BY THE COMPTROLLER GENERAL

Report To The Chairman, Committee On Interior And Insular Affairs House Of Representatives

OF THE UNITED STATES

Are Agencies Doing Enough Or Too Much For Archeological Preservation? Guidance Needed

The Department of the Interior is responsible under the laws for guiding and coordinating the archeological activities of many different Federal and State agencies. Because the Department has not provided strong guidance and leadership, historic preservation efforts have been characterized by disorder, confusion, and controversy.

GAO makes recommendations to Interior, the Advisory Council on Historic Preservation, and other Federal agencies designed to improve the administration and operations of the National Archeology Program.

CED-81-61

APRIL 22, 1981

Request for copies of GAO reports should be sent to:

U.S. General Accounting Office
Document Handling and Information
Services Facility
P.O. Box 6015
Gaithersburg, Md. 20760

Telephone (202) 275-6241

The first five copies of individual reports are free of charge. Additional copies of bound audit reports are $3.25 each. Additional copies of unbound report (i.e., letter reports) and most other publications are $1.00 each. There will be a 25% discount on all orders for 100 or more copies mailed to a single address. Sales orders must be prepaid on a cash, check, or money order basis. Check should be made out to the "Superintendent of Documents".

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-125045

The Honorable Morris K. Udall
Chairman, Committee on Interior
and Insular Affairs
House of Representatives

Dear Mr. Chairman:

Your May 24, 1979, letter requested two reports dealing with Federal programs to identify, protect, and recover, archeological resources. Our first report entitled "Uncertainties Over Federal Requirements For Archeological Preservation At New Melones Dam In California" (CED-80-29) was issued on December 21, 1979.

This report discusses problems with Federal archeological programs and recommends ways to improve their efficiency, economy, and effectiveness. We also included the potential impact of the National Historic Preservation Act Amendments of 1980 (Public Law 96-515) on our findings, conclusions, and recommendations.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 10 days from the date of the report. At that time we will send copies to the Director, Office of Management and Budget; the heads of the departments or agencies involved; and other interested parties.

Sincerely yours,

Shelton J. Docław

Acting Comptroller General
of the United States

COMPTROLLER GENERAL'S REPORT
TO THE CHAIRMAN, COMMITTEE
ON INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES

ARE AGENCIES DOING ENOUGH OR TOO MUCH FOR ARCHEOLOGICAL PRESERVATION? GUIDANCE NEEDED

D I G E S T

The National Archeology Program, which costs about $100 million a year, is not working well. The Department of the Interior must provide better leadership and direction to Federal agencies and States. Without better guidance, some Federal agencies could spend billions of dollars over the next 10 to 30 years for archeological surveys, many of which may not be necessary, while other agencies may not do enough to identify and protect archeological sites.

Interior has not established good criteria for agencies to use in determining whether identified sites are important to the national heritage nor has it provided guidance on the extent to which archeological resources must be recovered, recorded, or preserved to comply with Federal laws and regulations. This has resulted in project delays, increased costs, and general confusion over what is required to identify sites, determine their significance, and protect their resources.

Over the years, the Congress has enacted several laws protecting archeological resources and making Federal agencies responsible for identifying archeological sites that may be affected by Federal actions; determining the significance of the resources; and recovering, recording, or preserving them.

Recently the Congress passed the National Historic Preservation Act Amendments of 1980 (Public Law 96-515) to provide additional guidance and clarification to the National Preservation Program. The amendments give the Secretary of the Interior, under certain conditions, the authority (1) to waive the

1-percent limitation on the use of project funds to defray the costs of data recovery, (2) increase the role of State historic preservation programs, and (3) clarify Federal agency responsibilities under Executive Order 11593.

Interior is responsible for coordinating Federal and State archeological programs and establishing criteria used to determine whether an archeological site is significant enough to list on the National Register of Historic Places--a listing of all historical properties important to this country's heritage.

In 1978 and 1979, 22 Federal departments and agencies were involved in the archeological preservation program. GAO reviewed the programs of eight agencies whose activities had potential major impacts on archeological sites, the operations of five State historic preservation offices, and the program management of the Heritage Conservation and Recreation Service and the Advisory Council on Historic Preservation. On February 19, 1981, the Secretary of the Interior by Order 3060 abolished the Heritage Conservation and Recreation Service as a separate entity of Interior and transferred and consolidated its major functions back to the National Park Service under the supervision of the Assistant Secretary of Fish and Wildlife and Parks. (See pp. 7 to 8.)

IDENTIFYING ARCHEOLOGICAL RESOURCES

Federal departments and agencies interpret their responsibility for identifying archeological resources differently. Some agencies take the position that they are required by Executive order to survey all Federal lands to identify archeological resources. This practice could be very costly--from $388 million to about $3.9 billion--depending on whether Federal agencies survey all Government owned lands or survey lands on a sample basis. Other agencies, however, take a more conservative approach by making field surveys only in areas which may be affected by land-disturbing activities. (See pp. 11 to 13.)

Federal agencies rarely coordinate archeological overview studies made to document research about the kinds of archeological properties that may be encountered in a project area. Coordination of these studies by Interior can avoid duplication and save money. (See pp. 13 to 16.)

The Federal Highway Administration, the Bureau of Land Management, and the Water and Power Resources Service are doing a good job of requiring grantees, permittees, and licensees to do archeological surveys and of monitoring their compliance. Prior to April 1980 the Army Corps of Engineers did not have an acceptable program. It had adopted the position that neither the Corps nor private permit applicants were responsible for archeological surveys. In April 1980 the Corps changed its position to require permittees to conduct surveys limited to permit areas affected by land-disturbing activities when the District Engineer determines it is appropriate. Until recently, the Soil Conservation Service did not make any surveys. The Departments of Housing and Urban Development (HUD) and the Interior differ over the scope of HUD's responsibility to make surveys to identify archeological sites in HUD-assisted housing projects. (See pp. 16 to 18.)

The Forest Service which has adequate procedures does not always comply with requirements to make surveys and monitor land-altering activities to assure that archeological sites are not adversely affected. (See pp. 19 to 21.)

Interior could resolve much of the confusion over archeological identification surveys by finalizing its January 1977 regulations which provide specific guidance on what procedures to follow. Interior officials cite lack of staff as the reason the draft regulations have not been finalized.

Some agencies do not believe that Interior has the rulemaking authority to require them to conduct surveys to identify archeological resources. Interior needs to seek an amendment to the Archeological and Historic Preservation Act clarifying its rulemaking authority. (See pp. 18 to 19.)

DETERMINING ARCHEOLOGICAL SITE SIGNIFICANCE

Interior's criteria for determining an archeological site's significance are very broad. Agencies criticize them because almost any site can be justified as significant. However, because of the many constantly changing research questions on regional and local cultures, Interior would have great difficulty developing nationwide criteria covering each site's State and local significance.

On the other hand, if States prepared annual preservation plans outlining the importance of research questions to various cultures, State historic preservation offices could help Federal agencies determine which

properties have State and local significance and are eligible for listing on the National Register. State preservation plans have been required for States to receive historic preservation grant funds. (See pp. 23 to 34.)

State historic preservation offices, however, generally do not have usable statewide archeological preservation plans because Interior has not provided adequate criteria nor encouraged States to develop them. States therefore are unable to help Federal agencies determine whether Government projects affect significant archeological properties. Interior should encourage State historic preservation offices to play a greater role in determining which archeological properties have State and local significance and are eligible for the National Register.

DETERMINING HOW MUCH ARCHEOLOGICAL DATA SHOULD BE RECOVERED

Archeological data recovery practices differ among Federal agencies, and in some cases the work may not be needed. While some agencies limit archeological excavation to project areas, others require Federal permittees and grantees to excavate sites well outside those areas. The latter could lead to excessive costs. Neither Interior nor the Advisory Council on Historic Preservation have provided the leadership required to effectively coordinate Federal archeological recover efforts. (See pp. 35 to 38.)

The Corps and Interior differ in their interpretation of the 1-percent of project cost limitation provided by law. The Corps says the 1 percent includes charges for initial archeological survey work, while Interior says that the 1 percent does not include initial survey work which should be charged against funds appropriated for the environmental planning process. For small projects, 1 percent is often not enough to do the required archeological salvage work. During the time it takes Interior to get funds appropriated for the salvage work, projects are delayed, often significantly increasing construction costs. (See pp. 38 to 40.)

The Advisory Council on Historic Preservation is not receiving complete information from agencies justifying the proposed level of archeological excavations. Responding to GAO's

report on the New Melones Dam (CED-80-29, Dec. 21, 1979), the Executive Director said that the Council is currently working on review procedures to correct the problem of funding unnecessary archeological work.

The Council should continue these efforts and require Federal agencies to define specific significant research questions to be addressed in data recovery in order to justify archeological excavation costs. (See pp. 40 to 43 and 52.) It should also require agencies to establish peer review panels on large and controversial projects to attain a consistently high level of professional performance and to avoid duplication of effort and delays. (See pp. 43 to 45 and 52.)

Implementation of an effective archeological recovery program is also hampered by lack of information on program costs and accomplishments. As a result, Interior cannot provide meaningful reports to the Congress on the scope and effectiveness of Federal programs. (See pp. 45 to 51.)

RECOMMENDATIONS

GAO makes a number of recommendations to Interior, the Advisory Council on Historic Preservation, and other Federal agencies for improving the administration and operations of the National Archeology Program. GAO recommendations appear on pp. 21, 22, 33, 34, 51, and 52.

AGENCY AND STATE COMMENTS

Seven Federal agencies and four State historic preservation offices commented on GAO's report. All agreed with the thrust of the report and most agreed with GAO's conclusions and recommendations. In instances where there were disagreements or confusion concerning GAO's facts, conclusions, and recommendations, GAO made corrections or added clarifying language where warranted. Agency and State comments and GAO's evaluation are contained in appendixes II through XII. (See pp. 57 to 100.)

Contents

ABBREVIATIONS

ACHP	Advisory Council on Historic Preservation
BLM	Bureau of Land Management
EPA	Environmental Protection Agency
GAO	General Accounting Office
HCRS	Heritage Conservation and Recreation Service
HUD	Department of Housing and Urban Development
NPS	National Park Service
OMB	Office of Management and Budget
SCS	Soil Conservation Service

CHAPTER 1

INTRODUCTION

People have a seemingly endless desire to understand the world and their place in it. They want to know who they are and how and why they got here. The science of archeology has evolved to help people learn about the social interactions of past cultures that led to civilization as we know it. Archeology, involving those artifacts usually hidden beneath the earth's surface, is a complex, data-gathering science.

Although man has inhabited North America for perhaps 27,000 years, recorded history began only with the arrival of European explorers in the 15th century A.D. Moreover, written histories may be very selective, focusing only on the most important persons and happenings of the day. Archeological studies offer a candid, supplemental or alternative glimpse of the daily lives of people who left few, if any, written records. The artifacts from campsites and settlements form a revealing archeological record of the way people lived, how they adapted to their environment, and the kinds of things they valued. By studying earlier cultures, we may come to learn more about ourselves as human beings.

Archeological sites are a vital part of our cultural heritage; their destruction irreversibly diminishes our knowledge of the past. The Congress has recognized the need to preserve and protect the archeological resources of the United States and over the years has enacted several laws, beginning with the Antiquities Act of 1906 (Public Law 59-209). The Congress made Federal agencies responsible and accountable for any potential impact their actions may have on archeological, cultural, and historical resources.

The enactment of the Archeological and Historic Preservation Act of 1974 (Public Law 93-291) was a major event. This act made the Secretary of the Interior responsible for coordinating and administering a nationwide archeological preservation program and authorized Federal construction agencies to use program funds for archeological studies.

MAJOR LEGISLATION AFFECTING ARCHEOLOGICAL RESOURCES

The Antiquities Act of 1906 provides for the protection of all antiquities and monuments on Federal lands. The legal base for this protection was considerably strengthened by the Archeological Resources Protection Act of 1979 (Public Law 96-95).

The Historic Sites Act of 1935 (Public Law 74-292) established a policy of preserving historical resources of national significance for public use and inspiration. The act gave the Secretary of the Interior the authority to survey, document, evaluate, acquire, and preserve archeological and historical sites throughout the country.

The Reservoir Salvage Act of 1960 (Public Law 86-523) gave Interior major responsibility for preserving archeological data that might be lost through Federal dam construction. The Archeological and Historic Preservation Act of 1974 (Public Law 93-291) amended and significantly expanded the scope of the 1960 Act by requiring preservation of archeological data affected as a result of any Federal or federally related land modification activities. The act made the Secretary responsible for coordinating and administering a nationwide program for the recovery, protection, and preservation of scientific, prehistoric, historic, and archeological data which would otherwise be damaged or destroyed through Federal action. This act, referred to as the Moss-Bennett Act, for the first time authorized up to 1 percent of cost to be transferred to the Secretary for preserving archeological data on Federal construction projects, other than dam construction.

In the period between enactment of the 1960 Act and its expansion, the Congress enacted the National Historic Preservation Act of 1966 (Public Law 89-665). This act established an Advisory Council on Historic Preservation (ACHP); authorized matching grants to States to survey, plan, acquire, enhance, and preserve properties on the National Register of Historic Places (now expanded to include properties of State and local significance); and provided a basis for establishing State historical preservation offices. The act's section 106 requires Federal agencies to "take into account" the effect of their projects on historical and archeological resources and give ACHP the opportunity to comment on such effects.

In addition to these mandates, Federal agencies must also consider the National Environmental Policy Act of 1969 (Public Law 91-190), which requires Federal agencies to assess the environmental aspects of major Federal actions, including their effect on cultural resources.

Executive Order 11593

This order, dated May 13, 1971, is designed to ensure that Federal actions record, preserve, and maintain archeological, historical, or cultural resources on Federal lands.

The order expanded upon the responsibilities of Federal agencies regarding the National Historic Preservation Act of 1966. It specifically required the heads of all Federal agencies by July 1, 1973, to locate, inventory, and nominate

to the Secretary of the Interior all sites, buildings, districts, and objects under their jurisdiction or control that appeared to qualify for listing on the National Register of Historic Places. It also required the Secretary of the Interior to develop the criteria and procedures for Federal agencies to use in the reviews and nominations stipulated above.

National Historic Preservation Act Amendments of 1980

Only recently, the Congress passed the National Historic Preservation Act Amendments of 1980 (Public Law 96-515) to provide additional guidance and clarification to the National Historical Preservation Program. The Congress gave the Secretary of the Interior, under certain conditions, the authority to (1) waive the 1-percent limitation on the use of project funds to defray the costs of data recovery, (2) increase the role of State Historic Preservation Offices in the administration of the National Historic Preservation Program, and (3) clarify Federal agency responsibilities under Executive Order 11593.

ORGANIZATIONAL RESPONSIBILITIES

Until 1978, the National Park Service, Department of the Interior, through its Office of Archeology and Historic Preservation was the Federal focal point for the program of identifying and preserving archeological and historical sites. In January 1978 the Secretary transferred most of these responsibilities to the newly created Heritage Conservation and Recreation Service (HCRS). On February 19, 1981, the Secretary of the Interior by Order 3060 abolished HCRS as a separate entity of Interior and transferred and consolidated the major functions of HCRS back to the National Park Service under the supervision of the Assistant Secretary of Fish and Wildlife and Parks. Until such time as the transfer is consummated and the lines of authority become known, HCRS as used in this report will mean that organization within Interior that is responsible to serve as the Federal focal point for identifying and preserving archeological and historical sites.

HCRS, with the cooperation of other Federal agencies, States, and the private sector, directs and coordinates a nationwide effort to protect significant archeological and historical artifacts threatened by federally sponsored or assisted projects. It administers a matching Historic Preservation Fund grants-in-aid program to preserve the historical, architectural, archeological, and cultural properties of the United States. HCRS maintains the National Register of Historic Places, which is designed eventually to be a major planning tool with respect to historic properties in the Nation that are significant enough to require the Federal Government's attention.

When a Federal agency's undertaking affects a significant resource on, or eligible to be included on, the National Register, ACHP must be given an opportunity to comment on the proposed project. ACHP is an independent Federal agency within the executive branch. It has 29 members, 15 of whom represent Federal agencies whose activities affect historical and cultural properties. 1/ The remaining members represent the non-Federal sector.

Each State and territory has a historic preservation officer who plays a key role in the program. The preservation officer uses historic preservation matching grant-in-aid funds to (1) conduct comprehensive statewide historic surveys, (2) prepare preservation plans, and (3) preserve specific properties. In complying with the statutes, Federal agencies must consult and involve the State historic preservation officer when identifying and developing plans to protect significant properties.

Federal agencies are required by law and Executive order to consider the effect their actions will have on historic and archeological properties and to take the necessary measures to identify, preserve, and protect them. In 1979, 22 Federal agencies identified 2,310 archeological sites and requested Interior to determine their eligibility for the National Register.

ARCHEOLOGICAL RESOURCES PROGRAM PROCESS

Federal agencies are required by statute to begin the historical and archeological preservation review process in the early stages of planning for a construction project. The process has four major steps: (1) identifying historical and archeological properties within the project area, (2) determining the resource's significance, (3) consulting to develop plans to avoid or mitigate adverse effects, and (4) implementing the selected plan, which may include archeological preservation, protection, and recovery.

Identifying historical and archeological properties

Federal agencies are required by legislation and Executive order to locate and identify all historical and archeological properties that may be affected by federally funded projects or are located on federally owned land. In addition, each State, as a requirement for receiving Federal grants, must develop dynamic, comprehensive, statewide preservation plans,

---

1/The National Historic Preservation Act Amendments of 1980 reduced ACHP's membership from 29 to 19, 7 of whom will come from the Federal sector.

which include surveys to identify all significant historical properties in the State. How well Federal agencies are complying with the process to identify archeological properties is discussed in chapter 2.

Determining significance

Federal agencies must consult with the State historic preservation officer and the Secretary of the Interior to determine whether properties are eligible for inclusion in the National Register--a listing of historical and cultural properties important to this country's heritage.

Consultation and planning

Where properties are listed on or determined eligible for the National Register, the agency must evaluate the proposed undertaking to consider its impact on such properties. How well Interior and State historic preservation offices assist Federal agencies in determining whether their undertakings will affect a significant archeological property is discussed in chapter 3. If the undertaking will have an adverse effect, the agency must consult with ACHP and must submit a preliminary case report to ACHP, outlining the project and its impact on the property. ACHP staff, the State historic preservation officer, and the agency will then explore methods to mitigate the adverse effects.

Implementing the selected plan

Avoidance, protection in place through project design, and data recovery are the basic options for mitigation. The final plan to avoid the property or recover the data must be acceptable by all three parties and must be incorporated into a memorandum of agreement. If no agreement can be reached, the full Council is notified and may formally comment on the matter.

Once ACHP has commented, the Federal agency is responsible for deciding the ultimate disposition of the property. It may elect to carry out, modify, or ignore ACHP's recommendations.

Data recovery is the scientific retrieval, analysis, and preservation of archeological and historical materials and information that would otherwise be lost and the study of these resources in their original context. Because archeological data cannot be replaced, their protection and conservation where they are found is normally preferable to immediate excavation. Data recovery through archeological excavation is usually undertaken only as a last resort to save important information while allowing a construction project to proceed.

If the planning process reveals no way to avoid damaging or destroying an archeological property and finds that recovery of artifacts and scientific information is in the public interest, the agency may use its authority under the Archeological and Historic Preservation Act to undertake archeological excavations. The agency may contract for this work directly or may request the Secretary of the Interior to assume responsibility for the archeological investigations on a cost-reimbursable basis. It may transfer to the Secretary up to 1 percent 1/ of the authorized project appropriations or request the use of discretionary funds appropriated to the Secretary for this purpose.

When significant archeological sites are threatened by issuance of a Federal permit or license, or in other federally assisted projects where Federal project funds are not otherwise available or the permittee or licensee is unable to fund surveys or data recovery, the Secretary may elect to fund data recovery. How well Federal agencies are doing in deciding on how much data recovery is enough, is discussed in chapter 4.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Chairman, House Committee on Interior and Insular Affairs, asked us to examine how well United States archeological resources are being protected by law. His principal interest was in knowing how well the archeological statutes are working, where the problems are, and what some possible solutions may be to revamp the laws, or administration of them, so that archeological resources are adequately protected.

The chairman asked that we initially concentrate our review on the New Melones Dam controversy in California. On December 21, 1979, we issued a report to the chairman entitled "Uncertainties Over Federal Requirements for Archeological Preservation at New Melones Dam in California" (CED-80-29).

For our overall review, we identified 22 Federal departments and agencies whose activities in 1978 and 1979 resulted in the Interior making determinations of eligibility

---

1/The National Historic Preservation Act Amendments of 1980 now authorizes Federal agencies, with the Secretary's concurrence and after notifying the cognizant Senate and House committees, to waive the 1-percent limitation where, for example, rich concentrations of historical materials will be destroyed or where project costs are not commensurate with the mitigation efforts needed.

for potentially significant archeological sites. In consultation with the committee staff, we selected for detailed review eight agencies whose activities had potential major impacts on archeological sites. We examined reports, documents, regulations, and case files and interviewed officials at the following agencies:

Department of Housing and Urban Development:
Headquarters; the Atlanta, Georgia, regional and area offices; and selected Community Development Block Grant and housing loan programs in Georgia.

Department of Transportation:
Headquarters; Federal Highway Administration district offices in California and Georgia; and State Departments of Transportation in Georgia and California.

Department of the Army:
Corps of Engineers--
Headquarters; South Pacific Division; and Sacramento and San Francisco, California, district offices.

Department of the Interior:
Bureau of Land Management--
Headquarters; State offices in Colorado and New Mexico; district offices in Craig, Colorado, and Albuquerque, New Mexico; and the area office in Durango, Colorado.

Water and Power Resources Service--
Headquarters; the Cortex and Durango Project Offices in Colorado; and the Delores Canyon Project in Colorado.

Department of Agriculture:
Forest Service--
Headquarters and regional offices and national forests in California.

Soil Conservation Service--
Headquarters and State offices in Texas, Oklahoma, Arkansas, and Colorado.

Environmental Protection Agency: Headquarters; San Francisco Regional Office; the State Water Resource Control Board in California; the Georgia State Natural Resources' Environmental Protection Division and the Water Quality Control Board.

We also reviewed HCRS's regulations, policies, procedures, and practices. This included reviewing the

--operations of the Interagency Archeological Services Division at headquarters and in field offices in Atlanta, Denver, and San Francisco;

--process used to determine eligibility and to nominate properties for inclusion on the National Register; and

--policies, procedures, and practices for awarding grants to States for historical and archeological programs.

We also reviewed ACHP's operations at headquarters and the Denver field office and operations of five State historic preservation offices in California, Nevada, Colorado, New Mexico, and Georgia.

Our review approach was to select eight Federal agencies whose programs and projects had high land-altering impacts. We reviewed each agency's archeological policies, procedures, and practices to determine whether they were in accordance with requirements of archeological preservation legislation. In those instances where agencies delegated historical and archeological program compliance to Federal-aid grantees, we examined agency controls and grantee program implementation. We reviewed 85 projects to determine how well the agencies were complying with their archeological preservation responsibilities. The projects were selected after our reviews of agency and grantee files and initial talks with program officials because they demonstrated the effects of inconsistent agency actions with respect to archeological site identification (see ch. 2), determinations of significance (see ch. 3, and data recovery (see ch. 4).

Dr. Charles R. McGimsey, III, Director, Arkansas Archeological Survey, University of Arkansas, assisted us in our review by commenting on our draft report and evaluating selected ACHP memorandums of agreement with Federal agencies. (For the evaluation see app. I pp. 53-56.)

HANDLING AGENCY COMMENTS

Comments were obtained on the draft of this report from seven Federal agencies and four State historic preservation offices. All agreed with the thrust of the report and most agreed with our conclusions and recommendations. In those instances where there were disagreements or confusion concerning our facts, conclusions, and recommendations, we made corrections or added clarifying language to the report where warranted. Appendixes II through XII contain agencies' comments and our response.

CHAPTER 2

IDENTIFYING ARCHEOLOGICAL RESOURCES: CONFUSION AND DISAGREEMENT AMONG FEDERAL AGENCIES

Confusion and disagreement exist among Federal agencies on what should be done to locate and identify historic and archeological resources on Federal lands and in areas affected by Federal projects.

The Bureau of Land Management (BLM) and the Water and Power Resources Service take the position that they are required by Executive order to survey all Federal lands to identify archeological resources. This practice could cost BLM up to $2 billion and the Water and Power Resources Service up to $41 million. The Army Corps of Engineers and the Forest Service, Department of Agriculture, however, take a more conservative approach in view of costs and technological advances by making field surveys only in areas which may be affected by land-disturbing activities. The middle road between these extremes is to conduct background research and field inspections of sample tracts to make reliable predictions about the kinds and locations of archeological sites present. Such overview studies can allow an agency to eliminate from further consideration areas that are unlikely to contain anything of value and better focus its field surveys and evaluations.

Federal agencies and State historic preservation offices rarely coordinate archeological overview studies and as a result separate, potentially duplicate overviews are being done. Interior needs to exercise its authority to coordinate Federal archeological survey activities and promote joint State and interagency overview studies. Such studies can result in cost savings and improved preservation planning.

A review of procedures and specific projects showed that the Federal Highway Administration, the Water and Power Resources Service, and BLM are doing a good job of requiring grantees, permittees, and licensees to do archeological surveys and in monitoring their compliance. Prior to April 1980 the Corps did not have an acceptable program; it had adopted the position that neither the Corps nor private permit applicants were responsible for archeological surveys. In April 1980 the Corps changed its position to require surveys in appropriate cases which are limited to permit areas affected by land-disturbing activities. Until recently, the Soil Conservation Service (SCS) did not perform archeological identification surveys. SCS drafted regulations after the administration emphasized preservation programs. The Department of Housing and Urban Development (HUD) takes the position that it finds no basis in law or regulation whereby it is responsible for searching for unknown archeological sites.

Further, although the Forest Service has adequate procedures, it does not always comply with requirements to conduct surveys and to monitor land-disturbing activities to assure that archeological sites are not adversely affected.

Interior could resolve much of the confusion among Federal agencies concerning archeological surveys by finalizing its January 1977 regulations which provide specific guidance on procedures to be followed in identifying archeological resources. Interior officials cite a lack of staff as the reason the draft regulations have not been finalized. However, Interior does not expect final rules to solve all controversies. Some agencies, including HUD and the Corps, do not believe Interior has the authority to require other agencies to conduct surveys to identify archeological resources. Interior needs to clarify its rulemaking authority. Interior also needs to finalize its archeological identification regulations, which other agencies are expected to follow.

ARCHEOLOGICAL SURVEYS OF FEDERAL LANDS SHOULD BE DONE ONLY IN CONJUNCTION WITH LAND-USE PLANNING

Although Executive Order 11593 required Federal agencies to survey by 1973 all Federal lands to identify cultural resources that should be protected, the surveys have never been completed. The order requires Interior to coordinate Federal efforts and to develop criteria and procedures for agencies to use in making these surveys. However, Interior has never issued formal guidance or effectively coordinated Federal efforts.

Lacking Interior's guidance, Federal agencies have developed differing interpretations of their responsibilities for identifying archeological resources under their control. BLM and the Water and Power Resources Service interpret the order as requiring detailed surveys of all 775 million acres of Government-owned land. If carried out, this requirement would cost the American taxpayer from about $388 million to $3.9 billion, depending on whether Federal agencies survey all Government-owned lands or survey lands on a sample basis. 1/ Two other agencies, the Corps and the Forest Service, are requiring archeological field surveys only in areas which may be affected by land-disturbing

---

1/During our review archeological cost data was not readily available nor centralized; therefore, the above estimated cost range was based upon the average survey contract costs that were experienced by several agencies on a local basis. This average was then used to estimate the total survey cost for Government-owned lands.

activities. This approach appears to be more appropriate in view of the huge sums of money--from about $388 million to potentially about $3.9 billion--needed to survey all Federal lands. 1/ Further, technological advances in archeology, such as remote sensing, could lead to cost savings or improved surveys in the future.

BLM has surveyed less that 10 percent of the 480 million acres of public lands for which it is administratively responsible. Its chief archeologist estimated that if BLM's 120 cultural resource specialists devoted full time to these surveys, it would take 112 years to complete the inventory. This would not include time for such other work as preparing National Register nominations, developing cultural resource management plans, or implementing protective measures. He estimated the total cost of in-house surveys of all BLM lands at over $322 million.

For planning purposes, BLM has three classes of surveys: class I is a literary search on the background of a given area; class II is a physical inspection and survey of portions of a large area to estimate the likelihood of the existence of potentially significant sites; and class III is a complete survey of a specific area to identify all observable archeological sites. Class I and II surveys are generally done under contract, while class III surveys are performed on project sites by either BLM personnel or grantees, lessees, and permittees and operators. BLM estimates that class I surveys will be completed in late 1981 and class II surveys in about 30 years.

All of class I and II surveys in the Colorado district office are presently done under contract. Using the district's average contract cost of $4.50 per acre for class I and II surveys, surveying the remaining 90 percent of all BLM lands could cost from $194 million using a 10-percent survey sample to about $2 billion if all land is surveyed on a 100-percent basis.

The Water and Power Resources Service has surveyed less than 10,000 of the 7.5 million acres under its control. Its priorities are to complete inventories and data recovery on ongoing projects and to plan for necessary inventories and data

---

1/This potential cost relates only to surveys to identify the location of archeological sites and not survey work to assess the significance of a site to determine the need for data recovery. The Corps maintains that site identification is only the tip of the iceberg and that our estimated costs would be considerably exceeded if survey work to assess site significance were included.

recovery for future projects. It plans to do surveys as time and resources become available. Its chief archeologist estimates it will take about 10 years to do all the surveys.

Three completed Water and Power Resources Services inventories have been done under contracts. Inventory costs ranged from $0.49 to about $15.00 an acre, averaging about $5.50. Using its $5.50 average survey cost per acre, surveying the remaining 7,490,000 acres under Service control could cost from $4.1 million using a 10-percent survey sample to about $41 million if all land is surveyed on a 100-percent basis.

The Forest Service's and the Corps' policy is to fulfill the intent of the Executive order by requiring archeological field surveys only in areas which will be affected by land-disturbing activities. The Corps' Environmental Planner said that because the July 1973 deadline has expired and no specific funding is available for the work, it considers the Executive Order 11593 requirement to be out of date and not in effect. 1/

Interior needs to instruct Federal agencies that because of high costs and changing archeological survey technologies, surveys may not be necessary on all Federal lands when no land-disturbing danger impends and should be done only in conjunction with land-use planning or when the operation of existing projects may threaten resources or on a sampling basis as part of overview studies for general planning purposes. To effect these changes, Interior should propose to the Office of Management and Budget (OMB) revisions to Executive Order 11593.

INTERIOR NEEDS TO COORDINATE ARCHEOLOGICAL OVERVIEW STUDIES

Although Interior is responsible for coordinating agencies' archeological activities, it has not promoted joint State and interagency overview studies. Federal and State agencies rarely are coordinating archeological overviews which document the kinds of historical and archeological properties that may be encountered. As a result, they are proceeding with separate, potentially duplicate efforts. For example, the Forest Service archeologist at

---

1/To dispel any confusion, the Congress through the recently enacted National Historic Preservation Act Amendments of 1980 made it clear that Federal agencies have a continuing responsibility to locate, inventory, and nominate to the Secretary of the Interior all properties under the agency's ownership or control that appear to qualify for inclusion on the National Register. However, we believe the Executive order's survey objectives can be met, with less costs, if our recommendation is implemented. (See p. 22.)

California's Sierra National Forest expressed concern about the separate overviews being performed in the same general area. At least four different Federal and State agencies have performed or are planning to perform such overview studies. NPS prepared an overview study for Yosemite National Park, which is adjacent to Sierra National Forest, the overview addresses the same Native American cultures. BLM is performing an overview covering the Sierra Nevada Mountains which encompasses not only Sierra National Forest but also several other national forests. Both Sierra National Forest and the California Historic Preservation Office are also planning to perform overview studies which again will deal with the same cultures.

Archeologists from all four agencies agree that overlapping overviews are a problem and that the archeologists have been remiss in not coordinating such studies. The Sierra National Forest archeologist said that no one is taking the lead to avoid duplication through a joint interagency overview study of the entire geographic area. The BLM archeologist working on the Sierra Nevada overview said that there is virtually no formal coordination between agencies and, as a result, overview studies become reiterations of basic data contained in each agency's files. He added that individual agency overviews fail to reflect an appreciation of real cultural boundaries, which almost always extend beyond any one agency's lands. The NPS archeologist said that individual agency overviews often are developed primarily from data contained in the agency's files and thus deal with only part of the data base which exists on past cultures inhabiting an area. He said that he supports joint interagency overviews to formulate comprehensive plans and research designs dealing with a given culture rather than a geographic boundary.

Forest Service regional archeologists in the Montana, Utah, and California regions all said there is a lack of coordination of overview studies between agencies in their regions. Coordination between agencies is at best only informal. The consensus of the archeologists we contacted was that land managers have generally not sponsored joint interagency efforts because of existing demands on staff time and funds. Land managers agreed with this statement.

Savings can be realized by coordinating overview studies. For example, to avoid duplication of overview studies on neighboring lands administered by two agencies, BLM's New Mexico and Arizona State Offices began in fiscal year 1979 to cooperate with the Forest Service in planning, funding, and conducting overviews. Under a cooperative agreement, the number of overviews planned for New Mexico and Arizona will be reduced from

23 individual Forest Service or BLM overviews to 14 joint interagency overviews. BLM estimated that this approach will save $225,000 in overview costs in the New Mexico/Arizona region alone. As a result, BLM's Associate Director recently instructed each State director to investigate the possibility of preparing joint overviews and, where appropriate, develop regional agreements for cost sharing as soon as practical. Since the overviews will enable BLM and the Forest Service to focus their survey evaluation and data recovery programs more sharply, the long-range savings should be much greater.

The joint archeological overviews being developed by the Forest Service and BLM are intended to bring together current knowledge on a region's culture and provide baseline information on which to plan future actions. The overviews also are to establish a framework for evaluation and significance determinations. Although the State historic preservation offices were not part of the cooperative agreement, BLM hopes to involve both the States and other Federal agencies besides the Forest Service. BLM believes that cooperative overview studies can result in benefits such as

--providing background data needed for planning,

--providing coverage of an entire State or cultural region rather than piecemeal coverage of individual national forests or BLM districts,

--contributing to a State plan necessary for making reasonable determinations of significance and for setting site-importance priorities,

--saving money by eliminating duplication of efforts by various Federal and State agencies, and

--providing a basis for interagency cooperation on other historical and archeological opportunities.

While the Forest Service and BLM are coordinating their archeological overview efforts in New Mexico and Arizona, they are not now doing so in other States.

Interior needs to exercise its leadership role provided by Executive Order 11593, the National Historic Preservation Act, and the Archeological and Historic Preservation Act and establish procedures to coordinate archeological overviews

and State historic preservation plans to continue the dollar savings experienced by some Federal agencies. Until Interior does this, Federal agencies and States will probably continue to perform separate and overlapping overviews in some areas.

AGENCY PRACTICES IN IDENTIFYING ARCHEOLOGICAL RESOURCES VARY WIDELY

Archeological resources that may be destroyed by Federal projects are not always identified because Federal agencies' practices in identifying archeological properties vary. While some agencies we reviewed have adequate procedures for identifying archeological resources early in project planning stages, other agencies do not always make archeological surveys.

The agencies we reviewed varied widely in considering their projects' impacts on archeological resources. A review of procedures and projects showed that grantees, permittees, and licensees on Federal Highway Administration, Water and Power Resources Service, and BLM projects generally do archeological surveys, and the agencies effectively monitor program compliance. Depending on staff availability, Service and BLM staffs perform archeological identification surveys on small projects or where a hardship would be imposed on a small private concern.

EPA delegates archeological survey responsibilities to State agencies, but monitors compliance only on an exception or problem basis. EPA's Georgia and California grantees that we reviewed conducted literature searches and professional archeological field investigations as required on wastewater treatment projects.

SCS until recently did not require archeological identification surveys. The Department of Agriculture's Acting Associate Director, Office of Environmental Quality, however, told us that SCS is beginning to play a greater role in identifying archeological resources. He said that SCS drafted regulations after the administration emphasized preservation programs. SCS draft regulations, now under internal review, generally require field offices to perform archeological investigations on land-altering projects receiving SCS assistance. These regulations, if implemented, should significantly improve the SCS's archeological identification process.

The Corps, in its permit program, generally does not require archeological surveys unless the State historic preservation officer or Interior can show definite evidence that an archeological site may exist in the project area. The Corps'

draft regulations require permittees to conduct identification surveys "in appropriate cases as detemined by the District Engineer." These "appropriate cases," however, are not defined, and both Interior and ACHP consider the draft regulations unacceptable. The Corps is currently revising them.

HUD does little to monitor or encourage archeological site identification. In its housing program, HUD maintains responsibility for complying with archeological preservation laws; however, it does not perform archeological investigations, and its practices are in conflict with State historic preservation offices, ACHP, and Interior. HUD delegates program responsibilities to community development grant recipients. Its Atlanta Area Office had no information on whether community development grant recipients conducted archeological investigations.

HUD does not require housing program applicants to conduct field surveys even when the State historic preservation office recommends them. It takes the position that it finds no basis in law or regulation whereby it is responsible for searching for unknown archeological sites, and unless the State historic preservation officer has a very specific basis for recommending a survey, it will not require the applicant to do one.

We examined 10 cases in the housing program in which the Georgia Historic Preservation Office recommended that HUD conduct an archeological field survey. The Atlanta office did not have information on 5 of the 10 projects. For the other five, HUD had decided against doing a survey because it believed the State historic preservation officer's recommendations were unfounded.

An internal memorandum written by HUD's regional environmental officer gave the basis for its decision not to require surveys on these projects. Excerpts from the memorandum follow.

> "The SHPO's [State Historic Preservation Office] reasoning for requesting an archeological survey is unreasonable and unfounded. The SHPO has not provided any factual evidence to cause expenditure of public funds for such survey. Based on (1) this lack of concrete evidence by SHPO to support such survey; (2) a check of the National Register revealing no eligible properties and (3) based on site

> inspection by [a HUD] appraiser revealing nothing of cultural value, I feel compliance with 36 CFR 800 has been met. Therefore, I recommend against having an archeological survey undertaken."

The ACHP and Interior do not believe that HUD is complying with the intent of the archeological preservation legislation and regulations. In an August 27, 1979, letter to Interior, HUD's Acting Deputy General Counsel stated that the National Historic Preservation Act and ACHP's regulations require that only known or identified resources in a project area be considered. In a November 5, 1979, letter, Interior disagreed with HUD's position and pointed out that the term "eligible property" as used in the regulations means properties that meet the National Register criteria and is in no way limited to properties known to meet National Register criteria. On November 27, 1979, HUD disagreed with Interior's position and reiterated that it found no basis in law and regulations for Interior or the State historic preservation office to require it to conduct field surveys to prove the absence of archeological resources.

ACHP also disagreed with HUD's position on identifying cultural resources. In a January 21, 1980, letter to HUD, ACHP stated that:

> "* * * An interpretation that [the regulations require] HUD to prove the 'non-existence' of resources would be in error. It would be equally erroneous, however, to assume that HUD need not attempt identification unless something has already been identified."

In light of the continuing dispute between HUD on the one hand and Interior and ACHP on the other, Interior, ACHP and HUD either together or separately should seek an Attorney Generals opinion concerning the extent to which HUD is required to make archeological surveys to determine whether archeological resources could be affected by federally assisted housing projects.

REGULATIONS NEEDED FOR IDENTIFYING ARCHEOLOGICAL RESOURCES

To clear up differences in Federal agencies' identification practices, Interior's rulemaking authority needs to be clarified and final regulations promulgated on identifying archeological properties. Draft regulations were published in January 1977 but were still not finalized as of May 1980. The Acting Chief

of Interior's Interagency Archeological Services told us that the draft regulations have not been finalized because of staffing problems. The regulations set forth detailed procedures explaining how Federal agencies are to conduct surveys and investigations to locate and identify archeological properties.

Although Interior believes it has rulemaking authority, agencies have questioned its authority to publish regulations that are binding on their programs. Commenting on Interior's 1977 proposed regulations, the Tennessee Valley Authority said:

> Interior does not have oversight responsibility nor authority to establish standards which must be adhered to.

Likewise, the Corps said:

> "* * * in issuing its guidance, the Department of Interior should concern itself with its coordination responsibilities pursuant to the Act in question and should not attempt to provide guidance or interpretation concerning the responsibilities of other agencies * * *."

> "* * * it is suggested that the proposed rules in their entirety be referred to as recommendations or recommended guidelines and not as requirements."

The Acting Chief of Interior's Interagency Archeological Services said that Interior believes it has rulemaking authority. He said that this authority is derived from (1) the coordination and reporting responsibilities given to the Secretary by the Archeological and Historic Preservation Act and (2) the general rulemaking authority for historic preservation provided the Secretary by the National Historic Sites Act of 1935. He also said, however, that he did not expect final rules to cure all of the problems and controversies in the archeology program. He said that agencies will continue to have such questions as when enough data recovery has occurred and whether Executive Order 11593 mandates surveys on all Federal lands.

FOREST SERVICE EXPERIENCING PROBLEMS

The Forest Service has a staff of about 100 full-time archeologists who are responsible for performing surveys on its lands. Forest Service archeologists, however, (1) are not doing surveys of all land-disturbing actions, (2) are

recording marginal sites without meaningful surveys, and (3) are not monitoring timber cuts to assure that archeological sites are avoided.

Forest Service regional archeologists in Montana and Utah estimate that only 50 percent and 25 percent of land actions on national forests in their regions receive archeological surveys. They say that they are not advised of all land impact actions and in some cases do not have sufficient funds or staff to do the work. In California, many forest archeologists readily admit that they do not know the extent of activities and projects affecting land.

The appropriateness of the sites recorded by Forest Service archeologists is also questionable. Forest Service archeologists in 1978, for example, performed a survey on a California national forest scheduled for timber harvest. Two "archeological sites" were identified and site records were prepared. One site consisted of a surface scatter of obsidian flakes (stone chips left when making arrowheads), and a second site contained a projectile point. Since the projectile point was located on a road and therefore subject to damage, the Forest Service archeologist removed and hid the arrowhead in nearby brush. In a similar situation the archeologist for another national forest viewed such an occurrence as only marginally significant. The materials are gathered and the land cleared from further archeological considerations.

In this instance, however, the Forest Service required the California Department of Transportation in 1979 to perform another archeological survey of the same area in connection with a highway. Part of the survey involved an attempt to locate and ascertain the highway's impact on sites previously identified by the Forest Service. The site with the surface flake scatter was found to lack "cultural depth." The single projectile point site could not be located and was referred to the Forest Service since its staff had hidden the projectile point in the first place.

The need for another agency to survey the same lands the Forest Service had previously surveyed and cleared for a timber cut would not have existed if the first survey had been meaningful. As a minimum, the original survey should have assessed the significance of the sites in terms of potential to yield useful information and the lands cleared from further archeological considerations since it was known the area was within a highway project realignment right-of-way.

The Forest Service does not always effectively monitor archeological site avoidance. In 1979, for example, the California Historic Preservation Office advised the national forests archeologists to monitor site avoidance to ensure that sites are not destroyed during land-impacting projects. However, only 1 of the 17 California national forests started to systematically monitor site avoidance on timber harvests, while the other 16 did not follow the State office's advice. The archeologist at the forest which started monitoring told us that significant site disturbance occurred on one of three timber harvests monitored to date. The disturbance involved three archeological sites which, the Forest Service archeologist noted, are located in one of the forest's most important areas for archeological research on prehistoric sites. These sites were partially destroyed by logging operations which included tree removal and tractor activity.

CONCLUSIONS

Some Federal agencies plan to make archeological surveys over the next 10 to 30 years on all their lands. If such surveys are made on all 775 million acres of federally owned land, it could cost from $388 million to about $3.9 billion. Because of the large sums of moneys involved and changing archeological survey technologies, surveys should be made on Federal lands only when land-disturbing danger impends or to develop archeological overviews in conjunction with an agency's development of land-use plans.

Interior has not exercised its coordination role to encourage joint archeological overviews by States and Federal agencies. Greater coordination can result in substantial savings through avoidance of overlapping studies.

The archeological identification process is hampered by disagreement among Federal agencies over Interior's rulemaking authority. Interior needs to seek an amendment to the Archeological and Historic Preservation Act clarifying its rulemaking authority to coordinate and administer the archeological preservation programs of Federal agencies. Interior also needs to finalize its archeological identification regulations, which other agencies are expected to follow.

RECOMMENDATIONS

The Secretary of the Interior should

--seek an amendment to the Archeological and Historic Preservation Act clarifying Interior's rulemaking authority;

--propose to OMB revisions to Executive Order 11593 to state that Federal agencies are required to conduct archeological surveys on Federal lands only (1) when a land-disturbing activity is planned, (2) when the operation of existing projects may threaten resources, or (3) on a sampling basis as part of overview studies for general planning purposes;

--establish formal coordination procedures among Federal and State agencies performing archeological overviews; and

--finalize regulations setting forth detailed procedures explaining how Federal agencies are to conduct surveys and investigations to locate and identify archeological properties.

The Secretaries of HUD, Interior, and the ACHP either together or separately should seek the opinion of the Attorney General concerning the extent to which HUD is required to make archeological surveys to determine whether archeological resources will be affected by federally assisted housing projects.

The Secretary of Agriculture should require the Forest Service to improve its program for identifying archeological resources by

--performing archeological surveys on Forest Service lands before timber harvests or other land-altering projects,

--making sufficiently comprehensive surveys to preclude the need to resurvey the same lands for future projects, and

--monitoring projects to verify that significant archeological sites are protected.

CHAPTER 3

STATES SHOULD PLAY A GREATER ROLE IN DETERMINING ARCHEOLOGICAL SITE SIGNIFICANCE

Once archeological sites are identified, Federal agencies need to know whether the discoveries are significant enough to spend money to protect them or recover the data they contain. To do this, Federal agencies consult with State historic preservation offices to determine whether their undertakings will affect properties eligible for the National Register. However, neither Interior nor State historic preservation offices are of much help to Federal agencies because they cannot adequately judge the importance of archeological properties.

Interior's criteria for determining an archeological site's significance are very broad, and agencies criticize them because they believe under the criteria almost any archeological site can be justified as significant. However, Interior would have great difficulty developing criteria which would provide adequate guidance on each site's State and local significance. States could and should play a greater role in helping Federal agencies determine site significance.

However, to provide such guidance, each State needs an organized approach to its archeological resources, that is, a plan. Such a plan, usually called a State historic preservation plan, is required by the National Historic Preservation Act, and is to be prepared in accordance with Interior standards. States generally do not have usable statewide historic preservation plans. They therefore are presently unable to help Federal agencies determine whether Federal undertakings affect significant archeological properties. Interior has not encouraged States to develop comprehensive preservation plans, which identify past archeological work done in the State, define research objectives, set criteria for establishing the importance of sites, and enable reliable predictions on the potential for finding sites in a project area.

Once States prepare and Interior approves their preservation plans, State historic preservation offices could play a greater role in determining which archeological properties have State and local significance and are eligible for listing on the National Register.

PROCEDURES NEED TO BE IMPROVED

Federal agencies express doubt over whether some archeological properties are significant and worth spending Federal money

to protect or recover data. Some say that almost any identified site can be called significant under Interior's eligibility criteria for listing sites on the National Register.

The National Historic Preservation Act of 1966 greatly expanded the archeological properties that Federal agencies are required to identify and consider in planning for preservation because the properties are included in or eligible for the National Register. Previously, the National Register included only a few nationally significant properties. The 1966 Act expanded the National Register to include properties with State and local significance. As shown in the chart below, most of the entries on the National Register in the past few years have been properties of State and local significance.

Entries on the National Register of Historic Places

Calendar year	State and local significance	National landmarks	Cumulative total
1974	2,151	87	2,238
1975	1,987	95	4,320
1976	2,053	137	6,510
1977	1,516	46	8,072
1978	3,063	58	11,193

Interior's criteria for determining whether a site is significant enough to list on the National Register are based on sites that have State and local importance, possess site integrity, and

"(a) are associated with events that have made a significant contribution to the board patterns of our history; or

(b) are associated with the lives of persons significant in our past; or

(c) embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(d) have yielded, or may be likely to yield, information important in prehistory or history."

Most archeological sites are nominated under the criterion that they have yielded or are likely to yield information important in history or prehistory. As shown below, this criterion has raised several criticisms.

--A Senior Service Archeologist, Water and Power Resources Service, said, "Given that criteria, there is no archeological site in the world that couldn't go on the National Register. Any site has a potential to yield information."

--The former Director, Office of Review and Compliance, ACHP, said, "This language invites the interpretation that all archeological sites are eligible for listing on the National Register of Historic Places."

--An Environmental Affairs Specialist, Office of Environment and Safety, Department of Transportation, said, "* * * the National Register criteria needs overhauling. In fact, the believability of the National Register is being seriously hampered by quality of sites, both historical and archeological, that are entered into the Register."

--The Regional Archeologist of the Forest Service's Southwestern Region said, "* * * the requirement that the Secretary of the Interior must make all eligibility determinations * * * results in delays and seems particularly unnecessary * * *. We doubt that the Secretary of the Interior has available in Washington, D.C., a more qualified staff for assessing the archeology of the southwest than does the Forest Service and the SHPOs (State Historic Preservation Offices]."

--The President, Society for American Archeology, said, "Inasmuch as any site, no matter how miserable, is guaranteed to produce some information on the nation's past, we find ourselves with a system that tends to assign the same level of significance to all sites."

Because of the many regional and local cultures and the many views of what is important to our country's heritage, it is impractical for Interior to design all-encompassing criteria

by which archeological sites can be centrally evaluated for State and local significance. It appears appropriate, therefore, for State historic preservation offices to play a greater role in helping Federal agencies determine which archeological properties have State and local significance and are eligible for listing on the National Register.

STATES SHOULD SERVE AS THE FOCAL POINT

The State historic preservation office should be the focal point for determining what archeological sites have State and local significance and should be listed on the National Register of Historic Places. States should serve in this role only if they have developed comprehensive State historic preservation plans approved by Interior. Such plans are a legislative requirement for States to receive Historic Preservation Fund grants.

States generally have not yet developed adequate preservation plans because Interior has not provided guidance and encouraged States to develop them. As a result, federally funded archeological protection efforts are now proceeding in an unsystematic manner with little assurance that anything other than redundant information on already well-known cultures will result from archeological salvage work.

States need to develop archeological preservation plans

None of the five States we visited have adequate State historic preservation plans. The plans are out of date and not useful in addressing archeological significance. As a result, the States have little capability for performing adequate analyses of available data and cannot provide Federal agencies with data on the results of past archeological work such as

--how many archeological sites of a given type have been previously identified, excavated, and protected;

--what research questions pertaining to various cultures have previously been studied and resolved; or

--what research questions should currently be given priority in order to understand the State's past.

Several studies recognize that State preservation plans are important and are the logical basis for defining site significance. Site significance should guide the extent of data

recovery and should be a measure of program cost effectiveness. In its fiscal year 1976 report to the Congress on archeological and historical data recovery programs, Interior reported that:

> "Only through the development of carefully conceived planning frameworks can another basic problem be attacked, i.e., to measure program effectiveness under the Archeological and Historic Preservation Act. Ultimately, the primary measure of effectiveness is the difference between what data need to be recovered and what data actually are recovered in any given construction project."
>
> * * * * *
>
> "* * *over the long term many of the problems * * *are resolvable only with improvement of comprehensive historic preservation planning strategies in each of the States * * *."

Two ACHP reports also addressed the need for better plans to assess archeological site significance. A 1977 report noted that, under the present system, there is no reasonably objective way to set priorities when the funds available are inadequate, and that the point has already arrived at which the need exceeds the available funds.

A 1978 report said that the State preservation plan is the logical framework for determining archeological significance and hence demonstrations of eligibility for the National Register. The report noted that current State plans are inadequate for assessing archeological significance. The report recommended that "* * * Interior * * * emphasize the absolute necessity for highly focused State planning programs in order to achieve an efficient preservation program."

Interior needs to issue guidelines to States to ensure that they develop comprehensive, statewide, preservation plans and data bases. The 1966 National Historic Preservation Act authorized the Secretary of the Interior to grant matching funds for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the Secretary. In April 1980, nearly 14 years after the act's passage, States do not have good preservation plans in place. The Chief, Division of State Plans and Grants, HCRS, told us that if, by chance, a State has a good plan, it is coincidental because the State itself has an interest in the project.

Interior required States to submit preservation plans for the first 8 years of the National Historic Preservation Program. It abandoned the process because it was receiving plans of poor quality. Interior began another effort to establish adequate State preservation plan criteria in 1977, but again these efforts proved unsatisfactory in providing sufficient guidance and were abandoned. Presently, States prepare a basic list of projects presented in an annual work plan. Their plan describes eligible activities for which Historic Preservation Fund grant assistance is requested.

A HCRS task force recently developed a revised process for comprehensive, historic preservation planning. A document describing the new planning approach was distributed to State preservation officers in February 1980. Two pilot projects to implement the new State plan approach were awarded--one to Massachusetts for $36,000 and one to Arkansas for $10,000. HCRS has a goal of convincing 10 States to adopt the planning approach by fiscal year 1980.

Interior also has not instructed States to develop systematic, statewide, archeological surveys. None of the five States we visited were conducting such surveys because they lacked both standards and funds from Interior.

Because of limited program funding, statewide archeological surveys may be unrealistic until States develop adequate statewide preservation plans. States should use existing resources to concentrate on obtaining and analyzing past archeological data, preparing State preservation plans, assessing site significance, and coordinating Federal and private archeological surveys and data recovery operations.

Instead of statewide surveys, State historic preservation offices in the five States we visited are presently relying on archeological surveys conducted primarily by Federal agencies. However, the information flow is often inadequate to enable the State offices to fulfill their intended role as the focal point for accumulating and synthesizing archeological data. For example, State office archeologists in both California and Nevada said that some agencies, such as the Forest Service, provide only sporadic information on their archeological activities.

The agencies we reviewed frequently avoid archeological sites by relocating projects during the early planning stages, thus changing the area of the undertakings' potential environmental impact. Avoidance in the early planning stages is an acceptable means of preserving sites. However, we noted several cases in which agencies did not notify Interior and the State preservation office of the archeological site's presence. This raises questions about how the sites will be protected against future undertakings in the area. It also raises the question of whether they were worth the trouble and cost of avoidance, since the sites were not evaluated for National Register eligibility.

The Congress emphasized the importance of State planning in the 1976 amendments to the National Historic Preservation Act by authorizing Interior to increase the Federal share of historic preservation funding grants to a 70-percent Federal match against a 30-percent State match for developing State surveys and plans. However, since the 1976 amendments, Interior has not made any 70 percent Federal share grants available to States.

According to HCRS's Director, Interior has not used the 70-percent Federal match because it could result in a lower level of State funding for the total preservation grant program. Instead, Interior reserved 50 percent of the States' fiscal year 1980 Historic Preservation Fund appropriation for use only in State survey and planning activities.

This action resulted in shifting about $8.5 million from local restoration and preservation projects in the 1980 Historic Preservation Fund appropriation to State survey and planning activities. Some States like New York, Massachusetts, Illinois, and Texas were unable to provide matching funds, and as a result their total preservation program for fiscal year 1980 was significantly reduced. Interior plans to drop the separate survey and planning allocation for fiscal year 1981.

Although more funding was directed to State survey and planning activities in fiscal year 1980, Interior did not instruct States to use the increased funds to develop statewide archeological preservation plans. Two of the five States we visited--Nevada and Colorado--did not use any fiscal year 1980 survey and planning funds to develop preservation plans.

Nevada

Nevada presently does not have a State preservation plan covering archeological resources and has deferred developing one because BLM is conducting archeological overviews on BLM

lands, which comprise approximately 69 percent of Nevada's land. The Nevada Historic Preservation Office archeologist believes that BLM's work will provide a good basis for developing a meaningful State historic preservation plan for the State's archeological resources.

The Nevada archeologist said that a good State plan is essential for meaningful archeological preservation decisions. He said that without a synthesis of the archeological work performed to date and established priorities for future research, all archeological sites tend to be viewed as significant until proven otherwise. Nevada's data management retrieval system requires a manual search of archeological survey summary records. About a year ago, the State office arranged with the State museum and the University of Nevada to have all known archeological surveys in Nevada summarized and filed. Nevada therefore can easily identify from State office records if a survey has been performed in a given area and if any archeological sites were identified.

California

The California Historic Preservation Office archeology staff characterize their State plan as out of date and not useful as a management tool. As a result, each archeological site record the State staff reviews for significance is evaluated individually, with no overall context guiding decisionmakers. According to the staff archeologist, each site becomes potentially significant and each reviewer develops different opinions, based on individual biases and personalities. As a step toward developing a meaningful State archeological plan, the State in 1979-80 budgeted $130,000 for 13 regional centers located at academic institutions or museums. These centers are to maintain a data base of new archeological work performed in their respective regions and develop archeological overviews.

California is also working on a computerized archeological data management system because present manual record searches were very time consuming. The State has developed a standard archeological site record for input into a computerized retrieval system. The 13 regional archeological centers have been instructed to ensure that all new archeological work they receive is properly encoded for entry into a statewide data base once a computer becomes available.

Georgia

The Georgia Historic Preservation Office has been developing a plan for several years, but the project has been a totally voluntary one by a task force of archeologists from various

State educational institutions. According to the State preservation officer, the volunteers have not had enough time to prepare the plan. The State archeologist said that when completed (estimated to be in 1982), the plan will help assess a site's level of significance.

The Georgia Historic Preservation Office currently does not have an effective and efficient system to identify past archeological work and make reliable predictions to guide Federal agency surveys. The State, as part of its efforts to develop a preservation plan, is developing a computerized archeological site inventory system. However, that system is not complete and at the current rate of input will not be complete for several years. Meanwhile, most information on past archeological work has to be obtained by manually reviewing site files, the National Register, and other archeological publications. Under this approach predictions on the potential of archeological sites are highly judgmental.

New Mexico

The New Mexico Historic Preservation Office does not have a State plan for archeology which includes enough information to judge the significance of individual archeological sites. However, the State has contracted for a report and analysis which will be the basis for developing a State cultural resources plan.

New Mexico has a manual inventory of cultural resources, and recent work by NPS has shown that many known sites are not recorded in the system and that much of the data in the system is old and of questionable value. Recently the State began a program to automate the inventory. This effort, combined with requirements placed on contractors to report all survey data, should help make inventory more useful in judging the significance of individual sites and making predictions about the results of future surveys.

Colorado

The Colorado Historic Preservation Office has not published any formal State or regional research objectives for use in assessing significance. Officials said that they are too busy with compliance activities and day-to-day operations to develop them and just do not have the resources to put them together. Preservation office archeologists said that they rely on individual contract archeologists and the responsible Federal agencies to determine site significance.

The Colorado Historic Preservation Office has an extensive inventory of archeology sites retrievable from a computer.

The State office has requested that all Federal agencies involved in archeological surveys in Colorado submit a standard site report form to the State office for computer input. Colorado has received good cooperation from all Federal agencies in the State. Upon request the State office provides agencies a computer printout listing of all known sites in a specific project area. The State office also maintains hard copy files on individual sites, including maps and detailed descriptions.

CONCLUSIONS

Interior's criteria for determining archeological site significance are very broad, and agencies criticize them because almost any site can be justified as significant. However, Interior would have great difficulty developing criteria which would provide adequate guidance on each site's State and local significance. Therefore, States should play a greater role in helping Federal agencies determine site significance.

However, the States generally do not have usable historic preservation plans and, therefore, cannot help Federal agencies determine whether Federal undertakings affect a significant archeological property. Interior has not encouraged States to develop comprehensive preservation plans which would (1) identify past archeological work done in the State, (2) define research objectives for data recovery, (3) set criteria for establishing the importance of sites, and (4) enable reliable predictions on the potential for finding sites in a project area.

Following Interior's approval of a State's preservation plan, the State historic preservation office should be made responsible for determining which archeological properties have State and local significance and are eligible for the National Register. Agency determinations of significance and how much data recovery is enough should be based on the priorities that a State attaches to its resources in its preservation plan.

The legislative requirement for States to conduct comprehensive archeological surveys appears unrealistic for many States now because of the high costs of meeting this requirement. None of the five States we visited conducted such surveys.

A stronger Federal/State partnership in defining archeological properties which have State and local significance could speed up and streamline the preservation paperwork process and

--help Federal agencies assess the potential impacts of their projects on archeological sites in the early planning stages,

---eliminate unnecessary archeological survey work in areas previously found insignificant or uninhabited by early man,

---help agencies determine the significance of an identified site,

---define the priority of the research questions and the extent of mitigation work needed, and

---eliminate unnecessary mitigation work for sites which yield repetitive and insignificant data.

RECOMMENDATIONS

Interior should encourage State historic preservation offices to play a greater role in determining which archeological properties have State and local significance and are eligible for the National Register. To encourage States to expeditiously develop meaningful preservation plans to assess significance, the Secretary should:

---Allocate a portion of Historic Preservation Fund grants for State preservation plan development and make available to States 70 percent Federal against 30 percent State matching grants to use in developing statewide plans based on criteria established by the Secretary in consultation with the various States. 1/

1/The objective of this recommendation is to get more funds to the State level so that statewide plans could be formulated and implemented and serve as the focal point for determining significance. However, the President's budget calls for reducing the historic preservation fund from $32 to $5 million in fiscal year 1982 which would cut off Federal funding of State historic preservation offices and greatly reduce their role in determining significance. This will seriously impede the Government's program to determine archeological significance, because without adequate State plans and criteria almost any site can be justified as significant. The most likely result of this reduction is that the Government will probably spend millions more than it would save in trying to assess State and local significance. The effect of reduced funding levels to States can be best illustrated by the California SHPO's response to chapter 3 of this report. He said, given the erratic arbitrary nature of changes in requirements, and HCRS' funding levels and allocations, their office is most reluctant to embark on any long-range planning efforts. In fact, he said, their effort for archeological planning has been effectively terminated due to lack of funding.

--Require States to submit adequate plans as a condition of receiving Historic Preservation funds.

--Issue guidelines for the appropriate and consistent development of State archeological data management capabilities, State archeolgical surveys, and determination of State and local site significance.

Following Interior's approval of a State's preservation plan, the Secretary should make State historic preservation offices the focal point for determining whether archeological resources are significant enough to list on the National Register of Historic Places. 1/

1/While our draft report was at the agencies for comment, the Congress enacted the National Historic Preservation Act Amendments of 1980, which mandate the actions called for by the recommendations in this chapter. However, we are leaving the chapter intact since it gives background as to why States should play a greater role and how the Federal Government can help. We also believe chapter 3 is essential in order to understand archeological identification, determination of significance, mitigation, and implementation of the mitigation plan process, of which the State's role is an integral part.

CHAPTER 4

THE CONTROVERSY ON HOW MUCH DATA RECOVERY IS ENOUGH NEEDS TO BE RESOLVED

Federal agencies, States, ACHP, and archeologists cannot agree on how much data recovery is enough. As a result, no one knows whether Federal agencies are doing too much or too little and these controversies lead to increased project costs due to construction delays. Data recovery is the (1) scientific retrieval and preservation of archeological and historical artifacts and information that would otherwise be lost and (2) study of these resources in their original context prior to removal.

Archeological recovery practices differ among Federal agencies, and in some cases work may not be needed. Neither Interior nor the ACHP have provided the leadership required to effectively coordinate Federal archeological recovery efforts. For example, while some Federal agencies limit archeological excavation to project-direct impact areas, other agencies require Federal permittees and grantees to incur possibly excessive costs by excavating sites well outside of project impact areas. Also, the ACHP Executive Director, responding to our report on the New Melones Dam, said that it is currently working on establishing review procedures and cited two cases in which it recommended that Federal agencies not do over $4 million in archeological work because the work may not be necessary.

Implementation of an effective archeological recovery program is also hampered by lack of information on program costs and accomplishments. As a result, Interior could not issue meaningful reports to the Congress on the scope and effectiveness of Federal archeological recovery efforts.

FEDERAL ARCHEOLOGICAL DATA RECOVERY PROCEDURES NEED IMPROVEMENT

Federal agencies do not have adequate procedures for determining how much archeological data should be recovered. In addition, neither Interior nor ACHP has exercised the necessary leadership to guide Federal agencies in resolving disagreements over data recovery efforts.

Archeological staff in each of the agencies we contacted expressed much concern over the subjective and disordered manner of determining how much data recovery is enough. HCRS's

Director also expressed these concerns when he told us in June 1980 that:

> "The program needs reform because we don't know 'when enough is enough.' The program cannot withstand total public scrutiny including the public benefit for the public dollars expended."

Two recent reports also highlight Federal agencies' problems of knowing how much data recovery is enough. A 1979 HCRS report to the Water Policy Implementation Task Force stated:

(1) A general lack of agreement exists on what constitutes adequate data recovery among the professional archeology community, Federal agencies, and private constituency.

(2) Frequently the question of when has enough data recovery occurred is left as an open ended professional decision which invites opponents of a project to use archeological resources to further their special interests.

(3) Interior's basic position is sufficient recovery occurs when all information that makes a site significant is recovered, but who makes this determination is unanswered.

(4) Moss-Bennett implementing regulations are only proposed rules and, thus, inadequate.

An ACHP archeology task force report in 1979 also commented on how much data recovery is enough. The task force found inconsistencies in agencies' archeological data recovery programs and procedures. To achieve adequate data recovery work at acceptable costs, the task force recommended that Interior establish quidelines for administering recovery activities and that agencies establish a peer review system to reduce poorly planned or redundant mitigation work.

To resolve the question of how much data recovery is enough, both ACHP and Interior need to issue guidelines to coordinate an effective Federal archeological recovery program. An effective recovery program must begin with the development of adequate State historic preservation plans (see ch. 3) which put into perspective the importance of potential new information that can be learned from research results.

Differences in Federal agencies' procedures

Federal agencies are not consistently interpreting their archeological data recovery responsibilities. This is caused in part by the lack of effective leadership and guidance from Interior. As a result, agencies differ in determining project impacts on archeological sites outside the project area and the amount of funds available for data recovery.

Impact of archeological sites outside the project area

Construction projects can have primary impacts on archeological sites within the construction area and secondary effects outside the construction area, for example, changing land-use patterns, stimulating vandalism, or erosion, etc. For the most part, the agencies we reviewed limited archeological data recovery to the primary impact areas of their projects. However, some agencies require surveys and data recovery work in secondary effect areas, sometimes even when the secondary effects may never occur. Interior has not clarified the limits in which archeological salvage work should be considered. This has caused controversy among agencies, archeologists, and Federal project permittees and grantees.

Some archeologists claim an agency's limiting of archeological salvage to a project's direct impact area can hamper archeological investigations. In a Federal Highway Administration project in Georgia (the Dahlonega connector site), for example, archeological excavation was limited to the highway itself, which represented only about 25 percent of the total archeological site area. The principal investigator said that conclusions reached in the final recovery report were limited by the spatial constraints of the contract. He stated that:

> "* * * while it is clear that [Federal Highway Administration] or any other contracting agency is primarily responsible for the direct impact area of a project, to restrict investigations to this zone may often be undesirable in terms of evaluation of the affected resource."

On the other hand, a broad interpretation of secondary impacts can cause Federal permittees and grantees to incur additional and possibly excessive investigation costs. A private concern, for example, requested a BLM right-of-way to construct a 16-mile railroad spur, 6 miles of which crossed BLM lands. As a condition to obtain the right-of-way,

BLM required the company to perform archeological surveys and salvage at sites outside the project area. The archeological work cost the company over $300,000.

BLM required the private company to excavate two sites which were outside the project right-of-way. An agency archeologist considered one site, located on BLM land, to be unstable with possible adverse effects caused by blasting during railroad construction. The archeologist considered the second site, located on private land, to be threatened by construction workers who might damage it.

The impact of the project on the second site was questionable, and the company may have incurred excessive archeology costs. The site is accessible by road only by driving into the company's area through a gate guarded by a company employee. In addition, a three-strand, barbed-wire fence runs along each side of the right-of-way, and the site is located about 50 yards beyond the barbed-wire fence. BLM's district archeologist estimated that the company incurred costs of about $50,000 to excavate this site.

In another case, the California Historic Preservation Office requested EPA grantees to perform historic surveys of several California towns as part of cultural resource compliance for wastewater treatment projects. Three EPA grantees, for example, in 1976 and 1977, completed historic resource surveys of three small California towns at the State historic preservation officer's suggestion. The surveys consisted of architectural descriptions of all buildings over 50 years old and histories of important families and individuals. The California State Water Resources Control Board archeologist considered the surveys to be too broad because they covered the entire town instead of the portion affected by the water project. The State historic preservation office discontinued requesting these surveys in 1977.

The amount of funds available for archeological data recovery

The Archeological and Historic Preservation Act authorizes transfer to Interior of archeological funding for Federal construction projects up to 1 percent of project cost. Interior views this requirement as limiting the amount of funds available for data recovery while the Corps says that the 1-percent limit includes charges for initial archeological survey work.

Interior maintains that the 1-percent limitation does not include the cost of initial survey work, which should be charged against funds appropriated for the environmental planning process. 1/

This controversy over funding has resulted in agencies on the one hand referring projects to Interior for mitigation without transferring sufficient funds to cover the cost, and on the other hand, Interior is not seeking the funds it needs to mitigate the projects for which it is responsible.

For most large projects, the 1-percent limitation is sufficient for Interior to do the necessary salvage work; however, it is not enough for salvage work on many small projects over $50,000. During the time it takes Interior to get funds appropriated for the salvage work, these projects are delayed, often resulting in significant construction cost escalation.

SCS for example, routinely refers archeological discoveries to Interior, and the 1-percent fund transfer on these generally small projects is often not enough to cover the excavation work. The following cases illustrate the effects of construction delays on SCS projects.

--In 1979 SCS referred two archeology site discoveries on the Brushy Peaceable Creek watershed project in Oklahoma to Interior. One percent of the project cost, or about $4,000, was available to Interior for the recovery work. SCS estimated, however, that $74,000 was needed for the work. SCS officials estimate construction cost increased from $89,000 to $134,000 as of June 1980 while waiting for Interior to fund the recovery work.

1/The National Historic Preservation Act Amendments of 1980 recognized this issue and provided discretionary guidance in that "identification, surveys, and evaluation carried out with respect to historic properties within project areas may be treated for purposes of any law or rule of law as planning costs of the project and not as costs of mitigation." Although the new amendments broadened the preservation activities an agency may pay for as planning costs, they are permissive and do not completely address the controversy over insufficient funding through the 1-percent transfer clause of the Archeological and Historic Preservation Act. Who is responsible for paying is still open to agency interpretation and controversy, and thousands of dollars will continue to be wasted due to construction delays until responsibility is specifically spelled out in the archeological salvage laws.

--In 1978 SCS referred two archeological site discoveries, affecting two different construction sites on the Waterfall-Guilford watershed in Oklahoma, to Interior and transferred 1 percent of the project costs, or about $4,000. Interior partially funded the project with about $25,000 in 1979 and is waiting for another $35,000 in 1980 funds to complete the work.

A SCS official estimated that a 2-year delay on this project increased construction costs at one site by an estimated $53,000 to $80,000. On the second site SCS received bids in June 1980 that were more than double the 1978 construction cost estimate of $178,000.

SCS officials said that construction cost increases are caused by inflation and that SCS could incur additional costs of 30 to 40 percent if the construction sites delayed by archeological work have to be rebid as small, single-construction contracts.

ACHP SHOULD PLAY A STRONGER ROLE TO HELP RESOLVE THE DATA RECOVERY CONTROVERSY

ACHP is not receiving complete information from agencies justifying the proposed level of archeological data recovery because Federal agencies do not know what is required to adequately excavate a site. It needs to make more critical reviews of agencies' data recovery plans and require specific information from the agencies' archeologists. It also needs to work with Federal agencies to establish a process of peer review for large or controversial recovery projects to help resolve the continuing controversy on how much data recovery is necessary.

ACHP's basic role is one of negotiation with agencies. Federal agencies are responsible for deciding the ultimate disposition of the archeological property, and they may elect to carry out, modify, or ignore ACHP's recommendations. ACHP staff, the State historic preservation officer, the agency, and by invitation, the Interagency Archeological Services 1/

1/The Interagency Archeological Services as part of HCRS is responsible for (1) directing and coordinating a nationwide effort in developing goals and objectives, policies, standards, guidelines, and procedures for all Federal agencies to follow in administering the Archeological and Historic Preservation Act of 1974 and (2) helping agencies to meet their responsibilities under Executive Order 11593.

explore methods by which the adverse effects of any agency's undertaking on an archeological resource can be avoided or minimized.

The final plan to avoid the site or mitigate the adverse effects must be acceptable to all three parties. It is usually incorporated into a memorandum of agreement. In some cases, an expedited process may be used whereby the parties agree that the value of the site can be fully preserved through data recovery, so the project is held to have "no adverse effect" on the site provided data recovery is done.

ACHP issued procedures in January 1974 to implement the Council's consultation role. It made certain revisions to the procedures in January 1979 when it issued regulations in response to the President's July 1978 Environmental Quality and Water Resources Management memorandum. The President's memorandum requires affected Federal agencies to develop and publish procedures counterpart to ACHP's regulations.

In their consultations with ACHP, Federal agencies frequently do not inform ACHP of such information as (1) why the research questions to be addressed through data recovery are sufficiently important to require public fund expenditures, (2) who will be responsible for overseeing the data recovery work and (3) what scientific work will be undertaken or successfully accomplished at each site and at what cost.

Our consultant evaluated 10 recent memorandums of agreement which we selected from the agencies reviewed against a list of 12 key points which he considered essential to an understanding of a proposed data recovery project. His evaluation confirmed the lack of agency justification of the extent of proposed data recovery. For a better understanding of our consultant's evaluation see appendix I.

The consultant also cited a need for clarifying the roles of the memorandum of agreement and ACHP's no-adverse-effect procedure. Because most agencies are using the no-adverse-effect determination, he told us that

> "* * * many of the Memorandums of Agreement reviewed just as well could have been handled under the No Adverse Effect procedure. The most important point, I believe brought out by this review of Memorandums of Agreement has been that if the Memorandums of Agreement are as poor as these obviously are, then quite obviously the less formalized No Adverse Effect procedures must,

almost by definition, be even worse, which is going to lead to increasingly serious difficulties. The Advisory Council should issue guidelines requiring that the documentation forwarded to them for their 45 day review under the No Adverse Effect procedure should be completely comparable to the adequate Memorandum of Agreement documentation outlined above. Only in this way will it be possible for projects to proceed smoothly with minimum delays and other complications and with maximum scientific and other appropriate results."

Responding to our report on the New Melones Dam project, ACHP's Executive Director said in April 1980 that ACHP was currently working on establishing review procedures and taking a more active and critical role in reviewing archeology proposals. He cited two cases which demonstrate the importance of critical ACHP reviews.

In one case, ACHP recommended not doing an additional $1.2 million archeology testing program proposed by the contract archeologist for a Federal highway project in California. It felt that the additional testing would be excessive and inappropriate in view of the minor effects the project would have on the site in question. In view of ACHP's advice, the Federal Highway Administration and the California Department of Transportation are currently considering a scaled down testing program for $400,000.

In the second case, ACHP questioned extending a $3 million data recovery program at the Corps' Chief Joseph Reservoir in the State of Washington. It felt that the research design on which archeological salvage is based cannot show that the salvage will produce enough valuable information to justify the cost. ACHP also felt that the organization of the research design would almost quarantee cost overruns.

ACHP's Director, Office of Cultural Resource Preservation, told us that in the future the ACHP will try to ensure that memorandums of agreement and concurrence in determinations of "no adverse effect" are based on understanding of the following:

--What is the real importance of the research questions set forth in the data recovery plan? Why are these worth spending public money?

--Site-specific research plans (this review is now left up to the State historic preservation office).

--Costs (this review is now left up to the agency).

In fiscal year 1979 Federal agencies submitted 2,264 cases for ACHP's review in which Federal projects affected National Register or eligible properties. Because of staffing shortages, ACHP was able to formally review only 53 percent of the projects, or 1,206 cases. Of the 1,206 cases, 265 resulted in memorandums of agreement signed by the agency, the State historic preservation officer, and ACHP specifying what steps would be taken to avoid or reduce an adverse effect on a National Register or eligible property. The other 941 cases were determined by the agency and the State historic preservation officer to have no adverse effect on a National Register or eligible property. The 1,058 cases ACHP did not review were generally environmental impact statements in which the agency had not complied with ACHP procedures. In these cases, ACHP sent a form letter advising the agencies of their historic preservation responsibilities and the proper procedure for compliance.

ACHP's Director, Office of Cultural Resource Preservation, told us that ACHP does not follow up on these cases because of a lack of staff.

Peer review on large or controversial projects

Federal agencies are responsible for monitoring and reporting on contractor performance. While ACHP and the State historic preservation officer review the proposed scope of data recovery contracts, they do not have enough staff to oversee the scientific accomplishments and compliance with the terms of the agreement. For large projects, such as the New Melones Dam, a wide range of situations and controversies can be encountered which cast doubt on the scientific validity of the archeological work and lead to duplication of effort and delays.

As a way to attain a consistently high level of professional performance in large archeology contracts, Federal agencies can use a peer review system. The peer review system is commonly used in conjunction with scientific grant programs.

In July 1979 Interior's Interagency Archeological Services completed a peer review feasibility study covering four procurement stages: (1) scope of work formulation, (2) proposal evaluation/technical evaluation, (3) project monitoring, and (4) report review. The Interagency Archeological Services considered the study to be very successful and is considering implementing peer review on projects over $100,000 to review the scope of work and the final report. It already has a peer review procedure in which technical evaluation committees evaluate contractor proposals.

Controversies that arise over the significance of archeological sites, extent of adverse effect, and adequacy of data recovery can delay project construction and significantly increase costs. We reviewed several agency projects that experienced increased costs due to delays because of archeological controversies. Examples of controversies that might be resolved through professional peer review panels are discussed below.

Federal Highway Administration--U.S. 101, Santa Clara, California--Project officials expect a minimum of 2 to 4 months' delay in the award of a $22 million construction contract because of controversies in the scope of proposed archeology work. The California Department of Transportation's archeological contractor proposed a $1,164,000 excavation contract, while ACHP suggested mere recording and covering of the site as sufficient.

Federal Highway Administration--Sonora Bypass, California--Project officials cite a delay from December 1979 to date (May 1980) due in part to questions concerning archeological significance. Interior and the California Historic Preservation Office maintain that more archeological and excavation work is needed to assess the significance of a flour mill site. The California Department of Transportation believes that the site is of marginal significance since there are eight similar flour mill sites from the same time period already in the California Inventory of Historic Resources.

Federal Highway Administration--Interstate 15, California--Project officials cite a 15-month delay in the award of a $22 million contract, with annual additional cost of $3.2 million, because of archeological issues. Late discovery of Native American artifacts which were not identified in the initial survey led to a controversy between archeologists and the Native Americans over site excavation versus covering the artifacts. The Federal Highway Administration, the California Department of Transportation, and ACHP agreed to cover the site rather than excavate.

Corps of Engineers - Permit Program, California--A nonprofit corporation applying for a Corps permit said that it incurred additional mitigation expenses of $4,000 and 6 staff-months and construction cost delays of $1 million because of questions on a site's significance. An archeological study performed by the nonprofit corporation concluded that the proposed project site was not significant. The Corps and California Historic Preservation Office archeologists, however, disputed the study and considered the site eligible for the National Register. The nonprofit corporation was concerned about the length of time involved in the archeological data recovery process and also doubted the site's historical significance.

Environmental Protection Agency--Catoosa County Wastewater Treatment Project, Georgia--Project officials cited project delays of about 6 months because of a lack of understanding of proper procedures to follow and inadequate communication. An EPA grantee archeologist identified a site known as the Federal Road and reported it to EPA and the Georgia State Historic Preservation Office. The grantee's work was stopped when the State historic preservation office urged EPA to do more survey work to verify the tentative identification. The grantee had assumed that EPA would verify the grantee's initial work.

Federal High way Administration--Dahlonega Connector Project, Georgia--A Georgia Department of Transportation project official estimated at least a 15-month delay in awarding a construction contract because of confusion over archeological requirements. Project officials were reluctant to complete the lengthy U.S. Department of Transportation process dealing with site significance handled under the 1966 Department of Transportation Act and, therefore, realined the highway project to avoid the site. After discovering a way to work around the Department's requirements, Georgia officials decided to excavate the site. A series of coordination problems with ACHP and the Corps further delayed the project.

BETTER INFORMATION NEEDED ON ARCHEOLOGICAL RECOVERY COSTS AND ACCOMPLISHMENTS

The Archeological and Historic Preservation Act of 1974 directs the Secretary of the Interior to coordinate all Federal archeological survey and salvage work and to report annually to the Congress on the scope and effectiveness of the Federal Archeological Preservation Program, the projects

surveyed, and the costs and results provided. To date, the Secretary has been unable to report on the scope and effectiveness of the program because salvage reports have not provided adequate data on costs and accomplishments. In addition, Federal agencies do not always disseminate these archeological salvage reports.

Archeological costs are not known

Interior issued two annual reports covering archeological and historical data recovery--one for fiscal year 1976 and one for fiscal years 1977 and 1978. In both reports, Interior acknowledged that the total impact of Federal construction activities on archeological resources was unknown and that it could not provide a meaningful statement on the level of need for the recovery of archeological and historic data by Federal agencies.

The annual reports contain only fragmented information on the costs of agencies' archeology programs. For example, the latest report fails to mention NPS even though it is actively involved in archeological work. Archeological data recovery project costs totaling $20.8 million for fiscal year 1977 were reported for nine agencies as follows:

Agency	Number of projects	Cost
		(millions)
Federal Highway Administration	not given	a/$15.4
Corps of Engineers	57	3.0
Interagency Archeological Services	26	1.4
Tennessee Valley Authority	5	0.8
Other agencies (note b)	9	0.2
Total	97	$20.8

a/Estimated.

b/Includes the Departments of Commerce and Energy; the Veterans Administration; the Forest Service; and the Water and Power Resources Service.

The $20 million archeology cost cited in Interior's annual report is significantly understated. Only nine agencies

reported archeological project costs to Interior, even though the National Register data shows that in 1979, 22 Federal agencies identified over 2,300 archeological sites. EPA, for example, which is not included on Interior's list, told us that its archeological expenditures have been steadily rising since 1974, when it spent only $71,000 for archeological work. EPA's latest cost estimate was about $4 million on archeological work in 1977. Also not included in the $20 million figure are survey costs to identify archeological sites; in-house agency archeology costs; project delays, relocations, and redesigns; and the costs passed on to others, such as lessees and grantees.

ACHP estimated that total Federal archeology costs are about $100 million annually. Its Director, Office of Cultural Resource Preservation, estimates that the costs could be as high as $200 million when the costs Federal agencies pass on to grant recipients and others are considered.

During the past 7 years, Federal archeological programs have grown rapidly. Before the 1974 Moss-Bennett Act, Federal agencies were spending little or no money, outside of dam projects, on archeological salvage. Interior did most of the Government's archeological work.

In 1973 BLM had four cultural resource specialists. In 1978 its cultural resources staff increased to 172, with 112 full-time archeologists. Likewise, the Forest Service and the Water and Power Resources Service increased minimal 1974 archeology staffs to about 100 and to 20 full-time archeologists, respectively, by 1980.

The Corps gave us the following archeology cost and staff data for the past 5 years:

	Archeology	
Fiscal year	Costs	Staff
	(Millions)	
1975	$ 4.9	30
1976	5.4	30
1977	7.0	68
1978	10.5	65
1979	14.1	79

State agencies that deal with Federal programs frequently employ archeologists, whereas 5 years ago staffing was minimal or nonexistent. The California Department of Transportation, the grantee for the Federal Highway Administration, for example, employs 36 cultural resource specialists, including 10 full-time and 18 part-time archeologists. The California Water Resources Control Board, the grantee for EPA, employs two full-time archeologists.

Federal agencies cannot provide Interior with archeological cost data because their budget, accounting, and data management systems do not identify and isolate archeological program costs. The Corps, BLM, and Water and Power Resources Service are the only agencies we reviewed which generate reports on archeological program costs.

The fact that Interior has not provided Federal agencies with definite reporting objectives and a standard reporting format has contributed to the absence of nationwide archeological data. Not until January 1980 did Interior develop a reporting format and contact the General Services Administration requesting a 1-year interim interagency report number. This enabled Interior to officially ask other Federal agencies to provide information needed to compile the annual report.

In April 1980 the Director, HCRS, asked 60 Federal departments, agencies, and commissions to answer a three page questionnaire on each of their archeological investigations made in fiscal year 1979. HCRS's Acting Deputy Chief, Interagency Archeological Services, said that this request for information was not very successful because as of September 9, 1980, eight agencies had not replied, many others had sent incomplete or estimated overall data, and several agencies simply said it was not possible to comply with the request. Within Interior, for example, NPS and the Bureau of Indian Affairs did not respond to the Director's request; and BLM said that in view of the thousands of permits, licenses, and leases it issues during any particular year, it did not have enough cultural resources staff or funds to compile the information. Several respondents, including HUD and EPA, said that they had no central reporting system, however, they were willing to consider some effective procedure in the future to supply Interior with the needed annual report material.

Interior needs to continue its efforts to coordinate and report on the archeological work accomplished by each Federal

agency and to develop guidelines for establishing simple agency reporting systems which meet mutual reporting needs.

Archeological program results are not known

Federal agencies do not assess archeological program results or identify specifically what worthwhile research has been accomplished by their archeological projects. Agencies have not established consistent archeological reporting requirements. As a result, both Interior and the agencies are hampered in identifying ways to improve program performance, and there is little assurance that appropriated funds are spent on worthwhile archeological projects.

Responding to Interior's requests, three of the eight agencies we reviewed prepared reports on their archeological programs. In a report dated January 1979, the Federal Highway Administration presented an overview of their mitigation efforts and costs for the years 1956-1976. The Corps, and the Water and Power Resources Service prepared summary reports for fiscal year 1978. However, these reports have not been prepared for fiscal years 1979 or 1980, and the 1978 reports contain only basic statistical information, such as the number of archeological studies and consultant contract costs. The reports did not evaluate program effectiveness nor include what significant archeological sites were protected or what new scientific information was obtained.

BLM recently instructed each of its offices to develop information for an annual report on inventories made, cultural resource protection and stabilization undertaken, compliance with section 106 of the National Historic Preservation Act of 1966 (as amended), antiquities permits processed and monitored, and National Register eligibility requests and nominations.

Because Federal agencies lack data on program costs and accomplishments, agency managers do not know whether archeological program expenditures are worthwhile or whether legislative requirements are being complied with at lower organizational levels. Agencies also need program evaluation data to monitor and evaluate program performance.

Archeological salvage reports are often not distributed

Interior's January 1977 draft guidelines on archeological data recovery provide a central point to collect archeological reports. Federal agencies were instructed to provide copies of the results of archeological data recovery programs through

the Department of the Interior to the National Technical Information Service. The Service provides public access to a number of reports. As of May 1980, archeological reports were forwarded to the Service on a very sporadic basis. The following chart shows which agencies have supplied archeological reports to the Service.

Federal Agency Archeological Reports
Submitted to the National Technical Information Service
January 1977 to March 1980

Agency/organization	Number of reports submitted	Percent of total reports submitted
Heritage Conservation and Recreation Service	133	48.5
National Park Service	53	19.3
Forest Service	27	9.9
Water and Power Resources Service	15	5.5
Bureau of Land Management	6	2.2
Corps of Engineers	2	0.7
Federal Highway Administration	0	-
Environmental Protection Agency	1	0.4
Housing and Urban Development	0	-
Soil Conservation Service	1	0.4
Other agencies	36	13.1
Total	274	100.0

Many agencies are not submitting archeological reports to the National Technical Information Service. Only two Forest Service regions, for example, filed reports with the Service; one region supplied all but 1 of the 27 reports. BLM, which is responsible for about 60 percent, or 470 million acres, of federally owned lands, has submitted only six reports. As of March 1980, the Corps had submitted two reports and EPA only one report.

CONCLUSIONS

Confusion and inconsistencies exist in Federal archeological data recovery efforts. Federal agencies are not evaluating program costs and accomplishments to preserve and protect the Nation's archeological resources. Neither Interior nor the various agencies have adequate information and reporting systems to provide basic information on whether the nationwide archeological program is worth the cost.

ACHP has not provided adequate guidance to Federal agencies in determining how much archeological work is enough through better reviews of agency data recovery plans. Its assistance is needed to ensure that data recovery plans contain detailed information on the scientific value of the archeological property as well as a justification of the planned data recovery costs.

RECOMMENDATIONS

The Secretary of the Interior should promulgate regulations on Federal data recovery efforts and reporting systems as soon as possible. (As recommended in ch. 2, the Secretary's rulemaking authority needs to be clarified so that Federal agencies will follow Interior's regulations.) The regulations should include

--the specific circumstances and extent which agencies are required to excavate sites outside a project's direct impact area;

--who should pay for archeological work so that unnecessary project delays and increased costs can be prevented;

--the development of agency reporting systems for providing information to Interior and agency management on program costs and accomplishments so that program effectiveness can be monitored and reported to the Congress; and

--improved dissemination of archeological reports to the National Technical Information Service so that information can be made available to the archeological profession and Federal, State, and local officials in a decisionmaking capacity.

To help resolve controversies on how much data recovery should be done, the Advisory Council on Historic Preservation, in its review of agency proposals, should require Federal agencies to:

--Define specific significant research questions to be addressed in data recovery, in order to justify archeological excavation costs.

--Relate data recovery to priorities defined in State historic preservation plans, where approved plans exist. (See ch. 3.)

--On large and controversial archeological projects, establish peer review panels to help agencies determine how much archeological excavation is necessary and to monitor contractor progress and performance.

APPENDIX I

1 April 1980

AN EVALUATION OF RECENT MEMORANDA OF AGREEMENT

C. R. McGimsey III

A rather varied group of memoranda of agreement were evaluated against a list of 12 key points or areas of concern which it was felt covered the key elements in any adequate memoranda.

1. What factors brought about the memorandum? The format of the "whereas" section of the memoranda established by the Advisory Council for Historic Preservation normally takes care of this quite adequately.

2. Why and how are archeological and historical resources being threatened? In most cases, this was also spelled out rather clearly, although in some instances this was not clear or was covered only by implication.

3. Why are the threatened resources sufficiently important to require a Memorandum of Agreement and the expenditure of scientific effort and public funding?

In only rare instances was this addressed in any way other than by noting that the resources with which the MOA was concerned were either on the National Register individually (or as historic districts) or had been declared eligible. Further elaboration of this point would seem to be a serious oversight which represents an improper utilization of the procedures. I believe that in most instances, it is highly desirable to require that the MOA itself or perhaps better, that the MOA through official reference to additional documents, should present information adequate to justify the level of temporal, scientific, and fiscal investment necessary to warrant the level of investigation proposed in the MOA. The simple statement that the site is eligible or on the National Register is not in itself adequate, although it does, obviously constitute the minimum level required.

4. Who is responsible for funding the work covered by the Memorandum of Agreement?

Surprisingly, this was only infrequently addressed in any specific manner, although more frequently it could at least be presumed by implication who was the responsible fiscal entity. The agency or agencies responsible for funding and the legal basis for this responsibility and any qualifications applicable to that responsibility should be explicit. In the MOA reviewed, even the responsible agency normally was not made explicit, and sometimes identification of the funding agency was so vague as to be impossible to determine unless one had been privy to the discussions which presumably led to the development of the final memorandum.

5. What agency or agencies are responsible for overseeing the performance under and compliance with the terms of the Memorandum?

It is essential that each area of performance envisioned under the MOA be subject to review, often during the period of performance on major projects, but certainly each step of the action that is performed should be reviewed upon completion and the entity responsible for this review should be clearly stipulated. This was rarely set forth with any clarity in the

APPENDIX I

memoranda reviewed, and in most cases, was barely addressed at all. At the very least, the end product envisioned by a memorandum should be subjected to some form of final review by an appropriate entity. This particular point, I believe, was never addressed in the memoranda reviewed.

6. What entities are responsible for carrying out the work under the Memoranda of Agreement?

This would not be an appropriate point for a programmatic memorandum and even in some projects specific memoranda that may have not been determined at the time the MOA is signed. When this is known, it should become an integral part of the memorandum.

7. What specific area or which specific sites are addressed by the memorandum?

Although this was occasionally not spelled out as clearly as it could be, in general, in the memoranda reviewed, this was covered reasonably adequately.

8. What temporal factors or within what temporal limits must the work be performed?

The temporal limitations and construction schedules are often key elements in making possible satisfactory performance or in providing an understanding of why procedures requiring less than ideally desirable scopes are provided for in a MOA. These should be made an explicit part of the MOA to explain insofar as they are a factor why certain things that would otherwise be addressed perhaps were not, and to make it clear to all parties what factors were initially envisioned, so that any changes necessitated by alterations of this temporal parameter can be viewed in an appropriate light. This concern was addressed in none of the memoranda viewed.

9. What is the extent and nature of the fiscal parameters applicable to the MOA?

This parameter, like the temporal one, must be shown in the MOA, if the conditions of the MOA are to be evaluated in terms of scientific adequacy and overall appropriateness in the context of the total public good. In only two MOA was this addressed in any detail, and in only one was an actual budget made a portion of the MOA by reference.

10. What scientific work is to be undertaken at each site or is to be accomplish by each program addressed by the MOA?

In a programmatic MOA, this would be stated in general scientific procedural terms. For a project or site specific memorandum it should be clear how much work is to be done and why it is thought that this level of activity is adequate to achieve appropriate mitigation. This area of concern was very poorly addressed in the memoranda reviewed. While it is felt that this is an important area that must be covered in any adequate memoranda, it should also be noted that the level of specificity should be reviewed very carefully. The MOA should provide for adequate review and input at appropriate stages through consultation or peer review so that a resource is not destroyed and a project completed before it is discovered that there was poor scientific judgement on the part of the project archeologist.

11. There should be some indication of the procedures to be used.

It is more tempting and even more dangerous here than in number 10 to be overly specific. For example, it normally is not appropriate or desirable to spell out in the MOA precisely how many pits are to be excavated, what their dimensions are to be, what size screens are to be used, or similar technical details which can best be addressed by a competent archeologist in the field. Appropriate guidelines must be laid down without hampering the investigating scientist so that he has latitude to exercise scientific judgement. Again, consultation or even formal peer review at appropriate stages of the research should be called for and spelled out in the MOA for a project of any size. It is important too that among the procedural points to be addressed should be that of report preparation and acceptance and where under what standards, and at whose cost the material data and associated records are to be curated. There was considerable variation in this area among the memoranda reviewed, but in no instance was it really adequately addressed.

12. What scientific results are to be expected upon satisfactory completion of the MOA?

The end product cannot be adequately assessed unless what is expected is spelled out in the memorandum of agreement. This point was not adequately addressed in the memorada reviewed, although sometimes by implications it was present.

General Comments

None of the memorada reviewed could be considered completely adequate with regard to all the noted points or areas of concern. There are, I imagine, two principal reasons for this. There is not any detailed set of guidelines available to those writing a MOA which spell out these points, and indicating that they should be addressed if the MOA is to be considered adequate. I strongly suspect that the second major problem contributing to the inadequacy of the MOA is that they normally are written by individuals who, by the time they are writing and rewriting it, are so familiar with the situation that they do not realize how much is being assumed because "everybody knows what is intended." That is all very well, but personnel change, circumstances become altered, and unless every basic assumption is clearly stipulated, misunderstandings become inevitable. I would recommend that the Advisory Council for Historic Preservation institute a review system for MOA comparable to the GAO referencing system. Someone totally unfamiliar with the project should take the draft memorandum, review it for completeness and explicitness on the basis of what is contained in the memoranda of agreement rather than what is contained in the heads (and hearts) of the persons responsible for writing the memorandum. Something akin to the more detailed referencing process itself would also not be amiss.

I would also recommend that the Advisory Council on Historic Preservation institute a case numbering or file referencing system. As soon as any communication or correspondence with respect to a potential MOA is initiated, it should receive an identifying key. Too often the official memorandum references other documents without there being any mechanism for being assured

APPENDIX I

precisely which document is being referenced. This is even more true in the correspondence leading up to the MOA. It is possible that this procedure would result in a considerable number of case numbers or file numbers which did not lead up to a completed MOA. I do not see that this is any basic fault, and it would serve to greatly clarify those cases which did lead to a full MOA.

While adequate monitoring during the research stipulated under a MOA is addressed with varying degrees of clarity, almost never is it spelled out who is responsible for determining if all elements addressed in the MOA have in fact ultimately been adequately addressed and what authority they have to assure that this is done and who is to be responsible for meeting these requirements. This is absolutely essential and should be a key element in every memorandum.

Perhaps the most important recommendation is that there urgently needs to be clarification as to the exact administrative procedural role of MOA and the No Adverse Effect procedure. As the GAO investigation has adequately demonstrated, most agencies are going with the No Adverse Effect process rather than with the more formal and time consuming MOA process. Indeed, many of the MOA reviewed just as well could have been handled under the No Adverse Effect procedure. The most important point, I believe, brought out by this review of MOA has been that if the MOA are as poor as these obviously are, then quite obviously the less formalized No Adverse Effect procedure must, almost by definition, be even worse, which is going to lead to increasingly serious difficulties. The Advisory Council should issue guidelines requiring that the documentation forwarded to them for their 45 day review under the No Adverse Effect procedure should be completely comparable to the adequate MOA documentation outlined above. Only in this way will it be possible for projects to proceed smoothly with minimum delays and other complications and with maximum scientific and other appropriate results.

After reviewing these MOA, it is clear that the relationship between a No Adverse Effect agreement and a MOA agreement procedurally is very comparable to the relationship between declaring a site eligible for the Register and actually nominating it to the Register. In the latter procedure it is already required that full nomination documentation be submitted before a site can be declared eligible. The only difference is that of less temporal delay and less formal review under the assumption that if everyone is agreed that the site is eligible, then there is less need at the National Register level for review and input. An exactly similar situation pertains with regard to No Adverse Effect and MOA. If everyone intimately involved is agreed that the No Adverse Effect procedure is appropriate, then formal 106 procedures are not required, but the same documentation and even the same format should be followed as if it were to be submitted as a MOA. MOA should be utilized as such only when a full consultation and 106 process is necessary to achieve a satisfactory end product.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 17 1980

Mr. Henry Eschwege
Director, Community and Economic
Development Division
General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

This is in response to your letter of October 30, 1980, concerning the General Accounting Office's proposed report entitled "National Archeology Program Needs Better Leadership and Direction."

We appreciate the opportunity to review and comment on the proposed report prior to its being presented to Representative Morris K. Udall. The report identifies and analyzes critical problem areas in the Federal archeological program and offers sound recommendations aimed at correcting these problems. In general, we concur with the basic findings and recommendations concerning the roles and responsibilities of the Department and other Federal agencies whose projects and programs impact the cultural environment. We also agree that improvement is needed in providing leadership and direction for the national archeological program. The report is correct in assessing that the ability of the Department to influence and guide other agencies more effectively is dependent in part on clarification of the Department's unclear rulemaking authority under the Archeological and Historic Preservation Act of 1974.

The enclosed comments, prepared by the Heritage Conservation and Recreation Service, in consultation with other bureaus within the Department of the Interior, elaborate on specific issues and recommendations related to these points.

Sincerely,

Larry E. Meierotto
Assistant Secretary for Policy,
Budget and Administration

Enclosure

DEPARTMENT OF THE INTERIOR'S COMMENTS ON THE GENERAL ACCOUNTING OFFICE'S PROPOSED REPORT "NATIONAL ARCHEOLOGY PROGRAM NEEDS BETTER LEADERSHIP AND DIRECTION"

Listing on the National Register of Historic Places

Listing archeological and historical properties on the National Register of Historic Places is a dynamic process that will never truly be complete as current events occur and research needs change and affect the level of significance of individual properties. Both archeological and historical properties may be listed because they meet all or a combination of the criteria for listing. The point that archeological properties may meet more than criterion d is often misunderstood by archeologists preparing documentation for States or Federal agencies. When a property meets criterion d, it is because it contains important information. This point also is often misunderstood by archeologists, as evidenced by those quoted in the report. Certainly all archeological sites contain information, but the key question is whether that information is important enough to preserve and protect the site and/or the information it contains for future generations. Answering this question involves professional judgment and must be made within a regional context. It is within this context that the importance of individual sites, as opposed to classes of sites, can be evaluated. For example, while it may be determined that a particular small, surface site may or may not be important, no single class of sites such as surface lithic scatters should be written off as unimportant. Because some archeologists and Federal agencies occasionally discount small, surface, and/or disturbed sites, in 1977 the Department examined and identified types of information that might be contained in these sites. The published report ("The Importance of Small, Surface, and Disturbed Sites as Sources of Significant Archeological Data" by Valerie Talmage and Olga Chesler) shows that these classes of sites may often contain significant information relating to prehistoric cultures and demonstrates techniques for recovery of this information. However, extensive data recovery is not ordinarily needed at most of these sites.

Because evaluations of State and local significance should be made within a regional context, consulting State surveys, inventories, and historic preservation plans, it is appropriate for States to make these determinations. We, therefore, concur and support GAO's recommendations that States be delegated the responsibility to make determinations of eligibility and list properties of State and local significance in the National Register. However, safeguards would somehow need to be added to the process to assure that States have a mechanism to appeal or the Department has the ability to discover and take corrective action when special interest groups are overly assertive. In order to undertake this new function, the capability of States also would need to be increased.

/GAO COMMENT: Interior concurs with our report and recommendations in this area./

Executive Order 11593 Surveys

The report recommends that under Executive Order 11593 only areas which may be affected by land disturbing activities should be surveyed, and that the order should be so amended. While this is what many land-managing agencies are presently doing, others have taken the initiative to begin inventory programs that at least sample and predict the locations of archeological and historical sites on their lands for long-term management purposes. Land use planning takes place at various management scales; it may be comprehensive or project-specific in nature. Comprehensive planning that includes a cultural resource component clearly does not imply exhaustive survey. In such cases, identification issues might be resolved by sampling, for example. The nature of an

agency's comprehensive cultural resource planning effort will therefore influence decisionmaking relating to site-specific undertakings. The need for survey in site-specific land use decisionmaking is a concern that is less crucial than the need for comprehensive cultural resource planning as an ongoing component of agency management. Considering fiscal constraints as they are today, although it may take some agencies a number of years or even decades to complete inventorying their lands, we believe these programs should continue if we are ever to know, appreciate and protect sites and other types of properties important to the heritage of our great nation.

Until these and State inventories are completed, there is certainly no doubt that agencies should conduct necessary surveys in conjunction with immediate land use planning. However, in addition to these areas, areas which have not previously been surveyed and have already been or are being impacted by continued use should also be surveyed. For example, continued operation of a reservoir may cause additional and recurring damage to presently unknown archeological sites by wave action, water currents, inundation and erosion. If the reservoir is also used for recreational purposes, sites may be further damaged by vandalism resulting from increased public access. There are numerous federally-owned areas being impacted by operating projects across the country that should be surveyed to locate and protect important archeological and historical sites.

The report indicated that the Corps of Engineers believes that the requirement to inventory federally-owned land expired in 1973 and, because no specific funding was made available, was considered out of date and not in effect. We would like to point out that Executive orders do not expire unless they are rescinded or superceded by law. The National Historic Preservation Act Amendment of 1980 clearly state in section 110(a)(2) that "With the advice of the Secretary and in cooperation with the State Historic Preservation Officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency's ownership or control by the agency that appear to qualify for inclusion on the National Register..." The amendments further clarify in section 110(g) that "Each Federal agency may include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency....and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit." While we agree with GAO that a crash effort to inventory all cultural properties is not in the best public interest, continued efforts to inventory systematically such resources as a part of sound planning are well advised and are reinforced by the 1980 amendments.

/GAO COMMENT: We agree with Interior's position that archeological survey work and overviews should be performed also in conjunction with an agency's land-use planning efforts. (See pp. 11 to 16.) To emphasize this point, we have expanded our second recommendation, see p. 22./

State Historic Preservation Plans and Grants

While the report focuses on the Federal archeological program, the portions dealing with State planning are of direct concern to the Heritage Conservation and Recreation Service (HCRS), which oversees the Historic Preservation Fund (HPF) program in the States. GAO's assertion of the need for State-based comprehensive planning is not merely an issue in the Federal archeological program; it is the most significant concern in the HPF program and is basic to improving the efficiency and effectiveness of a national preservation effort. Historic preservation has made great strides since the passage of the National Historic Preservation Act of 1966. There is a growing public appreciation of our cultural resources and historic preservation has made important

APPENDIX II

contributions to community enhancement. However, many social and economic forces are significantly affecting historic and archeological properties; these forces include investment practices, regional employment shifts, energy exploration, and housing and retail market changes. The need to reconcile preservation and other critical interests has become more pressing. All parties agree that a more effective means of integrating preservation concerns into broader planning frameworks is needed. This requires development of comprehensive planning systems that invest preservation activities with conscious direction and consistent purpose, and make preservation a normal, rather than an exceptional, element in decisionmaking.

The report notes the lack of comprehensive State plans and asserts that the Department has not provided States with guidance or encouragement to develop such plans. This statement was an accurate assessment of the situation that existed through 1976. Since that time, however, HCRS has made significant progress in developing and implementing State-based comprehensive planning through a major effort based on the Resource Protection Planning Process (RPP). RPP encourages reliable decisionmaking about historic properties by focusing attention on the use of cultural resource information (along with related skills and products) in management planning rather than merely on the further acquisition of such information. In the first case, management needs define precisely the data to be acquired; in the second case, data acquisition proceeds independently of management needs. Consequently, the efficiency of this latter approach is very low. In RPP, planning areas are divided into smaller units in which issues relating to the identification, evaluation, and protecton of cultural resources are addressed. Using this approach, decisions about historic properties are made in relation to a body of knowledge about similar and/or related properties and in a manner relevant to the varied planning scales in which management decisions are made. RPP thereby enables managers in preservation and in other fields to focus their efforts in a purposeful and cost-effective manner. Identification issues, for example, may be resolved in certain instances such as long-term or large-scale management through purposeful sampling and predictive modeling rather than scattershot and costly efforts to "complete the survey." This is particularly important with inflation continuing to reduce the actual amount of money available to conduct surveys. The State historic preservation office can thereby anticipate, measure, and meet likely demands; other public agencies and the private sector are made aware of the existence and significance of cultural resources, the benefits accrued in protecting and enhancing them, and the opportunities foregone by the failure to preserve.

While HCRS is not requiring States to adopt RPP as their mainline planning method, it is beginning to mandate implementation of a State planning process that can achieve comparable results. HCRS is devoting significant efforts to improving State capabilities in comprehensive planning through technical assistance in RPP implementation and in annual program planning for the HPF. Such efforts include testing the model at the State level, publishing a training manual and holding workshops in the States. In addition, 10 States with significant surface mining activity have been awarded contracts to assist them in RPP implementation. Reports required as part of the contract will provide case studies for additional information exchange. Participating States have been enthusiastic about RPP, regarding it as a means of disclosing opportunities while reducing and/or resolving conflicts. They are also realizing the cost-effective implications of adopting RPP as an alternative to broad-based surveys that, as suggested by the Georgia State archeologist in the report, have limited value.

Complementary efforts to implement RPP are also under way. HCRS is cooperating with the Advisory Council on Historic Preservation to test RPP in the planning process of Federal agencies. The Corps of Engineers and the Water and Power Resources Service are currently being discussed in this regard; RPP would be employed in management

planning for a major activity area such as the Ohio River Basin or on a large-scale undertaking such as the Central Arizona Project. Preliminary reactions by the Corps and other Federal agencies being exposed to RP3 are encouraging, although much more systematic orientation needs to occur. At the same time, HCRS has initiated an RP3 test effort in a large city (Washington, D.C.) and has required each State to do this in either a city or a surface mining area during FY 81. Since historic resources are frequently impacted by urban redevelopment efforts, it is essential to ensure purposeful consideration of cultural resources in revitalization planning. Several local officials have expressed interest in exploring such an RP3 test.

The State Annual Work Program (AWP) is not, as the report suggests (p. 42), merely a list of projects that the State will fund. It is an annual planning document by which States describe proposed activities that will meet broad national priorities established by HCRS. These priorities have recently emphasized development of reliable decisionmaking systems for identification, evaluation, and protection. While the national priorities change on an annual basis, and may not reflect a State's particular or special priorities, they have significant continuity in terms of emphasis on comprehensive planning. The FY 81 Survey and Planning priorities, for example, required States to integrate identification, evaluation, and protection; to address public involvement concerns, particularly those of local officials who frequently face preservation-related planning issues; and to render comprehensive assistance to "critical agencies" (those whose actions have the greatest impact on cultural resources). In addition, States are mandated to initiate development of a comprehensive planning process for use in urban central business districts or surface mining areas; the process must achieve results comparable to those yielded by RP3. It should be noted that the AWPs are competitively evaluated as are progress reports that compare projected performance (70%) with actual performance (30%). The results of this evaluation are a weighted factor in the annual apportionment process by which State HPF dollar allocations are determined. Hence a small but direct incentive is being given to implement comprehensive planning. Increasing the proportion of funding based on actual performance may increase the States' comprehensive planning. We believe that this approach would be more effective in encouraging the development of State plans than would a requirement that a plan be in place before a State could participate in the program.

HCRS is also using the RP3 concept in revising the State planning regulations for the HPF program. As GAO notes, these regulations are both outdated and require refocusing. We anticipate that new regulations will be issued in FY 81 and that they will provide further guidance and encouragement to the development of effective State preservation planning.

In summary, we believe that GAO has accurately targeted the critical need for improved State planning. We appreciate GAO's strong interest in this regard, and further assert that comprehensive planning is a major challenge for preservation in the 1980s. During the past two years, HCRS has made major progress in dealing with the problems that have been highlighted in the State historic preservation planning process. Clearly, however, these efforts should be accelerated and planning at the State level should be encouraged more strongly. Provisions under section 202 of the National Historic Preservation Act Amendments of 1980 should aid in this by providing increased HPF funding (Federal share 70 per centum; State share 30 per centum) to States for the costs of surveys or inventories. A preservation planning system that emphasizes use rather than acquisition of information should be useful in integrating preservation concerns into public policies and programs by disclosing opportunities and minimizing or resolving problems. Establishment of this system is a key to survival of the nation's cultural resources.

/GAO COMMENT: Interior concurs with our reporting of the need for States to play a greater role in determining archeological site significance through meaningful State comprehensive planning. The Resource Protection Process outlined above shows Interior is actively attempting to bring about better State planning as does our discussion of two Interior funded pilot projects on page 28. As the Resource Protection Process is new and was developed after our review was completed, we are at this time unable to comment on its impact on State planning.

Regarding the National Historic Preservation Act Amendments of 1980 increasing the Federal share to 70 percent of the cost of surveys or inventories, it should be noted that the Congress authorized increasing the Federal share to 70 percent previously in 1976. As discussed in our report on page 29, Interior chose not to use the increased Federal share. On page 33 we recommend they do so as a means to help foster developing meaningful statewide plans./

Data Recovery under the Archeological and Historic Preservation Act

The Department, in its Statement of Program Approach on the implementation of the Archeological and Historic Preservation Act (Public Law 93-291), has interpreted the intent of the Act to be that Federal agencies undertaking projects and programs affecting archeological and historical resources should provide the necessary funds to complete recovery of data to be damaged or lost by the project or program. The Act authorizes agencies to expend funds for recovery, or to transfer up to 1 per centum of the authorized project costs to the Department for the Department to undertake recovery. When funds available to the agency are insufficient and project delays would result from the agency seeking additional funds from Congress, the Department attempts to supplement the 1 per centum using authorities and appropriations available to it under other provisions of the Act. Priorities for supplementing projects include cost increases, potential loss of life or property, and loss of resources. However, these funds have been so small that they have not had any impact in the contracting part of the archeological program. Costs for other elements of the program (for example, costs associated with administration of contracts, Executive order monitoring, Antiquities permitting, coordination of the national program, preparation of the annual report to Congress) have increased as data recovery and other demands have increased. Inflation and increased costs of administering the archeological program have reduced the amount actually available for contracts, and severe ceilings imposed on the Department have reduced the number of positions available to administer the program.

Because the amount of funds available to the Department is so small, agencies need to contact the Department early in project planning so that we may request sufficient funds be appropriated in subsequent fiscal years. However, from an economic point of view, it would be more cost effective if the Department were able to supplement and complete the data recovery work expeditiously in all cases when requested. This is particularly important when resources are discovered once construction has begun, and any necessary data recovery must begin immediately. We have found that delays resulting from our inability to fund needed work results in cost inflation at an incredible rate. Construction costs increase at a rate of 10-15 percent every six months due to inflation and costs to do the necessary data recovery also increase due to inflation at about 10-15 percent per year. In addition, where several small construction projects are linked in a construction contract and one or more parts are delayed, close-down and start-up costs amount to about a 40 percent increase in costs. The following hypothetical, but typical, scenario and breakdown may clarify why it would be more cost effective to be able to fund all projects when requested and avoid construction delays.

A flood control project having 20 structures in a watershed is included in a single construction contract. The authorized costs for all structures is $2,000,000. Fifteen of the structures will have no affect on archeological resources. Five will affect resources. Structure 1 will cost $40,000 and affect a complex archeological site containing significant information; structure 2 will cost $300,000 and affect an average site containing significant information; structure 3 will cost $120,000 and affect a small uncomplicated site with significant information; structure 4 will cost $20,000 and affect a small surface site containing significant information; and structure 5 will cost $500,000 and affect 6 small uncomplicated sites that individually are not significant but may provide significant information when considered as a unit. The Federal agency calls upon the Department for assistance under Public Law 93-291 and agrees to transfer 1 percent of each project's construction costs. For structure 1, $400 are transferred; for structure 2, $3000; for structure 3, $1200; for structure 4, $200; and for structure 5, $5000. The Department estimates the costs for data recovery at structure 1 at $80,000; structure 2 at $40,000; structure 3 at $5000; structure 4 at $10,000; and structure 5 at $5000. Within the 1 percent authorization available and funds available to the Department, the Department is able to accomplish only the required data recovery at structures 3 and 5. Because of lack of funds the Department is unable to complete the work required at structures 1, 2 and 4, and the agency, unable to meet historic preservation requirements, must either proceed and destroy the resources or eliminate the three structures from the initial construction contract and postpone completion until the next year when funds may be available either through direct appropriation to the agency or through funds appropriated to the Department. If the agency were to calculate the 1 percent from the total flood control project cost ($20,000 from $2,000,000) instead of from the cost of the five structures ($8,800 from $880,000) data recovery could also be accomplished at structure 4 and at part of structure 1 or 2. The above example illustrates a problem with how agencies calculate the amount of funds to be transferred to the Department under the 1 percent authorization. Although we have recommended it on a number of occasions, agencies continue to calculate the 1 percent figure on individual rather than total project costs.

Using this scenario and anticipated rates of inflation, total project costs could increase by over $250,000. Because of insufficient funds in the budget and the inability to predict in advance how many projects might need supplemental funding, many projects are delayed for several years before funding is available. This substantially increases the one-year delay figure. Down-time in emergency discovery situations once construction has begun can easily be more than $10,000 per day. If sound overall Federal economics should be the primary basis for augmentation, much more funding is needed. Waiver of the 1 per centum limitation and full funding to the Department is needed to accomplish data recovery expeditiously. Section 208 of the National Historic Preseration Act Amendments of 1980 responds to the need to waive the 1 percent limitation: "Federal agencies, with the concurrence of the Secretary and after notification of the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, are authorized to waive, in appropriate cases, 1 per centum limitation contained in section 7(a)..." of Public Law 93-291.

However, even when agencies do have sufficient funds to transfer to the Department for archeological data recovery, we are not always able to assist them because of insufficient personnel and travel ceilings to monitor the work and administer the contract. The Office of Management and Budget also has a ceiling on the amount of reimbursable funds the Department may expend in any one quarter and year. While the Department is able to request the ceiling be raised, delays result if agencies do not contact us early enough in project planning for us to anticipate the amount of funds the Department is able to accept on transfer.

In administering Public Law 93-291, the Department has recognized that some agencies routinely include planning costs with data recovery costs and others refuse to condition permits and licenses. GAO's report has accurately identified these problem areas and recommended legal clarification. Historic preservation costs sometimes erroneously included within the 1 percent limitation on data recovery are salaries and expenses, project down time and general environmental and planning work. These costs may account for the $100 million figure cited in the report as the annual cost of the nationwide archeological program. Such a figure is difficult to estimate since not all agencies report to the Department as they are directed to under Public Law 93-291. However, we project that much less is actually spent annually on archeological surveys and data recovery. Section 208 of the National Historic Preservation Act Amendments of 1980 makes clear to agencies that surveys to identify and evaluate archeological and historic sites are to be treated as planning costs, not to be calculated as data recovery costs under the 1 percent limitation. The 1980 amendments also make clear that these planning and mitigation costs may be charged to applicants for Federal licenses and permits.

/GAO COMMENT: Interior concurs with our identification of problem areas associated with determining how much data recovery is enough. Concerning Interior's reference to section 208 of the 1980 amendments, the use of the wording "may be treated" as planning costs could still result in differing interpretations by agencies as to whether archeological survey work can be treated as part of the 1-percent limitation. We therefore believe our discussion of this matter on pages 38 to 40 is still appropriate./

Coordination of the National Archeological Program

GAO has astutely recognized that major savings could be realized by the Department's coordinating survey and overview studies undertaken by other agencies complying with historic preservation planning mandates. We too have recognized that as the amount of development and archeological work increases, there is a concomitant increase in the possibility of duplication of effort and confusion on the part of agencies in coordinating their programs. In the past the Department has funded a number of studies illustrating and/or testing innovative, effective approaches toward conducting overview studies. For example, in an effort to help coordinate two of our programs, HCRS developed in consultation with the Bureau of Land Management and the Geological Survey an integrated technical and management methodology for detecting, predicting, and protecting archeological and historical resources located on portions of the Outer Continential Shelf (OCS) subject to oil and gas development. This pilot project, which which culminated in the publication of a document entitled "Cultural Resources Evaluation of the Northern Gulf of Mexico Continental Shelf," prepared by Coastal Environments Incorporated, describes methods and techniques to identify known sites and predict the locations of presently undetected sites on the OCS. This study was so successful that the Bureau and the Survey have adopted and implemented it in all the OCS offices. Its adoption has and will continue to result in an indeterminate savings of dollars to both the Federal Government and private industry as energy development on the OCS is expedited and made more cost-effective.

Nevertheless, the Department at present is unable to undertake all necessary coordination activities because of lack of personnel and funds, unclear rulemaking authority, and the natural tendency of agencies to protect their programs by working independently. Although coordinating survey and overview studies are, as the report states, time and cost-effective, agencies appear to need more of an impetus to coordinate their programs. Clarification of the Department's authorities and responsibilities to coordinate and oversee these planning studies is needed. Otherwise the Department has no authority to enforce coordination studes on agencies outside itself.

Except through general environmental review, we are not ordinarily informed of archeological investigations at an early planning stage. Further, at present funding and staffing levels, the Department would have no capacity to coordinate such studies if we were informed. (The archeological program now has four fewer FTP positions than in FY 75.)

The GAO report also has recognized that the Department has difficulty collecting information on and coordinating data recovery activities of other agencies. Public Law 93-291 clearly states that the Department is to report annually to Congress on the scope and effectiveness of the national archeological program and that other agencies are to notify the Department when their programs and projects may have an effect on important archeological and historical resources. However, some agencies do not report work conducted under other authorities and others are unable to report this information to us because of cumbersome accounting systems.

In order to prepare the required report to Congress, the Department also is required periodically to obtain clearance and a reporting number from the National Archives and Records Service/General Services Administration to be able to request from agencies information they are required by law to report to us. Lack of staff preclude timely preparation of annual reports to Congress on the scope and effectiveness of the national archeological program because insufficient personnel are available to prepare clearance requests, agency questionnaires and analyze data.

In 1978 most of the Department's historic preservation technical assistance programs, known then as the Office of Archeology and Historic Preservation, were transferred from the National Park Service to HCRS. However, one program offering technical assistance to the Bureau of Indian Affairs was left in the National Park Service. This has resulted in duplication of effort within the Department and occasionally has resulted in increased project costs and delays because of inappropriate advice. HCRS recently has stepped in to assist the Bureau when notified of archeological sites being damaged by projects. HCRS also is preparing to issue regulations in FY 81 setting forth procedures to be followed by agencies under emergency discovery situations during construction when planning surveys failed to locate sites.

Finally, we would like to point out that while the national archeological program has grown dramatically over the past six years, support for oversight and coordination of that program has not. HCRS devotes almost all of its archeological efforts toward conducting surveys and data recovery for other agencies, and little on oversight and coordination of the national program. In fact, many single data recovery projects such as the Dolores or New Melones reservoirs receive more funding than the entire national annual budget for the oversight and data recovery program. Without additional staff and funding, the program cannot operate as effectively as it should and will result in project delays, duplication of effort and the loss of archeological and historical resources important to our Nation's heritage.

/GAO COMMENT: Interior concurs with our reporting of the need for better program coordination./

Regulations and Guidance for the National Archeological Program

We agree with the report's recommendation that the Department issue additional regulations and guidance on procedures to identify and recover archeological data. Although proposed guidelines (36 CFR Part 66) were published in 1977 and a Statement of Program Approach was published in 1979, the intent and purpose of archeological programs differ dramatically among agencies. As the report points out, some agencies conduct too much work, others conduct too little work, and still others conduct none at all to fulfill legal mandates. Except for a few highly publicized cases, there is usually much more archeology which should be done than there are dollars available. Agencies routinely are faced with questions such as where on a continuum does one draw the line so that the most valuable information is obtained for the dollar; how does one conduct an adequate survey or data recovery program that does not do violence to the archeological record and does not raise political foes; and how does one maintain a balance between the costs incurred and the benefits received.

In response to questions like these, over the past two years the Department has been revising the 1977 guidelines and preparing standards for the identification, evaluation, and recovery of archeological resources; defining what constitutes adequate mitigation within the context of State comprehensive historic preservation plans; outlining procedures for agencies to notify the Department of potential damage to archeological resources, to ask for assistance under Public Law 93-291, and to notify the Department of emergency discovery situations; and outlining reporting requirements and disseminating information to the public. As the report points out, millions of dollars are spent each year on archeological work, and many agencies conducting programs routinely do not provide their findings to the public or the scientific community, and others do not even require final reports from their archeological contractors.

These revised, interim regulations are scheduled for publication during FY 81. The Department also has been working with the Advisory Council on Historic Preservation to initiate a Memorandum of Understanding which outlines the roles and responsibilities of each and to prepare jointly guidelines on data recovery. However, as GAO states, because not all other agencies cooperate with the Department or recognize that the Department has the authority to issue regulations governing their archeological programs, the Department acknowledges the need to clarify its rulemaking authority. This could be done through seeking a determination from the Department of Justice or seeking a decision from the Comptroller General, as well as through amending the Archeological and Historic Preservation Act.

/GAO COMMENT: Interior concurs with our reporting of the need for better program guidance and a clarification of its rulemaking authority./

APPENDIX III

Advisory Council On Historic Preservation

1522 K Street, NW
Washington, DC 20005

DEC 2 1980

Mr. Henry Eschwege, Director
Community and Economic Development Division
United States General Accounting Office
Washington D.C. 20548

Dear Mr. Eschwege:

Thank you for affording us the opportunity to comment on your draft report to Congressman Udall, entitled "National Archeology Program Needs Better Leadership and Direction."

We agree with the general thrust of the report, and with most of its recommendations. We have provided a number of technical comments and suggestions to your staff. Our major comments are attached.

You are aware, of course, that Congress has recently enacted the National Historic Preservation Amendments of 1980, which significantly amend and modify the National Historic Preservation Act of 1966. Many of the amendments are entirely compatible with the GAO's recommendations, and will help to implement them. We draw your attention particularly to:

Sec. 206 of the amendments, which adds Sec. 110 to the Act, incorporating most of the key provisions of Executive Order 11593. This appears to obviate the need for the Department of the Interior to seek clarification or amendment of the Executive Order, as the GAO has recommended.

/GAO COMMENT: There continues to be confusion and disagreement among Federal agencies on what should be done to locate and identify archeological resources. Section 206 does not address this issue; it merely requires Federal agencies to identify and preserve historical and archeological resources. Our recommendation was expanded and clarified. (See p. 22.)/

Sec. 201 of the amendments, which amends Sec. 101 of the Act, among other things (at 101(b)(3)) clarifying the planning responsibilities of the State Historic Preservation Officer and calling for the cooperation of Federal, State and local agencies, and (at 101(f)) directing the Secretary to issue guidelines for Agency compliance with Sec. 110, in consultation with the Council. These would appear supportive of several of the GAO's recommendations.

/GAO COMMENT: We agree. The Secretary of the Interior should take appropriate action to comply with the 1980 amendments./

Sec. 202(a) of the amendments, amending Sec. 192(a)(3) of the Act to require the Secretary to provide 70 percent of State survey costs, again consistent with the GAO's recommendations.

/GAO COMMENT: We agree. Interior should make the 70 percent Federal share available to the States. As we report on page 29, the Congress previously authorized use of 70 percent Federal share in 1976, but Interior did not make the increased Federal share available to the States./

It should also be noted that the Council has recently prepared detailed supplementary guidance in the treatment of archeological properties. The procedural aspects of this guidance have been sent to the Federal Register for publication, while a more detailed handbook with examples and elaboration is planned for publication in cooperation with the Department of the Interior. This supplementary guidance will allow the Council to implement a number of the GAO's recommendations, and is, we believe, entirely consistent with them. We have provided a copy of the final draft of the supplementary guidance to your staff, and will be happy to provide final printed copies when they are available. You may wish to review this material before finalizing your report.

/GAO COMMENT: ACHP's draft regulations do address our first recommendation on page 52 and should be finalized./

Although some of the attached comments are critical of portions of the GAO's report, you will note that these for the most part have to do with matters of emphasis and what we perceive to be confusions and inconsistencies. On the whole, we congratulate you and your staff on a fine effort, which clearly sums up the basic needs of the Federally sponsored archeology program today. We can assure you that the Council will make good use of the report, and move as quickly as staff, funds, and other obligations allow to implement your recommendations.

Sincerely,

Robert R. Garvey, Jr.
Executive Director

Enclosure

COMMENTS ON "NATIONAL ARCHEOLOGY PROGRAM NEEDS BETTER LEADERSHIP AND DIRECTION"
(Draft transmitted to Council October 30, 1980)

Chapter 1: No comments

Chapter 2:

Page 11-13: We take issue with the way that GAO seems to define "land-use planning" in its proposition that "Archeological Surveys of Federal Lands should be done Only in Conjunction with Land-Use Planning." In fact, GAO's own definition of this term seems internally inconsistent. By saying that archeological survey should be done only in conjunction with land-use planning, GAO seems to mean that "field surveys should be conducted only in areas which may be affected by land-disturbing activities." Land-use planning goes beyond planning specific land-disturbing activities, however. A land-managing agency like the Bureau of Land Management or the Forest Service must consider how to handle a great range of activities on its lands, some of which can be planned and directed, some of which cannot. To do this intelligently, the agency needs some comprehensive picture of the resources present on the land it manages. This does not require physical inspection of every acre of ground, but to get a comprehensive picture of a large area's archeological resources typically does require some sort of field inspection of representative sample tracts, as part of archeological overview studies. Later in the report, GAO promotes the better use and coordination of overview studies, a recommendation with which we strongly agree. It is obviously inconsistent, however, to encourage improved overviews and simultaneously to recommend restriction of surveys to areas subject to effect by land-disturbing activities.

If GAO is opposing the thoughtless insistence by some agencies that every square foot of their land must be physically inspected for archeological remains, we agree. Based on good overviews and sample surveys, it should be possible to eliminate large areas of any given Federal landholding from further survey. In most areas, however, it is not possible to do a good overview without some kind of comprehensive sample survey, and GAO should not oppose the conduct of such surveys.

/GAO COMMENT: We agree. Archeological survey work and overviews should also be performed in conjunction with an agency's land-use planning efforts. (See pp. 13 to 16.) To emphasize this point, we have expanded our first recommendation on page 22./

The description of the Bureau of Land Management's (BLM) three classes of survey on draft page 12 is inconsistent with our understanding. Definitions of the three classes are found at Section 8111.1 of the BLM Manual. Class I is, as the report indicates, a study of background data and literature, but Class II is not "a sampling of potentially significant sites identified in the literary search," but the physical inspection of sample tracts within a large area, whose purpose is to allow generalizations to be made about the distribution of historic and cultural properties in the whole area without the need to physically inspect the whole area. Class III is an intensive survey of an area, not of a specific site.

/GAO COMMENT: We agree and have revised the definitions of class II and III surveys. (See p. 12.)/

GAO's apparent confusion about BLM's inventory system may be responsible for what we feel sure must be an erroneous cost estimate on page 17 of the draft. GAO cites a figure of $4.50 per acre for Class I and Class II surveys, and from this generates a total cost of $2 billion for surveying all the land under BLM control. While $4.50 is not an unreasonable cost for simple field inspection of an acre of typical desert land, it would be clarify by example: suppose BLM wished to conduct a Class II inventory of a 10,000 acre area. To do this it might physically inspect a 10% sample of the area, or 1,000 acres to provide a basis for making projections about the entire area. At $4.50 per acre, this would mean a cost of $4,500 for Class II inventory of the 10,000 acre area. If this figure were applied to the entire 426 million acres remaining to be inventoried, the cost would be some $20 million, not the $2 billion estimated by GAO. $2 billion would be the cost if the entire acreage were subjected to physical inspection, that is, Class III inventory.

/GAO COMMENT: We agree. It would be highly unlikely that an agency would perform archeological surveys without using sampling methods. We therefore have revised the potential survey costs presented on pages ii, 11, 12, 13, and 21 to reflect a range from a 10-percent sample to a 100-percent survey sample. As we stated on page 12, BLM's chief archeologist estimates costs exceeding $322 million to survey all of BLM's lands with in-house archeologists./

For the reasons discussed above, we suggest modification of the last paragraph in the discussion of archeological surveys, on page 18. Surveying only in advance of land disturbance would not provide the general information about the distribution and nature of archeological properties that agencies need for planning purposes. The information gained through predictive sample surveys, as part of a program of overview studies, can result in better focused, and hence more cost-effective, surveys of project areas; it also provides a framework for evaluation of discovered properties that would not otherwise exist. Physical inspection of every acre of ground (BLM's Class III) is not necessary and is excessively expensive for the major land managing agencies, but limiting survey to disturbance areas is short-sighted and leads to excessive costs and poor planning decisions. The appropriate middle road is the conduct of intelligent sample surveys for predictive purposes, in connection with overviews.

/GAO COMMENT: We agree. Archeological survey work and overviews should be performed in conjunction with an agency's land-use planning. We have expanded our first recommendation on page 22 to emphasize this point./

Pages 13-16: We strongly support GAO's remarks with reference to archeological overview studies, their importance, and the need to better coordinate them. We would add that these overviews should be coordinated not only with one another but with the State Historic Preservation Plans that State Historic Preservation Officers are required to develop, which are, of course, discussed later in the report. Since the Secretary of the Interior is responsible for standard-setting with respect to State Historic Preservation Plans, it would be appropriate for the Secretary to promote compatability among these Plans and the overview and planning efforts of pertinent Federal agencies.

APPENDIX III

/GAO COMMENT: We agree. Archeological overviews should be coordinated with State historic preservation officers. (See pp. 13 to 16.)/

Page 21: For the reasons discussed above, we suggest that the "Conclusions" on this page be modified to propose that surveys not only be done "when land-disturbing danger impends," but also on a sampling basis in connection with overview studies, to facilitate long-range land use planning and to serve as a basis for management policy to implement the requirements of Sec. 110(a)(1) and (2) of the National Historic Preservation Act as amended by H.R. 54596, Sec. 206.

Page 22: We suggest that the second "Recommendation" on this page be modified to propose the conduct of surveys on a sampling basis as part of overview studies for planning and policymaking purposes, as well as "when a land-disturbing activity is planned."

/GAO COMMENT: We agree and have expanded our conclusions and recommendations. (See pp. 21 and 22.)/

Pages 21 and 22: To ensure consistency and minimize interagency confusion, we suggest that the Secretary of the Interior should fulfill GAO's recommendations in consultation with the Council. This suggestion would appear to be consistent with Sec. 101(f) of the National Historic Preservation Act, as amended by the National Historic Preservation Amendments of 1980 (Sec. 201(a)).

Chapter 3: We strongly support GAO's findings and recommendations in this Chapter, and have the following comments.

Pages 29 to 32: GAO mentions that several of the States surveyed are developing computer-based systems for inventory data management. It is saddening to note that, in our experience, these systems are seldom capable of interface across State lines, or with the systems in use by the various Federal agencies with land and resource management responsibilities. Automatic data processing is vital to effective management of archeological properties, but before too much more money is invested in such systems by disparate units of government, an effort should be made to render the various systems reasonably compatible. It is particularly vital that the various large land-managing agencies in the West have systems that are capable of intercommunication among themselves and with relevant State Historic Preservation Officers. We understand that BLM and the State of Nevada are engaged in such an intercommunication effort.

[GAO COMMENT: Although the focus of chapter 3 was not in this area, it appears logical to consider the interface of computer-based systems and thier compatibility across State lines when systems for inventory data management are being developed. This is especially true when information is needed on a regional basis.]

Pages 33 and 34: While we strongly support the recommendations offered here, it appears logical that, if the Department of the Interior is to provide grants for developing State Historic Preservation Plans, to require that adequate Plans be submitted, and to use the Plans as a basis for determining significance, then the Department of the Interior should also issue formal standards for such Plans.

[GAO COMMENT: We agree that formal criteria needs to be developed so that the states and the Secretary will have a basis for determining the adequacy of the States' plan in determining significance. We altered our recommendation to reflect this. (See p. 33.)]

Again, we suggest that the development of standards and guidelines for State Plans, and the review of State Plans, occur in consultation with the Council, so that the Council could use the Plans as a basis for determining the appropriateness of data recovery and other mitigation plans subsequently developed by the agencies for particular projects.

[GAO COMMENT: This was discussed on pages 75 and 76.]

Chapter 4: While we do not disagree with the general argument developed in this Chapter, we feel that some of the examples are badly drawn. Specific comments are:

Page 37: The discussion of "Impact on archeological sites outside the project area" that begins on this page (and is summarized on page 35) appears to confuse identification and consideration of archeological properties with data recovery from such properties, and to condemn by innuendo the consideration of project secondary effects. While we would agree that there are distinct, and fairly narrow, limits beyond which an agency should not be expected to conduct archeological data recovery in areas of indirect or secondary impact, we feel that the limits within which agencies should attempt to identify project effects on archeological properties, and consider these effects in planning, are often much broader. For example: a reservoir project may make it possible to introduce irrigation agriculture into an area that was previously only dry-farmed. This in turn may result in extensive land-leveling and deep plowing, with devastating effects on preserved archeological sites. While we would tend to question the responsibility or authority of an agency to conduct archeological data recovery on the private lands subject to leveling and deep plowing, we would certainly argue that the agency would be remiss in its planning if it did not take the potential indirect effects into account. Taking them into account, in turn, would require at least some kind of identification effort. By mixing up "survey" and "data recovery" in this discussion, and appearing to cast both in a negative light by emphasizing that they may result in excess costs, GAO implies that agencies should not give systematic consideration to the indirect effects of their undertakings.

/GAO COMMENT: We believe the questions we raise in this section are valid and need Interior's attention. Present written guidance on both how much archeological survey and data recovery work is required outside direct/primary project impact areas are generalized broad statements which leaves the matter open-ended. In the reservoir project cited above, how far should the agency go in performing surveys and data recovery outside the project area? As we recommend on page 51, we believe Interior needs to develop more precise guidlines./

Pages 37 and 38: The example of the railroad spur that begins on this page is confusing. While it certainly appears that the archeological data recovery discussed, in an alleged but improbable secondary effect area, was inappropriate and excessive, GAO seems to imply that there was something inappropriate about requiring "archeological surveys and salvage along the entire 16 miles of the railroad spur," regardless of the nature of the effect. The question of how much a permittee should be required to do on non-Federal lands as a condition of a permit to use Federal land is a complicated one, which we are actively discussing at the moment with BLM, the Corps of Engineers, and other permit-granting agencies. GAO's thoughts on this matter would certainly be welcome, but they are not really set forth here. The reader is simply left, by the inclusion of a remark about the "entire 16 miles of the railroad spur" in an obviously disapproving discussion of inappropriate date recovery, with the vague impression that the imposition of any conditions beyond the boundaries of Federal land, regardless of impact, would be viewed with disfavor. This, as noted above, we see as condemning by innuendo, and as unhelpful in its confusion of the issues of secondary effect and land ownership.

/GAO COMMENT: We are not questioning the appropriateness of requiring archeological work within the 16-mile project area, but rather the work required outside the project right-of-way. To avoid possible confusion, we have revised this paragraph. (See pp. 37 and 38.)/

Page 38: We object to the discussion of the three small towns in California. Although we do not know which three small towns were involved, and hence cannot comment on specifics, we can imagine perfectly reasonable circumstances under which the State Historic Preservation Officer's request would have been appropriate. For example, suppose a small rural community had for many decades been serviced only by septic tanks, and this had imposed severe limits on the town's ability to grow and change. Suppose that the newly proposed sewer system would remove these limits, predictably resulting in rapid growth and a great change in the town's architectural character. Everyone might agree that the sewer system, and growth of the town, would be in the public interest, but some sort of recordation of what was being lost would be entirely appropriate. The Environmental Protection Agency in California, and the California Water Quality Control Board, have regularly closed their eyes to the indirect impacts of their undertakings, insisting that the law required only a consideration of earth-disturbing activities in pipeline rights-of-way. We obiviously disagree with this interpretation. Again, GAO's presentation of this example carries with it the innuendo of disapproval, and we believe that such innuendos are inappropriate.

/GAO COMMENT: We disagree. The examples presented illustrate what can occur under the present guidelines dealing with secondary impacts outside a project area and the need for more meaningful, precise Interior guidance./

Page 41: The report indicates that GAO's consultant reviewed 10 recent Memoranda of Agreement "against a list of 12 key points which he considered essential." It would be useful if the report listed the points, and the consultant's comments regarding the Memoranda of Agreement, since this would provide a basis for an improved understanding, on our part, of GAO's recommendations.

/GAO COMMENT: We agree. The 12 key points our consultant developed are presented in appendix I. (See p. 53.)/

Pages 42 and 43: To elaborate on the discussion of this page, please note that on November 5, 1980, the Council endorsed publication of a Handbook on the Treatment of Archeological Properties, prepared by the Executive Director and the Council's Archeology Task Force. This Handbook provides specific direction and recommendations to agencies about how to organize data recovery projects. The essentials of the Handbook will be published shortly as Supplementary Guidance in the Federal Register; publication of the complete Handbook is being coordinated with the Department of the Interior, whose representatives participated in its preparation. We believe that active and creative use of the Handbook will help solve the problem of "how much data recovery is enough." The Handbook emphasizes cost-effectiveness and use of data recovery to address significant research problems.

[GAO COMMENT: ACHP's handbook on the treatment of archeological properties is new and was developed after our review was completed. We are at this time unable to comment on its adequacy in solving the problems of how much data recovery is enough.]

Pages 43-45: While we do not actively disagree with the point made on these pages, we are somewhat less enthusiastic about peer review than GAO seems to be. Bear in mind that the New Melones project, which GAO has analyzed critically in an earlier report, had extensive peer review. Among the examples given on these pages, it is not always easy to see what contribution peer review would have made. This is particularly the case with the Dahlonega Connector, on page 45; the problems here seems to have been largely administrative, and it is not at all clear what good peer review would have done. We agree, in general, that peer review is useful on large projects, but we would note that to be useful it must be done in a clearly understood context. Both the agency responsible for the project and the individuals and groups involved in peer review must clearly understand their roles, functions, and responsibilities. Where such undertanding does not exist, peer review panels may be more trouble than they are worth. Particular dangers lie in:

1. The potential for agencies to use peer review panels, which may be consulted only sporadically, as a smoke screen for bad work;

2. The potential for peer review panels to insist on more work than is really needed, because of personal friendship connections with those in charge of data recovery projects, or out of fear of offending a colleague, and

3. The potential for peer review panels, by being composed of "leading authorities" in the archeology of an area, to be relatively closed to new ideas and innovative approaches to archeology.

[GAO COMMENT: The points made here are relevant. We also agree that peer review is useful on large projects and that it must be done with a clear understanding of what their roles and responsibilities are.]

Page 51: In the first of GAO's Recommendations, we think that it is unrealistic to expect the Department of the Interior to define the "specific limits" within which agencies whould excavate sites in indirect impact situations. This wording carries with it the implication of particular distances: 15 meters, 22.5 feet, or 5 miles, none of which are very likely to be helpful. It would be more reasonable, we think, for Interior to provide guidance about the circumstances under which such excavation would be appropriate. For example, the circumstance set forth in the case of the site behind the barbed wire fence near the railroad spur would seem to be one in which data recovery would not be appropriate. Had the site been less well protected, and extremely attractive for vandalism, however, data recovery might have been appropriate.

[GAO COMMENT: We agree and have reworded this recommendation.]

Given GAO's previous recommendations, it would appear to be useful to include a recommendation that mechanisms be developed for relating data recovery to State Historic Preservation Plans (cf. Chap. 3).

[GAO COMMENT: We agree and have expanded the recommendations. (See p. 52)]

Since the Council is, of course, intimately involved in decisionmaking about data recovery, it would be particularly appropriate here for the Department of the Interior to develop its regulations and guidelines in consultation with the Council.

Page 52. Consistent with GAO's previous recommendations, it would appear to be appropriate for the Council to promote the relation of data recovery efforts to priorities defined in State Historic Preservation Plans, where such Plans, approved by the Department of the Interior and the Council, exist. We would appreciate GAO's comments on this interpretation.

[GAO COMMENT: We believe it is not only appropriate but should become part of ACHP's mitigation activities to relate data recovery efforts to priorities defined in state historic preservation plans as approved by Interior.]

APPENDIX IV

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, D.C. 20310

Mr. Henry Eschwege
Director, Community and Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

10 DEC 1980

Dear Mr. Eschwege:

This is in reply to your letter to the Secretary of Defense of October 30, 1980, regarding your draft report on "National Archeology Program Needs Better Leadership and Direction," OSD Case #5359-A, GAO Code 148050.

Overall, we commend GAO for preparing a well written analysis and report on the complicated issue of the National Archeology Program.

A meeting between GAO, Defense, Army and Corps of Engineers personnel was held on November 21, 1980, to discuss the report. As a follow-up, the following comments are being provided.

On page 10, 4th paragraph, GAO lists three agencies that "are doing a good job" of requiring permittees to do archeological surveys and then states: "The Corps of Engineers does not have an acceptable program requiring permittees to make archeological surveys." We object to the obvious implication that permittees should bear the archeological survey burden entirely.

Section 4(a) of the Moss-Bennett Act (P.L. 93-291) requires the Secretary of the Interior to "conduct or cause to be conducted a survey" of areas affected by Federal licensing activities. Section 4(d) provides for compensation by the Secretary to persons "damaged as a result of delays in construction or as a result of the temporary loss of the use of private or non-Federally-owned lands." Section 7(c) provides funds for the Secretary's use in implementing Section 4(a). On the strength of Moss-Bennett, the U.S. Army Corps of Engineers adopted the position that neither the Corps nor private permit applicants were responsible for survey/recovery of archeological resources. The Department of the Interior did not agree with the Corps position.

The Corps processes about 20,000 individual permit applications each year, most of which involve minor activities on or adjacent to private property. A 1979 survey revealed the Corps was receiving about 2,000 requests each year for archeological investigations of permit sites. Many were letter-type requests from State Historic Preservation officers that provided no documentation for allegations such as "Alabama is a State particularly rich in evidences of prehistoric and historic Indian life" or "Results from archeological surveys conducted throughout the State (Minnesota) indicate a high correlation between prehistoric archeological sites and permanent natural water resources, such as

Mr. Henry Eschwege

lakes and streams, that exist now or did exist in the past." (All Corps permits involve work in or along water courses.) These letters usually concluded with the request for a "professional archeological survey of the site" and some included a list of acceptable archeologists. Many letters requested a survey over the entire limits of the applicant's property, even though the activity for which a permit was sought might be a minor structure on the bank of the stream.

In 1979, the Corps began working with the Advisory Council on Historic Preservation to develop an equitable way of dividing historic preservation responsibilities. In April of 1980, we issued and began implementing proposed counterpart regulations which provide for investigations by the Corps when a valid request with reasonable documentation is received. This investigative responsibility would be limited to the direct impact or "permit" area. In appropriate cases, as determined by our district engineers, the Corps will require applicants to conduct the investigation. This decision is usually based on the applicant's capability to have the work undertaken. We believe we have reached a reasonable compromise on this issue and will be publishing final regulations in the near future following approval by the Chairman of the Advisory Council on Historic Preservation.

/GAO COMMENT: The discussion of the Corps program on page 10 was revised to present the Corps position before and after April 1980./

We note that on page 12 of your report, the Bureau of Land Management costs of Class I (archival) and Class II (samplings on the order of 2%) archeologic surveys are stated to average $4.50 per acre. These data are undoubtedly correct, but such surveys serve little useful purpose in evaluating the significance of properties and in determining the need for recovery of data they contain. Identification, or in essence, location studies, are only the tip of the iceberg when it comes to costing-out inventories. With the cost of scientific excavation, including site testing and evaluation, running on the order of $1000 to $1500 per cubic meter, the actual costs will exceed the projected $3.8 billion by a considerable amount.

Within one division, the Corps has experienced costs for complete survey and testing of project impact areas which vary from $35 to $350 per acre. Small area investigations tend to be more expensive, but even on large projects, we are incurring costs of between $45 to $60 per acre for testing and evaluation.

Significance of an archeological property turns on whether the data it contains may answer research questions on prior human use and occupation of the area. As the eligibility requirement is presently interpreted, eligibility for the Register does not mean that the contribution to knowledge which a property might provide is sufficient to cross the threshhold of need for Federal investment. Either the criterion for eligibility should be tightened and made more meaningful with regard to the concept of significance, or some other mechanism should be developed to identify and justify the investment threshhold for taxpayers' funds. This would seem to be an appropriate arena for Interior and the Advisory Council to tackle head-on and then to provide the information to project implementing agencies.

/GAO COMMENT: We agree and have added a footnote. (See p. 12.)/

Contrary to the statement at the top of page 17, the Advisory Council jointly drafted and concurred in the Corps draft regulations which were published in the Federal Register on April 3, 1980. We will obtain approval of the Chairman of the Advisory Council before publishing the final regulations.

/GAO COMMENT: According to ACHP's Director of Cultural Resources Preservation his agency did assist the Corps in developing the new regulations, but disagreements still exist and ACHP has not concurred with the Corps draft regulations./

We are concerned with the recommendation on page 51 that Interior should promulgate regulations that include "the specific limits in which agencies are required to excavate sites outside a project's direct impact area" and "who should pay for archeological work so that unnecessary project delays and increased costs can be prevented." It is imperative that agencies such as the U.S. Army Corps of Engineers are given a meaningful role in developing these regulations so that, on the one hand, the regulations will be adequate to protect truly significant archeological resources on lands subject to that agency's activities and, on the other, that there not be unnecessary expansion of our historic preservation duties or unneeded additional burdens on private applicants for Federal licenses and permits.

Moreover, given the progress that has been made recently, we do not think that such regulations are necessary. President Carter, in his Memorandum on Environmental Quality and Water Resources Management dated July 12, 1978, directed the Advisory Council on Historic Preservation to promulgate regulations for implementing the National Historic Preservation Act. He further directed Federal agencies with consultative responsibilities under the Act to publish separate procedures for implementing the Advisory Council's regulations. Section 800.11 of the Advisory Council regulations provides that certain responsibilities of individual Federal agencies may be met by counterpart regulations jointly drafted by that agency and the Executive Director of the Advisory Council and approved by the Chairman of the Advisory Council. The regulations published as proposed rules last April are to fulfill the responsibilities of the U.S. Army Corps of Engineers for its regulatory programs. Cultural resources policies and procedures for nonregulatory programs of the Corps of Engineers are prescribed in 33 CFR Part 305. We believe these efforts and controls are adequate, or can be made adequate, without additional Interior regulations.

/GAO COMMENT: We believe the questions we raise in this section are valid and need Interior's attention. Present written guidance on both how much archeological survey and data recovery work is required outside direct/primary project impact areas are generalized broad statements, which leaves the matter open-ended. As we recommend on page 51, we believe Interior needs to develop more precise guidelines. We also believe that the Corps and other agencies should be given the opportunity to comment and provide imput to Interior./

Sincerely,

Edward Lee Rogers
Deputy Assistant Secretary of the Army
(Civil Works)

APPENDIX V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

December 16, 1980

OFFICE OF THE ASSISTANT SECRETARY
FOR COMMUNITY PLANNING AND DEVELOPMENT

IN REPLY REFER TO:

Mr. Henry Eschwege
Director, Community and Economic
Development Division
General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

Thank you for the opportunity to review and comment on your proposed report to Congressman Morris K. Udall, Chairman of the House Committee on Interior and Insular Affairs entitled, "National Archeological Program Needs Better Leadership and Direction". The Department welcomes the report because it points up the need for clarifying Congressional intent regarding archeological preservation and encourages development of effective Federal procedures. This Department agrees with the report's recommendations in that regard.

The Department cannot agree with the finding in the Digest of the report that HUD "is not complying with the intent of archeological laws because it is not making surveys to identify archeological sites". We also disagree with the recommendation on page "33-34" that: "The Secretary of Housing and Urban Development should revise the Department's policies to require surveys to determine whether archeological resources could be effected by federally assisted housing projects". It appears that the GAO draft report has adopted the same incorrect legal assumptions which have led to conflicting opinion and which, in our view, necessitate clarification of the law.

[GAO COMMENT: In light of the decision in Carson v. Alvord, 487 F. Supp. 1049 (N. GA. 1980), and the continuing dispute between HUD on the one hand and Interior and ACHP on the other, we modified our positions on page iii of the digest and pages 18 and 22 if the report. We have recommened that the Secretaries of HUD, Interior, and the ACHP either together or separately should seek the opinion of the Attorney General concerning the extent to which HUD is required to make archeological surveys to determine whether archeological resources will be affected by federally assisted housing projects.]

HUD's position is that requirements for archeological surveys and professional standards for conducting them simply do not apply to HUD programs. They are designed for Federal land management agencies which acquire, hold, manage and dispose of Federal lands. The need to understand this -- and we believe our interpretation of the law is correct -- is at issue in virtually all the interpretation problems HUD has encountered with the Department of the Interior and the State Historic Preservation Officers. Making incorrect assumptions of HUD authority and responsibility for survey leads to the conclusion of poor performance by HUD. It is our view that we are performing consistently with the law.

APPENDIX V

HUD accepts the proposition that it has a responsibility to determine whether its "undertakings" would affect archeological resources. This requires a reasonable identification responsibility. HUD discharges this through examination of the National Register of Historic Places, consultation with the State Historic Preservation Officers, and other steps that the circumstances of the particular project indicate as prudent.

The Department agrees with the objectives of avoiding and minimizing project impacts that may arise from Federal undertakings. We must and do take account of archeological resources that are known to be or that are believed to be in the undertaking's area of impact. Requirements for, and authorization to make, archeological surveys are reserved by law to land management agencies. HUD programs are to take into account such information as is available, including surveys by States which are funded through the Department of the Interior for this purpose. We believe that legislation distinguishes among agencies and programs. HUD is not authorized to conduct archeological surveys and recovery but is to relate to the Department of the Interior for such efforts as may be needed. Executive Order 11593 on the same subject also is primarily addressed to land management agencies and cases where "federally owned and registered sites" are involved. This Order indicates clearly that professional archeological standards are to be prescribed by the Secretary of the Interior for preservation of federally owned sites, again not applying to HUD insurance and assistance programs.

The Department's position has recently been upheld in litigation involving financing for a proposed 172 unit multi-family housing project in Cobb County, Georgia, known as Paces Ferry Woods. On this project, HUD contacted both the State and Regional clearinghouses for review and comment on proposed project activity. The State clearinghouse responded in a memorandum with what is apparently boiler plate language that "there still remains a probability that cultural resources of an archeological nature are present which may be eligible for inclusion in the National Register" and that "it has been determined that there does also exist a potential for archeological property being affected." The memorandum stated that the clearinghouse had "determined that this project will have no effect to /sic/ historic structural properties eligible for inclusion in the National Register." The brief continues: "Furthermore, no evidence of any historic or archeological resources was ever submitted by the state clearinghouse." The court found that "absent some evidence submitted by the state clearinghouse HUD had no obligation to perform any in depth archeological study based upon the mere potential for such resources as contained in the standard language from the state clearinghouse". (Wit Carson, et al v. Alvord, HUD, et al.- NDGa., No. C79-1937A - March 20, 1980).

HUD agrees with the court's decision. We respectfully submit key HUD documents and request your review of them and of pages 22 to 29 in the Draft report. We shall be happy to discuss the policies and issues involved prior to your completion of the Final Report. The documents here submitted include:

(a) my policy memorandum of May 10, 1977 to HUD Regional Administrators;

(b) a referral of February 1, 1977 from HUD's General Counsel to my Office which includes a legal opinion from the Department of the Interior;

(c) a commentary of March 25, 1977 from my Office addressed to that opinion; and

(d) extensive correspondence between HUD and DOI on the same subject.

APPENDIX V

[GAO COMMENT: In light of the preceding comments and court decision, we have modified appropriate portions of the report. (See pp. 18 and 22.]

Please note also that the Department has established and strengthened its monitoring program. In this connection it has revised the HUD Monitoring Handbook to include a chapter on the Environment including historic and archeological preservation requirements established as HUD policy.

The Department has been concerned about the subject of archeology for some time - so much so that we have developed a separate training module on the subject for use, not only by HUD staff, but also by the Community Development Block Grant recipients. This is to aid in insuring effective project identification effort. This does not imply an obligation to perform professional surveys as are required in Federal land management programs, however.

Also, some time ago we contracted for a booklet to provide orientation and guidelines on the subject of archeology and HUD staff will complete this product. The Department of Interior was advised of the proposal and assisted HUD in its review and analysis of it, presumably understanding that it was to be used by HUD project reviewers and knowing it does not involve professional surveys. Similarly we had received technical advice from the staff of the Advisory Council on Historic Preservation on our archeological training module, the Council staff also understanding the limits on HUD's authorization to undertake professional surveys.

/GAO COMMENT: We are unable to comment on HUD's establishment of a monitoring program and development of an archeological training module since they were only in the developmental stages at the time of our review./

We trust you will find the enclosed material helpful and, through my Office, we will be pleased to discuss HUD policy further before GAO's Final Report is issued.

Sincerely,

Robert C. Embry, Jr.
Assistant Secretary

Enclosures

APPENDIX VI

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P.O. Box 2417
Washington, D.C. 20013

1420
(F&AM)

DEC 10 1980

Mr. Henry Eschwege, Director
Community and Economic Development Division
United States General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Eschwege:

We appreciate the opportunity to review the draft report entitled, "National Archeology Program Needs Better Leadership and Direction." Our comments and suggestions are offered to provide clarification, additional insight and concurrence of the major areas of concern of the Forest Service.

We are not in total agreement with the findings of the General Accounting Office (GAO) report on Federal cultural resource management problems and practices. The Forest Service has a well-established program recognizing the irreplaceable and nonrenewable cultural resources relating to past human life. The program manages and protects the cultural resources as nonrenewable resources in order to maintain their scientific, historical, and social integrity. The Agency has strived to ensure compliance with the requirements of relevant regulation, legislation, and Executive orders. We do not feel the program as it relates to the Forest Service, is characterized by "disorder, confusion, and controversy."

The Agency employs a professional staff of archeologists numbering nearly 100. This cadre of cultural resource specialists is integrated into all aspects of agency operations, thus providing cultural resource considerations at the earliest stages of planning for the management of the National Forest System, Research, and State and Private Forestry programs. The Forest Service is fully capable of managing the cultural resource program. The Heritage Conservation and Recreation Service and the Advisory Council on Historic Preservation duplicate and overlap direction being adequately provided by the Forest Service in carrying out its responsibilities relating to the cultural resource program. This overlap and duplication of regulation is costly and inefficient within the Federal Government and confusing to the publics involved with the

6200-11 (1/69)

Forest Service. The duplication of direction should be eliminated and overlapping responsibilities clarified.

A discussion of our major points of concern with the GAO report follows:

Identifying Archeological Resources

The recommendation that Federal agencies be limited to conducting cultural resource inventories only in advance of terrain disturbing activities will create more problems than it will solve. We agree that the requirement of surveying all Federal lands as directed by EO 11593 is a near impossibility within any reasonable length of time. The purpose of this Executive order direction is to provide a data base for input into the Federal planning and decisionmaking process. Unfortunately, those drafting the direction failed to appreciate the magnitude of that order. Any reasonable estimate of the amount of time required to complete such a project exceeds a century. It is, therefore, easy to understand the GAO recommendation to limit inventory to lands that are proposed for disturbance. The danger inherent in this approach, however, is its failure to provide adequate data for the Federal land management planning effort. Cultural resource sites and properties would have to be evaluated individually and without benefit of a larger perspective of prehistoric and historic understanding. The result will be either the destruction of significant properties due to lack of regional perspective or the preservation of insignificant properties for the same reason. Because of a reluctance to risk damage or loss of potentially important resources, the error on the side of conservatism will be most likely to occur. This error will cost time and money and will in the end demonstrate little, if any, return to the public.

/GAO COMMENT: We agree. Archeological surveys should be performed in conjunction with an agency's land-use planning efforts. (See pp. 13 to 16.) To emphasize this point, we have expanded our first recommendation (see p. 22)./

Sampling Archeological Resources for Planning Process

A more moderate recommendation is needed. Data collection with the purpose of improving Federal resource planning efforts is recommended. This does not require a total inventory of all cultural resources in the Nation; it requires statistically and scientifically based samples of those resources to determine their variety, density, location, and importance. These data can then be utilized to design cultural resource allocation plans and management frameworks that permit reasonable conservation practices to be implemented. Such practices may in fact lead to a reduction of cultural resource inventory efforts in certain types of projects or in certain environmental zones. It will lead to greater cooperation between various resource interests and will open more options and alternatives for resolving issues

than those presented by site identification after all project plans have been made. Decisions as to when data recovery is necessary and how much data recovery is enough are easier to make when one has regional data for establishing some perspective of relative values.

Cultural resource compliance regulations permit little flexibility in the inventories of surface disturbing projects. Instead, encouragement and emphasis should be given to systematic examination of a variety of environmental niches to determine models of resource exploitation by historic and prehistoric populations that will permit the land manager to make decisions earlier in the planning process about ultimate effects upon cultural resources.

Knowing, for example, that prehistoric sites always occur within 100 yards of a stream and almost never occur on steep, timbered slopes, would be of paramount importance to the land manager in project planning. We will never know such information if cultural resource inventories are limited to timbered slopes, because that is where most projects occur.

/GAO COMMENT: We agree. An orderly systematic approach toward inventorying archeological resources is needed. (See pp. 11 to 13.) Certainly scientific sampling should be used along with modeling techniques to assist land management decisionmakers./

Coordinating Cultural Resource Overviews

The GAO report recommends that the Heritage Conservation and Recreation Service (HCRS) take the leadership in coordinating the preparation of cultural resource overview by Federal agencies. Given the requirement for the preparation of State-wide Historic Preservation plans that resides with each State Historic Preservation Office (SHPO), it would seem a cooperative program formed around the SHPO would be better than to assign that task to HCRS. Because of the intimate relationship between Federal and State land use, this type of cooperative effort would be more productive than one with HCRS in the lead. Since HCRS is not a land managing agency, it cannot be expected to be totally sensitive to the problems and needs of the land manager. The relationship between the Forest Service and State and local governments is more intense than that between HCRS and State and local governments. If an effort were made to build upon these State and Federal relationships as the vehicle for the preparation of cultural resource overviews, a more permanent and productive team would result.

/GAO COMMENT: We agree. Each State Historic Preservation Office should have a role in coordinating cultural resource overviews. But since HCRS funds the historic preservation offices, we believe it is in the best position to get both Federal and State agencies involved in coordinating overviews. (See p. 22.)/

Archeological Inventory Standards

The example presented by GAO as the basis for recommending that HCRS finalize regulations directing Federal agencies in how to survey and identify archeological properties is inappropriate. The problems attendant to the case mentioned are clearly the result of improper training or incompetent personnel and not a result of an absence of regulation. Clearly the removal of a projectile from its point of discovery was destructive of contextual information. Except for the intrinsic value of the object itself, which is minimal, there is no reason for anyone to exert an effort to relocate it.

The projectile point should have been properly collected and any pertinent information concerning its location recorded. If no other evidence existed to suggest subsurface cultural materials, no further consideration of the location appear justified.

Frequently a second visit to an archeological site is required in view of a different type of impact potential. The location of an archeological site during a timber sale inventory may lead to a modification of the project to avoid the site. If later a highway construction project is proposed to pass through that site, a re-examination of the archeological site will probably be necessary to further evaluate its potential; a need that did not exist at the time of the timber sale. However, to require resurvey of an area that has been intensively examined and adequately recorded is seldom justifiable. This would not occur if proper records were kept of all survey work and made available for all future activities in the area. Inventory, done properly, is needed only once. Resurvey should occur only when justified by the need to acquire data which was not available previously. Changes in vegetational cover may justify a re-examination of some areas as may the erosion of an area thought to contain burial sites. These are exceptional situations, however.

These problems do not justify more regulations, but rather better training, more competent personnel, systems of data collection and management, and proper record keeping. All agencies have different requirements and systems for accomplishing this. Recommending that HCRS issue more new regulations to detail how archeology is to be done will not cure the problem mentioned.

/GAO COMMENT: Under Executive Order 11593, Interior is required to issue criteria and procedures to guide agencies in conducting archeological surveys. We believe its failure to do so increases the possibility of the occurrence of less than acceptable survey work./

Monitoring Projects for Archeological Protection

Monitoring projects after cultural resource inventories have been carried out, after mitigation measures specified and accepted, and after plans for executing these measures are agreed upon, rarely occurs.

In part, this is due to the lack of adequate staff and funding to accomplish all the work that currently exists. Partially the reason for a lack of monitoring is the assumption that after telling people what they must do to avoid damage or destruction to archeological properties they will follow those recommendations. The solution does not seem to be a recommendation or regulation requiring the monitoring of each project to make sure cultural resource recommendations are implemented. Such a recommendation could easily double the cost of a cultural resource management program in an agency like the Forest Service. Other solutions seem to be as effective and much less costly. Assuring that archeological recommendations are included in project plans and that personnel involved understand what to do to implement those recommendations would solve most of the problem. Some large projects, or particularly sensitive ones, might require monitoring by a specialist. Monitoring occasional projects to see how well we are doing would be expected as part of normal review procedures.

/GAO COMMENT: We agree that there may not be a need to monitor every land action to ensure cultural resource requirements are implemented. However, we do believe there is a need for some mechanism, maybe on a sample basis, whereby land managers are routinely provided information on program effectiveness./

Summary

The process of identifying archeological properties does not hinge upon Interior's rulemaking authority. The Department of Agriculture already has sufficient rules and regulations to carry out the task of identifying cultural properties. The process is a scientifically based one, not a regulatory one. The major points of argument - significance - how much data recovery is enough - are not regulatory problems as much as they are definitional ones that need scientific and professional input.

The recommendations made for the Department of Agriculture are generally reasonable, but will take time to accomplish. The reason all timber sales are not being examined is more a problem with limited staffing and funding than a failure to recognize the responsibility.

It is the intention of the Forest Service to continue its efforts to meet the goal of inventorying all surface disturbing projects.

Efforts to prevent the need for resurveying the same lands are being taken by the Forest Service. Proper recording of archeological data during inventory as well as adequately recording intensity and exact location of lands examined are providing the data necessary to provide for future evaluation of those lands for any other projects proposed.

Monitoring of projects will occur as a means to measure our efforts at protection of archeological resources, but will not be carried out on all projects. Each unit should be expected to examine its efforts at implementing the archeological protective recommendations and work at improving their performance if needed.

APPENDIX VI

The Forest Service recognizes the importance of cultural resources and has played a key role in the development of Federal cultural resource management policy and procedure. It is our goal and policy to identify and protect cultural resources in the public interest. We are actively pursuing that goal.

Sincerely,

R. MAX PETERSON
Chief

/GAO COMMENT: See pages 83 to 87 for our comment on Agriculture's concerns./

APPENDIX VII

U.S. Department of Transportation
Office of the Secretary of Transportation

Assistant Secretary for Administration

400 Seventh Street, S.W.
Washington, D.C. 20590

[redacted]

Mr. Henry Eschwege
Director, Community and Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

This is in response to your letter of October 30, 1980, requesting our comments on the General Accounting Office (GAO) draft report, "National Archeology Program Needs Better Leadership and Direction," dated October 30, 1980.

This report finds that the national archeology program is not working well and that the Department of Interior must provide better leadership and direction to Federal agencies and States. GAO recommends that the Interior Department make State Historic Preservation Offices (HPOs) the focal point for determining whether archeological resources are significant enough to list on the National Register of Historic Places. GAO further recommends specific improvements in procedures and practices for identifying archeological sites, determining their significance, and assessing how much data recovery is necessary.

This report accurately reflects the operation of the Federal Highway Administrations's (FHWA) historic and archeological program. We support the recommendation that the State Historic Preservation Office become the focal point for determining the significance of archeological sites. We also support the concept identified in the report of Federal agencies surveying only those lands that might be affected in such a manner as to harm archeological sites. If the States are a true focal point providing strong archeological leadership, then they and the Federal agency working together can ensure that development is sensitive to archeological concerns.

Although the report proposes a stronger role by the Department of the Interior (DOI) in promulgating regulations dealing with this subject, we believe that DOI can assist the program more effectively by acting in an advisory capacity, rather than by becoming a regulatory authority over the Nation's archeological program.

/GAO COMMENT: The problem in the past is that the Department of the Interior more or less acted in an advisory capacity which resulted in (1) separate and overlapping surveys being done, (2) wide variations among Federal agencies' practices in identifying archeological properties, and (3) controversies over how much data recovery is enough. Unless Interior exerts the leadership we have suggested and for which it is responsible, we believe the problems noted in our report will continue./

Where the GAO proposes a stronger evaluatory role for the President's Advisory Council on Historic Preservation, we would prefer that the Advisory Council limit itself to mediating archeological involvements between public works advocates, and preservation interests. It should be the Federal agency's role to obtain competent, professional, archeological advice on data recovery assisted by DOI, when requested.

/GAO COMMENT: A more active role by ACHP has the potential of reducing archeology costs for the agency involved (see p. 42) besides focusing attention on the archeology that is really important. Therefore, we believe a stronger evaluator role is necessary if ACHP is to adequately mediate the archeological involvement of various Federal agencies./

Finally, the report supports the concept of peer group review on large or controversial projects. We support this concept with a caveat: we would not want another mandatory requirement for Federal agencies. The present process is already too complex and time consuming to have another series of steps added to it. We recommend "after the fact" peer review as a good management tool to monitor program effectiveness. In certain cases, an agency may want to initiate peer review before project approval, but the agency should then be free to integrate the review process in such a way that it does not delay development.

/GAO COMMENT: The idea of suggesting peer review was to reduce costs and project delays and we believe it can also take place before project approval./

In addition, we offer the following specific comments keyed to the text of the draft report:

p. 49, second paragraph, line 6

The DOI has not requested information on Federal archeological programs for FY 1980.

We recommend that "1980" be deleted in line 6.

/GAO COMMENT: We did not attribute the lack of archeology program reports in fiscal year 1980 to a request of Interior. We merely stated that the reports were not prepared for fiscal year 1979 or 1980./

P. 49 fifth paragraph, line 3

The 1977 draft DOI guidelines requested Federal agencies to provide reports to the National Technical Information Service.

We recommend that the second sentence (line 3) should read: "Federal agencies were requested. . . . ."

/GAO COMMENT: No changes needed because Interior guidelines directed the Federal agencies to submit archeology reports./

P. 41, forth paragraph

We recommend that the final GAO report include 12 key points by which the Memoranda of Agreement of mitigation projects were evaluated.

/GAO COMMENT: We agree. This was added to the report as appendix I, see page 53./

PP. 41 and 42, fifth paragraph

We do not believe that the GAO consultant has an adequate basis for the conclusion of usefulness of the "No-Adverse Process." It is contrary to our own findings in examining many No-Adverse Effect determinations. It has been our experience that complying with the No-Adverse Effect procedures required a great deal of consultation and coordination and that the procedures cannot be completed without a complete and detailed data recovery plan.

/GAO COMMENT: We agree with Department of Transportation's experience that the no adverse effect procedure should require consultation, coordination, and a detailed data recovery plan similar to the memorandum of agreement, which is the point our consultant made. See appendix I for the full context of the consultant's remarks./

APPENDIX VII

We appreciate the opportunity to comment on the draft report.

Sincerely,

Robert L. Fairman
Acting

APPENDIX VIII

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

8 DEC 1980

OFFICE OF
PLANNING AND MANAGEMENT

Mr. Henry Eschwege
Director, Community & Economic Development Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

The Environmental Protection Agency (EPA) has reviewed the General Accounting Office (GAO) draft report entitled "National Archeology Program Needs Better Leadership and Direction".

The report seems to address most of the problems that the Environmental Protection Agency (EPA) has encountered in complying with the Archeological and Historic Preservation Act (AHPA) and the National Historic Preservation Act (NHPA). However, of specific concern to us is the lack of guidance on identification procedures and the lack of adequate criteria for determining what properties are significant and the extent of mitigation.

/GAO COMMENT: We cover the identification problem in chapter 2; the significance problem in chapter 3; and the extent of mitigation problems in chapter 4./

We feel that the report should emphasize the problems regarding funding for data recovery. Under the AHPA, agencies responsible for construction projects may either undertake necessary recovery, protection and preservation themselves, or may transfer certain funds to the Secretary of Interior for that purpose. However, Congress has never appropriated enough funds to fulfill this responsibility. Significant delays could occur while agencies await additional appropriations. The AHPA or its implementing procedures might be amended to clarify agency responsibilities to assure that necessary data recovery is undertaken.

/GAO COMMENT: Availability of funds for data recovery is dealt with on pages 38 to 40. Although the National Historic Preservation Act Amendments of 1980 broadened the preservation activities an agency may pay for as planning costs, they did not completely address the controversy over who is responsible for paying for data recovery which we believe is still open to agency interpretation and controversy. We have added language to the body of the report to address this point.]

EPA believes the report should indicate that there are administrative problems within agencies in instituting archeological reporting requirements for their activities.

[GAO COMMENT: We discussed this on pages 45 to 49. We believe that if Interior is to fulfill its reporting responsibilities to the Congress, a reporting system for providing archeology information is essential and that our recommendations in this area are valid.]

We agree with the GAO recommendation that the State Historic Preservation Offices should be the focal point for determining what archeological sites have state and local significance and should be listed on the National Registers. However, this might not work in all cases since some states have a state archeologist and some do not.

/GAO COMMENT: Our suggestion that States could play a greater role was based on the requirements that (1) States prepare a preservation plan and (2) the plan would be subject to Interior's approval. We recognize that all States may not have the capability to become the focal point for determining State and local significance, however, in those instances, we believe Interior should continue working with those States until they can./

We appreciate the opportunity to comment on the draft report.

Sincerely yours,

William Drayton, Jr.
Assistant Administrator for
Planning and Management

Department of Natural Resources
PARKS, RECREATION AND HISTORIC SITES DIVISION
270 WASHINGTON ST., S. W.
ATLANTA, GEORGIA 30334
(404) 656-2754

Joe D. Tanner
COMMISSIONER

Henry D. Stoble
DIRECTOR

November 18, 1980

Mr. Henry Eschwege, Director
Community and Economic Development
Division
United States General Accounting
Office
Washington, D.C. 20548

Dear Mr. Eschwege:

We have reviewed the draft chapter from your report to the Congress on needs in the national archaeological program, and have discussed them with the State Archaeologist, Dr. Lewis Larson. Generally, we agree with the conclusions of the study, but offer the following comments and clarifications.

As the report notes on page 28, limited program funding has always been a problem in obtaining preservation plans. States must provide or obtain the 50% non-federal match for carrying out such activity. We have experienced great difficulty in identifying that match. Seventy-thirty funding, which has been recommended for many years, would help to alleviate this problem.

The comment referenced by Georgia's State Archaeologist, taken out of context, does not adequately explain the survey rationale for Georgia. County-by-county surveys are not efficient nor do they provide effective and detailed enough information for project planning. Topography and vegetation differences between areas of the country also mean a variation in the efficiency of such surveys. These are contributing factors to survey decisions here. We agree with the observations that simple avoidance as a planning technique raises questions about the future protection of sites. Often a project stimulates considerable additional ground disturbing activity in the immediate site area and therefore directly endangers the sites that are avoided.

[GAO COMMENT: We agree and have deleted the comment attributed to the Georgia's state archeologist. (See p. 28.]

It is not true, as it is reported, that Georgia did not use any fiscal year 80 survey and planning funds to contribute toward planning activities. While we have not been able to obtain sufficient non-federal match to fund a task force of archaeologists to actually develop parts of the plan, we have used our grant funds wherever it was possible to fund research that would lead to predictive models. These will become a part of the plan and will be used as the basis for decisions about archaeological properties. The work by the Office of the State Archaeologist on Sapelo Island is an example.

/GAO COMMENT: We agree and have deleted Georgia from the discussion on page 29./

APPENDIX IX

Again, comments on pages 30 and 31 do not adequately represent our planning activities to date. The experience which the state staff has gained from several years of environmental review activities, which are in part funded by the grant, and the information that is now available on which to base predictive statements or statements of potential involvement with archaeological resources, have considerably refined the recommendations which we are able to make to federal agencies. The completion of a management plan, funded in part by our fiscal 80 funds, is expected by the end of fiscal year 81. In the meantime, we do have a considerable base of information that has been developed in part through the Historic Preservation fund program in this state on which to base decisions about archaeological properties. Professional prediction and statements are of course based on professional judgement but they are not the arbitrary decisions that are implied by the term "highly judgemental."

/GAO COMMENT: The report does not imply that Georgia or the other States have not developed a considerable amount of archeological information. What we are saying is that at present, it has not been brought together in the form of archeological overviews and State plans to synthesize what is known about a specific culture or geographic area./

With these exceptions, we can generally support the conclusions of this study. The availability of 70-30 funds for the development of preservation plans could greatly aid in the completion of these plans. Without funding adequate to develop a plan, it could hardly be made a condition of receiving funds. We also can support the proposal that the state's analysis and evaluation of properties, once a plan is in place, should provide sufficient direction to the Department of Interior for making determinations of Eligibility. We have experienced much confusion in our efforts to list archaeological properties on the National Register. There is disagreement between the states and the National Register office on the necessary levels of information, the amount of survey and testing necessary before a site can be determined to be eligible for the Register. This confusion has often embarrassed our state office with agencies who have tried to obtain Determinations of Eligibility based on our recommendations.

We appreciate the opportunity to review this report.

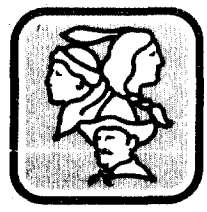
Sincerely,

Elizabeth A. Lyon

Elizabeth A. Lyon, Ph.D., Chief
Historic Preservation Section
State Historic Preservation Officer

EAL:ch

APPENDIX X



COLORADO
HISTORICAL
SOCIETY

The Colorado Heritage Center 1300 Broadway Denver, Colorado 80203

November 14, 1980

Mr. Henry Eschwege
General Accounting Office
Community and Economic Development
Division
Washington,D.C. 20548

Dear Mr. Eschwege:

I have just finished reading the draft copy of the proposed report, "National Archaeology Program Needs Better Leadership and Directions" which you submitted for my review October 30, 1980.

Let me begin by stating that I am in complete agreement with the points raised in this report. Informed and defensible determinations of site significance, be they archaeological sites or historic structures, is one of the most difficult decisions preservation offices must make. As indicated in the report, problems of determining significance are generally tied to the lack of a cultural context in which to make assessments. The preparation of a cultural resource protection planning model that addresses regional research questions, known and unknown information, and establishes significance criteria would increase the state's capacity to make these assessments. From a protection standpoint, this model could also include a management plan for the preservation of those resources which ideally should be and realistically can be preserved.

The major obstacle involved with the preparation of such a model is funding constraints posed by 50 percent matching money. Seventy percent matching funds would be an obvious improvement to the situation.

I strongly encourage you to make the findings of this report available to other preservation offices and officials within the Department of the Interior to facilitate and promote the preparation of a cultural resource protection planning model. The Department of the Interior should be encouraged to improve state funding capabilities to make this kind of planning possible while State Preservation Officers initiate plans in their states.

APPENDIX X

If I can be of any assistance to you in your efforts, please do not hesitate to call on me.

Sincerely,

Arthur C. Townsend
State Historic Preservation Officer

ACT/BH:ss

APPENDIX XI

STATE OF NEW MEXICO
DEPARTMENT OF
FINANCE AND ADMINISTRATION
STATE PLANNING DIVISION

BRUCE KING
GOVERNOR

KATHLEEN R. MARR
SECRETARY

505 DON GASPAR AVENUE
SANTA FE, NEW MEXICO 87503
(505) 827-2073
(505) 827-5191
(505) 827-2108

ANITA HISENBERG
DIRECTOR

JOE GUILLEN
DEPUTY DIRECTOR

November 10, 1980

Mr. Henry Eschwege
Director
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

Thank you for giving me the opportunity to review your draft report to the Congressman Morris Udall and the House Committee on Interior and Insular Affairs.

It is true that the Department of Interior's criteria for determining site significance are very inclusive. However, I do not believe they should be changed. It would be impossible to narrow them without excluding large numbers of sites from the protection by the law. The individual States should have the responsibility of preparing periodic (not less often than four or five years) detailed research plans and statements of significance.

Interior has placed excessive emphasis on annual work programs which deal mostly with administrative details. Constant preoccupation with such programs leaves the States little time to develop genuine research plans and to collect basic site data.

I could not agree more that States should be the focal point in the determination of significance, and must develop adequate preservation plans. However, standardization and detailed planning requirements from Interior will make it impossible for States to develop plans based on local and regional problems and resources. Interior and the States can agree, I am quite sure, on a general outline for a research design/preservation plan/site specific definition of significance. Within this outline the States should have considerable latitude to develop their individual ideas and methods.

APPENDIX XI

The action of HCRS in denying 70% matching for survey and planning, while requiring that 50% of the appropriation be applied to surveys and plans, is precisely the sort of arbitrary requirement which makes it impossible for States to develop real State-based programmatic solutions to their particular problems.

New Mexico's preliminary State plan for archeology is now in typescript and will shortly be circulated for peer review. We will be glad to let other States have copies and decide how useful our approach would be to them. Our site inventory is now being rapidly computerized and updated.

Your recommendations (pp. 33-34) are reasonable. The States, represented by the National Conference of State Historic Preservation Officers, should work as equals and partners with the federal government to write guidelines for adequate plans.

Please call on me for any other information you need.

Sincerely,

Thomas W. Merlan
State Historic Preservation Officer
Historic Preservation Bureau

TWM:dg

STATE OF CALIFORNIA—THE RESOURCES AGENCY EDMUND G. BROWN JR., Governor

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
POST OFFICE BOX 2390
SACRAMENTO, CALIFORNIA 95811
(916) 445-8006

DEC 2 1980

Henry Eschwege
Director
Community and Economic Development Division
General Accounting Office
Washington DC 20548

Dear Mr. Eschwege:

I appreciate the opportunity to review the Chapter 3 of the Draft of a Proposed Report entitled "National Archeology Program needs Better Leadership and Direction."

I believe the general analysis of this chapter is correct. I would, however, like to make the following observations:

1. In the section dealing with California, you state "according to the State Archeologist,...." this should be changed to "According to the Staff Archeologist of the Office of Historic Preservation,...".

/GAO COMMENT: We agree and changed State archeologist to read staff archeologist. (See p. 30.)/

2. In this section, you state "... the State has budgeted $165,000 for 13 regional centers...". This should be changed to read " in 1979-80, the State budgeted $130,000 for 13 regional centers...". Since this money is matched by these Regional Offices, the gross cost of this program, last year was $260,000. This current year, however, we will have to reduce our expenditures for this program to $60,000 due to Federal reductions in our grant. This reduces the total program cost to $120,000, 46% of the previous year. This level of funding is insufficient to maintain the archeological records of California in a reasonable condition. No funding is allocated for archeological overviews this year, due to lack of funding.

/GAO COMMENT: Changed State budgeted amount from $165,000 to read $130,000 for 1979-80./

3. Your recommendations omit three critical elements:

   a. Given the current level of Federal funding for this Office and the requirements imposed on this Office by the Heritage Conservation and Recreation Service, we cannot produce a reasonable State Plan for archeological values. Two complicating factors for California are the size of the State and the heterogenous nautre of prehistoric cultures here.

b. Given the erratic and arbitrary nature of changes in requirements, funding levels and funding allocations by the Heritage Conservation and Recreation Service, this Office is most reluctant to embark on any long-range planning efforts. In fact, our effort for archeological planning has been effectively terminated due to lack of funding.

c. Finally, approximately 50% of California's land is controlled by the Federal Government. This Office and several Federal Agencies have attempted to co-ordinate funding for planning efforts. These efforts have been unsuccessfuly and co-ordination ends up relying upon personal rapport. I feel that mechanisms to co-ordinate funding are of primary concern to eliminate costly redundancy or contrary policies.

/GAO COMMENT: The objective of our recommendation to allocate historic preservation fund grants on a 70-30 Federal/State match basis was to get more funds to the State level so that statewide plans could be formulated and implemented, which would serve as the focal point for determining archeological significance. However, if HCRS funding allocations to the various States are significantly reduced, this could seriously impede the Government's program to determine archeological significance./

I thank you for your consideration of these points. If you have any questions, please do not hesitate to contact Mr. William Seidel of my staff at (916) 445-8006.

Sincerely,

Knox Mellon

Dr. Knox Mellon
State Historic Preservation Officer
Office of Historic Preservation

KM:WCS:pp

U.S. GOVERNMENT PRINTING OFFICE: 1981 — 341-843:624

(148050)

AN EQUAL OPPORTUNITY EMPLOYER

UNITED STATES
GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

POSTAGE AND FEES PAID
U. S. GENERAL ACCOUNTING OFFICE

SPECIAL FOURTH CLASS RATE
BOOK