

Standard Operating Procedure #5

INADVERTENT DISCOVERY OF ARCHAEOLOGICAL DEPOSITS

OVERVIEW

Archaeological investigation methods are designed to discover material evidence of past cultural activities. It is possible; however, that buried archaeological deposits may remain undetected during the survey process, only to be exposed by later construction or other ground-disturbing activities.

POLICY

In the event that archaeological deposits are encountered during any construction or excavation activities, the activity shall stop and the YPG Cultural Resources Manager shall be notified. Because of the potential of each archaeological deposit to contain Native American human remains or cultural materials, failure to report discovery of archaeological deposits may result in violation of NAGPRA, ARPA, and other related federal and state laws resulting in fines and penalties against YPG and its Commander. If it is determined that human remains encountered during a project are not of Native American origin, then the Emergency Services Directorate should be notified immediately. This office will contact the County Medical Examiner or Coroner for further action.

PROCEDURES

When notified of the possible discovery of archaeological deposits or material, the Cultural Resources Manager will visit the discovery site within one working day of notification to examine the discovered material and any in situ deposits. A determination of NAGPRA, ARPA, and NHPA compliance will be made by the Cultural Resources Manager (or a designee [professional contract archaeologist]) upon identification of the discovered material as archaeological or historic in origin. If the Cultural Resources Manager determines that the site contains human remains, funerary objects, sacred objects, or objects of cultural patrimony, the procedures in SOP #8 of this ICRMP will be implemented. If the objects are determined to be not covered under NAGPRA, the procedures outlined in this SOP will be followed:

If, upon examination, the discovered materials are clearly of European-American origin, the Cultural Resources Manager will conduct a test of the discovery site, following procedures outlines in SOP #6. The test will include evaluation of the primary context of the deposit, probable age, and assessment of significance to determine National Register eligibility.

If, upon examination of the recovered material, it appears that the discovered deposits are of natural origin and not of paleontological significance, the Cultural Resources Manager shall advise the project manager that they may proceed with project activities.

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If archaeological materials are present and disturbance has been limited, the Cultural Resources Manager will recommend that the activity be relocated to avoid the site until compliance with the Section 106 process and evaluation for National Register eligibility may be completed. If the activity cannot be relocated, the Cultural Resources Manager shall consult with the Arizona SHPO. Unless the activity is of the nature of an actual emergency (natural disaster or declaration of war), site activity must stop until consultation with the Arizona SHPO and/or Council is completed. Failure to cease activities that intentionally destroy archaeological deposits prior to evaluation and determination of National Register eligibility in accordance with 36 CFR Part 800 may result in fines and penalties under ARPA against the project manager and in some instances the Garrison Manager.

The Cultural Resources Manager will contact the Arizona SHPO to obtain concurrence on the National Register eligibility determination of the site. If both the Arizona SHPO representative and the Cultural Resources Manager agree that the discovered archaeological deposit is not eligible for the National Register, the correspondence will be documented. The Cultural Resources Manager may then advise the project manager to proceed with project activities, although the Cultural Resources Manager will monitor the remainder of excavation activities to ensure that National Register-eligible deposits are protected.

If, in the opinion of either the Arizona SHPO or the Cultural Resources Manager, the recovered materials are of insufficient quantity or otherwise nondiagnostic to make a valid assessment of National Register eligibility, an emergency mitigation plan may be developed by the Cultural Resources Manager, in consultation with the Arizona SHPO. Further ground disturbing activities in the immediate site vicinity shall be halted pending the accomplishment of the emergency mitigation plan. The Cultural Resources Manager may request that an Arizona SHPO representative be present on site to consult directly on the assessment of the site's National Register eligibility. The Arizona SHPO may choose to send a representative to observe the emergency mitigation plan without prior request by the Army, however, access to the site by non-Army personnel must be approved by and coordinated with the cultural resources office.

If the site is determined eligible, or if the Army and the Arizona SHPO cannot reach an agreement on determination of eligibility, the following alternative actions are available:

- Reconsider relocating the project to avoid adverse effect (this is always the preferable course of action).
- Develop a MOA with the Arizona SHPO that specifies the scope and extent of data recovery required to mitigate the project impact.

Where data recovery (mitigation) is limited in scope and such action is amenable to the Arizona SHPO, the Army may elect to proceed without development of an MOA. All aspects of data recovery will be fully documented and reported to the Arizona SHPO in the form of a written report at the termination of data recovery efforts.

When recovery of human remains is considered likely, the Army shall comply with NAGPRA and related federal and state law. Such procedures will be coordinated with the Arizona SHPO and Native American tribes that may be culturally affiliated with the human remains or other items covered under NAGPRA.

The Army may elect to comply with 36 CFR Part 800.13(b), developing and implementing actions that take into account the effects of the undertaking on the property and requesting comments of both the Arizona SHPO and the Council (as appropriate). Section 106 and 36 CFR Part 800 do not require the federal agency to stop work on the undertaking. However, depending on the nature of the property and the undertaking's apparent effects on it, the agency official shall make reasonable efforts to avoid or minimize harm to the property until the requirements of 36 CFR Part 800 are met.

SYNOPSIS

The following synopsis of this SOP shall be made known on all proposed actions and YPG Digging Permit Approval forms:

- There is always the potential for previously unidentified archaeological deposits not discovered during the initial inventory process. If archaeological materials are discovered during construction or excavation activities, the Cultural Resources Manager shall be notified and the materials shall undergo review as required under the NHPA.
- In the event that Native American human remains or cultural items are discovered, federal law directs specific procedures that must be followed and establishes criminal and civil penalties for noncompliance. If human remains are encountered, all project activity on or near the discovery site shall cease immediately. The human remains shall be protected from further disturbance and the Cultural Resources Manager notified immediately.

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