to have an open dialogue between archeologists, law enforcement officials, Native American groups, educators, and the looters themselves. The creation of a discussion list (Anti-L) is a step in the right direction. Within the past several months there have been some really interesting conversations on the TXArch-L about looting. We would like to continue these discussions but include some non-archeologists in the discussions as well. The list will be used as a tool for land managers to discuss recent looting cases and their outcomes. Managers can discuss what appears to be working (or not) on their lands.

The next CTA newsletter will have a longer and more information packed committee report. Over the next couple of months the committee will be having its first chat and the Anti-L will be up and running. We are already pondering a direction for next year and should have some ideas together by the next newsletter. In the meantime, if you have any comments or want to join the Anti-L list, please feel free to contact me.



Marianne Marek, CTA Survey Standards, Chair

The CTA survey standards committee has completed the review of survey standards for other states. A copy of the summaries of the standards for other states will be posted on the CTA Web page.

After the Fall CTA meeting, members of the Committee met informally with CTA president David Brown and Bill Martin of the THC to discuss revisions to the one page survey standards for Texas. A draft of the document was prepared, and it will be published in the March CTA newsletter prior to the spring meeting.

☆☆☆

*Amy M. Holmes & Robyn P. Lyle
Contractors' List*

At present, the CTA Contractors List contains 40 listings. New contractors for 2000 include BHE Environmental, Inc., Earth Search, Inc., Panamerican Consultants, Inc., and 3D/International, Inc.

In order to ensure that the Contractors List includes those contractors who have paid their annual dues and contractor list fees promptly and in-full by the deadline (January 1), we are considering publishing the Spring edition earlier in the year (e.g., February or March) as well as in the fall. This may require a change in the bylaws.

We are considering adding another committee member to help prepare and maintain the Contractors List web page. At present, this web page contains a current copy of the list available for download in PDF format as well as links to each contractor's summary as individual .HTML files. The web page is updated throughout the year as new members are added to the Contractor List, and twice a year after the Spring and Fall hard copy publications. We would like to enlist the help of someone who is comfortable and familiar with changing Word documents into HTML files, as well as using FTP and a web page editor.

We are soliciting feedback from the membership on these issues: aholmes@paiarch.com; rplyle@hotmail.com. We would like to thank all the contractors for their cooperation and patience.

☆☆☆

Karen Gardner, Ad Hoc Committee Guidelines

As tasked by President David Brown, the Ad Hoc Guidelines Committee (Karen Gardner, Marianne Marek, Melissa Green, and Diane Dismukes) are in the process of reviewing the Guidelines and preparing suggestions for changes/additions/updates. The Guidelines were last revised in 1992, and consist of the following sections:

- Preface, Amendment Procedure, Development of the Guidelines and Updates
- Guidelines for Professional Performance Standards
- Guidelines for Curation Standards and Procedures
- Guidelines for Cultural Resource Management Reports
- References Cites, Regulations and Statutes
- Curation Appendix

The Survey and Standards Committee has submitted suggestions for adding the survey standards to the Guidelines, which will be incorporated into the suggested updates. Additionally, the Accreditation and Review Committee is reviewing the curation standards to determine what information needs to be revised and/or updated. The committee hopes to have the suggested revisions and updates in place to be presented to the membership for their consideration at the Spring 2001 meeting.

☆☆☆

Articles and Updates



Collectors Fined at Wright Patman Lake

Todd McMakin, TPWD

Within the past two months, park rangers at Atlanta State Park wrote citations to collectors who were illegally collecting artifacts from USACE property on or near the park. Both parties were collecting artifacts from the surface and the incidents occurred on separate days. In the first incident, the individual was observed collecting artifacts from the shoreline. This individual was from the Gladewater area and had heard that Wright Patman Lake was a great place for collecting. Two US Army Corps of Engineers (USACE) rangers were also involved with this citation.

A second incident occurred approximately one month later. In this case, an individual used a canoe to travel to a site on the edge of the lake. Although the individual denied collecting artifacts, a search revealed three vest pockets full of sherds and stone tools. As with the first incident, this individual was fined for an Antiquities Code violation.

The Cultural Resources Program at Texas Parks and Wildlife has been providing training to law enforcement personnel at state parks to insure that sites on public lands are protected from collecting, looting, and vandalism. It is good to see that the training is paying off. Wright Patman Lake has been a hotspot for collecting for quite some time. Hopefully, by working in conjunction with the USACE, we can eventually stem the tide of looting around this lake.



Draft Statewide Comprehensive Preservation Plan

*Patricia A. Mercado-Allinger
State Archeologist*

The Texas Historical Commission's website: www.thc.state.tx.us now features a draft comprehensive plan for public review and comment. "Review the New Texas Statewide Comprehensive Preservation Plan" icon on the homepage will lead you to a summary of the efforts undertaken to date as well as the identification of the five major goals:

1. *Leadership/Training.* Develop and sustain exceptional leadership qualities in both public and private preservation organizations in the State of Texas.
2. *Vision/Planning.* Advocate a preservation vision at state, regional and local levels.
3. *Education/Awareness.* Create a statewide awareness, appreciation and effective utilization of historic preservation.
4. *Resource Identification, Preservation and Interpretation.* Develop programs that identify, preserve and interpret historic resources.
5. *Resource Development.* Develop and secure fiscal and human resources to accomplish preservation in Texas.

Once you have had a chance to review the plan, feel free to share your input by phone (512/463-6100) or via e-mail: thc@thc.state.tx.us.



AWARD OF EXCELLENCE IN ARCHEOLOGICAL RESEARCH ACKNOWLEDGES EXEMPLARY RESEARCH PROJECTS

*Patricia A. Mercado-Allinger
State Archeologist*

Three of our colleagues received special honors during the fall 2000 CTA business meeting in League City, Texas. The Texas Historical Commission's Award of Excellence in Archeological Research was presented to Doug Boyd and Gemma Mehalchick of Prewitt and Associates, Inc., for the work sponsored by the City of Del Rio that culminated in the report entitled *Geoarcheological and Historical Investigations at San Felipe Springs, Val Verde County*. Investigations identified a series of occupational zones that denoted occupations dating to the Middle Archaic, Late Archaic, and Late Prehistoric/Historic periods. Historic structures associated with the water pumping and distribution system were also documented during the course of this project.

A second Award of Excellence in Archeological Research, honors the research undertaken at Camp Ford, a Civil War prisoner of war encampment in Smith County by Dr. Alston Thoms, Director of Texas A&M University's Center for Ecological Archaeology. This project, accomplished with the aid of an ISTE A grant and local funds, shed new light on the camp where approximately 6,000 federal soldiers and other war-related captives were held by the Confederacy between July 1863 and May 1865. The publication, *Uncovering Camp Ford* reports the results of this research effort.

The Texas Historical Commission offers three categories of awards under the "umbrella" of the Award of Excellence in Archeology. The archeological research category recognizes individuals, institutions, organizations, archeological contractors, and state or federal agencies for exemplary research. Judging is based upon published technical finds from an archeological project and must involve original field and laboratory investigations and/or work with existing collections

accomplished within the past two years. For additional information about the THC's Award of Excellence in Archeology, contact the Archeology Division by phone (512/463-6090) or via e-mail: doris.howard@thc.state.tx.us.



Developing the Texas-Based Accreditation Program for Curatorial Facilities

*Eileen Johnson
Museum of Texas Tech University*

PREFACE

The following is a much condensed version of a presentation for the session "Texas Accreditation Program" at the Third Conference on Partnership Opportunities for Federally Associated Collections" held in Austin November 13-15, 2000. Federal discussion is being focused on how to monitor the practices of curatorial facilities housing federally-associated collections, particularly in regards to 36CRF79. That concern is being mirrored in the growing attention the Texas-based accreditation program is receiving on a national level. The full text of the presentation as read can be found on the DOI web site. Much of the text is based on articles published in the *CTA Newsletter* and the ARC accreditation documents.

INTRODUCTION

Although federal regulations address the care of federally-associated collections, no mechanism is available to monitor the curatorial facilities housing those collections and insure the following of established standards. The point of discussion here is how a state-based program would fit into the national scheme of archaeological collections standards and care. As the only state to develop its own accreditation program for archaeological collections, the Texas-based program is a potential model for a national peer-evaluation program to monitor curation care.

Twenty years in development, the Accreditation and Review Council (ARC) is a unit of the Council

of Texas Archeologists (CTA). Accreditation is voluntary and it is a service to the profession as a whole and to Texas.

BACKGROUND

By the late 1970s, it was evident across the country that a curation crisis existed with anthropological collections and archaeological collections in particular. With tremendous foresight, the CTA membership recognized in part its responsibility toward better preservation of archaeological collections by developing and then adopting in 1984 curation guidelines and creating a Curation Implementation Committee (CIC) charged with developing an accreditation program called for in those guidelines.

That Committee was the precursor of ARC and charged with finding a way to implement the concepts put forward in the Curation Guidelines and establish ARC as a functioning unit of CTA. The Accreditation Policy put forth by the CIC was adopted by the CTA membership in 1991. That policy provided the philosophical basis and outlined the scope of accreditation, authority, and responsibility of ARC and its members.

The Accreditation and Review Council was formally recognized and constituted by the CTA membership in 1991 and inaugurated in 1992. The concept behind ARC was the acceptance of the responsibility for and demonstration of appropriate and adequate care for archaeological collections generated from lands in Texas. Curatorial facilities had both legal and ethical obligations in providing the best care possible within their resources. In late 1998, CTA empowered ARC to implement the accreditation program. The first application was received late 1999. ARC deliberations resulted in the first accredited curatorial facility in October 2000. The process took 11 months.

CONCEPTS

Accreditation is a peer-evaluation process that involves standards recognized by the profession that are to be achieved and followed. Accreditation is a recognition by the profession that an

institution is striving to achieve those agreed-upon standards and is following acceptable practices. Central to the philosophy of accreditation is the ultimate value it places on the integrity of the collections. The archaeological profession cannot continue to excavate and maintain credibility without ensuring the longterm appropriate and proper care of those collections.

The ARC process is based on museum concepts and used the American Association of Museums (AAM) accreditation program as a model. Whether in a museum or a repository, archaeological collections are held-in-trust for the people and State of Texas. The not-for-profit status of museums engenders a trust-like situation and they hold their collections in trust for the good of their beneficiaries, their public. A more specific held-in-trust situation applies for state-associated collections generated off of public lands, donated to or purchased by the state in the placement of those collections in a curatorial facility. Accountability is key and that accountability encompasses the financial, legal, and moral responsibility of a curatorial facility to the public.

ARC accreditation is not a duplicate of the AAM program but rather an adaptation to suit the needs of a smaller, more focused program. Many Texas curatorial facilities do not fall under the purview of the AAM accreditation program as that program is designed specifically for museums. Furthermore, AAM accreditation is concerned with the overall operation of a museum, its governance, exhibits and educational programming, and general well-being of its collections. ARC accreditation is focused on the curatorial care, handling, and maintenance specifically of archaeological collections regardless of the type of curatorial facility in which those collections are housed.

A second major difference is in ARC's recruitment and training of field reviewers. Training is provided to familiarize the field reviewers with the concepts and procedures on which ARC accreditation is based, establish a secure and equalized basis for reviews, and ensure a quality experience for both the curatorial facility and the field reviewer.

Accreditation involves a great many linked concepts and processes within a curatorial facility. The keystone museum concept is that of a sound, written collections management policy coupled with written procedures that implement that policy. A collections management policy is a public accountability document and a statement of standards employed. Another foundation concept is that of credible standards. Credible standards are those currently acceptable practices and procedures that are greater than the minimum. Credible standards are dynamic and upgraded periodically with continued professional development. This position ensures continued upgrading of collections care and educational training of curatorial staff.

PROCESS

Early in the documents development process, decisions were made that would shape the character of the accreditation program. A field review was required for an applicant curatorial facility. Trial field reviews were conducted by council members in order to incorporate that experience into the revision of the documents concerning field reviews and make the reviews pertinent, productive, and realistic. Recruitment would be broad-based among professions dealing with collections and archives. Such recruitment necessitated training of field reviewers in order to establish expectations, a balanced or equalized knowledge base, and familiarization with the accreditation process. Trial field reviewer training sessions were held and the training documents revised after each trial training session and additional adjustments made in the field review documents.

The first actual field reviewer training sessions were conducted in 1999, resulting in a field reviewer roster of 20 people. Each 2-day training session consisted of three main segments: museum concepts, field review documents, and a mock field review. Additional revisions were made to documents and training based on participant and council member evaluations. Mandatory refresher courses every three years will keep a field reviewer on the active roster and annual review

sessions are planned to discuss any problems, concerns, and new developments.

Based on the adopted accreditation policy, the process for a curatorial facility involves several steps:

- application form and fee mailed to ARC
- self-evaluation form completed
- Council initial review of self-evaluation documents
- field review and field reviewer comments
- Council final review of all documents and determination made
- appeal process if warranted
- undergo reaccreditation process 7 years later

The self-evaluation form is one of two key documents in the process. It is designed to elicit how the curatorial facility views itself, the role of collections care and management at the facility, and their resources. The self-evaluation phase consists of an in-depth assessment of the curatorial facility's collections, performance, resources, policies, purposes, and plans. It serves as the facility's initial statement of current conditions and operations. The field review and the report produced by the field review team constitute the second of the key documents in the process. The field review is designed to verify that credible standards are being met.

The final review is conducted by the Council members at their next meeting following receipt of the written narrative and field report. That review involves a consideration of all the supporting documentation and determining any disabling or deficiency factors.

The decision options are: ARC grants accreditation for a 7-year period; ARC approves provisional status for up to a 3-year period; or ARC denies accreditation. A curatorial facility that had its accreditation application rejected or was denied accreditation may appeal by submitting a written appeal within 3 months of the negative action. Reaccreditation is obligatory to maintain accredited status. It is intended to insure that curatorial facilities keep current with curation standards and

continue upgrading the care of the collections and professional development.

CONCLUDING REMARKS

Texas is the only state to have a system of accreditation that insures statewide adopted standards for archaeological collections are being followed. The Texas-based accreditation program is precedent-setting. In its role as a model program, the Texas-based accreditation program can be a service to the federal agencies charged with the protection and stewardship of collections from federal lands.



The THC Disposal, Deaccession, and Destructive Analysis Policy Revisited

David O. Brown

At the last meeting of the Antiquities Advisory Board on 26 October 2000, the group voted to proceed with making the revised 3D policy into a set of rules. At the request of Bob Skiles and I, the policy itself was not adopted formally at that meeting. Instead, it will become official once it has formally passed the rulemaking process. This process will begin at the January meeting of the Texas Historical Commission on the 11th and 12th of January in Beaumont and should take about six months. The process involves “publishing” the revised policy statement as rules at each of two THC meetings with final adoption at the third. [*The policy follows this introduction. Editor.*]

After a long and occasionally arduous process, the proposed rules are probably about as good as they can get. Realizing of course that they can never satisfy everybody, we feel that many of the most egregious problems have been corrected and that the considerations of most members of the professional archaeological community are now reflected in the final document. But don't take my word for it. I encourage you to take a look at the newly proposed rules document, which should be available on the CTA website soon, and decide for yourself. If your particular concern has not been taken into account, don't hesitate to let me know,

but even more importantly, don't hesitate to involve yourself in the rulemaking process and send your concerns directly to the THC. Just as importantly, if you are in agreement with what you see, I encourage you to send a letter of support to the THC.

While the ultimate rules document may not be perfect, I am generally satisfied that the end result will work for us rather than against us as archaeologists, and I am especially pleased with the level of participation ultimately afforded the CTA in the process. To this end, I offer my thanks to the many archaeologists who assisted with their ideas and their presence at meetings and workshops. It would have been impossible to make such a strong case without the wide community support that we demonstrated. I also want to publicly thank Eileen Johnson, Larry Oaks, Jim Bruseth, and Joe Thrash, the THC legal counsel, for their support and forbearance in the face of CTA demands and for their role in developing what we consider a vastly improved document. With this policy having been previously identified as a legal necessity for the THC, it could have effectively been implemented with little or no CTA input. But in the end, the CTA concerns were given serious consideration. We look forward to continued dialogue and input as the THC develops policies that will affect various aspects of archaeological investigations in Texas.



The following was provided by Mark Denton of the Texas Historical Commission.

Proposed Preamble Form

The Texas Historical Commission proposes amendments to Section 26.5 and 26.27 (relating to Definitions and Disposition of Archeological Artifacts and Data) of Title 13, Part II, Chapter 26 of the Texas Administrative Code (relating to Rules of Practice and Procedure under the Antiquities Code of Texas). These changes are needed to clarify the intent of the commission regarding the collection, curation, deaccessioning, disposal, and destructive analysis of artifacts recovered under either permit or contracts issued by the commission. The Texas Natural Resources Code makes all of these artifacts the property of the State of Texas, and the Texas Historical Commission has authority over them.

The revised sections establish a process for ensuring that the artifacts are properly curated, recorded, and, if appropriate, disposed of in conformance with appropriate standards established by the Commission

F. Lawrence Oaks, Executive Director, has determined that for the first five-year period the rule is in effect there will be fiscal implications for state or local governments as a result of enforcing or administering the rule. State and local governmental agencies with museums or other curatorial facilities for artifacts covered by the rules will incur a small additional cost necessary to comply with the reporting requirements of the rules. If the institutions become accredited by the Council of Texas Archeologists, the reporting requirements are minimized and should be negligible. The exact cost will depend on the volume of transactions involved in each type of museum or repository, and cannot be estimated from data currently available.

Mr. Oaks has also determined that for each year of the first five year period the rule amendments are in effect the public benefit anticipated as a result of these amendments will be improved care of artifacts and possibly decreased costs associated with the long-term curation of artifacts owned by the State of Texas. Additionally, Mr. Oaks has determined that there will be limited effects on small and micro businesses. The type of businesses affected will be independent archeological firms who will be required to comply with the rules. There will be minimal anticipated economic cost to persons who are required to comply with these rule amendments as proposed.

Comments on the proposal may be submitted to F. Lawrence Oaks, Executive Director, Texas Historical Commission, P. O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the Texas Register.

The amendments are proposed under the Texas Natural Resources Code, Title 9, Chapter 191 which provides the Commission with authority to promulgate rule that will reasonably effect the purposes of this chapter.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

TITLE 13. CULTURAL RESOURCES

Part II. Texas Historical Commission

Chapter 26. Rules of Practice and Procedure

26.5 Definitions.

The following words and terms, when used in this chapter and the Antiquities Code of Texas, shall have the following meanings unless the context clearly indicates otherwise.

Accession - The formal acceptance of a collection and its recording into the holdings of a curatorial facility.

Antiquities — The tangible aspects of the past which relate to human life and culture. Some examples include objects, written histories, architectural significance, cultural traditions and patterns, art forms, and technologies.

Antiquities Advisory Board - A **ten [seven]**-member board that assists the Texas Historical Commission in reviewing matters related to the Antiquities Code of Texas.

Appropriate historical or archeological authorities — For purposes of implementing the Antiquities Code of Texas, the Texas Historical Commission, P.O. Box 12276, Capital Station, Austin, Texas 78711-2276, [**working with the Texas Historical Commission,**] is the statutorily created body responsible for protecting and preserving State Archeological Landmarks, Texas Natural Resources Code of 1977, Title 9, Chapter 191. In cases where federal statutes apply, appropriate authorities include the Secretary of the Interior, the State Historic Preservation Officer, and their designated representatives.

Archeological site — Any place containing evidence of human activity, including but not limited to the following:

(A) Habitation sites. Habitation sites are areas or structures where people live or have lived on a permanent or temporary basis. Standing structures may or may not be present. Habitation sites may also contain evidence of activities that are listed in the following as site types in the non-habitation category.

(i) Campsites.

(I) Native American open campsites were occupied on a temporary, seasonal, or intermittent basis. Evidence of structures may or may not be present. Native American campsites of both periods may have accumulations of shell or burned rock as well as hearths, hearth fields, bed-rock mortars, burials, and/or scatters or accumulations of

ceramics, stone debitage, flaked tools, and grinding stones. Campsites vary in size from a few square meters to several hectares. Additionally, Native American sites near missions, forts, and trading posts were present during the historic period. These sites, termed encampments, are of varying degrees of permanence with the site generally being continuously occupied but not necessarily by the same group, tribe, or culture.

(II) Native American rock shelters, in general, are a special kind of campsite. These sites are located in caves or under rock overhangs and have been occupied either temporarily, seasonally, or intermittently. Many articles of perishable materials such as clothing, basketry, sandals, and matting may be preserved if the shelter is located in an arid environment. Shelter sites include not only the shelter area itself, but also the area of debris accumulation located in the immediate vicinity that is the result of activity by those occupying the rock shelter. Associated hearths, burials, bedrock mortars, dumps, etc., may be present. Rock shelters vary in size from an area large enough to accommodate only one person to areas of several hundred meters in the largest dimension.

(III) Non-Native American campsites are the cultural remains of activities by people who are not Native American. Examples are sites that represent the activities of railroad workers, military units, settlers, slaves and other groups as yet unidentified. These sites include the area and remains of temporary encampments such as Chinese railroad camps, wagon train campsites, shepherd shelters, line camps, buffalo hunter camps, cavalry campgrounds, trail drive camps, camps at river fords, candelilla wax camps, and others.

(ii) Residence sites.

(I) Residence sites are those where routine daily activities were carried out and which were intended for year-round use. A greater degree of permanence is implied in a residence site than a campsite; therefore, structural evidence in the form of post molds, foundations, and so forth is more likely to be present. Examples include remains of cabins, dugouts, farmhouses, ranch headquarters, plantation residences, slave quarters, and urban homes, as well as teepee rings, pueblos, and Caddoan houses constructed by Native Americans.

(II) Residence sites resulting from Native American activities may include additional features and structures including hearths, retaining walls, enclosures, compounds, patios, burials, cemeteries, mounds, platforms, and borrow areas, as well as scatters and accumulations of stone debitage, ceramic debitage, burned rock, flaked tools,

grinding tools, grinding stones, and bedrock mortars.

(III) Non-Native American sites may include, in addition to the main structure, out-buildings, water systems, trash dumps, garden areas, driveways, and other remains that were an integral part of the site when it was inhabited. Examples of structures or structural remains which might be present in addition to the residence include, but are not limited to, barns, silos, cisterns, corrals, wells, smokehouses, stables, gazebos, carriage houses, fences, walls, corn cribs, gins or mills, cellars, kitchens, and bunkhouses. Family cemeteries are often associated with early historic sites.

(B) Non-habitation sites. Non habitation sites result from use during specialized activities and may include standing structures. Descriptions of each kind of site are given.

(i) Rock art and graffiti sites consist of symbols or representations that have been painted, ground, carved, sculpted, scratched, or pecked on or into the surface of rocks, wood, or metal. Names, dates, symbols, and representations or likenesses of people, animals, plants, or objects are common elements in such sites.

(ii) Mines, quarry areas, and lithic procurement sites are those from which raw materials such as flint, clay, coal, minerals, or other materials were collected or mined for future use. Sites where flint was obtained can be identified by the abundance of flint flakes, broken tools, and flint cobbles. Mines often have associated structures such as head frames, support timbers, and transportation facilities.

(iii) Game procurement and processing sites are areas where game was killed or butchered for food or hides. Remnants of structures such as game runs, hunting blinds, and fish weirs as well as stone, bone, and metal tools may be present in association with animal remains. Often the animal remains form a bone bed with cultural material dispersed sparsely among the bones.

(iv) Engineering structures such as aqueducts, irrigation canals and ditches, earthen mounds, ramps, platforms, terraces, dams, bordered and leveled fields, constructed trails, medicine wheels, bridges, tunnels, shafts, roads, rock fences, dams, lighthouses, and railroad, streetcar, and thoroughfare systems are the most common, but not the only kinds of engineering structures.

(v) Cemeteries and burials, marked and unmarked, are special locales set aside for burial purposes. Cemeteries contain the remains of more than one person placed in a regular or patterned order. Burials, in contrast, may con-

tain the remains of one or more individuals located in a common grave in a locale not formerly or subsequently used as a cemetery. The site area encompasses the human remains present and also gravestones, markers, containers, coverings, garments, vessels, tools, and other goods which may be present. Cemeteries and burials that are publicly owned and are of prehistoric origin (i.e., dating prior to A.D. 1500), or classified as historic, are protected under the Antiquities Code. Cemeteries are considered historic if interments within the cemetery occurred at least **fifty [seventy five (75)]** years ago. Individual burials within a cemetery are not considered historic unless the interments occurred at least fifty (50) years ago.

(vi) Fortifications, battlefields, and skirmish sites include fortifications of the historic period and the central areas of encounters between opposing forces, whether major battleground or areas of small skirmishes. Trenches, mounds, walls, bastions, and other fortifications may be present. Trash dumps will also be considered a part of the site. Included here are battlefields of the Civil War, the Texas War for Independence, the Mexican War, and skirmish sites between non-native American and Native American forces. Standing structures may or may not be present.

(vii) Public service and ceremonial sites include, but are not limited to, kivas, temple mounds, shrines, missions, churches, libraries, museums, educational institutions, courthouses, fire stations, and hospitals. Standing structures may or may not be present.

(viii) Commercial business structures and industrial structures and sites where products or services are produced, stored, distributed, or sold include, but are not limited to, markets, stores, shops, banks, hostels, stables, inns, stage stops, breweries, bakeries, factories, kilns, mills, storage facilities, and railroad, bus and tramway depots. Trash or dump deposits, outbuildings, wells, cisterns, and other features associated with the principal structures are considered to be a part of these sites.

(ix) Monuments and markers include structures erected to commemorate or designate the importance of an event, person, or place, and may or may not be located at the sites they commemorate. Included in this category are certain markers erected by the Texas Historical Commission and county historical commissions, and markers and statuary located on public grounds such as courthouse squares and the Capitol grounds. Examples of such sites constructed by Native Americans will be included in this category upon identification.

(x) Shipwrecks by definition, Texas Natural Resource Code

[of 1977, Title 9, Chapter 191,] Section 191.091, also include the wrecks of naval vessels, Spanish treasure ships, coastal trading schooners, sailing ships, steamships, and river steamships, among others.

Board - The board of the Texas Historical Commission **[(committee)]**.

Commission - The Texas Historical Commission and its staff.

Committee, or Antiquities Committee, or Texas Antiquities Committee - As redefined by the 74th Texas Legislature within Section 191.003 of the Antiquities Code, the committee means the Texas Historical Commission and/or staff members of the Texas Historical Commission **[as represented through the Department of Antiquities Protection, Division of Architecture, or the National Register Department]**.

Contract Archeologist - A professional archeologist who performs or directs archeological investigations under contract.

Council of Texas Archeologists — A non-profit voluntary organization that promotes the goals of professional archeology in the State of Texas.

Council of Texas Archeologists Guidelines — Professional and ethical standards which provide a code of self regulation for archeological professionals in Texas with regard to field methods, reporting, and curation.

Conservation — Scientific laboratory process for cleaning, stabilizing, restoring, and preserving artifacts.

Cultural resource — Any building, site, district, structure, object, pre-twentieth century shipwreck, data, and locations of historical, archeological, educational, or scientific interest, including, but not limited to, prehistoric and historic Native American or aboriginal campsites, dwellings, and habitation sites, archeological sites of every character, treasure embedded in the earth, sunken or abandoned ships and wrecks of the sea or any part of the contents thereof, maps, records, documents, books, artifacts, and implements of culture in any way related to the inhabitants' prehistory, history, natural history, government, or culture. Examples of cultural resources include Native American mounds and campgrounds, aboriginal lithic resource areas, early industrial and engineering sites, rock art, early cottage, and craft industry sites, bison kill sites, cemeteries, battlegrounds, all manner of historical structures, local historical records, etc.

Curatorial Facility – Is a museum, school of higher education, cultural resource management firm, or governmental agency that engages in the conservation, storage, and/or displays archeological or other cultural artifacts.

Data Recovery - An excavation mode of archeology and a form of mitigation. The evidence from a skillfully accomplished archeological excavation provides a detailed picture of the human activities at the site; emphasis is placed on evidence rather than artifacts. In data recovery, the archeological deposits are removed by digging and so destroyed. The destruction can be justified only if:

(A) it is done with such care that all antiquities and all cultural and environmental data in the area excavated are discovered, and if possible, preserved, however faint the surviving trace may be;

(B) appropriate information has been accurately recorded, whether its importance is immediately recognized or not, to remain available after the site has disappeared; and

(C) the record and results of the investigation are rapidly made available through publication.

Deaccession - *The permanent removal of an object or collection from the holdings of a curatorial facility.*

Default — Failure to fulfill all conditions of a permit or contract, issued or granted to permittee(s), sponsors, principal investigators, and co-principal investigators.

Defaulted permit — A permit that has expired without all permit terms and conditions having been met.

[Department of Antiquities Protection — A department of the Texas Historical Commission charged with administering the archeological programs of the National Historic Preservation Act of 1966, as amended, and the Antiquities Code of Texas.]

Designated historic district - Areas of archeological or historical significance indicated by listing on, or determined eligible for inclusion in, the National Register of Historic Places, designated as State Archeological Landmarks, or considered eligible for designation as State Archeological Landmarks, or have been identified by State agencies, or political subdivisions of the State as historically sensitive sites, districts, or areas. This includes designations by local landmarks commissions, boards, or other public authority, and/or through local preservation ordinances.

Destructive analysis - *Destroying all or a portion of an object or sample to gain specialized information. For purposes of these rules, it does not include analysis of objects or samples prior to their being accessioned by a curatorial facility.*

Discovery — The act of locating, recording, and reporting a cultural resource.

Disposal - *The discard of an object or sample after being recovered and prior to accession.*

[Division of Architecture — A department of the Texas Historical Commission charged with administering the historic architectural programs of the Antiquities Code of Texas.]

Environmental Data — Presently available information as well as data derived as an adjunct to an archeological investigation which includes, but is not limited to, area drainage, physiography, surface and subsurface geology, soils, flora, fauna, climate, the alteration of prehistoric and historic land forms, and so forth. The implications of present and/or hypothetical micro- environments should be presented when sufficient data allow for such inferences. The above elements of the environment through time must be considered during attempts to reconstruct past technological subsistence and settlement patterns.

Emergency Permit - A permit that authorizes investigations to be performed prior to the formal application for those investigations. This permit will only be issued under emergency conditions when archeological deposits are discovered during development or other construction projects, or under conditions of natural or man-made disasters that necessitate immediate action to deal with the findings.

Held-in-trust collection - *The associated set of objects, samples, records, or documents generated during investigations conducted on public lands or under public waters in the state of Texas under antiquities permits issued by the commission. A collection may consist only of records or documents.*

Historic time period — For the purposes of State Archeological Landmark designation, this time period is defined as extending from A. D. 1500 to fifty (50) years before the present date.

Investigation — Archeological or architectural activity including, but not limited to, reconnaissance or intensive survey, testing, or data recovery; preservation of rock art; underwater archeological survey, test excavation, or data

recovery excavations; monitoring; measured drawings, or photographic documentation.

Investigative Firm — A company or scientific institution which have full-time experienced research personnel capable of handling archeological investigations and employs a principal investigator. The company or institution must provide adequate field equipment and laboratory facilities for analysis, interpretation, and storage, and must have the technical capability to produce a finished report on any investigation. The company or institution holds equal responsibilities with the principal investigator to complete all requirements under an Antiquities Permit.

Land owning or controlling agency — Any state agency or political subdivision of the state that owns or controls the land(s) in question.

Local Society — Any historical preservation group, archeological society, or other community group whose aim is related to or involved in architectural or archeological site preservation.

Mitigation — The amelioration of potential total or partial loss of significant cultural resources, accomplished through pre-planned data recovery actions to preserve or recover an appropriate amount of data by application of current professional techniques and procedures, as defined in the permit's scope of work. Following any mitigation or data recovery investigation, a clearance letter may be issued by the **commission [committee]** which authorizes destruction of all or part of a cultural resource without an Antiquities Permit.

Monitoring — The on-site presence of a professional archeologist to observe construction activities that could or will alter cultural resources and to report findings and effects.

National Register — The National Register of Historic Places is a register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture maintained by the Secretary of the Interior. Information concerning the National Register is available through the State Historic Preservation Officer, Texas Historical Commission, P. O. Box 12276, Capitol Station, Austin, Texas 78711-2276.

[National Register Department — A department of the Texas Historical Commission which administers the National Register Programs of the National Historic Preservation Act of 1966, as amended.]

Permit Application Offense - Failure to properly apply for

a permit, and/or receive authorization for an emergency permit by the **commission [committee]**, prior to the actual performance of an archeological or architectural investigation.

Permit Censuring - A restriction in the ability of a principal investigator and investigative firm to be issued a permit under the auspices of the Antiquities Code of Texas.

Permittee — An individual, institution, investigative firm, or company issued an Antiquities Permit for any archeological investigation or historic preservation activity.

Political subdivision — A local government entity created and operating under the laws of this state, including a city, county, school district, or special district created under the Texas Constitution, Article III, Section 52(b)(1) or (2), or Article XVI, Section 59.

Prehistoric period — For the purpose of State Archeological Landmark designation, a time period that encompasses a great length of time beginning when man first entered the New World and ending with the arrival of the Spanish Europeans, which has been approximated for purposes of these guidelines at A. D. 1500.

Professional personnel — Appropriately trained specialists required to perform adequate archeological and architectural investigations. These personnel include the following:

(A) **Principal investigator** - A professional archeologist with demonstrated competence in field archeology and laboratory analysis, as well as experience in administration, logistics, personnel deployment, report publication, and fiscal management. In addition to these criteria the principal investigator shall:

(i) hold a graduate degree in anthropology/archeology, or closely related field such as, geography, geology, or history, if their degree program also included formal training in archeological field methods, research, and site interpretation from an accredited institution of higher education; and/or be accredited by the **Register of Professional Archeologists (ROPA)** or the Society of Professional Archeologists (SOPA) with emphasis in field research, historical archeology, or underwater archeology as appropriate; and/or have successfully completed investigations under an Antiquities Permit; and/or hold an active permit not in default, prior to the date that these rules become effective;

(ii) not hold one or more defaulted permits;

(iii) have at least twelve months of full-time experience in a supervisory role involving complete responsibility for a major portion of a project of comparable complexity to that which is to be undertaken under permit;

(iv) have demonstrated the ability to disseminate the results of an archeological investigation in published form conforming to current professional standards;

(v) remain on-site a minimum of 25% of the time required for the field investigation, and whose names must appear on the project report;

(vi) provide a field archeologist to supervise the field investigation in his or her absence; and

(vii) testify concerning report findings in the interest of controversy or challenge.

(B) Professional archeologist. One who has a degree in anthropology/ archeology or closely related field if that degree also included formal training in archeological field methods, research, and site interpretation, conducts archeological investigations as a vocation, and whose primary source of income is from archeological work. Qualifications for specialized types of professional archeologists are listed below.

(i) Prehistoric Archeologist. One who is a professional archeologist and, in addition, meets the following conditions:

(I) has been trained in the field of prehistoric archeology;

(II) has a minimum experience of two comprehensive archeological field seasons of three to six months in length on archeological site(s) that contain prehistoric (pre-16th century) archeological deposits; and

(III) has published the results of those prehistoric archeological investigations in scholarly journals or publications.

(ii) Historic archeologist. One who is a professional archeologist and, in addition, meets the following conditions:

(I) has been trained in the field of historical archeology;

(II) has a minimum experience of two comprehensive archeological field seasons of three to six months in length on archeological site(s) that contain historic (post-16th century) archeological deposits; and

(III) has published the results of those historical archeo-

logical investigations in scholarly journals or publications.

(iii) Underwater archeologist. One who is a professional archeologist and, in addition, is a competent diver with a minimum of two full seasons in underwater archeological testing or excavation projects. Training and experience sufficient for safe and proficient use of the specialized underwater remote sensing survey, excavation and mapping techniques, and equipment are required.

(iv) Underwater archeological surveyor. One who has training and experience sufficient for safe and proficient supervision of appropriate remote sensing survey equipment operation, as well as for interpretation of survey data for anomalies and geomorphic features that may have some probability of association with submerged aboriginal sites and sunken vessels. This individual may represent the archeological interests on board the survey vessel in the absence of an underwater archeologist, as defined in subparagraph (iii) of this definition.

(C) Project architect. A professional architect who is a qualified architect and has had full-time experience in a supervisory role on at least one historic preservation project. The project architect must be involved, at a minimum, in 25% of the time required for an historic structures permit project and, when not involved with the project, must assign a qualified historic architect to supervise the preservation project.

(D) Historic architect. One who has a professional degree in architecture or a state license to practice architecture, plus one of the following:

(i) at least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field: or

(ii) at least one year of full-time professional experience on historic preservation projects to include experience on projects similar to the project to be permitted; detailed investigations of historic structures; preparation of historic structures research reports; and preparation of plans and specifications for preservation projects.

(E) Historian. The minimum professional qualifications are a graduate degree in history or closely related field; or a bachelor's degree in history or a closely related field plus one of the following:

(i) at least 2 years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional

institution; or

(ii) substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

(F) Geomorphologist or Geoarcheologist. A person that holds a graduate degree in geology, geomorphology, archeology, or other closely related field, and has had sufficient training to adequately evaluate the sedimentology, stratigraphy, and pedology of deposits in the field and be competent to describe and analyze the deposits using standard terminology and methods. This person should also have general archeological experience in area in which the investigations are to occur.

Project sponsor — An individual, institution, investigative firm, or company paying costs of archeological investigation or historic preservation activity.

Public agency or agencies - Any state agency or political subdivision of the State.

Public lands—Non-federal, public lands that are owned or controlled by the State of Texas or any of its political subdivisions, including the tidelands, submerged land, and the bed of the sea within the jurisdiction of the State of Texas.

Reconnaissance — A literature search and record review plus an on-the-ground surface examination of selected portions of an area adequate to assess the general nature of the resource probably present. Shovel test excavations may be required to help identify some sites. This level of investigation is appropriate to preliminary planning decisions and will be of assistance in determining viable project alternatives. A reconnaissance does not preclude a survey and cannot be used for the purposes of achieving construction clearance.

Recorded archeological site - Sites which are recorded, listed, or registered with an institution, agency, or university, such as the Texas Archeological Research Laboratory of the University of Texas at Austin.

Recovered Artifacts - An object or sample has been removed from the site where it was found.

Research design — A theoretical approach taken prior to implementation of a field study and submitted with an archeological permit application from and which is essential to the success of scientific objectives, resource management decision-making, and project management.

Rock art — All manner of carvings, scratchings, and paintings on rock which relate to human life and culture, including, but not limited to, Native American pictographs and petroglyphs, historical graffiti and inscriptions, and religious and genealogical records.

Ruins — An historic or prehistoric site, composed of both archeological and structural remains, in which the structure is in a state of collapse or deterioration to the point that the original roof and/or flooring and/or walls are either missing, partially missing, collapsed, partially collapsed, or seriously damaged through natural forces or structural collapse. Ruins are considered archeological sites and the original structure of a ruin must be at least 100 years old. Historic structures recently damaged or destroyed are not classified as ruins.

Scope of work — The methodological techniques used to perform the archeological or architectural investigations under permit.

Significance — A trait attributable to sites, buildings, structures and objects of historical, architectural, and archeological (cultural) value which are eligible for designation to State Archeological Landmark status and protection under the Antiquities Code of Texas. Similarly, a trait attributable to properties included in or determined eligible for inclusion in the National Register of Historic Places.

Site — A shortened term meaning any place containing evidence of human activity, a cultural resource, or an archeological site.

Society of Professional Archeologists **or Register of Professional Archeologists** — A voluntary national professional organization of archeologists which certifies qualified archeologists.

Sponsor — An agency, individual, institution, investigative firm, organization, corporation, subcontractor, and/or company paying costs of archeological investigation or historic preservation activity or that sponsors, funds, or otherwise functions as a party under a permit.

State agency — A department, commission, board, office, or other agency that is a part of state government and that is created by the constitution or a statute of this state. The term includes an institution of higher education as defined by the Texas Education Code, Section 61.003.

State Archeological Landmark — Any cultural resource or site located in, on, or under the surface of any lands

belonging to the State of Texas or any county, city, or other political subdivision of the state, or a site officially designated as a landmark at an open public hearing before the **commission [committee]**.

State Historic Preservation Officer — The official within each state authorized by the state, at the request of the Secretary of the Interior, to act as liaison for purposes of implementing the National Historic Preservation Act. **In Texas, the Executive Director of the commission is designated as the State Historic Preservation Officer.**

Survey — An intensive on-the-ground pedestrian survey to provide for the determination of the number and extent of the resources present and their scientific importance. Shovel testing may be required to locate sites when the ground surface is obscured or to determine the horizontal limit of buried archeological deposits. Following any survey investigation, a clearance letter may be issued by the committee which authorizes destruction of all or part of a cultural resource without an Antiquities Permit.

Testing — Application of current archeological techniques to the investigation and evaluation of one or more sites. Testing must be accomplished in such a way as to recover the adequate amount of archeological, historical, and scientific data through detailed examination of a representative sample of the site or sites. Testing must result in the recovery of data, specimens, and samples relating to the total cultural content of the site or sites. Results of testing will be utilized in preservation of the remaining portions of the resource. Following any testing investigation, a clearance letter may be issued by the **commission [committee]** which authorizes destruction of all or part of a cultural resource without an Antiquities Permit.

26.27 Disposition of Archeological Artifacts and Data.

(a) **Processing.** Investigators who receive permits shall be responsible for cleaning, conserving, cataloguing, and preserving all collections, specimens, samples, and records, and for the reporting of results of the investigation.

(b) **Ownership.** All specimens, artifacts, materials, and samples plus original field notes, maps, drawings, photographs, and standard state site survey forms, resulting from the investigations remain the property of the State of Texas. Certain exceptions left to the discretion of the **commission [committee]** are contained in the Texas Natural Resources Code [of 1977, Title 9, Chapter 191,] Section 191.052 (b). The **commission [committee]** will determine the final disposition of all artifacts, specimens, materials, and data recovered by investigations on State Archeological Landmarks or potential landmarks which remain

the property of the State. Antiquities from State Archeological Landmarks are of inestimable historical and scientific value and should be preserved and utilized in such a way as to benefit all the citizens of Texas. It is the rule of the **commission [committee]** that such antiquities shall never be used for commercial exploitation.

(c) **Housing, conserving, and exhibiting antiquities from State Archeological Landmarks.**

(1) After investigation of a State Archeological Landmark has culminated in the reporting of results, the antiquities will be permanently preserved in research collections at the curatorial **facility [institution]** approved by the **commission [committee]**. Prior to the expiration of a permit, proof that archeological collections and related field notes are housed in a curatorial facility is required. Failure to demonstrate proof before the permit expiration date may result in the principal investigator and co-principal investigator falling into default status.

(2) By December 31, 2002, institutions that curate artifacts recovered under Antiquities Permit(s) must be accredited through the Council of Texas Archeologists Accreditation and Review Council accreditation program. Institutions housing antiquities from State Archeological Landmarks will also be responsible for adequate security of the collections, continued conservation, periodic inventory, and for making the collections available to qualified institutions, individuals, or corporations for research purposes.

(3) Exhibits of materials recovered from State Archeological Landmarks will be made in such a way as to provide the maximum amount of historical, scientific, archeological, and educational information to all the citizens of Texas. First preference will be given to traveling exhibits following guidelines provided by the **commission [committee]** and originating at an adequate facility nearest to the point of recovery. Permanent exhibits of antiquities may be prepared by institutions maintaining such collections following guidelines provided by the **commission [committee]**. A variety of special, short-term exhibits may also be authorized by the **commission [committee]**.

(d) **Access to antiquities for research purposes.** Antiquities retained under direct supervision of the **commission [committee]** will be available under the following conditions:

(1) Request for access to collections must be made in writing to the Texas Historical Commission, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276, indicating to which collection and what part of the collection access is desired; nature of research and special requirements dur-

ing access; who will have access, when, and for how long; type of report which will result; and expected date of report.

(2) Access will be granted during regular working hours to qualified institutions or individuals for research culminating in non-permit reporting. A copy of the report will be provided to the **commission [committee]**.

(3) Data such as descriptions or photos when available will be provided to institutions or individuals on a limited basis for research culminating in nonprofit reporting. A copy of the report will be provided to the **commission [committee]**.

(4) Access will be granted to corporations or individuals preparing articles or books to be published on a profit-making basis only if there will be no interference with conservation activities or regular research projects; photos are made and data collected in the facility housing the collection; arrangements for access are made in writing at least one month in advance; cost of photos and data and a reasonable charge of or supervision by responsible personnel are paid by the corporation or individual desiring access; planned article or publication does not encourage or condone treasure hunting activity on public lands, State Archeological Landmarks, or National Register sites, or other activities which damage, alter, or destroy cultural resources; proper credit for photos and data are indicated in the report; a copy of the report will be provided to the **commission [committee]**.

(5) The **commission [committee]** may maintain a file of standard photographs and captions available for purchase by the public.

(6) A written agreement containing the appropriate stipulations will be prepared and executed prior to the access.

(7) Institutions, organizations, and agencies designated by the **commission [committee]** as depositories for antiquities collections shall promulgate reasonable rules and regulations governing access to those collections in their custody.

(e) Pursuant to Texas Natural Resources Code sec. 191.091-092, all antiquities found on land or under waters belonging to the State of Texas or any political subdivision of the State belong to the State of Texas. The commission is charged with the administration of the Antiquities Code and exercises the authority of the State in matters related to these held-in-trust collections.

(f) Decisions regarding the disposal, deaccession, or de-

structive analysis of held-in-trust collections are the legal responsibility of the commission. Authority to deal with requests is delegated to the Executive Director of the commission. Commission staff will seek commissioner approval on controversial or other requests deemed appropriate by the Executive Director of the commission. Acceptable circumstances for disposal, deaccessioning, or destructive analysis are provided by these rules. Exceptions will be considered by the commission on a case-by-case basis. Under no circumstances will held-in-trust collections be disposed of, or deaccessioned through sale.

(g) Disposal. The commission's rules for disposal applies to objects and samples prior to accessioning that have been recovered from a site on public lands or under public waters under an Antiquities Permit issued by the commission.

(1) Disposal of recovered objects or samples from a site on public lands or from public waters under an antiquities permit issued by the commission must be approved by the commission. Approval for anticipated disposal is by means of an approved research design at the time the Antiquities Permit is issued. The manner in which the object or sample is to be disposed must be included in the research design. Additional disposal not included in the approved research design must be approved by the commission prior to any disposal action.

(2) The appropriate reasons for disposal include, but are not limited to, the following:

(A) Objects that are highly redundant and without additional merit;

(B) Objects that lack historical, cultural, or scientific value;

(C) Objects that have decayed or decomposed beyond reasonable use and repair or that by their condition constitute a hazard to other objects in the collection.

(D) Objects that may be subject to disposal as required by federal laws.

(3) Items disposed of after recovery must be documented in the notes, and final report, with copies provided to the curatorial facility.

(4) The commission relinquishes title for the State to any object or sample approved for disposal. The object or sample must be disposed of in a suitable manner.

(h) Deaccession. The commission's rules for deaccession

recognizes the special responsibility associated with the receipt and maintenance of objects of cultural, historical, and scientific significance in the public trust. Although curatorial facilities become stewards of held-in-trust collections, title is retained by the commission for the State. Thus, the decision to deaccession held-in-trust objects or collections is the responsibility of the commission. The commission recognizes the need for periodic reevaluations and thoughtful selection necessary for the growth and proper care of collections. The practice of deaccessioning under well-defined guidelines provides this opportunity.

(1) Deaccessioning may be through voluntary or involuntary means. The transfer, exchange, or deterioration beyond repair or stabilization or other voluntary removal from a collection in a curatorial facility is subject to the limitations of this rule.

(2) Involuntary removal from collections occurs when objects, samples, or records are lost through theft, disappearance, or natural disaster. If the whereabouts of the object, sample, or record is unknown, it may be removed from the responsibility of the curatorial facility, but the commission will not relinquish title in case the object, sample, or record subsequently is returned.

(i) Accredited curatorial facilities. Authority to deal with deaccessioning of limited categories of objects and samples from held-in-trust collections is delegated to a curatorial facility accredited by the Accreditation and Review Council (ARC) of the Council of Texas Archeologists through a contractual agreement between the curatorial facility and the commission. Annual reports will be submitted to the commission on these deaccessioning actions.

(1) If the commission determines that a curatorial facility has acted in violation of the contractual agreement and this rule, the contractual agreement will be terminated. From that date forward, the commission will review and decide on all deaccession actions of that curatorial facility concerning held-in-trust objects and samples. A new contractual agreement may be executed at such time as the commission determines that the curatorial facility has come into compliance with this rule.

(2) Curatorial facilities not accredited by the ARC shall submit written deaccession requests of objects and samples from held-in-trust collections to the commission.

(3) Requests to deaccession a held-in-trust collection in its entirety must be submitted to the commission.

(4) The reasons for deaccessioning all or part of held-in-trust collections include, but are not limited to, the following:

(A) Objects lacking provenience that are not significant or useful for research, exhibit, or educational purposes in and of themselves;

(B) Objects or collections that do not relate to the stated mission of the curatorial facility. Objects or collections that are relevant to the stated mission of the curatorial facility may not be deaccessioned on the grounds that they are not relevant to the research interests of current staff or faculty;

(C) Objects that have decayed or decomposed beyond reasonable use or repair or that by their condition constitute a hazard in the collections;

(D) Objects that have been noted as missing from a collection beyond the time of the next collections-wide inventory are determined irretrievable and subject to be deaccessioned as lost;

(E) Objects suspected as stolen from the collections must be reported to the commission in writing immediately for notification to similar curatorial facilities, appropriate organizations, and law enforcement agencies. Objects suspected as stolen and not recovered after a period of three years or until the time of the next collections-wide inventory are determined irretrievable and subject to being deaccessioned as stolen;

(F) Objects that have been stolen and for which an insurance claim has been paid to the curatorial facility.

(G) Objects that may be subject to deaccessioning as required by federal laws.

(H) Deaccession for reasons not listed above must be approved on a case-by-case basis by the commission.

(j) Title to Objects or Collections (9) The commission does not relinquish title for the State to an object or sample that has undergone destructive analysis and the object or sample is not deaccessioned.

Deaccessioned. If deaccessioning is for the purpose of transfer or exchange, commission retains title for the State to the object or collection. A new held-in-trust agreement must be

executed between the receiving curatorial facility and the THC.

(1) If deaccessioning is due to theft or loss, the commission will retain title for the State to the object or collection in case it is ever recovered, but the curatorial facility will no longer be responsible for the object or collection.

(2) If deaccessioning is due to deterioration or damage beyond repair or stabilization, the commission relinquishes title for the State to the object or collection and the object or collection must be discarded in a suitable manner.

(k) **Destructive Analysis.** The commission's rules for destructive analysis applies only to samples and objects from held-in-trust collections accessioned into the holdings of a curatorial facility. Destructive analysis of samples or objects prior to placement in a curatorial facility is covered by the research design approved for the Antiquities Permit. Authority to deal with destructive analysis requests of categories of objects and samples from held-in-trust collections is delegated to a curatorial facility accredited or having provisional status by ARC through a contractual agreement between the curatorial facility and the commission. Annual reports will be submitted to the commission on these destructive analysis actions.

(1) A written research proposal must be submitted to the curatorial facility stating research goals, specific samples or objects from a held-in-trust collection to be destroyed, and research credentials in order for the curatorial facility to establish whether the destructive analysis is warranted.

(2) If the commission determines that a curatorial facility has acted in violation of the contractual agreement and this rule, the contractual agreement will be terminated. From that date forward, the commission will review and decide on all destructive analysis actions of that curatorial facility concerning held-in-trust objects and samples. A new contractual agreement may be executed at such time as the commission

determines that the curatorial facility has come into compliance with these rules.

(3) Curatorial facilities not accredited by the ARC shall submit destructive analysis requests of objects and samples from held-in-trust collections to the commission.

(4) Conditions for approval of destructive analysis may include qualifications of the researcher, uniqueness of the project, scientific value of the knowledge sought to be gained, and the importance, size, and condition of the object or sample.

(5) Objects and samples from held-in-trust collections approved for destructive analysis purposes are loaned to the institution where the researcher is affiliated. Objects and samples will not be loaned to individuals for destructive analysis.

(6) If the curatorial facility denies a request for destructive analysis of a sample or object from a held-in-trust collection, appeal of the decision is through the commission.

(7) Information gained from the analysis must be provided to the curatorial facility as a condition of all loans for destructive analysis purposes. After completion of destructive analysis, the researcher must return the information (usually in the form of a research report) in order for the loan to be closed. Two copies of any publications resulting from the analysis must be sent to the curatorial facility. If the object or sample is not completely destroyed by the destructive analysis, the remainder must be returned to the curatorial facility.

(8) It is the responsibility of the curatorial facility to monitor materials on loan for destructive analysis, to assure their correct use, and to note the returned data in the records.

Text of the proposed unmarked burial legislation provided by Alston Thoms.

**ABILL TO BE ENTITLED
ANACT**

Relating to the protection of certain unmarked burials and associated human remains and funerary objects and the disposition and/or repatriation of same and to the creation of certain offenses concerning unmarked burials; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 42, Penal Code, is amended by adding Section 42.13 to read as follows:

Sec. 42.13. DISTURBING AN UNMARKED BURIAL. (a) In this section:

(1) "Funerary object" means an object buried with a person, including items of personal adornment, stone, bone and shell tools, pottery and stone vessels and pipes, casket and casket hardware. The term includes objects that are part of a death rite or ceremony of a culture that have been placed with individual human remains.

(2) "Human remains" means the physical remains of a human body, including bone, hair, teeth, mummified flesh, and ash.

(3) "Unmarked burial" means any human remains or associated funerary objects or any location where human remains or associated funerary objects are discovered or are reasonably likely to exist on the basis of archeological or historical evidence but to which Subtitle C, Title 8, Health and Safety Code, does not apply.

(4) "Disturb" or "Disturbance" means the removal, damage, or other alteration or defacing of human remains or funerary objects of an unmarked burial.

(b) A person commits an offense if the person intentionally or knowingly:

(1) disturbs human remains or funerary objects from an unmarked burial; or

(2) buys, sells, barters or trades human remains or funerary objects.

(c) A person commits an offense if the person knows of the disturbance of an unmarked burial and the person intentionally or knowingly fails to notify either (i) the sheriff of the county in which the unmarked burial is located, or (ii) the state archeologist of the disturbance of an unmarked burial.

(d) An offense under Subsection (b) is a state jail felony. A second conviction under that subsection is a third degree felony. An offense under Subsection (c) is a Class A misdemeanor. A second conviction under subsection (c) is a state jail felony.

(e) It is an Affirmative defense to the application of this

section that the human remains of funerary objects were recovered under:

(1) Chapter 191, Natural Resources Code;

(2) The National Historic Preservation Act (16 U.S.C. Section 470 et seq.) Or

(3) 36 C.F.R. Part 800.

(f) It is an affirmative defense to prosecution for an alleged violation of this section that the human remains or funerary objects were recovered under:

(1) any applicable federal or state law, rule, or order, other than a federal law or rule cited in Subsection (e), including:

(A) Executive Order 11593 (36 Fed. Reg. 8921);

(B) The Archaeological Resources Protection Act of 1979 (16 U.S.C. Section 470aa et seq.);

(C) Title 9, Natural Resources Code, Section 192.002;

(D) The Native American Graves Protection and Repatriation Act (25 U.S.C. Section 3001 et seq.); or

(2) the lawful authority of the state archeologist.

(g) At the termination of a criminal prosecution of a defendant under this section, either by a finding of not guilty or final conviction, if the custodial rights to the remains cannot be established to the satisfaction of the presiding judge who shall make due inquiry, the state assumes jurisdiction as provided by Chapter 192, Natural Resources Code, over any human remains or funerary objects associated with the offense.

(h) If any provision in this chapter is either unenforceable by law or held unconstitutional, that provision shall no longer apply, but the remainder of the chapter remains in effect.

SECTION 2. Title 9, Natural Resources Code, is amended by adding Chapter 192 to read as follows:

CHAPTER 192. DISCOVERY OF UNMARKED BURIALS

Sec. 192.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Historical Commission.

(2) "Funerary Object" means an object buried with a person, including items of personal adornment, stone, bone and shell tools, pottery and stone vessels and pipes, casket and casket hardware. The term includes objects that are part of a death rite or ceremony of a culture that have been placed with individual human remains.

(3) "Human Remains" means the physical remains of a human body, including bone, hair, teeth, mummified flesh, and ash.

(4) "Medical Examiner" means a person appointed under Section 2, Article 49.25, Code of Criminal Procedure.

(5) "American Indian Remains" means human remains of or relating to a tribe, band, nation, people, or culture that is indigenous to the United States.

(6) “Professional archeologist” means a person:

(A) Certified by the Register of Professional Archeologists; or

(B) Meeting the qualifications for Archeology in the Secretary of Interior’s Standards and Guidelines for Archeology and Historic Preservation.

(7) “State Archeologist” means the person entrusted with duties of the Texas Historical Commission under Section 442.007, Government Code.

(8) “Unmarked burial” means any human remains or associated funerary objects or location where human remains or associated funerary objects are discovered or are reasonably likely to exist on the basis of archeological or historical evidence but to which Subtitle C, Title 8, Health and Safety Code, does not apply.

(9) “Disturb” or “Disturbance” means the removal, damage, or other alteration or defacing of human remains or funerary objects of an unmarked burial.

Sec. 192.002. DISCOVERY OF UNMARKED BURIALS. (a) A person who discovers an unmarked burial in, partially in or on the ground immediately shall stop any activity that may disturb the burial and shall report the presence and location of the burial to the sheriff of the county in which the burial is located or to the State Archeologist. Activity that will not disturb the burial site may continue.

(b) The person who discovers an unmarked burial shall immediately take all reasonable steps to secure and maintain its preservation. If it is necessary to move an object or objects in an unmarked burial before completion of disposition as prescribed by Section 192.005 of this Chapter to permit the continuation of work on a construction project or similar projects, the state archeologist or sheriff shall oversee and require that the move be accomplished in the manner that will least disturb and best preserve the object or objects in an unmarked burial before the activity can recommence.

(c) If human remains are discovered and the state archeologist or a professional archeologist determines that further human remains are unlikely to be present at the site, then the steps to be taken under Subsection (b) of this section extend to soil immediately surrounding the burial and to funerary objects, sacred ceremonial objects, or objects of national or tribal patrimony that are discovered along with the human remains.

(d) The County Sheriff or the State Archeologist to whom an unmarked burial is reported under this section shall keep the location of the unmarked burial confidential from those persons except those mentioned in section 192.005 of this chapter. The location of the site is confidential and may not be disclosed in any public document, and is exempt from disclosure under the Texas Public Information Act and cannot be waived, even if a request for

compliance is not timely responded to or an Attorney General’s opinion is not timely requested.

Sec. 192.003. FAILURE TO REPORT; CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly fails to report the presence or discovery of an unmarked burial within 48 hours to the State Archeologist or the Sheriff of the county in which the remains are found unless the discovery occurred as part of a legitimate activity undertaken after consultation with the Texas Historical Commission.

(b) An offense under this sections is a Class A misdemeanor. A second conviction under this section is a State Jail Felony.

Section 192.004 DISTURBANCE OF BURIAL; CRIMINAL PENALTY.

(a) A person commits an offense if the person disturbs or permits disturbance of an unmarked human burial with the intent to unlawfully appropriate human remains or funerary objects. A person found in actual or constructive possession of human remains or funerary objects more than 50 feet from the burial is presumed to intend to appropriate the remains or objects unless the possession is pursuant to Section 192.002 (b) of this chapter.

(b) An offense under this section is a State Jail Felony. A second conviction under this section is a Third Degree Felony.

Sec. 192.005. DISPOSITION OF REMAINS (a) If there is reason to believe an unmarked burial site may contain human remains, the law enforcement officer or state archeologist shall within three business days notify the landowner and the appropriate medical examiner. If the remains reported under this section are associated with or suspected of association with any crime, the medical examiner shall within five business days inform the landowner and the person whose activities resulted in the discovery of the site as to the nature and duration of any additional measures needed to protect the site.

(b) If remains reported under this section are not associated with or suspected of association with any crime, the state archeologist shall be notified by the medical examiner within five business days. The state archeologist shall inform the landowner and the person whose activities resulted in discovery of the site as to the nature and duration of any additional measures needed to protect the site as soon a reasonably practicable, but no later than five business days.

(c) If review by the state archeologist of human remains determines the remains to be American Indian remains and any funerary objects suggest or demonstrates a direct historical relationship of the remains to an indigenous American Indian tribe, band, nation, people or culture or other ethnic group, the state archeologist shall:

(1) notify the appropriate American Indian tribe or nation leaders; and

(2) consult with the appropriate tribes or nation's leaders regarding any proposed treatment or scientific studies and final disposition of the remains.

(d) All American Indian human remains and associated funerary objects not claimed for reburial by the applicable tribe or nation shall be placed for curation purposes by the state archeologist with an institution or state or local government agency, including an institution of higher learning that receives federal funds. In other cases, where the burial remains and associated funerary objects are not American Indian remains and are not directly related to an indigenous tribe or nation, then a determination by the State Archeologist shall be made as to what racial or ethnic group the human remains belong to as a racial or ethnic group. Once determined, the State Archeologist shall contact any descendants that can be determined from any applicable racial or ethnic group and failing same shall contact appropriate local or state racial or ethnic leaders for consultation and determination of disposition. If the remains are not claimed for repatriation by the persons consulted by the State Archeologist entity, the state archeologist shall designate an appropriate repository for curation or reinterment of the human remains.

(e) Unmarked burials and funerary objects discovered by professional archeologists during the performance of their official duties shall be reported to the state archeologist within three business days of the discovery. Not later than 15 business days after notification to the state archeologist, the archeologist who discovered the unmarked burial and/or funerary objects shall report to the State Archeologist concerning the cultural and biological characteristics of the burial and shall recommend temporary disposition of the remains for purposes of analysis in accordance with this chapter.

Sec. 192.006. EXCAVATION NOT REQUIRED. This chapter does not require excavation of an unmarked human burial unless excavation is necessary to prevent destruction of the remains or associated funerary objects.

Sec. 192.007. INVOLVEMENT OF PRIVATE LANDOWNERS. (a) If human remains or funerary objects are disturbed on private land, notification by the state archeologist to the landowner is required within three business days. At the request of the landowner, the state archeologist shall consult with the landowner about the proposed treatment and disposition of the human remains and funerary objects but the landowner receives no additional rights to the human remains or funerary items.

(b) The location of human remains or funerary objects does not allow public access on the private property controlled by the landowner.

Sec. 192.008. AFFIRMATIVE DEFENSES TO PROSECUTION. It is an affirmative defense to prosecution for an alleged violation of Section 192.004 that:

(1) the person:

(A) is the landowner or the landowner's agent, employee, easement holder, or tenant and the disturbance of the unmarked burial or funerary objects occurred accidentally in the course of legitimate activity; and

(B) has no intention of further disturbing or permitting the disturbance of an unmarked burial or funerary objects; or

(2) the person was a law enforcement officer, a medical examiner, a professional archeologist, a person working under the lawful authority of the state archeologist, or another official performing a duty imposed by law, and the disturbance of the unmarked burial or funerary objects occurred in the performance of the person's official duty.

Sec. 192.009. RULEMAKING AUTHORITY. The Texas Historical Commission by rule shall establish procedures to implement this chapter.

Sec. 192.010 SAVINGS CLAUSE. If any provision in this chapter is either unenforceable by law or held unconstitutional that provision shall no longer apply but the remainder of the chapter remains in effect.

SECTION 3. (a) Section 42.13, Penal Code, as added by this Act, and Sections 192.003 and 192.004, Natural Resources Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 37.09, Texas Penal Code, is amended by changing subsection (d)(2) to read as follows:

(2) observes human remains under circumstance in which a reasonable person would believe that an offense has been committed; and knows or reasonably should know that a law enforcement agency the County Sheriff or the State Archeologist is not aware of the existence of or location of the remains, and fails to report the existence of and location of the remains to a law enforcement agency the County Sheriff or the State Archeologist.

SECTION 4. This Act takes effect September 1, 2001.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Membership dues for 2001 are now payable.

Use the form below for any corrections.

Council of Texas Archeologists Membership and Renewal Form

Return to:

Melissa Green, CTA Secretary-Treasurer
c/o Geo-Marine, Inc.
550 East 15th Street
Plano, TX 75074

Address correction only (see below).

I wish to join or renew my membership in CTA.

(membership is based on the calendar year Jan-Dec)

- | | |
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| <input type="checkbox"/> Contractors List | \$ 100.00 |
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Total amount remitted to CTA

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Editor's Note:

The wonderful world of computers and software programs has both streamlined and complicated the publication of this newsletter. For that reason I am requested that the submission of articles and reports for publication conform to the following: 1) Word 2000 or Wordperfect 8.0 (or earlier) in Times New Roman 11pt font with special formatting for emphasis only; 2) please send any table as tab delimited text; and 3) graphic files be submitted as separate files in a generally compatible format such as *.bmp, *.tif, etc. I recommend that if you want to include a graphic in your submission, please send me a test version first.

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