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PROCEEDINGS OF
THE COMPLIANCE WORKSHOP
CHAPEL HILL, NORTH CAROLINA
OCTOBER 1977

EDITED BY
JACQUELINE R. FEHON

NORTH CAROLINA ARCHEOLOGICAL COUNCIL
PUBLICATION NO. 9

PUBLISHED JOINTLY BY THE
NORTH CAROLINA ARCHEOLOGICAL COUNCIL
AND THE
ARCHEOLOGY BRANCH



DIVISION OF ARCHIVES AND HISTORY
DEPARTMENT OF CULTURAL RESOURCES
SARA W. HODGKINS, SECRETARY
RALEIGH, 1979

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PREFACE

On October 7, 1977, a workshop on compliance with cultural resource legislation was conducted at the Institute of Government on the campus of the University of North Carolina at Chapel Hill. This workshop was sponsored by the North Carolina Department of Cultural Resources, Division of Archives and History, and was conducted by the staff of the Archeology and Historic Preservation Section. The workshop was held for the benefit of individuals, institutions, and agencies involved in "contract archeology" or "cultural resource management" in the state of North Carolina in an attempt to bring about an understanding of the compliance process from the perspectives of its various participants. Attending were members of the North Carolina Archeological Council, state and federal agency representatives, local government representatives, and contractors for archeological services, such as private engineering firms. Each of the speakers on the morning program was chosen on the basis of his being able to present a representative picture of the concerns of his particular agency or profession and its place in the compliance process. The afternoon panelists were directed to respond to the points raised by the morning speakers and by the workshop participants.

In acknowledging the many people who assisted in the workshop and in the preparation of this volume, I would like to particularly thank our morning speakers, Dr. Bennie Keel, Mr. Michael Corkran, Mr. Berry Williams, Dr. Ned Woodall, and Mr. Pat Garrow. In addition to speaking at the workshop, these individuals performed the odious task of revising their speeches for publication. This volume could not have been completed without their assistance. I would also like to express my gratitude to our afternoon panelists (Mr. Brent Glass, Ms. Jacqueline Fehon, Ms. Myra Harrison, Mr. Byron O'Quinn, and Dr. David Phelps), who commented extemporaneously on the morning talks and fielded questions from the audience. Brent Glass, Administrator of the Archeology and Historic Preservation Section, performed admirably as moderator for what was at times a very lively discussion.

Other members of the Archeology and Historic Preservation Section staff assisted with this project. Sondra Ward handled all of the housing, transportation, eating and clerical arrangements for the workshop. Sandra Perry transcribed the workshop proceedings in their entirety and typed subsequent drafts. Peggy Hopson typed the final draft of the manuscript.

Finally, I would like to dedicate this volume to Ms. Kathleen F. Pepi, former Environmental Review Coordinator for the Division of Archives and History. From our preliminary discussions, Kathleen selected and contacted many of our speakers and panelists and developed an agenda for the program. She also coordinated all correspondence between speakers, attendees, and the SHPO. I regret that her new duties at the Office of Review and Compliance at the Advisory Council on Historic Preservation made it impossible for her to attend the workshop and hope that the proceedings will serve as a tribute to her energy and foresight.

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COMPLIANCE WORKSHOP

Institute of Government, Chapel Hill, North Carolina

October 7, 1977

PART I

Morning Session

CONTRACT ARCHEOLOGY: AN OVERVIEW OF THE ISSUES

Speakers

Welcome. *Dr. Larry E. Tise*, State Historic Preservation Officer, and Director, North Carolina Division of Archives and History, Raleigh

Keynote Speaker. *Dr. Bennie Keel*, Chief, Interagency Archeological Services-Atlanta, National Park Service*

Michael Corkran, Archeologist, U.S. Army Corps of Engineers, Wilmington (NC) District

Berry Williams, 201 Facilities Environmental Coordinator, North Carolina Department of Natural Resources and Community Development, Raleigh

Patrick H. Garrow, Senior Archeologist, Soil Systems, Inc., Marietta, Georgia

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COMPLIANCE WORKSHOP
Institute of Government, Chapel Hill, North Carolina
October 7, 1977

Welcome and Introduction

by

Dr. Larry E. Tise, State Historic Preservation Officer and
Director, North Carolina Division of Archives and History

Good morning. I'd like to welcome you to the first of what, no doubt, will be several workshops on archeological compliance issues through the years. The purpose of this workshop is to attempt to unite professional archeologists and persons attempting to deal with the problems of compliance on the state and federal levels and administrators who are responsible for assuring that compliance is met in various state and federal undertakings. From the very beginning I should say that this is not a session for us to talk to you, and it is not a session in which any one of us pretends to have all of the answers. It is not a session for anyone to be timid or passive as far as participation goes. It is a session in which all of us should explore some of the knotty problems and seek together some cooperative solutions.

What are some of the issues? Well, it seems that we are at another one of those times of transition. Dr. Keel and I were speaking a while ago about the revolution that has been wrought here in North Carolina, as far as archeology goes. From three people, he being the third in North Carolina back in 1961, to nearly 30 archeologists working in the state today. But, other things are changing very quickly today. For example, many federal regulations are finally being completed or finalized. I've been serving as chairman of a committee for the National Conference of SHPOs. The purpose of the committee is to review, revise, and rewrite all federal regulations on archeology and historic preservation. It has been a big job, but I think we can all see the end in view now. Many of the revisions have been completed and will be published and in effect very shortly.

Also, the federal funding levels are changing rapidly from a funding level this past year of \$17.5 million for the entire federal archeology and historic preservation program through the NPS to \$45 million this coming year. This represents the first major increase in the program in several years.

In addition, there are some changes on the horizon for the federal archeology and historic preservation programs. During the course of the last several months, at the request of President Carter, a task force was created within the Department of the Interior to define a National Heritage Trust. Fortunately, after much hassling, it is now called the National Heritage Program, so as not to conflict with at least one other national agency called the National Trust. This program attempts, for the first time, to establish a broad program in the federal government which will deal with all of those things that we are now beginning to call cultural resources (places, archeological sites, materials, folk ways, customs, the performing arts, even people who can do particular things). For the first time, an attempt is being made to stand back and take a look at how government can deal with

all of these things comprehensively and to develop an appropriate program from the ground up rather than letting one grow up "willy-nilly." We don't know what the president's response will be to the document, which should be handed to him within a couple of days.

There are also changes in federal attitudes, and I mentioned this the last time many of us were gathered. There is an attitude of scepticism about the ability of archeologists to do the job that they have wanted to do, and which now they are being asked to do. There is some scepticism about whether or not archeologists can ultimately cooperate with each other in many ways and whether or not they can carry out the many things which are being asked of them for the first time, I guess, in American history. We have worked very hard to establish programs and procedures whereby archeologists can have their particular resource base taken into consideration and protected. Government is providing many of the resources to do the work and government is attempting, sometimes not successfully, but at least attempting, to protect archeological resources. Government officials are now depending upon one profession to bail them out through all the procedural maze, and to bail them out professionally. So in a way, a great burden has been placed upon the archeological profession, more than any other profession in the realm of cultural resources, to perform accurately and professionally, lest that scepticism increase and the trust that has been placed in archeologists be lost. Therefore, it is important that we have sessions like this one today to insure that professional archeologists, the people in our agency, and the other agencies involved, will work together to understand what the compliance system is all about, so that we adequately communicate the values and the findings of our archeological investigations, and so that we have a much better understanding of our role and that of the archeologist.

In trying to list what our role might happen to be, a couple of catch words come to mind. I guess we are the reviewers, that is we review proposed projects and the work of archeologists; the coordinators, in that we push project papers all over the place, back and forth. We review responses, we review reports and make sure they get to the right place. We make sure that all of the federal agencies write off at the right time with the right document. We are also facilitators in that we attempt to bring together archeologists, agencies needing archeological work, and applicants for state and federal funds who ultimately have to have archeological work done. I guess if you add up all of the things we do, we come out being the proverbial middle man. Frequently, we do get caught in some embarrassing situations. So, part of what we would like to talk about today and which we would like to achieve is a better understanding of our role so that we don't get caught in the middle quite so often.

Those are some of the issues, and I am sure that the other distinguished speakers today will broaden on those things tremendously and share some of their insights. I hope that by the time this day is over we will share some areas of common understanding and that we can develop a rapport whereby we can all work together very closely in the future. I hope that hasn't sounded too negative because I don't mean for it to be negative. I think we have accomplished an awful lot in a very short period of time but, whenever so much is given us to do, obviously there are going to be some problems. What we are here to do is to make things better.

I would now like to introduce the keynote speaker for this occasion.

Bennie Keel was the third professional archeologist in the state of North Carolina (that is, among those people who made a living from doing archeological work). He came here in 1961 and he worked for Archives and History for two years. He then came to the University of North Carolina at Chapel Hill before going on to teach elsewhere. Sixteen months ago he joined the Inter-agency Archeological Services of the NPS. Well, what all of that means is that if we get into any discussions, hassles, or problems, which relate to archeology in North Carolina, it is almost certain that Bennie Keel, because of his position and his wide experience, is going to be right in the middle of the discussion as to how that problem is going to be dealt with. His position is right now one of the key positions in the whole realm of compliance and in providing assistance to archeologists and communities to get major pieces of archeological work done.

Without further ado, then, Dr. Bennie Keel.

CURRENT ISSUES IN CONTRACT ARCHEOLOGY

By

Bennie C. Keel, Chief
Interagency Archeological Services-Atlanta
National Park Service

In some ways I feel like the prodigal son. Last night about 10:30 I came back into Chapel Hill and believe me after being away for four years, there were a lot of thoughts that ran through my mind. I went all the way back to the snowy February morning in 1961 when I showed up at Town Creek Indian Mound to be an archeologist. It is good to see a lot of old friends. Many of you I haven't seen since leaving. You probably feel lucky about that, I am sure.

Well, to clear the air let me offer this observation. I was in Washington all of this week dealing with certain kinds of archeological problems as well as taking some mandatory management training. In one of the training sessions one of the instructors pointed out "the three biggest lies in America." The first one was "yes I know, but the check is in the mail." The second one was "that's all right honey, my wife will never find out." The third one is "I work for the federal government and I am here to help you." Well, I hope that I can be of some help. I know you will be helpful to me.

There are several kinds of problems that need to be addressed in a session like this. I've looked over the program and it would seem to me that the word "contract archeology" is used in every one of the title presentations. And yet, it seems in a way there is something lacking here and I think it's the consideration of research archeology. I propose at the end of this month to present a paper to the Southeastern Conference entitled "Contract versus Grants: Mutually Exclusive Paradigms?" I think many archeologists presume that they are operating in paradigms that are not mutually exclusive when it comes down to doing what they consider proper archeology, and they have their reasons for this. I hope that in today's sessions, some of this will be brought out. I'm sure we are going to hear from some of our archeological colleagues.

I'd like to share another achievement with you that I've made since moving from the Tar Heel state. I attended a conference very similar to this in Washington a couple of weeks ago with the Department of Army and one of the comments that I overheard from a colleague, of long-time acquaintance, was "well, I never thought I'd see the day, but Keel has become a federal archeologist." I don't know what that means, but I took it as a compliment because I think that person, grudgingly, recognized the fact that I have a job, a mission to do. I don't separate that mission from the archeological concerns I've had throughout my professional career, but perhaps I take a little more responsible management position on the conduct of archeological research than I once did.

I want to consider where we are in contract archeology and perhaps

why we are there. To do this, I think we have to look at some milestones in federal legislative history. The basic federal act that created a relationship between archeology and the federal government was the Antiquities Act of 1906 (Public Law 59-209). I know that many of you who have worked on federal lands sometimes have moaned and groaned about the problems involved in getting an Antiquities Act permit to carry out your work. It is certainly a regulation that some people have perceived as infringing on their research rights. Nonetheless, there are requirements for federal antiquities permits to investigate and to remove "objects of antiquity," whatever those are. Nonetheless, the Antiquities Act was primarily designed to preserve the aboriginal structures, ruins, and pueblos, and cliff houses and so on and so forth of the southwest. It also gave the president the authority to establish national monuments of national interest on federal lands.

The Historic Sites Act in 1935 (Public Law 72-292) dealt with the establishment and the recognition of historic and archeological sites, again of national interest. The next act that probably had the most to do with archeology and the federal government and certainly archeological data preservation or archeological salvage was the River Basin Salvage Act of 1960 (Public Law 86-523). As many of you certainly know, it was that act on which the Moss-Bennett legislation in 1974 was based. As a matter of fact, the Moss-Bennett Act (Public Law 93-291) is an amendment to the River Basin Salvage Act.

Another very important act, and this is certainly the watershed in terms of historic preservation, was the Historic Preservation Act of 1966 (Public Law 89-665). This was the first time the federal government recognized that it should in some way or another achieve a leadership position in local and state historic preservation. For the first time the government said there are things that need to be preserved, things that need to be conserved, and data that need to be considered that do not meet the criteria established for national significance.

In 1969 NEPA (National Environmental Policy Act, Public Law 91-190) came along. I can see all the engineers, the facilitators for projects, shake their heads. NEPA of course in many areas stopped projects or delayed them. Agencies which were ready to go on a project all of a sudden found they had to write environmental statements and, of course, historic or cultural properties had to be considered. They had to be considered just like air quality, water quality, and other elements of the natural environment.

Another major federal statement was President Nixon's Executive Order 11593, entitled "The Protection and Enhancement of the Cultural Environment." This executive order is a key federal action in terms of the compliance process. It states that it is the policy of the federal government to consider historic preservation as a national policy. But further, it gave all federal agencies the responsibility to identify, to evaluate, and to nominate eligible historic properties to the National Register of Historic Places (established under the 1966 Act). The order established that federal agencies not only had to identify and evaluate the historic properties on their property, but they also had to consider the effect on such cultural resources when they transferred property as well as when they undertook projects on their property.

Finally, the last key piece of legislation was the Moss-Bennett legislation, or more properly "The Archeological and Historic Preservation Act of 1974" (Public Law 93-291). This act is probably more significant for archeologists than historians as they follow the compliance road, more than any other piece of legislation because this act gave funding authority for data recovery. As you will note, none of the other acts I've mentioned provided any funding for archeological work. Although the authority to fund archeological endeavors is present in Public Law 93-291, it is probably one of the worst pieces of legislation ever written because of its vagueness. This vagueness has caused disagreements on interpretation of when and how its authority is to be implemented. You may well know that the National Park Service for three years has been trying to get a legal opinion as to the interpretation of Moss-Bennett and how it is to be implemented. The Park Service has been accused of not publishing guidelines or regulations regarding the Moss-Bennett legislation. It is pretty obvious that unless you know what the legislation means, you cannot write guidelines or regulations. But fortunately, we do now have a concurrence on Interior's interpretation of Moss-Bennett from the Office of Management and Budget. We are possibly much happier and more pleased with that than we would be if it had come out of the Department of Justice, because after all, it's OMB that holds the purse strings, which really tells us what we can do and what we can't do. And it is rather interesting to note that about the same time that document was released, the Soil Conservation Service published its guidelines for the implementation of the Archeological and Historic Preservation Act. It is fortunate, I think, from our position that OMB has followed our interpretation of the law for it will make dealings with other federal agencies a little easier. It is nice to be able to deal with them when they deal with you on your terms or at least a common interpretation of a statute. One of the big problems in the implementation of Moss Bennett is the fact that with the Corps, SCS, HUD, EDA, so and so forth, their attitude is "well if you don't have regulations, we'll write our own, and these are the ones we'll follow." Hard to argue with that. Now since we do have a legal interpretation I think you will see that the codification of rules and guidelines will be forthcoming in the immediate future to give you guidance. Interior's interpretation is that we will not implement provisions of Public Law 93-291 until the compliance procedures have been followed as required by NEPA and the Advisory Council on Historic Preservation's procedures (36 CFR 800). Only when these compliance procedures have been followed do we feel it is legally responsible to implement the provisions of the Moss-Bennett legislation.

Let me turn just a moment to the perceived conflict that I see in archeology today. As a matter of fact, when I talked to my office yesterday, I was informed that the Texas Archeological Council, another of the professional groups, was meeting in Arlington the 28th of October. Among the things they are going to discuss are the problems in contract archeology and one of the sessions was entitled something like "How to get rid of these federal regulations and these impossible scopes of work that federal archeologists write for us to do." In other words, "how do we get back to doing archeology?" I think it will be a very interesting session and I wish that I could attend. There seems to be basic problems between the archeological community and project planners or project implementers. I would say there is a grave misunderstanding between the role and the responsibilities the planner has and the professional interest the archeologist as a scientist generally has. It has been very difficult in my experience to

get archeologists to understand that the agency planner is buying a specific product for a specific reason; the agency is not interested in funding esoteric research. And I would submit to you that that agency is 100 percent correct. So federal agencies, particularly, the Corps of Engineers, FMHA, and SCS, are taking the position that archeological research or archeological work will stay in step with the level of planning and development of a project. This is good management. I think in many cases because of the differences in jargon and in interests, archeologists often don't make good sense to the agencies they are going to contract with.

I believe at least for the moment that there must be some sharing of responsibilities between agency managers and professional archeologists. The key to sharing these responsibilities is for both groups to really understand what the compliance process requires. When an agency contracts with an archeologist and neither party really understands what is required, obviously problems are going to occur when the report is rejected by one or more of several federal or state review agencies. This generally leads to hassles that are, I believe, more damaging to archeology than to the agency in the long run. From a pragmatic point of view, when contacted by an agency for compliance work, the archeologist should recognize a deficient scope of services and be able to candidly inform the agency of its deficiency and "this is what you need at this stage of planning for compliance, this is the level of effort that is required to fulfill this level of need, and this is how much it will cost." If it is clear that the agency does not feel that such is the case and will not negotiate, then the archeologist would do well not to engage in the work.

I heard a comment this morning from an archeologist who said "I feel stupid going along a sewer line right-of-way with a post hole digger digging holes every 50 feet." Part of the reason that agencies have gotten into writing scopes of work, scopes of services, or putting in contract stipulations that require this kind of activity, is that it has often been their experience that shoddy work in the past has caused them to have to go back and do the work over. And why was there shoddy work? Again, one of the reasons I think there was shoddy work is the fact that there was a breakdown in communication between what the archeologists wanted to do and what the agency needed. There used to be a time not too long ago when I did contract archeology. Those were the good old days when the Park Service was the principal agency that did archeological contracting. They simply wrote a rather open-ended contract, giving an institution so much money to do some archeology in a reservoir. The institution did the work, wrote up the report, and turned it in to the Park Service. Generally, that was the last that was ever seen of it. They were paid off their final 10 percent, went on and did something else. There was no quality control, no quality control whatever. Today we do have these "blasted guidelines and regulations, and reviewers," and all of a sudden you find yourself with requests for proposals and the accompanying scopes of work covering 15, 20, or 25 pages. Fifteen years ago, if you had gotten one of those, you would have thrown it out and said "I'm not interested." You wouldn't have known how to deal with it. Furthermore, people managing archeology in the Park Service wouldn't have known how to write one in the first place. Things change and this is why I say this business of contract archeology or historic preservation is dynamic and evolving.

It is evolving for a number of reasons. One of these as I mentioned earlier, is the fact that things get kicked back. There is quality control now, there are people who review the archeologist's product. We can no longer take the money, write the report and run. Somebody else is going to look at it. I think we need to stop and say "why is this necessary?" One of the pure and simple reasons is that anytime a large amount of money is being spent, there are going to be controls over it. But another reason is that the people who are responsible for seeing that the law is implemented certainly do not have firsthand knowledge of every archeological area. Therefore, in order to meet the compliance responsibilities for planning, they need to know how, where, who, and, in very explicit terms "on what basis is this property considered to be eligible?" They also have to know why this property or site isn't considered to be eligible. And again, if you can tell them why you don't consider it eligible, then there's no problem in the review process. There have been instances where the research interest of the archeologist biased the survey work. For example, I dealt with one about a year ago. A survey had been made in a reservoir and it turns out that the only sites considered by the archeologist to be significant were Late Archaic sites. To look at the gentleman's background and what he had been doing, you would see that he had only been doing what he was interested in and that he was only interested in the Late Archaic. In his report he failed to mention a number of very significant structures in the area, some early 18th century ruins in the area, and cast aside a fine site by saying "well, this site has shell-tempered pottery." In his report he showed something like 1,600 sherds that could be classified into two or three varieties in an established ceramic series. Those are the kinds of things that give managers and reviewers fits; an obvious rich and productive site, but not considered important nor any reason given as to the judgment I submit to you that cultural resource managers, people interested in all aspects of historic preservation, have to give equal consideration to all resources. This again is why guidelines and rather specific scopes of work are generated and rather strong stipulations are put in contracts nowadays.

The other problem to project implementers is timeliness. I submit to you that by-and-large the vast number of archeologists, whose primary responsibility is to the university where they teach, never get a report in on time. That's our experience. Never get a report in on time. And yet, the planners are waiting for this; they have to go through the compliance process and they have to know whether or not they have a compliance problem with a particular project as early as possible. Yet they can't get the report. As a matter of fact, an example of this situation that was especially perplexing to me is that a private company had consulted with a State historic society to do a survey evaluation of some property in order to obtain a federal permit. It finally took a consensus determination of eligibility (a field evaluation by SHPO, Advisory Council, and federal agency personnel) to get the project on the move. At that time, we were called in to implement the Moss-Bennett legislation. Our contractor went in, completed the data recovery, had a preliminary report submitted to us and to the private power company indicating the area had been sufficiently studied before the report from the archeologist who did the survey and evaluation was ever submitted to the company. I might also add that it was a very open type scope of work. In that scope of work this particular archeologist missed a standing ruin that in part was two stories high that was built in 1812. The investigator also missed a burial mound right in the middle of the project. Matter of fact, a test pit was dug within 20 feet of the burial

mound. It was a little old Fort Ancient burial mound but it was still missed. By the way, there's an interesting thing that came out of the 8th District Court of Appeals in Washington the other day. I don't know how many of you saw it. It says that public officials, such as myself, are no longer subject to libel suits if their statements are in the public interest. We are no longer personally subject to libel. So if you go out and do a bad job for somebody and I know about it and another agency calls me and asks "What do you know about him?" I say "You don't want to deal with that turkey." I feel much more comfortable now. Of course, we're constantly, in the federal government, threatened with lawsuits.

A couple of other things I want to point out to you specifically in terms of problems. One is the lack of knowledge or willingness on the part of the archeologist to learn the laws and requirements on the one hand, and by planners who misunderstand the laws and requirements that can cause most problems. A quick example. In one of your adjoining states an archeologist was requested by the local municipality developing an industrial park to come out and do a survey because the federal agency the city was getting funding from required that an archeological survey be done. So in this case the city manager, I believe, became the responsible federal official. When the city asked how to do it the granting agency said "Well, call the university--I'm sure they have some archeologists over there." So the city manager called the university and the Professor X said "Oh yes, we'd love to do it for you. When can we get it done? Well, we can get it done right away. What's it gonna cost? Well, it's gonna cost about \$500." The archeologist went over, looked around and said "Well there are three burial mounds over here. Before you get your grant, you're gonna have to salvage that one. How much is that gonna cost? Oh, we can do it for about \$10,000 or \$8,000." Okay, so the city wrote a contract and the university went out and did the excavation. Both the archeologist and the city believed they were in full compliance.

Very serious problems here. It was a federal undertaking. Compliance was completely avoided. The point I want to make is that by a slight modification of where the plant was going, moving it a few feet, a burial mound would still be sitting there today. We'd still have the resource for future and better investigation.

There is also another thing that I think is very important to point out to you. Under the law and, I have been told by a solicitor, that this archeologist and his institution may be subject to suit to recover the money because the community was forced into spending money for no legal reason. There are a couple of other archeologists who very likely are going to be sued, I understand.

The final point I want to make to the archeologists is that there is a certain amount of greed evident. I don't mind anyone making a good living doing archeology, but not too long ago I was called out to a mid-western state by the state DOT. They were faced with a \$6,647,219.00 data recovery program. Part of that data recovery program included a tremendous amount of equipment to be bought for the university, including a radio-carbon dating apparatus as well, as about a quarter of a million dollars to

be spent some 20 miles outside of the project area to do geomorphological research. I said "Well, yes I agree with you, scientifically it is needed. But the FHWA and the state cannot pay for that kind of work. The federal activity is not affecting something 20 miles away." I walked out of there and it was agreed by all that the first thing they ought to do before they started writing six million dollar data recovery plans was test the sites, find out what's there. And there was no way in the world anybody could justify spending \$218,000.00 to totally recover information from sites that covered up to 60 acres and had produced up to 13 specimens. We're going to get that work done for substantially less; an amount that is justified and can be defended. But it was in that area that there was a conflict really between what was required by the law and what the archeologists had as their professional interest. I think we resolved a lot of those, administratively, and probably arbitrarily, and I am sure in some people's eyes, capriciously.

CONTRACT ARCHEOLOGY: THE VIEW FROM THE FEDERAL LEVEL

by

Michael Corkran, Archeologist, U.S. Army Corps of Engineers,
Wilmington District

By way of being very honest, I suppose I ought to confess to representing one of those agencies which Bennie has alluded to as, in the absence of a good set of interpretations of Moss-Bennett and other legislation, writing and possessing our own set of rules. We have a new draft set of rules out which is due to be published in the immediate future. And officially, the position of the Corps of Engineers in general across the country is that we do not consider the guidelines and published compliance procedures of the Advisory Council and certain other governmental bodies, such as the Park Service, to be binding as law. While we will generally, in the interest of being able to match our work with other governmental agencies, attempt to follow published guidelines of the Advisory Council, if it really comes down to a hard decision to make, we are going to go in the direction of what we consider the best interests of the public and the government, rather than adhere strictly to the guidelines. This may change, but it helps if everybody understands that we are operating in that frame of reference.

I thought that to tie into some of what Bennie was saying, I would briefly outline what kinds of work we consider appropriate to particular project stages and give you some kind of idea of how the planning process goes. This specifically relates to the Corps of Engineers, but it is not all that different from any number of water resource planning agencies. It has certainly been the case in the recent past that one of our major problems has been difficulty in communicating to the contracting or consulting archeologist exactly what kind of product we consider appropriate to, and necessary for, the given stage of project planning that we were in. This is something that I have developed an appreciation for since being with the corps. I was always somewhat baffled by it before. Now that I am in there and expected to assist in planning and managing, I have begun to get some sort of feel for it.

If you can conceive of a planning study in which the archeologist may be involved as consisting of three categories, I think you can get an idea of what we as the lead federal agency require. I'd like to suggest that you think in terms of pre-authorization, authorization, and construction.

It has been the case until very recently that none of you who have done contracts for us ever had any experience with anything prior to the construction phase. This is the phase of work under which the Park Service used to fund archeology. If we were going to build a reservoir, when the final plans for that reservoir were approved and we were about ready to enter the construction phase, under the Interagency Archeological Salvage Program, the Park Service would put some money into a contract with a local university. In the construction phase, then, the university would come in,

identify what was going to receive primary impact in the reservoir basin, perhaps do a little salvage archeology, and that was it. The project was already finalized, and there was only little option of adjusting the project to accommodate the cultural resources.

With a staff archeologist in many corps districts, we now have the opportunity to get involved in resource planning, identification and management at a much earlier stage. We now try to begin in the pre-authorization stage. By pre-authorization, I am referring to that phase of a study which occurs before the Congress has authorized and funded detailed planning or construction of any project. We are involved in a number of these in the Wilmington District now. I will use two river basin studies as examples, one in the Roanoke River Basin, and one in the Dan River drainage along the North Carolina and Virginia border areas.

The studies conducted at this pre-authorization point are conducted as the result of a congressional resolution directing the Corps of Engineers to study and identify water and related land resource problems of certain areas. For example, on the Dan River we are looking at an area of some 4,000 square miles, running from the upstream end of John H. Kerr Lake in the Piedmont to beyond Philpott Lake in the Blue Ridge Mountains. We have no specific plans to build dams, construct flood control structures or any other structural solutions at this time. We are trying to study the general water resource--control, storage, and distribution--problems of an entire drainage system. This means the study has to be very generally oriented. We are looking at power needs, water needs, biological and ecological needs, and archeological data base and needs.

The pre-authorization category consists of three distinct stages: (1) development of a plan of study and identification of needs, (2) investigation of a broad range of alternative plans and development of a broad data base, (3) development of detailed plans and impact assessment.

It is at stage 2 that what we call an archeological reconnaissance of the general planning area is appropriate. That is, we would like to have at this planning stage a search of the existing data base to give us an idea of what is already known about a very large area in general, and we may fund field activities consisting of a very small sampling of the overall areas. Obviously, if we are dealing with a 4,000 square mile area, we cannot go in and do very much. In other words, it's going to be a light sampling of a few representative study areas.

We move eventually from this stage down to the point where we have identified the problems of a particular area relative to water related resources and, at the conclusion of pre-authorization planning (the end of Stage 3), we attempt to analyze various alternative solutions which we have found to the water resource problem and propose one particular set of solutions. They may be the construction of a dam and reservoir. It may be no construction; it may simply be solving flood problems through non-structural means or even recommending the designation of a scenic river.

But taking a hypothetical situation where we propose the construction of a reservoir, we have now selected a site. We say, "Okay, here is the best site; here's the best solution; we recommend building a reservoir here." We then submit the recommendations to the affected public and eventually

to Congress for project authorization and funding. Note that the environmental statement (EIS) is a part of this recommendation and review process. It's at this stage (Stage 3) that it becomes a little more familiar to most of you. We most typically begin the EIS only after we have identified a particular solution that we are recommending.

Upon Congressional authorization, more detailed planning begins. It is at this point that the provisions of the Moss-Bennett legislation (that Bennie was talking about) become applicable by way of funding. As most of you are aware, Moss-Bennett allows the expenditure of up to one percent of project funds on archeological and historical research, but that does not apply until we reach this authorization point. At this point, we then have up to one percent of our operating funds to deal with archeological concerns. We have identified the project, and we now have congressionally authorized funding. It is here that we go to a more intensive survey, which is again what most of you are familiar with through government contracts.

Having identified the particular project, we then will attempt to have a more intensive survey done, usually under contract, of the impact area of that project, including both the primary and the secondary or indirect impact areas. It is this survey that must identify, as much as possible, the full range of archeological and historic resources in the area, and it is this survey that we have to rely on legally as the basis for future cultural resources expenditures during project construction. This is why in our scope of work we very specifically state that we want recommendations for mitigation of impact to sites and to resources--recommendations in terms of whether or not sites are eligible for the National Register and in specific terms of time and money required to accomplish that mitigation. Under Government regulations, we must cite the survey reports from this phase as justification for our request for future funding, for time to accomplish mitigation, and for any salvage activities that are going to be accomplished later on. Without that clearly justified in your contract report to us, you're going to watch sites literally be bulldozed away because we cannot get the funding to save them.

We go from that into construction. Supplements to the EIS are possible at any point in post-project development, depending on the significance of new information or actions. It is in the construction phase that we have mitigation of cultural resource impact. If we're going to salvage sites, construct any kind of structures to preserve them, restore historic architecture, any of those things that might be considered mitigation, we accomplish that during the construction phase. We're not permitted to spend one penny on mitigation until we have construction funds in hand and construction is actually started on a project, except in very exceptional circumstances requiring approval from higher authority.

Now all of this, of course, leads us to the problem of timing. We have to follow established schedules for the development of any given project. We are now, however, in a transition period where we have several projects in construction that arrived there before this orderly process of cultural resource planning was established. If, at any point in the development of that project, we do not have all of the various components, of which archeology is only one, we may go on to the next phase and make the next round of decisions without benefit of the knowledge that component might have provided us. The decision to do this depends on the significance of

the component. This then puts me in the uncomfortable position of talking to the consulting archeologist over the phone, getting a verbal description of what he so far thinks is there, what he so far thinks is significant, second guessing what he is going to justify expenditure of and what he is going to nominate to the Register in his report, and then having to go to the agency administration saying, "Okay, this is what I think is the best available information, but I don't have the report in hand, so let's act on this." Nine times out of ten we end up not acting on quite the right information because the archeologist who has not yet written the report is not quite sure what is going to be in that final report. So it puts us in a very bad situation. It makes us appear in a worse light than we might otherwise because then we have operated on less than the best information. So really the question of timeliness cannot be overemphasized. Congress has given us funding for a particular fiscal period. If we don't accomplish the task for that fiscal period within the time constraints, it costs the taxpayers. Agency administrators are trying hard to avoid that.

I will now list a couple of the other kinds of problems that we have in communication in dealing with the archeological community. I think a dialogue on these will help eliminate a great many of them. One of the major problems we run into in this contracting process is that of cost estimates. We have found that there are very few archeologists who can sit down and put in writing over their signature a statement that a survey of such and such a degree of intensity in such and such area will cost you "x" amount per acre. This is what we are looking for. I realize that it is for the archeological community at the moment a largely impossible request, but it is a reality of federal funding that we have to live with. I have to go back to the planners and budget directors and say "We've got Kerr Lake here; we've got 60,000 acres of government land that is all wooded that is going to cost us approximately \$4.75 per acre, and here is the reason. One survey team of "x" many people can cover this many acres per day using this particular survey methodology. Therefore, we can have a 10 percent or 12 percent survey or whatever we want which will give us coverage of so many transects or so many acres for this specific amount of dollars." By-and-large archeologists, at universities in particular, are not prepared to put that on paper and stick to it. Archeologists working for private business and consulting firms have been forced to do that by their own auditors, and I would hope that the rest of the archeological community might make some advances in that direction.

Timeliness we mentioned. Again, I might point out that in addition to just our scheduling, it would be helpful if the archeological community had some feel or some set figures for how long it takes to survey a certain size piece of ground under given conditions. If it's open ground, how long does it take? If it's a forest and you have to put in post hole diggers everywhere, how long is that going to take? Really, one cannot figure the cost without knowing the time. We find both of these to be great problems.

Another of the problems we have encountered I am acutely aware of as a prehistoric archeologist. I have no practical background in historic archeology and I am certainly not qualified as an architectural historian. Nonetheless, the government compliance process requires not only a look at archeological sites (prehistoric sites), but at historical sites as well, and at sites with standing architecture. When I write a scope of work for a cultural resource survey of a project, that scope of work invariably

specifies consideration of all three groups: prehistoric sites, historic sites, and standing architecture. We have found, not to our surprise, that the average competent professional archeologist is not competent to deal with historic sites, and particularly with historic architecture. Nonetheless, the scopes of work are going to have this in them, and it's going to require that the archeologist's team take on a consultant capable of analyzing the historic architecture and evaluating it for us. We've had a great deal of difficulty in communicating this need to the archeological community. Archeologists seem to be very reluctant to take on consultants of this type, somebody completely out of their field, and get into something that, by-and-large, they are not interested in. It has been the occasion of considerable amounts of friction between our office and certain contractors in the past because they were simply unwilling to take on this type of consultant and provide us a needed evaluation. But it is going to be there, and it is going to be a component part of virtually every contract survey scope of work that comes out of the federal government as part of our compliance process. Somehow we have to find a way to deal with that.

Next, I would mention the evaluation of sites for determination of eligibility for the National Register of Historic Places. The federal government distinguishes two principal categories of cultural resources: those that are eligible for the Register and those that are not. As far as our administration is concerned, it doesn't matter if we have 3,000 sites or pieces of standing architecture in a project area. If none of them is eligible for the National Register, we are not going to be concerned with them. We do not have authorization to spend money on them--any of them--period. It is not our responsibility to mitigate damage to them if they are not eligible, either individually or collectively, for the National Register. I would hope that individual archeologists and contractors might try, through workshops such as this, and through keeping up with federal regulations and rules and procedures as published, to keep up with National Register criteria and become thoroughly familiar with what those criteria are. It is not necessary that each individual site be eligible; we have National Register districts. Certain collectives of sites may be eligible where individual sites are not. But without a clear statement in the contract report that these sites are eligible for the National Register, including the data to support that assertion of eligibility, we cannot act any further. We have to assume that they are not eligible, and we will not do any mitigation or any further research into those sites. We have found that most archeologists have not been quite familiar enough with what the criteria for nomination to the Register are, with what kinds of data it takes to support those, and with making a general professional determination of when to decide if a site is or is not eligible. This has been one of our great areas of lack of communication. We receive reports which do not even address sites in this regard, and we must then try to figure out which of these sites are eligible and which are not.

Finally, I would like to say a quick word on contract procedure. It seems there has been a great deal of misunderstanding between various government agencies and the archeological community on how contracts are awarded. Again I will draw the example from the Corps of Engineers. I know this to be quite different from the Park Service procedure. Since a lot of you have been dealing with the corps, I will point ours out. Any major project is generally advertised in the Commerce Business Daily. That advertisement will request expressions of interest from potentially qualified parties. We will wait until those expressions of interest are in or until our dead-

line for expression of interest is up and will then hold a pre-selection meeting within the Corps of Engineers. We select what we consider to be the three best qualified parties who have expressed interest based on their stated corporate qualifications and on past performance where we have any knowledge of it. We will then select the one best out of those three and go to that party and ask for a proposal and a cost estimate. If that proposal and cost estimate are satisfactory, the contract is awarded to that firm or to that institution without any further advertising and without any further requests for bids. If not, we go to number two and so on. Let me add that what we are looking for is not necessarily the low bid in the group. Before you ever submit a bid, I already have a confidential government estimate of contract cost, itemized, on file in the project folder, so when you come in with your bid, the more itemized it is, the more specifically you can justify time and money given to each specific task, the better off we all are. So I would like to dispel the idea that we are looking for the lowest bid. We do not do that. We are looking for a satisfactory technical proposal, together with an acceptable bid relative to our own cost estimate.

Basically, that sums up what I consider to be our main areas of difficulty between government operations and the archeological community. I think for the most part it is simply a matter of educating the archeological community a little bit as to what our planning process is, what we need at a particular stage and why we need it the way we need it, and getting a little bit better dialogue going between you and us. I don't see any necessary permanent conflicts between archeological research interests and our project development process.

CONTRACT ARCHEOLOGY: THE VIEW FROM THE STATE LEVEL

by

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I consider this something of an honor. If you look down the list of those who will be speaking or those who are on the panel this afternoon, you will note that I am the only one who is not an archeologist or historic preservation planner. The nature of my comments will, therefore, be a little different. The topic, of course, is "Contract Archeology," but I would like to expand that a bit if I may, in part, because the department which I represent has many different interests and perspectives, and, in part, because my background is somewhat varied. During my eight years with state government, I have worked in the fields of land use planning, public administration and environmental assessment. So, if the nature of my comments changes along the way, I assure you it is intentional.

Restoration and preservation of historic and cultural resources has assumed a growing importance in recent years as more resources have been threatened with destruction and/or destroyed. Preservation objectives are increasingly being recognized at state and federal levels--in construction projects, assistance programs, and permit activity. This is also occurring at the local level. While many of these objectives may be admirable, the task of establishing a realistic preservation program requires that we face and resolve a number of cultural and economic planning problems. Implementing a comprehensive program of historic and cultural conservation requires the cooperation of private and public interests at federal, state, and local levels.

While other speakers have indicated the Department of Cultural Resources is the agency primarily charged with protecting documents and properties having historic, architectural, archeological, or cultural significance, other state agencies also share in this responsibility through provisions of the North Carolina Archives and History Act, the North Carolina Environmental Policy Act, the Coastal Area Management Act of 1974, and other legislation. The scope of the above legislation covers more than properties or sites having historical or cultural significance. However, in keeping with the intent of this workshop, I will try to deal only with those kinds of resources.

Several activities in the DNRCD involve earth disturbing activities which may require historic or archeological assessments. Some specific department activities requiring assessments include the construction of boating access areas, waterfowl impoundments, roads, canals, and hatcheries which come under the purview of the Wildlife Resources Commission (WRC). Also, certain WRC management practices, such as field clearance, may require assessments. The letting of dredge and fill permits and the establishment of artificial reefs by the Division of Marine Fisheries may require archeological resource assessments. Capital improvements by our State Parks system generally require some level of assessment and many times

indicate the need for an on-site survey. Construction activities which involve navigation improvements, watershed improvements, flood control, or beach erosion control require assessments; however, most of these projects are funded through federal sources either by the Corps of Engineers or the SCS and the archeological assessment requirements are performed as an integral part of the project planning as has already been described. Additionally, the department provides comprehensive land use planning assistance and wastewater facility planning and construction grants to local governments throughout the state. It is within these last two areas that I would like to address the balance of my comments.

As we are meeting today, the Appalachian Bureau of Regional Government is sponsoring a conference on historic and cultural preservation at Appalachian State University. To describe why that conference is needed, the brochure announcing the conference states . . . "Many communities today are being faced with the dilemma of trying to preserve their heritage while facing the economic realities of the seventies. Too often, the past is lost to the need for the present. Too many communities have failed to recognize the importance of their past and have allowed it to be demolished before their eyes or submerged into oblivion by those who consider old things and old ways worthless. Many communities have allowed their past to die, they have thrown it away rather than incorporate it and integrate it into their life today."

Technology and an expanding population are two major forces, changing the shape and content of our cities. Technology has changed our mode of transportation to the automobile and made many innovations in materials and construction of our buildings and residences. An expanding population slowly changes the structure of the urban area creating population pressures of different types throughout the community. These forces are slowly obliterating our ties with the past. Buildings with significant architectural character are being converted to what some of us might consider modern monstrosities, or they are being torn down and historic places are being surrounded by commercial uses which dominate the scene and steal from the value of the historic setting. Fortunately, there are exceptions. In many of our urban areas, history has left some charming residential areas or a number of individual structures which incorporate some of the best traditions of our past. This beauty of past architectural styles and building techniques reflect a manner of living which contrasts sharply with what we are constructing today.

During recent years, more and more members of historical societies, city planners, and ordinary citizens have been asking themselves how they can best preserve the historical character of their communities. As part of an answer to that, some years ago, Carl Feiss, a trustee of the National Trust wrote "a historic place is part of a living organism in a modern world . . . But it cannot survive in conflict with the growth of the place in which it is found, nor can its development ignore the basic drives behind our dynamic society. The historic house must adapt itself to its modern existence. We must put it to a use appropriate to its preservation and with validity to the modern world."

To achieve this, many preservationists have recognized that preservation of a historical landmark or site requires the same types of techniques that are generally applied to community planning. Therefore, they have

pushed to have that landmark considered by community planners, planning boards, and elected officials just as much as any other part or element under consideration such as streets, schools, or water and sewer improvements. Bob Stipe, who is with us today, made the point some 14 years ago in an article in Popular Government entitled "Civic Action and Historic Zoning." He said, in effect, that planning as an activity of local government, and historic preservation planning should be inseparable. This view has gained wide acceptance in the federal government as evidenced by new planning requirements from the Department of Housing and Urban Development.

Much of the community planning work in this state is funded, in part, by Section 701 grants from the Department of Housing and Urban Development or from state 701 grants. HUD requires that planning activities funded under Section 701 be carried out in accordance with the National Historic Preservation Act, Executive Order 11593 and with NEPA. Consistent with these requirements, any Section 701 assisted activity, including the preparation of a land use plan, must contain a historic preservation assessment if the element includes plans or policies which may affect any property listed or eligible for the National Register of Historic Places. HUD regulations state that the assessment must include:

1. A summary or abstract of the proposed plans or policies;
2. The impact (beneficial and adverse) of the proposed plans or policies, if they are carried out;
3. Any adverse impacts which cannot be avoided should the proposed plans or policies be carried out;
4. Alternatives to the proposed plans or policies;
5. The impact of proposed plans and policies on the long-term maintenance and enhancement of National Register properties; and
6. A statement setting forth applicable federal, state, and local controls or programs for conserving and enhancing historical properties.

The assessment must also:

1. Be appended to the resulting proposed plan or policy and accompany the plan or policy through all local deliberations leading to approval and any subsequent amendment of the plan or policy; and
2. Be available to the public on a timely basis, including availability prior to any public hearings regarding the plan or policy.

As you can see, these requirements are quite general in nature, as is the case with many federal programs in the beginning. For example, when we started 201 wastewater facility planning, we didn't have too many regulations. In fact, we operated several years with few written requirements. But today, as some of the engineers here know and can tell archeologists, we've got stacks of regulations and guidelines to follow. Determining what is meant by the HUD historic preservation assessment requirements, I predict, will be the subject of much discussion and debate during the next year. Some of the points likely to be contested and points

the panel is requested to comment on this afternoon include:

1. How comprehensive must the statement be in setting forth adverse and beneficial impacts of proposed plans and policies? That really isn't detailed in HUD's regulation.
2. What methods of impact analysis are acceptable?
3. Who is qualified to prepare a historic preservation assessment?
4. Recognizing that cultural resources are nonrenewable, finite, and extremely sensitive to certain kinds of land uses and that inventory data on these resources is inadequate for most areas of the state, under what circumstances might on-site ground surveys be required for archeological, historical, or architectural resources in order to have an adequate historic preservation assessment?
5. Under what circumstances is it adequate to base the analysis on preliminary reconnaissance surveys from which predictive models of site locations can be formulated and high probability areas delineated?
6. Since many of the proposed government facilities in land use plans are only generally located, and many of them may not be constructed for say 15 or 20 years in the future, is it adequate for the historic preservation assessment merely to note that the required surveys will be conducted prior to construction?
7. The DCR is undertaking an extensive survey of sites of cultural and historic interest in the state on a county-by-county basis. This work has resulted in more listings than are generally found on the National Register. For example, for Chatham County, I've been told three sites are on the National Register and the DCR survey identified some 95 sites. What considerations should these additional sites be given in the assessment since HUD's regulations and those of the corps really only apply to those sites which are on the National Register or are eligible for inclusion in the National Register?
8. To what extent should or must secondary impacts be addressed?

Answers to these questions are likely to have considerable effect on the 201 wastewater facility planning and construction grants program and I'd like to turn to that at this point.

The Federal Water Pollution Control Act of 1972 provides financial assistance for the purpose of assisting the construction of publicly owned treatment works as authorized by Section 201 of that act. The act and EPA regulations require that an adequate environmental assessment, consistent with the requirements of NEPA, be included as an integral part of facility planning.

At the state level, the DNRCD provides planning and construction

matching grants for projects eligible for federal funding through the State Clean Water Bond Act. This act and the state regulations require an environmental assessment which must be consistent with the requirements of the State Environmental Policy Act.

In each case, these environmental policy acts require consideration to be given to project impacts on cultural and historic resources. Additionally, there is the requirement that the proposed treatment works projects comply with other environmental laws such as the National Historic Preservation Act and Executive Order 11593, which have previously been cited. The Advisory Council on Historic Preservation has, as you are aware, issued procedures for protection of historic and cultural properties to guide the various federal agencies in meeting their responsibilities under the act and under the Executive Order.

EPA has the responsibility under those procedures to insure that archeological and cultural resources are identified in primary impact areas of the project. The investigations that are required to do this are generally carried out by the applicant, and more specifically, by the engineer whom the applicant retains. You will note that I said EPA views it as their responsibility to identify primary impacts from the location of wastewater treatment plants, interceptors, force mains, pump stations, or other grant eligible facilities. EPA does not recognize any responsibility for identifying impacts of a secondary nature.

To meet these requirements we recommend that the grantee contact the State Historic Preservation Officer (SHPO) or his staff as soon as the project scope, general location, and time have been identified. The SHPO may be able to identify cultural or historic sites in the area which may aid in selecting the best alternative. The SHPO may also indicate those areas that are quite sensitive and require further investigation by professional archeologists or historic preservation planners. There is also the possibility, although we haven't had this happen in a lot of cases, that the project may be limited entirely to previously disturbed areas and the SHPO may advise the applicant that the project will not affect cultural resources and that no further investigations are required. You will note that I said the SHPO may advise the applicant that no additional survey work is required if the project is located in a previously disturbed area. But, we have had cases where facilities will be located in previously disturbed areas with substantial possibilities for resources still being underground and not detectable at this time. In these instances, the SHPO has requested more extensive surveys.

The grantee or his professional representative is required to prepare a report for review by the SHPO, EPA, and my staff to determine the effect that the project may have on cultural resources. Specifically, the following procedures are generally applicable:

1. If a project has been determined to have no effect on resources which have been identified, the applicant would of course include those views in his report which would be reviewed by the SHPO. If the SHPO concurred with that finding, then the project could proceed.

2. If the project has an effect on identified resources, the Advisory Council's criteria of adverse effect must be applied to the project to determine the significance.
3. If the application of criteria results in the conclusion of the grantee's professional, and is agreed to by the SHPO, that the effect is not adverse, the documentation supporting that conclusion must be forwarded to the Advisory Council for concurrence. If Advisory Council concurrence is received, the project may proceed as proposed with the application of any mitigating criteria which may have been recommended.
4. If, on the other hand, the application of the adverse criteria results in the conclusion that the project will have an adverse effect, comments would be obtained from the Advisory Council and more than likely a consultation process would be set up.
5. The consultation process may involve on-site inspection, public information meeting, a more detailed consideration of all alternatives, avoidance of adverse effects, or a discussion of mitigation of adverse effects.

Generally, the above procedures will be sufficient to resolve adverse effects. Whenever archeologists submit reports for review, the reports should include detailed maps showing areas which have actually been surveyed. The maps should be of adequate detail for our staff, EPA's staff, and the staff of the SHPO to be able to determine the exact location of specific sites which may be significant. This is important for several reasons and in a number of points along our review process. The first place it becomes important is when we review the facility plan. At that point, we will check to insure that all of those facilities which may require surveys have in fact been surveyed. If we only have a narrative report in which the archeologist says he surveyed such and such a line which goes down a certain creek, we have no way of knowing whether all of the line or just a segment of it was surveyed. The second point in the review process where this becomes important is during what we call Step II. This is where the engineer prepares plans and specifications, the actual engineering drawings. Those plans and specifications are reviewed by the state and EPA to determine whether or not there have been changes in the alignment of interceptors, force mains or treatment facilities to areas which were not previously surveyed. If you don't submit detailed maps, it's difficult for us to make that kind of determination. The last point where this becomes important is during actual field inspection by EPA to determine if the line is consistent with previous surveys.

The last point I'd like to make, for the benefit of engineers and local officials, is the timeliness of reports. It's been previously stated that the corps has a particular schedule that it must follow and if it doesn't have the archeologist's report, then it will proceed and make the best decision that it can. EPA works a little bit differently. We have a lot of projects to choose from. We don't have to wait on one project in order to allocate all of the money that is available. Therefore, if archeological reports are not available when EPA is ready to allocate money, it generally delays action on that project and funds those projects ready to go. When local governments are required to wait for the next funding

period, the project cost increases and citizens must pay more for services. So it is very important from the local government perspective that the reports be submitted in a timely manner.

In closing, I'd like to say that the DNRCD is committed to historic preservation and that we appreciate the cooperation that we have received from the archeologists throughout the state and from the staff of the DCR. We recognize that there are some issues where we still have disagreements and that there are some issues which need to be resolved. We look forward to the session this afternoon on those matters.

CONTRACT ARCHEOLOGY AT THE ACADEMIC INSTITUTION

by

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Many of the remarks I am going to make will be prompted by my experience at a small academic institution with a small program in contract archeology because I realize that many of my colleagues in here have this same situation. It doesn't apply to a much larger program as, for example, UNC-Chapel Hill. Now in good archeological fashion I've divided my topic into three parts which I've labeled benefits, problems, and trends. The benefits of working at an academic institution are offered since I contend that a benefit is not a benefit unless it is recognized, so you can then exploit it, and I wanted to go through the list of what I view as these benefits, so hopefully you can recognize them.

First of all, it has been our experience that the reputation of an academic institution, primarily achieved through success or lack thereof of its football team, attracts unsolicited requests for proposals from engineering firms and local agencies. These people recognize that archeologists hang out in places like universities, and they are not fully aware that there are private firms also doing contract work. Another advantage is that you've already got a physical plant which you can use to some extent, e.g., there are probably buildings where you can store your artifacts. These are usually civil defense shelters so they're sturdy, and your curatorial expenses should be low. Laboratory facilities probably are available in one sort or another and funds for student assistants usually are available also, allowing payment of a sub-minimum wage. Now this varies from time to time and institution to institution, but it has been my experience that if you indicate that you must have more student assistant money, this will be forthcoming. It doesn't cost the university very much because they advertise these as scholarships and can pass them around to their needy students. You also have an administrative staff available and this has been a tremendous benefit for us. This staff, such as the treasurer's office, will handle your bookkeeping chores. Ours keeps all their records in cuneiform on little clay tablets and it's impossible to get much information as to the present status of the budgeted amounts, but that's all right; that's their problem.

There also may be a research office which will alert you to potential grantors. I finally convinced our research office to scan the Commerce Business Daily, and they clip out the little notices of contracts to be let and send them to us through the campus mail, and then occasionally we respond. There are legal services available free of charge and I will get to why those might be seen as a benefit in a moment. There are library facilities, with books and also maps. I didn't realize it myself until about a year ago, but most university libraries have a standing order for USGS topo maps, which are issued periodically in revised versions. They throw the old ones away. You can get these free and start your own file of USGS topos. We have an almost complete set now for southern California. There's a print shop where you can have your reports xeroxed or printed by offset. You can have your line drawings reduced appropriately and often, amazingly, they will not know who to charge this to, so the grant under which you would be

charging this is then freed for equipment purchases. All academic institutions, like all armies, tend to get fouled up internally and I think you can take advantage of this if you're careful. You've got to keep a low profile during all this, send students to the print shop, never go yourself. Another advantage of an academic institution is that interdisciplinary studies are enhanced because you have access to Biologists and chemists. We've used both of those fairly extensively in looking at remains from archeological sites--what is this bone, identify this piece of charred material, etc.,--and also certain humanities, such as history. We've used historians and their graduate students to help us prepare the little synopses of county histories that usually accompany the survey report (at the insistence of the Archeology Branch). This is very helpful, and we pay them a pittance; they can do a good job and go in the report as consultants, so you demonstrate that you have some qualified persons doing this work for you.

A major benefit that I see is that the university, at least Wake Forest, has a vital interest in portraying itself as responsive to community needs. Most universities are dreadfully fearful of fostering an ivory tower image within the community and you probably hear at your own institution that we are part of the local community, we are part of such and such a town. Well, if you demonstrate and advertise that in doing contract archeology you are fulfilling the needs of local and state agencies for cultural resource management, this will enhance this view of the university as part of the community. We have a small museum which is stocked with artifacts which we have gleaned from surveyed sites and other sources. We advertise the museum and the public comes in and they see these things. We have a little display on cultural resource management with snippets from the pertinent legislation here and there and the right way and the wrong way to excavate a site. I think this creates a small, but real bond between the university and the community, and the public can see that they are getting something for the money they are spending on cultural resource management. I think that this might do something to alleviate the tensions that might be generated between the public and the archeologists. In fact, my university is currently preparing a grant proposal to hire an archeologist to do EIS work on a full-time basis, perhaps teaching a course in cultural resource management to the anthropology and history majors. Incidentally, historians are keenly aware of the legislation that has applied to archeologists and they are quite interested in having their students trained in this. So there is a possibility here of some sort of cooperative program between departments.

Another benefit which you are probably all aware of is the availability of student labor which does not require the payment of some of the overheads, such as unemployment compensation or social security. So the university likes for you to hire students and the students need the money. Students are a little more amenable to the specialized training you might want to give them than are the sort of people that are found at the downtown unemployment office. That I see as an advantage. Students can be trained for CRM related tasks and receive academic credit, thus providing a steady labor pool for analysis and write-up of your reports. Wake Forest offers a two-credit course entitled Archeology Laboratory Practicum in which students learn to photograph artifacts, to develop the film and print the photographs, get it just the right size, reduce it just so, to make line drawings and use the Leroy lettering set and put zipatone on maps and

all of those little tasks that many of you may have to do yourselves, all of which are time-consuming and require the intelligence of an avocado. If you can train a student to do this, then it's going to save you that much more time. Also, a phase II or phase III project requiring some excavation might be conducted as a field school for which students could be given academic credit while at the same time learning the application of some of the CRM related legislation.

Now, that exhausts the benefits as far as I know and now come the problems. The problem that we are all aware of is the lack of time for pursuing and completing large contracts. If you are part of the university, you probably were hired to teach. And, in my opinion, you have a duty to do this effectively and that duty has a higher priority than pursuing contracts. Conflicting demands of academics and research also make it exceedingly difficult, at least for me, to stay fully informed in both fields. When we were in graduate school, we spent a great deal of time learning such things as the social and cultural implications of marrying your mother's mother's brother's daughter's daughter, but we really didn't learn much about NEPA or such things as cultural resource management. I contend that cultural resource management and other guidelines and laws are fully as complex as the kinship system of the Australian aborigines. Unless you are able to spend an enormous amount of time familiarizing yourself with this, you are going to be disadvantaged in dealing with federal agencies that spend their time learning and implementing this legislation. They learn this stuff and they know it, and you can't fake it. I have to admit that it took me some time to understand what 36CFR800 was, what the numbers meant and what the letters meant. I was too embarrassed to ask anyone that really knew, so I had to poke around until I finally found it. I thought it was a toll-free telephone number. I guess I am mentioning this to plead for the indulgence of the agents of federal organizations in recognizing these shortcomings of the professional at the university. We were not trained for this sort of work (with a few exceptions), particularly the understanding and the application of CRM legislation. I recall our bewilderment upon undertaking our first project for the Park Service. We received a fat envelope stuffed with government forms instructing us how to do various things, guidelines about hiring convict labor and veterans, and how to file all these reports. We muddled through, after some painful experiences and long telephone conversations with the Park Service. One of my students suggested that we put down our experiences in some sort of a pamphlet so our colleagues wouldn't have to go through it, entitled something like Wake Forest versus the Park Service. Another student suggested calling it Bambi Meets Godzilla.

Another problem that has bothered us is that potential contractors, some of them, are still poorly informed about environmental legislation or are poorly motivated to comply. Many requests for proposals are submitted which need the work done immediately, right now, get out there. Since we commonly use students on the field survey, this creates all sorts of scheduling problems with their classwork, and large projects can only be done in the summer for this reason. This essentially wastes 75 percent of the year in terms of field work. We can use it for write-up but we can't run field parties all year. We need lead time in order to work around the university calendar. This is of crucial importance to us. I received a proposal last week that wanted a survey done for a medium size area, about

400 acres, and the final report submitted within 30 days. Now we just can't do that and private firms can. This is one of the disadvantages of being hampered by teaching.

Another problem that we've run into is payment. In several cases it has proven difficult to get the money owed for carrying out the mitigation work. This is most common in dealing with small city governments and small scale contractors. I don't know whether this problem is peculiar to academic based contract work or not, but it is embarrassing because there's no other way to cover these costs. If I send students out and tell them I will pay them, and offer to pay a typist and a draftsman and so on, and we get a report done, and they still will not give us our money, this is where those legal services that the university provides is important. A letter on legal stationery has amazing effects. While I'm on this topic, another thought occurred to me while listening to the other speakers, because several complained about the fact that archeologists seldom get their reports in on time. I suggest that you just simply don't pay those archeologists that don't get their reports in on time, because this can work both ways. Both parties have agreed to a contract or a proposal in which (presumably) a schedule of work is present. I see no reason why the archeologist shouldn't be bound by a deadline. I think that if a hard-line attitude is taken you will see an acceleration of the preparation of these reports.

Future trends and problems. Well, there is the problem word again, although this is supposed to be future trends. Because of conflicts in schedules and responsibilities of the academic institution and the growth of private firms for carrying out EIS work in archeology, I see the universities increasingly involved in small scale projects which can fit into the academic calendar easily and which are not profitable for private concerns. Or, portions of large projects may be subcontracted to universities. This is already happening at my university and elsewhere, and I think that we might anticipate a kind of division of labor here between the private firms and the universities. Also, I see the universities increasingly called upon to design and implement environmental assessments generally, not just archeology, but also the biological impact, water quality, etc. Now I think this is a nice trend. It would encourage the interdisciplinary approach which has been part of archeology for a long time and conceivably could lead to the formation of new fields of study straddling certain academic disciplines; for example, something called cultural and natural resource management as a field of study, even a department. There are a few examples already around. At North Texas State University they have something called the Institute for Applied Sciences and they prepare these total impact statements. So the problems that we see are not exclusive to academia. The recent Kansas City Times pseudo-exposé, which most of you are familiar with, suggests that the public's indulgence of archeologists as child-like creatures or, as we think of it, the blight man's burden, may change rapidly when our profession's correlate of the snail darter impedes major projects or offends certain social elements, and this is something we are going to have to face. What happens when a very popular project is stopped or delayed by an archeological site in which, let's admit, a very small minority of America has any real interest? I think as archeologists we should be able to defend the National Historic Preservation Act and other legislative sanctions on some basis other than antiquarian curiosity. I know we can generate all sorts of almost metaphysical rationalizations for our work, but I think we need to prepare in the back of our minds a real

reason for salvaging an archeological site and not because "we're interested in the past." That doesn't really cut it.

Another problem, especially in dealing with private firms, will be "who owns the data?" Are reports that we submit to contractors or federal agencies the exclusive property of the contracting agency or do they belong to the archeologist and are they therefore free for dissemination to our colleagues? This has not yet been a problem in this state but there have been some questions about this in California.

A trend that is clearly developing is the awarding of large projects to private firms often distant from the project area. I mentioned this already in another context. These firms then employ local archeologists, that is, those at the universities, as consultants and these archeologists may brief the field party in a series of seminars on pertinent research problems and strategies. Research problems now are often required by the scope of work, so you've got to stick something in there and this will do it if you can find an archeologist that has a research problem. This series of mercenaries then can go out and collect the appropriate data. I'm not sure how well this is going to prove to work in terms of research results, but I have some serious questions about it. It reminds me in a way of Walter W. Taylor's predictions offered 30 years ago in which he suggested archeology will eventually generate two sub-specialities, one oriented toward field work only, that is the day-to-day supervision of excavation or survey, and another sub-discipline oriented toward analytical and processual interpretation of that data. Personally, I think this would be an unfortunate development for the field. I hope to see archeologists and academic institutions continue to be involved in both fieldwork and analysis since the two are joined in a feed-back relationship. That is, the work you do in the lab determines how you are going to excavate and how you excavate determines what you're going to find for analysis. I don't think the two can be separated without significant information loss and I close with an appeal, no answer, simply an appeal to the wisdom of you collected here that some mechanism be found whereby academic institutions can continue to be actively involved in contract archeology and that the expertise present in these universities be not lost in its application to contract work.

CONTRACT ARCHEOLOGY IN THE BUSINESS ARENA

by

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One distinct disadvantage that I find in being the last speaker on the program is that I've heard my paper given in part in almost every presentation this morning. Another disadvantage is that it's very difficult to follow Ned Woodall. The purpose of this paper is to point out major trends in the development of private sector archeology, some of the advantages that can be accrued, some of the problems, and how these problems can be overcome.

As we all know, archeology is in the midst of a revolutionary transition. This transition is perhaps greater in scope than any that has been faced in the past. The environmental movement of the 1960s and the 1970s has created laws and regulations that have made archeology important in many development projects. It's virtually impossible to conduct a federal or federally related project without taking archeology into account. This means that archeology is now faced with a demand for services that is unparalleled in the field. This also means that institutions that have traditionally done the majority of the archeological field work in the southeast can no longer keep up with this demand. Another problem is that cultural resource laws and regulations demand more or less complete identification and assessment of resources within each project. When this movement came along, the field of archeology simply did not have the survey methodology to produce that type of coverage. It has demanded a total overhaul of our methodological approaches. Another problem that has risen, one that has been emphasized by virtually every speaker this morning, is that greater and greater emphasis is now being placed on the timely delivery of services. It is no longer possible to conduct a project and then sit back for a few months or years and reflect before writing the project report.

Most of the projects that are conducted under the cultural resource statutes and regulations are relatively small, limited scope efforts. The average project is probably a sewer line corridor that is 40 to 50 feet wide and about five to six miles long. Projects of this nature usually contain limited research interest, and involve committing a few man-days in the field with follow-up time in the lab to prepare the report. These projects can tie up valuable manpower at institutions that are primarily research oriented with very little gained in return. A consistent complaint that has been expressed by the archeological community concerning these small projects has been "why do we have to deal with these little 201 projects, and what are we going to get in return for the field of archeology by surveying a mile of sewer line?" That complaint really isn't very relevant. The point is that under the laws and regulations, that mile of sewer line has to be surveyed thoroughly. The report has to be delivered on a timely basis; it has to be comprehensive and meet agency criteria.

Another real problem that we are facing in contract archeology is

that too little attention has been given in the past to the development of survey methodology. Prior to enforcement of the current statutes, survey projects were used to reach specific project-to-project research goals. Most surveys were geared to answer specific research problems, and these research problems were normally restrictive in terms of chronological and/or cultural parameters. It was not at all unusual in the past for the historic period resources of a project to be completely ignored by an investigator whose interest centered around prehistoric sites. Often the approach was even more restrictive than that. A standard approach in the southeast seems to have been to identify a Mississippian or Climax Mississippian ceremonial center and to do little more than to note in passing the other prehistoric resources observed. In fact, to expand on that, I've seen instances where only the mound in a ceremonial center was given any attention and no attempt was made to do any work in the associated village. The current cultural resource laws and regulations mean that we simply can't get away with that any more. We can't restrict our coverage on surveys to Mississippian or Climax Mississippian ceremonial centers. We can't simply walk across the available cultivated ground and say that a survey is complete. It means that virtually all traces of man's impact on a property must be taken into account at some level of intensity. The laws and regulations demand this. It also means that in order to do this we are going to have to devote a lot more time and attention to developing an efficient survey methodology to allow us to carry out the statutes and regulations.

A big problem with the type of archeological work most of us are doing now is that all too often the archeological work is done as the last step prior to project construction or funding. This means that there is normally very little time available from survey authorization to the report deadline. This isn't necessarily the fault of the archeologist, but every effort must be made to meet the time constraints which are established for a project no matter who is at fault. Project delays invariably cost money and, in the case of larger projects, this can mount up very quickly. A problem that we have is that most institutions that provide archeological services have established rather poor performance records, and Ned certainly addressed some of the reasons for this in his talk. I don't think that we can expect the work done in a normal university, and there are certainly exceptions to this, to be done at the expense of other programs. One thing we have to keep in mind is that completion of our archeological projects is absolutely critical to the people who need the services.

One way that the problems that I've outlined can be addressed is through increased development of specialized archeological programs within the business community. There is still a good bit of resistance to this idea of private sector involvement in archeology by practicing professionals. Perhaps this attitude developed because the business community has been associated with development and construction projects that have been major causes of destruction of archeological resources. This resistance may also stem from an aversion to viewing archeological projects in terms of profits and losses, as well as through more traditional frameworks. Whatever the reasons for this resistance, it is becoming more evident that private sector firms are going to develop to fill more and more of the needs imposed by the current increased demands for our services.

There are a number of advantages to be accrued from the growth of private sector archeology. One immediate advantage is that the weight of

these small identification and assessment projects can be removed from research institutions and handled by programs that are set up expressly for that purpose. Projects that are little more than nuisances for research institutions can be the "bread and butter" of private sector programs. This leads to the second main advantage which can result from development of private sector archeology. Small identification and assessment projects can be handled more thoroughly and efficiently by private sector programs. Since the existence of these programs is based on successful and expeditious completion of projects, private sector programs are probably more responsive to time constraints than are programs based at research or teaching institutions. An additional advantage that private sector programs have is that businesses tend to like to deal with other businesses.

Each point I have made represents a rather broad generalization which requires additional discussion. As previously discussed, small projects spawned by cultural resource laws and regulations most often consist of no more than gathering background data on, and field survey of, a few miles of relatively narrow right-of-way corridors. These corridors have minimal research value since placement of these "transects" is based on nonarcheological criteria. The task in the case of these projects is to simply find out what resources are present, assess their level of significance, and recommend what mitigation steps (if any) are required. Each survey done under the laws and regulations must be conducted in a thorough and consistent manner by well-trained professional survey archeologists. Again this is a point where a private sector program has a great deal to contribute since this type of program can hire professionals expressly for survey tasks and can retain a stable staff to carry out the needed work. It's a mistake to turn these small projects over to students and let the students run them without very close supervision. No matter how small a survey project might be, it still requires the attention of a professional survey archeologist.

A second advantage that a private sector program has in conducting this type of work is that small identification and assessment projects can be conducted more thoroughly and efficiently through careful planning and use of a standardized reporting format. A private sector program must be more meticulous than a public institution on all of its projects since it will probably always be more vulnerable to criticism and attack. Also, private sector programs do not have to cope with the type of internal bureaucracy that inhibits the establishment of efficient procedures within many research oriented institutions. I have operated within university, state, and private sector programs, and I assure you there is no way that we could reach half our level of efficiency if we had to cope with the internal bureaucracy built into colleges and state agencies.

One standard objection which has been raised to private sector archeology is that the services rendered by a company are more expensive than those provided by traditional research organizations. This argument has little or no validity. A public university can afford to place a lower dollar amount on at least some of the projects since they are being supported by funds other than those received from their projects. Tax dollars are paying for their facilities and a large measure of their support. Project dollars brought in may do no more than pay the salaries of the survey archeologists who do the actual field work, and perhaps pick up out-of-pocket expenses. Virtually all projects also carry an overhead factor that is returned to the institution, but it is doubtful that the

overhead factor even comes close to paying for all of the hidden costs involved. Also, the overhead that is returned to a university is just as likely to end up being spent on other programs as the one that brought in the money. It would be interesting to determine how much research institutions' projects cost to conduct, but it would be surprising if private sector programs did not turn out to be much less expensive in the long run.

Another factor to consider in this cost effectiveness is the matter of who ultimately pays the bills. Projects conducted through public institutions are supported by the public's tax dollars. It seems it would be much more equitable to have this cost borne by the agencies, businesses, or individuals who stand to gain from the projects under study. At any rate, a private program must be more thorough and efficient in order to survive the type of price competition that our tax dollars, including the tax dollars coming out of my pocket, are being spent to support.

The third advantage of a private sector program is that this type of organization is normally more responsive to time constraints on projects. The reason for this is quite simple. Under the normal survey contract one does not get paid until the project report is completed. Larger projects that allow for partial payments normally make allowances for retention of a percentage of the contract amount until all of the work is completed. A private sector program cannot long survive without receiving payment for its work. The second compelling reason for meeting schedules is that in order to remain healthy any firm must receive repeat customers for its services. A badly broken project deadline will not only lose that client for future work, but likely will result in other clients lost through word-of-mouth complaints. Public institutions are less sensitive to this type of pressure, particularly when they represent the only alternative that a client has for getting work done at all.

There are a number of problems as well as advantages that can accrue from the development of private sector archeological programs. No program, be it based in a public research oriented institution or within a private firm, is better than its staff. A private sector archeological program with a poorly trained or unscrupulous staff will not turn out work of sufficient quality to fulfill legal requirements or to protect our resource base. One standard criticism I have heard concerning private sector programs is that they will tend to attract marginal professionals who have relatively little integrity. In some cases there may be validity to that criticism, but the same charge can certainly be leveled against some public sector programs. The simple fact remains that the quality of a program will depend upon the quality of its staff. An archeologist who is competent and efficient in a public program will often be competent and efficient in a private sector program. In all cases it is up to state and federal level project reviewers to weed out those who cannot perform through careful and critical review.

A second problem that is faced by private sector programs is providing a consistent workload. Archeology has been a largely seasonal business in the past, and, although this is changing, there is a tendency for the demand for services to be high in some seasons and low during others. A staff that is badly overworked during the spring and summer may have little or nothing to do during the winter months. There appears to be a tendency

at this time for the workload to even out, but a private sector program does face dry spells from time to time, and firms that support archeological services must be prepared to face periodic dry spells.

A third problem faced by private sector programs is that it is virtually impossible to project what the workload will be from month to month. Most firms and agencies plan on a one to five year basis. Private sector archeological programs must be prepared to react quickly and not be concerned about the insecurity of being unable to predict workload or demand. I wish I could plan a month in advance, or even two weeks, but in this type of work you can't do it.

A fourth problem that must be resolved by private sector programs is the eventual disposition of artifacts and other materials gathered as the result of field projects. Private programs will rarely be in a position to conduct research on materials recovered beyond that required for preparation of a final report. Also, it is expensive and cumbersome for each program to set up its own curatorial facilities. It can be argued with considerable merit that private sector programs do not have the right to permanently retain their survey material. These materials more properly belong in central repositories where they will be accessible to researchers. It is therefore imperative that private and public programs cooperate in establishing curatorial relationships so that these materials can be protected and utilized. Private sector programs must expend whatever effort is necessary to establish these relationships in each state in which they conduct work, and meet whatever reasonable demands are made to keep these relationships viable. SSI has a company policy which dictates that materials recovered from surveys be curated in the state in which they were originally found. This is a basic and very necessary policy.

An additional problem faced by private sector programs is that they must often satisfy the needs of two opposing groups. Company clients and the community of professional archeologists at large do have conflicting interest at times. The only tenable position for a private company to maintain is a stance of cautious neutrality on the merits of each project under study. It is easy to find oneself in either a position of advocate or critic on any project. Private companies involved in archeology can not allow that to happen with their staffs. An expressed and pursued course of neutrality allows companies to locate and assess cultural resources in a thorough and professional manner, and will insure that bias and the appearance of bias will not enter into project decisions. SSI has been heavily involved in contract archeology for more than a year. During that time we have completed a large number of small contract projects as well as a few large ones. We have established a good record for meeting schedules and producing quality reports, and have managed to avoid most of the pitfalls described earlier in this paper. A number of factors have contributed to this success but the key factors have been: (1) staff, (2) standardization, (3) support facilities, and (4) aggressive marketing.

We've maintained a staff of experienced archeologists and have slowly expanded during the past year to meet growing project demands. It is essential to have a skilled full time staff to deal with contract projects, and it is important to expand slowly in order to integrate new staff into the existing system. The SSI staff is well paid, and devotes all of its time to conducting company projects. It would simply be impossible to meet

project schedules and offer a significant level of service if our staff had other duties to fulfill.

Also, it has long been noted in archeology that it is relatively easy to get field work done, but very difficult to insure timely delivery of reports. We place equal weight on field work and report production. Our field work is conducted so as to reflect the best methodology that we can find to meet the special needs of each project. At the same time, a standardized report format has been devised to insure consistency and high report quality. Our projects are tightly scheduled in both field and laboratory in order to insure that we will meet schedules, and the established format insures that the report will meet review criteria. The way we establish our budgets is to break down the man-hour needs in each category of each project. Each function is assigned x number of man-hours, and, since this is the way we develop our final price on these projects, great care is taken to insure that these scheduling increments are not violated.

A skilled full-time staff with standardized report formats would not be sufficient to insure project goals if our company did not have adequate support facilities. Successful completion of projects requires adequate equipment, laboratory space, office facilities, secretarial support, and access to experts in complementary disciplines. SSI is a young firm, but had completed more than 700 projects in other fields prior to initiating the archeology program. Many of these projects had been limited scope efforts that were similar in time and schedule requirements to the types of projects most often faced in contract archeology. In short, we were already set up to provide support for an archeological contract program, and gearing up consisted of hiring staff, purchasing equipment, and establishing laboratory space. It is doubtful that the transition into archeology would have been as smooth for a firm that lacked SSI's cross section of skills and history of being small-project oriented. That's very important.

An additional key factor in our success has been aggressive marketing. It is simply not possible for a private sector program to be profitable without constant attention to marketing. The SSI archeological program started slowly and realized a financial loss for the first six to eight months of operation. That's probably the minimum time it takes to get a program started. During that period, we established our procedures and report format, and also did a small number of projects to test these out. We also identified and contacted the agencies or firms that had need of our services during this period. Continuous aggressive marketing has recently brought us to a point where our workload is steadily increasing, and we are experiencing few periods of inactivity. Our marketing effort will continue at a very intensive level for the foreseeable future in order to insure a steady flow of projects. Universities receive a large number of unsolicited projects simply because clients know they exist. A private firm has to go out and find these projects, and aggressive marketing is the only way this can be done.

In summation, contract archeology has a bright future in the "business arena." Eventually most contract projects will be conducted by private sector programs. Perhaps the growth of private sector programs is simply another step in the evolution of archeology as a profession. At any rate, the growth of private sector programs is inevitable, and it is hoped that this growth can be achieved with the cooperation of traditional research organizations.

COMPLIANCE WORKSHOP

Institute of Government, Chapel Hill, North Carolina

October 7, 1977

PART II

Afternoon Session

Panel Discussion and Audience Dialogue

CONTRACT ARCHEOLOGY: RESOLVING THE ISSUES

Moderator: *Brent D. Glass*, Deputy State Historic Preservation Officer and Chief, Archeology and Historic Preservation Section, North Carolina Division of Archives and History, Raleigh

Panelists: *Jacqueline R. Fehon*, Head, Archeology Branch, North Carolina Division of Archives and History, Raleigh

Myra Harrison, Office of Review and Compliance, Advisory Council on Historic Preservation, Washington, DC

Byron O'Quinn, Environmental Planning, North Carolina Department of Transportation, Raleigh

Dr. David Phelps, member, North Carolina Archeological Council and Professor of Anthropology, East Carolina University, Greenville

COMPLIANCE WORKSHOP
Institute of Government, Chapel Hill, North Carolina
October 7, 1977

Panel Discussion--Afternoon Session

Brent D. Glass

I think that the question about the expanding responsibilities of the archeologist was apparent in all the comments this morning, and I think people on this panel come from different backgrounds and different perspectives and might be uniquely qualified as a group to comment a little bit further on that. Afterwards we could open up the floor for general discussion about what was either said here this morning or what might transpire this afternoon. I think this question of responsibility of the archeologist to the various communities where he or she serves is one that intrigues me as an administrator of the preservation program on the state level. Myra, I wonder if you would comment on that from the perspective of a federal administrator and from the major agency administering the historic preservation program.

Myra Harrison

I thought that I might speak very briefly about the Advisory Council. I'm on the staff of the Advisory Council on Historic Preservation. I'm not a council member and that may be an important distinction for me to make. You all have in your packets, I believe, copies of the procedures of the Advisory Council. I know you are now aware that they are 36 CFR, Part 800. CFR is the Code of Federal Regulations. Whenever an agency wants to tell another agency anything, that agency publishes it in the Code of Federal Regulations.

The council is about ten years old. The council itself is composed of members, representatives of federal agencies, and representatives of the private sector. The principal responsibility of the Advisory Council is found under Section 106 of the National Historic Preservation Act which requires that federal agencies that are funding, licensing, or approving a project take into account the effects of that project on properties included in or eligible for inclusion in the National Register of Historic Places. 36 CFR 800 outlines the procedures of the council published pursuant to that little section of the act and they explain to federal agencies how they should go about securing compliance with this specific provision of the act.

What are the powers of the Advisory Council on Historic Preservation? The Advisory Council is an advisory body. It cannot veto a federal project. It is a requirement that a federal agency meet the obligations of Section 106, but if push comes to shove and if we get down to a point where we are in utter disagreement, then the full Advisory Council would meet, would give its recommendations to the head of the federal agency, and the head of the federal agency could do as he chose. Generally agencies follow the

comments of the Advisory Council but there is no legal obligation that they do so. The kinds of compliance documents that most of us are involved in are ones that are presumably enforceable by law. They are determinations of no adverse effect (there are guidelines for those in your packets), or when there is adverse effect, there are memoranda of agreement which are signed by the agency and the council and SHPO. These memoranda of agreement outline specific solutions to specifically identified adverse effects.

What are the relationships between the Advisory Council on Historic Preservation and the National Register of Historic Places, the SHPOs, and the Interagency Archeological Services Division? The Advisory Council is an independent agency. It is affiliated with the Department of the Interior but it is independent in terms of its policies and its administration. The National Register of Historic Places is located within the NPS which is very much located within the Department of the Interior. The National Register has the responsibility and obligation under law to identify properties and place them on the National Register. This is an evaluative function. The Advisory Council is not involved in determining what historic or archeological sites are significant but only in the protective process once a significant site is going to be threatened by a federal project. We work closely with the National Register but our functions are entirely and totally discrete and separate.

The SHPOs exist in every state. It is necessary for a state to have an SHPO, a state plan, a state staff, so forth and so on in order to participate in the federal historic preservation program. The SHPO funnels nominations to the National Register up this way; this is a very simplified explanation as you have gathered, and the SHPO is also the funnel for federal preservation funds downward into the state. The SHPO is not mentioned in the act and is not related to the Advisory Council except through our published procedures. The SHPO was placed in the Advisory Council process because when the council was devising the procedures, it felt there had to be someone at the state level who was qualified to comment on the importance of the resources involved to the state involved. The SHPO, the staff of the Advisory Council, and the federal agency are three equal parties in any negotiations to resolve conflicts. Refusal by any one of those parties to reach agreement can result in the matter coming before the full council rather than simply being dealt with on a staff level.

The Interagency Archeological Services Division is part of the Department of the Interior, separate from the Advisory Council. We have a close working relationship with IAS because they have extensive archeological expertise which we do not. At the moment we do not have an archeologist but we are one of the agencies that is recruiting one at a grade 12 or 13. I might add that the total staff of the Advisory Council is about 30 and the total staff of the Office of Review and Compliance matters across the country is around 17. I'm talking about secretaries and professionals, so there aren't hoards of us up there reviewing this stuff; there are just a very few of us. We have, as I've said, a close working relationship with IAS, in particular in Washington where our main office is located, and we ask them for comments on compliance documents that come to us through the 106 process and we take their comments seriously. We do not always agree with their comments and we do not always follow their comments.

How does the Advisory Council on Historic Preservation deal with no

adverse effect determinations and memoranda of agreement? Well, the way the procedures are written, an agency first identifies properties within the area of potential environmental impact that are included in or eligible for inclusion in the National Register. Then the agency decides whether there is going to be an effect or not, and the council's procedures have criteria for making such a decision. If there is an effect, then there's a second step in which the agency determines whether the effect is going to be adverse or not. If there is no adverse effect, the agency forwards to the Advisory Council documentation supporting that decision. That documentation must include the comments of the SHPO. The staff has 45 days from the receipt of adequate documentation in which to determine whether or not the staff agrees with the agency's decision. If the staff agrees, a letter goes back saying "okay, the project goes forward." If the staff disagrees or if there is an adverse effect, then we go in to the memoranda of agreement process which I alluded to earlier. In that situation, the SHPO, the council staff, and the federal agency representative either sit down in a meeting or talk over the phone or exchange inordinate amounts of paper and try to reach some agreement as to how they will proceed. At this stage of the game there may be an on-site inspection or there may be a public information meeting, but that's not required. I will not go into detail on this. You have in your packets, I believe, the council's guidelines for making no adverse effect determinations. These are very specifically worked out for archeological sites. They are based on the premise that under certain kinds of very specific situations if the data are retrieved from the site, it can be considered to have no adverse effect under the terms of the council's procedures. Going the no adverse effect determination route is advantageous to the agency and agencies infinitely prefer to go that way. However, that is not always possible given the nature of the resource or the nature of the problems involved. We're trying to preserve the resource in the face of a complicated or very destructive federal project.

How are decisions made regarding the acceptability of mitigation plans? Good question. I'm not really qualified to answer that question since I'm not an archeologist but I think that perhaps what is important here--and this leads into some of the more general things that I wanted to say following up on Mr. Glass's remarks--is to remember that the Advisory Council's process is a public interest process. We do not have an absolute standard. There is no ultimate protection involved here. What we are trying to do is to weigh the values of the public project against the values of the resource and come up with a solution that is acceptable to all parties. It is important, therefore, in any mitigation plans that any of you may develop or in any kind of reports that you may develop in the context of the section 106 process as contractors, as representatives of federal agencies, as whatever you are, that it is the important information about the site or about the project that must filter up to the top of that report. I think that it would be helpful if archeologists in writing their reports remembered that ultimately what they are writing is a decision-making document for someone else and to think of the work in that context, not exclusively in that context because there are kinds of needs to be served here, but that is very unlikely to be the ultimate and final use for whatever you are engaged in doing.

Finally I would say that the reason I say that it is important information that we need is because there is an enormous amount of hostility

within the federal system to archeology. I'm sure most of you are aware of that. "You can't see it, what is it, it's everywhere, we can't put our project anywhere, it's all around us, these people are impossible, they don't know what's important and what isn't." I certainly have days when I say those things too and I don't want to be that way. I want to be receptive and I want to be supportive of archeologists and to the resources that you are interested in. But you've got to help me be that way and one of the ways you can do that is by writing, by giving the information that is truly important about whatever it is that you are dealing with. This is not only because the Section 106 process demands it and it's not only because that is in essence, at least in my view, what public archeology is all about. I think that it's for a larger long-term gain for archeology. I've been in the preservation field for ten years, I guess, eight years, or something like that; I don't know, I try not to remember. I've been at the Advisory Council for five and one-half years. I can't tell you how much things have changed in the very brief amount of time that I've been there. When I first worked there, we rode into situations with white hats on our heads and we were recognized that way and we treated things that way. We are now considerably scarred and it would be flattering to call the hat gray.

We're dealing in the confrontation between public works projects essentially and, well, to draw it very black and white, we're dealing with public works projects versus in many people's minds very esoteric considerations. A lot of people will only hear about archeology because they come into contact with it in the course of a confrontation between a project that a community identifies as needed and some archeological site. It is extremely important to the archeological profession as a whole and I think over the long-term to the survival, if I may be so bold, of vital and ongoing archeology programs all over the country, that public archeology should be extremely responsible because it's not going to do a lot of good for congressmen to find out that the only time they hear the word archeology is when it's holding up an urban renewal project and they're on the phone to me screaming their heads off and saying why can't we get this going. It may then be that why we can't get this going is because someone's report is in late, or because someone has failed to identify what is really significant about the resource and someone is going to have to go back and do the work all over again or any number of other problems. So I think that for the long-term survival of archeology as a vital and important pursuit in this country, that the success of this kind of program is going to have a lot to say with how that turns out.

Brent Glass

I'd like to ask Barney O'Quinn to discuss the DOT Act and then address yourself to my questions about responsibility.

Barney O'Quinn

First of all let me sort of set the scene as far as the state DOT is concerned. Mike Corkran spoke this morning for the corps which is strictly a federal agency and I think that Berry addressed Department of Natural Resources and Community Development. DNRCD is a sort of a middle man for a federal agency or a state agency not directly involved in project planning.

But the bulk of our funds at DOT come from the federal-aid-highway program and so most all of our construction projects are federal aid projects. The FHWA has a relatively small staff with which they oversee the expenditure of their funds and see that the rules and regulations for all aspects of the law, not just environmental, are carried out. But the program is a state program and in order to carry out this program the state is responsible for the EIS itself. It's a cooperative venture but basically we do the EIS work and because of this, we fall into two categories. We end up as the state agency and the federal agency in reality. This can present somewhat of a problem. As far as the EIS is concerned, again, let me draw a comparison with the Corps of Engineers and ours. They write the EIS on a specific project and in the project they pretty well know what they are talking about as far as the design. In our systems analysis we get into a very broad environmental analysis. It's not given an environmental review as such but it just hits it with a very broad brush. We analyze the urban areas and statewide areas to come up with either a thoroughfare plan for a city or a network for a statewide program and from this overall plan the DOT selects projects which are implemented and it's at the implementation phase that the draft EIS is prepared. After the draft EIS is circulated and after the public hearing process, the public meeting process, and what have you, we select one alternative on which the final EIS is written. Again, the final EIS is written on a corridor and it may be more refined than what the draft EIS was prepared on. It's after the corridor is selected that we get PS&E (plans, specifications, and engineering) approval and the design is completed on that corridor. It's at that point in time that we know exactly where the highway is going to be. As you can see, it's a refinement process. It's similar to the corps's refinement process but I think by the nature of the project, it's later in the game before we know exactly what land we're going to be involved with. I wanted to get off on that a minute to compare our program with some others.

Let me now get back to this other thing as far as the 4(f) situation is concerned. This morning we were talking strictly about compliance in Section 106 of the National Historic Preservation Act and I think you heard the corp as well as HUD representatives say that if it was not eligible for inclusion in the National Register, they had no further interest in it. Well the DOT Act of 1966 (I think, or about that time) included the section known as 4(f) which addressed parks and recreation lands and historic sites. If it's a park or recreational area, it has to be publicly owned. The publicly owned portion of it does not apply to historic sites. There has been a lot of discussion that the intent was that it was to be publicly owned but the way the law ultimately was written it was not. So privately-owned historical and archeological sites all fall under section 4(f) of the DOT Act. This means that if there is a site of state, federal, local, or national significance as determined by the official having jurisdiction thereof, and if there is a feasible and prudent alternative to taking such lands, then basically a highway can't be approved in that location. Conceivably you can have a cultural resource that is not eligible for inclusion in the National Register that could fall under 4(f). As a rule of thumb, we try to avoid this. If it's a 106 property, then 4(f) applies, and if it is not, then 4(f) does not apply. Let me give you a real critical problem here with the section 4(f). There has been a ruling that if the property is significant or the site is significant for the artifacts that it contains and information can be derived by salvage, then 4(f) doesn't apply. In other words, if you can salvage, we won't be under 4(f). If it's one that's worthy of preserving in place, then 4(f) is going to

apply. The real critical part is what the boundaries of this site are, because if we're taking land from the site, we can fall under 4(f). Any time that you're talking about a site that might possibly be under 4(f) we have to work with definite boundaries because there has to be a starting and a stopping place. This matter of boundaries of the site is hard enough on historic sites, above-ground buildings, and what have you, but on archeological sites it's even more difficult.

Another piece of federal legislation that Bennie Keel spoke about this morning was the Moss-Bennett Act. I understand that the FHWA has taken a position that the federal-aid-highway program does not come under Moss-Bennett. I can't give you the reasoning for it but that's the position they've taken and it's the position we're operating from. Basically what they're saying is that they have their own regulations that preceded Moss-Bennett that enable us to participate in archeological survey and salvage which exclude them from having to comply with at least certain provisions of the Moss-Bennett if not the entire act. I think they do conceive that there are certain portions of the act that we do come under. So you can see to confuse things even further, not only are you dealing with state agencies and federal agencies, but all your federal agencies are somewhat different and have different laws that apply to them. Last week and this week also I've been involved in workshop seminars with Region 4 which included the eight southeastern states in the U.S. and, without exception, there are eight states that are doing EIS work and everyone of them are doing it differently with regard especially to archeology. Pat Garrow and Bennie Keel are shaking their heads because if you know how they are doing it in South Carolina, that doesn't necessarily mean you know how they are doing it in Tennessee or Kentucky.

Getting on to the question of responsibility, we as a state agency feel that we have a joint responsibility. We feel that the FHWA and the state DOT certainly have a joint responsibility when it comes to archeology and historic sites, as well as the noise, air, and the other environmental factors. But, we are taking the position that we have a joint responsibility with our DCR because there are definitely federal regulations and laws that address them (DCR) and what they're supposed to do, just as those that address us in addition to the federal legislation and the state legislation that directs certain things be done by the Division of Archives and History or DCR. So from that standpoint we feel like we have a joint responsibility with them and try to work very closely. We don't always see eye to eye on things but at least we are still talking, which I guess is the most important thing.

Back to the EIS, the message that I would give you as a group of professional archeologists is that archeology is very important but it is one of many factors that enter into the decision-making process. I think if you want your concerns properly understood and properly taken into consideration, don't cry wolf on every site that you encounter. I know from an academic standpoint or from a purely professional research-type standpoint it's hard to say this site is not important. As far as contract archeology and the things we've been talking about here today go, you have to realize that other agencies have ongoing programs (in our case construction). We can't look at every site as being the most significant site in the world and I don't think it's fair to ask us to because it fits into quite a complex matrix of other concerns, the air, noise, threatened and endangered species, water quality, and you name it. As I think Myra

mentioned a few minutes ago, your concerns are to be used as a decision-making tool. So the important things do need to come to the surface and the things that are not so important, certainly they need to be addressed but the significance of what you find should be properly addressed. I think too that sometimes the highway trust fund or the state highway dollar is looked on as being, as Mike said the Corps's funds were, a bottomless pit, and this is not the case. Our funds are being eroded due to inflation, other environmental interests, and what have you. It's not that we don't want to participate in a proper consideration of all environmental matters but there's not but so much money to do whatever needs to be done. For a while it looked like the archeological community was requesting or acting as if the cost of the archeological investigations would equal or exceed the total environmental consideration of all the other things that were to be considered. This is just a little bit out of kilter. I don't feel like we believe this and I don't think that you really mean it this way, but this is what was coming across real strong there for a while and maybe in some areas still is. I think again if the archeological resources are to be given proper consideration in the decision-making process the question of significance needs to be addressed.

Another thing Bennie Keel said this morning, again it gets back to contract archeology, I just got it in mind. I was going to say it and I forgot it. We will be doing what is required basically within our right-of-way but as an agency we're not concerned, as Bennie said this morning and I'll second it, we're not concerned with doing research archeology. I know this is a different viewpoint from what especially those of you who are associated with the academic community are used to but I think it's just the real world of today.

Brent Glass

I just have one comment as far as what Myra and Barney had to say and that is what they have described so far is a partnership of sorts between state and federal governments both as far as preservation and transportation programs are concerned. Our office, the SHPO, really does lie right at the middle of that. You probably heard a good deal of jargon today and many different initials being thrown around and different pieces of legislation quoted, but the SHPO (State Historic Preservation Officer) lies at the center of that interaction between the state, local, and federal governments. The SHPO used to be known as the State Liaison Officer when the program was first set up and that really describes what the office did. I was the liaison between the state, federal, and local governments. That came out in the initial SLO. It was called the SLO instead of the SHPO, and I think people objected to being called the SLO, although, they still accuse us of that today.

I think Jacquie Fehon can talk a little about the archeologist as part of the SHPO office and what responsibilities the archeologist has in that sort of administrative program and how that affects academic or professional considerations and the whole question of responsibilities of archeologists. Perhaps you would like to make comments on what Myra and Barney had to say as well.

Jacqueline R. Fehon

First of all, let me go back to what you said about us being really the liaison agency or mediating agency. We like to think of ourselves as facilitators in getting together people who are involved in the compliance process and professionals who can assist them in that process. I think we feel very strongly that this process tends to break down when these two parties do not fulfill their responsibilities. Whatever it is-- I think these problems were brought out this morning--reports not being in on time, agencies not considering archeological resources at the appropriate planning stage; whatever the concern is, this is where I think most often our process gets held up, when these things come to us and we end up trying to straighten them out. This takes a lot of our time and takes us away from enacting our own responsibilities and even keeps us from figuring out what those responsibilities are. So I hope what we'll be able to do is really to recognize where responsibility for different aspects of the compliance process lies and from that work out an archeological program that will be satisfactory to the different parties involved. What I see our office as doing is really being involved in the state preservation plan and I think that involves coordinating professionals in the state and developing an overall framework for consideration of, particularly, questions of significance of individual properties, National Register eligibility of individual properties, and getting a picture of the overall resource base which is developed from the individual perspectives of the professionals in this state. This overall picture is really essential, I think, in responsible planning for state agencies and private firms, for being able to make rational decisions about what parts of the resource base can be salvaged or sacrificed if necessary, and which ones we should try and preserve for posterity. I think if we all get clear on what our own areas of responsibility are, we can assist you and we're happy to assist you in any way we can in terms of learning the legislation, developing standards for work, developing standards for people who do work, consulting with federal and state agencies, as long as there is a recognition that this process needs to be carried out, that people do have responsibilities within the process and that there are problems that need to be resolved. That's really the purpose behind setting up this workshop and I hope that we will reach some constructive conclusions.

Brent Glass

I guess Dave you would have a different perspective on a lot of things people have said here today because you are usually on the receiving end of requests and having the boundary lines drawn as far as what responsibilities you accrue, and I think that so far the gist of the comments, both this morning and this afternoon, have been what others expect the archeologist to do. Maybe this might be a good chance for you to state what you expect us to do. What expectation does the archeologist have of the people he has to deal with?

David Phelps

I think the comment back there was "very little," and I think he's right. Let me start off with a few things here. First of all, I'm substituting for Burt Purrington and I'll make a few points he wanted to make. One of them, in fact both of them, have been brought up before. There is

a very serious need for private agencies doing archeology because of situations we'll talk about in a few moments. Universities simply will not be able to handle the amount of environmental archeology that is going to come up in the future and in fact is here with us now. The other point that Burt wanted to make was that this is a very good opportunity for universities to train students in archeology or job related activities instead of for the mundane purpose of being a PhD and sitting in an ivory tower or whatever else archeologists have been in the past and some of us still are. Both of those things I'd like to comment on further.

I'm not really sure that I have a ready answer for what we expect of you. I think I would rather first address the problem of what we can and cannot contribute in our particular situation of the moment. This is possibly best done by model of a Monday. If you'll pardon me. This is not an unusual academic Monday, mind you, and those of you in the teaching profession know this. 8:00 to 9:00 is correspondence, if the secretary is up to typing at that hour or taking a little dictation; 9:00 to 10:00 class; 10:00 to 11:00, student hours; 11:00 to 12:00 class, lunch, if you're lucky; 1:00 to 3:00 student hours; Mondays, particularly, are departmental meeting days, and they often run till 7:00.

This is an academic regimen into which contract archeology simply does not fit and as academics will continue to be, it will not fit into this type of thing. We have two responsibilities. One, and Ned (Woodall) stated this very well this morning backed up by things Bennie (Keel) and Pat (Garrow) both said, we are responsible for teaching and training students first. We are secondarily responsible for participating in the university through committees. I've served on about five and I'm sure you have at least that many and then there are other things, program revisions, curriculum changes, going before this and that. Now this is what we are paid for, sometimes not much, sometimes too much. But nevertheless we are expected to perform in that particular regimen. Into this we are also expected to, depending on how your particular university feels about it, publish or perish, which is the standard research stance. But you are expected to do this in your "off duty time." They allot you some time if you're just writing, for example, if you're in foreign languages and you do a review of a French manuscript or revise this or that, this is fine. But when you are talking about archeology and archeological research, you are talking about a different type of animal, both in what it takes to support it and the time involved in doing research. Now teaching, administrative committee responsibilities, those things, and then research. Essentially, for example, an NSF grant or a NEH grant or any other type of granting agency, what professors do is buy release time. The money for the release time is used to replace you in your classes or your committees or whatever else.

This is the bind we are in. All universities, and the one I happen to teach at is no exception, have a concept of community service and, in fact, on our little gismo it says "service, that's our motto." Sometimes we wonder what we serve. The university will make a distinction between how much service it will give to the community and how much it will give to itself. It is that decision that is made by every university and that's where the line is drawn. When you're talking about doing EIS archeology, contract archeology, you must look at the University of North Carolina system. There are 15 pertinent parts of it, the 16th doesn't matter in this case (School of the Arts). This system has one or two major components.

I'll disregard North Carolina State University simply because they have no archeological component at the moment to speak of. All of these other units are put together and the whole system is now being put together in a particular orientation. These units, East Carolina, Appalachian, Western Carolina, all of the rest that will have archeology or do have it now will never have the facilities, the manpower, nor the program that UNC-Chapel Hill will have and has had all these years. I'm not saying this in political terms. I'm pointing out some of the realities of universities in North Carolina.

The mere fact is that you can't do competent archeology on a very large scale without facilities, equipment, staff, and as Pat pointed out, full-time staff. The fact of the world is that none of these will ever have that type of research facility. When they do have it, it will be in a single directional orientation and the system is now devising particular emphasis areas, for example, East Carolina will become maritime oriented. I guess I can do maritime archeology. That's digging shell middens. That's an example of this type of stance. This is our major problem in this particular state. The system as it exists, the facilities as they exist, the staff, all of these things mean that we are limited. Part of the problem, and I'm probably more guilty than anyone else, is late reports. You can only write so many and do all of these things too and yet you take them because of these needs, these community services, and because most of us feel a strong commitment to archeology.

Now Myra mentioned something that is very crucial to all of our existence and the survival of archeology. It is particularly bad in this country for one very good reason. What we have is a dichotomy, that difference in cultures, that transplant, in which most of the people in North Carolina prior to 1584, as my dear mother would say, "Ain't our kind of folks." Thus there is not a cultural concern. There is no major concern like the English during their middle ages, or the Frenchman trying to deny that Neanderthal was part of his family tree, or I give up, whichever. In historic archeology you have a little bit more interest but even there you can react like a little old lady in the Gaston Basin in 1962, "What's a grown man like you doing digging in the dirt?"

Two points: we hand in the EIS reports when they are ready and they stop there. They have served the purpose of the agency involved in clearing the impact or offering mitigation and they've given the archeologist and his university some money. That's it. They are stored in the Archives and History files. They are stored in our files. Bennie gets a copy, maybe. These are very low level disseminations. Not only that, they are not readable for the public when we finish them anyhow. They are technical reports and John the farmer would get stopped dead on the first page, "introducing what?" Nobody knows what we're doing. There is no wrap up, there's no put together. I sit on, for example, five watershed studies for the coastal plains in which there is a lot of information for the archeological community. But not only that, put into proper perspective and in the proper words, not only will it help the SCS prove their points, and it does, culture bears out their point, but it will tell the people whose fields are being flooded and whose streams are being channelized why. Why culture operates this way. The long-term perspective, the value of information to man's culture. We never get this. If we don't, archeology is going to be in a sad state, but there's got to be some other level of

research. I'm not saying that this is the responsibility of the agency. This is the responsibility of the archeological community. If the public isn't aware of what's going on, if the public doesn't eventually receive this information and consider it valuable, you have to justify surveys and not only that, you have to tell why you're picking up that old china. If we don't do this, we're not going to have any value and we probably won't have a profession.

How do you solve the problem of trying to get the archeologists to do the work? I don't have a ready answer.

Chapel Hill has the facilities and the staff to do the work. The rest of us will be hard pressed unless there is some other type of organization. Archives and History can be responsible for state lands, yes. But that's less than 1/100 of the state, or whatever the percentage happens to be. We've had a council for, what? four years now, and we don't even have a state plan. I'm not talking about a plan for state lands. We don't have a meeting of the minds on how to attack the cultural problems of this state. All of those things are necessary. I don't know that the agencies can help us. They do very well as it is. I know that we'd better help ourselves.

Peter Cooper

Since the Research Laboratories of Anthropology have been made our model, I'll accept it and I'll say that we can do as well as Chapel Hill; in some things we can't. We've got some schools here, some private organizations, that can do some things better and some things they can't do better.

Our contract archeological program receives no college support. Our contract costs are low; we pay our students the minimum of \$4.00 an hour. Our contract archeology is not going to appear as classroom work. In fact, we consider it an opportunity for the students to learn. It means that they can actually obtain a higher level of learning. It's a dangerous thing to send students out on some of these jobs because they are little jobs or because they don't seem important. We regard all of them as important. We regard them all as research opportunities whether it be a highway corridor or what we call creek running or a sewer pipe. It's an opportunity to know a little more about the archeology of this area or that area wherever we are. This is something we set out to do four years ago, to know something more about the archeology of the state and each of these jobs plugs in a little more information. It's not a lost opportunity at all; it's not just a job; it's not just drudgery. We do spend a great deal of time training every student who does any facet of contract archeology, some things they don't do, some things some students will do a great deal of. We do complete our work on time. Once in a while we have an exception; sometimes we are early.

Speaking of costs and money grabbing and so on, as some of you know, we have undertaken projects at cost or below cost because it represented a research opportunity. It was something we recognized that would help fill in a part of what we did not know about the state or about this particular component. Now the fact that Dr. Keel or the Highway Department doesn't regard this as research and rightfully so, it doesn't mean that we can't use that data. From our point of view, it does add a great deal to what we are doing. In other words, all of our work is archeological research.

All of it is adding to our knowledge.

We are a small school. We are not bogged down in little projects. I don't believe the colleges, the universities, should feel that they are relegated to doing nothing but little jobs or even just big jobs. I think this should depend upon what they can do and what the jobs are. Right now we are doing a federal job of 5,500 acres. We've just finished one that was about 5,600 acres, and we're doing one that has 7,100 acres for a nonfederal program. We are on time and we are learning a great deal about the archeological picture in North Carolina in doing this. No tax dollars, no interference of classes, and our students are learning a great deal. If we receive more proposals than we can handle, and that does happen, I have referred them to other people that I feel are competent to do them and that includes private archeologists as well as university-based archeologists. I think that perhaps one thing you want to look at this morning is some people's objection to private agencies or the public sector in addition to the two points you made. I think there's one I don't know the answer for and that is what if you've got to make a living at it, you don't spend a whole lot of time on analysis, interpretation, and indepth study. You do what the law requires and that's what some people fear. Whether you do that or not that's what some people fear. They don't feel that it's going to be as good a job. It's been my experience that some private organizations have been doing some thorough jobs. But here again, no job is any better than the person who is responsible for doing it, or the persons, or the teams, whatever it is. It doesn't have anything to do with whether it's a private or a university center.

I think there's a great deal of interest in anthropology. Not merely because it concerns the past, there are great sections or areas of anthropology and archeology related to the present. We have found that people are interested whether it be day laborers, highly educated professionals, or under educated professionals. We have found people are very much interested in anthropology. It is a rare person who is not. So in the spectrum of things that we've discussed here, I don't think it's this dismal. I think that we've got a lot of work to do. I don't think that we've met all of the challenges. I think we have learned a lot in the last four years. We did set out a program, don't you remember? The fact that we didn't do it is beside the point. It doesn't mean that it cannot be done. It just means that we've got a lot of work to do.

Brent Glass

Well, I think there can be a solid academic achievement in the field of archeology as a discipline. However, I think what the points that have been raised so far today, as will come as no shock to anybody, is that discipline has probably changed more than any other discipline that's involved in public work or for working for public agencies. I'm not trained as an archeologist. I'm trained as a historian, but I don't think the field of history is as drastically altered by being involved in public programs such as the historic preservation program as the discipline of archeology. I think what has been brought home to me today, is that there is no real half-way point. You are either in the academic world and stay in the academic world teaching, doing research, and publishing, or you plunge into the administrative world and the sort of maze of regulations and initials

and things that go along with administration.

There's no in between. I think that this has implications for everyone here who has trained themselves as an archeologist. What I'd like, at this point, is for people who have had comments on what was said here this morning or what's been said this afternoon to maybe address them and perhaps ask some questions about that.

Ned Woodall

Brent, I'd like to get a question in because it's addressed to Ms. Harrison and I know she has to leave. It's not really on this topic, but she mentioned and Barney mentioned the maze of regulations that many of these federal agencies have and often they conflict with certain federal regulations, etc. We need to know all of these. I wonder if Ms. Harrison, being in Washington, anticipates a simplification from the stand of the consequence of the reorganization within the national heritage program. Will things get better?

Myra Harrison

Who knows? It's really very difficult to predict what will come out of the National Heritage Trust Program at this point. However, I'd like to put in a plug for our regulations. I think that they conform more to the English language than most regulations do, though I wouldn't say any of them win any prizes. You may be interested to know one of the first things President Carter did when he took office was to say the head of every federal agency had to read every regulation that his agency published and that the name of the persons who wrote the regulation had to appear, which leads to cries of "author." I haven't really noticed that they've become any more comprehensible and I don't think there's any head of any federal agency who has enough time to read all the regulations that his agency might publish. I don't foresee any reorganization that will result in simplification of regulations. I think it has a life of its own.

Ned Woodall

Regulations are not difficult to understand once you know of their existence. The 4(f) business, I did not know of this. We need a guide to the pertinent regulations.

Bryon O'Quinn

Let me comment on the 4(f). It's a real problem where you have to go all the way through to satisfy 106 and then turn around and satisfy 4(f). It has gotten to be such a cumbersome thing there's a move right now that as far as the south and the southeastern parts of the United States and with concurrence to at least one or two SHPOs, we're going to be approaching congressional representation to try to pull the cultural resources aspect out of 4(f). We feel like 106 adequately covers the cultural resources and that sometimes harm even comes because of the very strict regulation in the DOT Act which goes beyond 106. We addressed this last year and we got nothing out of it.

I think this year the states themselves are going to see if we can get something before congress. Where that will go, I have no idea.

Myra Harrison

There's just one more quick thing I'd like to say. About a year and a half ago we decided in the compliance office that there was absolutely no way to keep track of all of these regulations under our current system, so a contract was let to compile all pertinent regulations for all federal agencies concerning the environment and historic properties. That will probably be published, I would hope, within the next three to six months. Every SHPO will then have a compilation of regulations and one might hope that they will still be current at the time.

Brent Glass

One other thing, you might be interested in Ned, is that we compiled an environmental assessment handbook about two years ago which summarized major pieces of legislation. Recently Kathleen Pepi, who along with Jacquie Fehon put together this workshop, revised the environmental assessment handbook and it's being prepared now. That summarizes not only the federal regulations but also state laws and the executive order.

Bennie Keel

Brent, I'd like to make a couple of comments and I'm sorry, I apologize for not being able to be here during some of the presentations this morning. A couple of things do come to mind though. I would sympathize with Cooper's ideas. Certainly we do learn. I think again it points out the fact that though we learn, as Dr. Phelps has pointed out, the public doesn't learn. That's where we're hurting. Yes, we know, those of you who've had any experience in archeology in North Carolina know what's in our files, but by-and-large we don't communicate that to the people in North Carolina and bases where we need support. Let me say that in consultation with some other agencies we (IAS) are trying to overcome some of these problems. For example, we are considering now that in addition to the full technical report that comes out, and here I'm speaking about our responsibilities under 93-291, our Archeological and Historic Preservation Act, we will require the principal investigator to write a volume to the lay readers. It doesn't have to be 300 pages, just 15 or 20 to 30 pages with pictures, drawings and things he can understand. We'll pay the archeologist to do it. We're considering now making it part of the contract to provide exhibits within the project areas. These don't have to be super expensive, typical Park Service dioramas, but rather boards, pictures, reproductions of artifacts. We envision some of these exhibits being traveling exhibits to be put into public places such as libraries, as well as introduced to the school systems.

One of the points which Brent made about the tremendous amount of growth in archeology, I think, can be stated also in perhaps a little clearer way. In 1974 there was available through the interagency program a little over \$300,000. This year we estimate in response to the possibilities of the authorizations under Moss-Bennett, that somewhere in excess of 10 million dollars has been spent. We also recognize that more money is spent for compliance purposes than is actually spent for data recovery or that is under

the authority of Moss-Bennett and this comes as a big problem. By-and-large the big mitigation projects don't cause us that much problem. It's the small ones, the catch ups, that try to get the agency in compliance. I spend a good deal of my time and my staff spends a good deal of its time catching up. Getting the fire put out, going in and not letting a construction delay occur. OMB has ruled if you have a construction shutdown, it has to come out of your Moss-Bennett money. Another thing, the Park Service support from the profession is terrible. It's always, "Why don't you do something? Why can't you do something? Why can't we have this much money?" Let me explain. The PHP appropriation, particularly that portion authorized under 93-291, is subject to a ceiling which is placed by the director of the National Parks Service. The director of the NPS is told by OMB how much money he can ask for. It doesn't say how much he is authorized to ask for. It tells us how much you can ask for. It has been our experience that the director will ask and probably (it is understandable in terms of his management of the objective) he will ask for everything he can possibly get for the parks program. For example, we were authorized this year to have asked for 3 3/4 million dollars. We are allowed by the director to ask for a little over two. That's the way it goes and I can't call up and say, "What are you doing to me?" But those are the real facts. If you want more money going in and you want to be able to do a better job, it's also your responsibility to say, "Hey, what's going on here?"

The other thing I hear a lot about from my colleagues is, "You make all of these d--- regulations." Regulatory activity is a public matter. Regulations as preliminary regulations and proposed regulations are published with adequate comment time. For those of you associated with the universities most of you do get the Federal Register. You have people in your universities who read the Federal Register. They go through and see what's in there, who's doing what, how it affects colleges, how it affects grants, overheads, etc. Contact those people and say, "Let me know when anything comes through dealing with Historic preservation." I would guess that probably no more than 10 or 15 percent of the people have read regulations regarding the National Register Program published on Wednesday, September 21st of this year. They probably don't even know they're out. These regulations are going to be very important. The first time extensive guidelines for documentation of requests of determinations of eligibility have been presented. To clear up another misconception, in order to get a determination of eligibility, you do not have to fill out the National Register form. All you have to do is to complete or provide the information that the forms or the guidelines request. For those of you who don't have them or don't have access to them, if you'll drop me a letter, I'll be sure you get them. Just write me and ask me for the National Register regulations. If you don't like them, complain about them. They're not final.

Timothy A. Thompson

I'd like to make a brief comment. In my experience one of the sources of conflict is responsibility. Now agencies have in many cases quite clearly defined responsibilities as Barney pointed out about Section 4(f). Their responsibility is to spend the taxpayer's dollars in the way in which congress has told them and in which they have organized a process themselves. On the other side of the coin, the archeologist has a set of responsibilities too, professional responsibilities. The amount of conflict between the

archeologist's role as a university professor may vary from location to location. He not only has the responsibility as an educator but has a responsibility as an archeologist. I think that one of the gripes that archeologists have in dealing with agencies is when an agency says, "We have a clear cut responsibility here. Our regulations tell us that we have to do a survey or mitigation for a particular project. Now we have another set of regulations which states that we can only spend money a certain way and so what we want from you is a report in a particular format that we can use as a planning document." This is what agencies need but seldom get. When they give their money to the archeologist and they don't get what they think they are paying for, it's naturally irritating and frustrating. On the archeologist's side, he may feel as though he is being asked to be something other than an archeologist. If he is asked to, from his point of view, eschew certain kinds of research activity or interests because the agency's responsibilities make it clear to the agency that they can't support those activities, then in effect, the archeologist feels he is being told, "What we want from you is a clearance report--not an archeological report." This is too extreme obviously and I think the point is well taken that they have got to be combined. But I think archeologists need to get a much better understanding of what the responsibilities of an agency are because if they are going to take their money, they are going to have to help that agency fulfill those responsibilities. Otherwise, there is trouble. Then it ends up on Myra's desk, and then she's got to try to figure out who is being responsible for what, and it's frequently not clear in either case on either side of the coin who is being responsible or irresponsible.

On the other side of the coin, agencies, I think, have to have a stronger understanding of what the archeologist's responsibilities as a professional are. They might find themselves in a position of saying, "I'm really sorry we can't pay for this particular item in your proposal to do a mitigation project." They need to understand why that item was submitted. In some cases they may find that there are ways in which certain of these items can in fact be included if they are simply described differently or if other purposes for those items which correspond more closely to the agency's realm of responsibility are considered. My experiences have definitely been that the conflicts come where the opposing parties don't understand or are not willing to understand what each other's responsibilities are or are not sympathetic to them. Problems are inevitable; there is nothing that anyone can do. We could get rid of the regulations or we could write 1,000 more. It wouldn't make any difference. There would still be problems in this area because there are elements of judgment when one gets down to the point of evaluating the resources. The key to the solution of the problem, I think, is that all of the participants in this process have to have a much clearer understanding of what the other people are doing. Salvage money is not free research money. Archeologists should not recommend, as a matter of professional responsibility, to salvage a site that doesn't really need to be salvaged because, in effect, what they are doing is buying a research project in a situation where it may not be really necessary. The agencies on the other hand say, "We have a very narrow set of regulations and we are not going to give you money to do a certain aspect of this particular contract that you've written in here because it's simply not acceptable." Agencies can be more flexible than they are and the archeologists can be more flexible. They've just got to understand each other better and what the job is at each site.

Brent Glass

Tim (Thompson), I don't want to interrupt you, but I saw Bennie (Keel) shaking his head and Pat (Garrow) poking his finger up in the air to say something, so maybe they both have a comment about what you've just said.

Bennie Keel

Tim, I've seen the confusion that exists in or is coming up in so many people's minds. I think there are two different aspects that we need to always keep clear in our minds in this lineal process: (1) As you point out, compliance is for planning and we do not ask the archeologist what his research interests are. As professionals that's something else, but I'm talking about as managers. I hope I'll be a good communicator, but what I'm saying is that what we ask is for the compliance process to tell us what's there, why it is important, and why it is significant, and (2) We ask you for a mitigation plan. We ask the contractor for a mitigation plan.

I don't know how many of you have looked at any of our RFPs, but we ask for innovative approaches. We ask for your ideas and by-and-large in our scopes (what we send out), we only outline the broadest terms--the research possibilities--and say, "You tell us what you can do to come up with this." I think when we get in the areas of pure research and particularly in terms of mitigation work, this is the area where pure research can take place. Again, it has to take place within those project impact parameters because I don't want to go to jail for writing a contract to let somebody else go over here and do something else.

Sue Collins

If I may intrude, we've heard so much about responsibility. As one professional archeologist to another, I wonder if you'd be responsive to me and tell me what you meant when you said that you tell your TEP that your proposal would not be suitable to the RFP.

Bennie Keel

Okay, in contracting, this is another aspect of my job. I am a licensed federal contractor. That means if you find something wrong, they put me in jail. It weighs very heavily on me and that's why I have a battery of lawyers who massage and polish and comment on our contracts. As part of the contracting procedures, just as Mike was pointing out, the corps has a set of procedures that they follow. They go this pre-selection process which is a form of soul-searching. As part of contracting, at least in the route the Department of Interior prefers to follow, I am required by statute to have a Technical Evaluation Panel to evaluate that response to a request for a proposal. In pointing out another thing as much as under the corps procedures, they are not bound to take the lowest bid. As a matter of fact when a proposal is reviewed, we instruct you to give us your proposal in one envelope and your budget in another envelope. The TEP, under law, under regulations, can't know what the budget is. The only responsibility they have is to say, "Is this a technically sufficient proposal?" Another panel considers the budgetary aspects. Both of those

groups then report to me and I make a choice. I would say right now we have never gone with the lowest proposal. There are other situations where we continue to use sole-source procurement. This is legal. It is not to my benefit nor to the archeologist's benefit. Rather it's to the benefit of the government.

Pat Garrow

Part of my comment is similar to what Bennie was saying, but most of our work is survey work. The task is defined as archeological survey to identify and assess the cultural resources that are present on a piece of property that is very carefully bounded and described in the contract or in the proposal. Our job is not research unless it's so defined by our client. Our client determines the parameters of our studies. We do try to gather data in a thorough and consistent manner so that data can be used by researchers at some future time to blend this with other pieces of research going on to get a larger regional picture of the resource base and the like. We are restricted by what our clients request us to do and by the regulations and we have to satisfy those. If it doesn't involve research as it is traditionally thought of, that's too bad. We cannot exceed our contract, or we cannot ask our client to pay for research when legally he doesn't have to have that research. This to me is part of being responsible in the way you carry out your projects. You give your client what that client requires and what he can legally pay for in terms of archeological study.

Byron O'Quinn.

Tim (Thompson) said something to make me want to throw something else out. When you're doing pure research work and going after grant money, that is grant money, and that's what it's intended for and they may not be questioning much on how it's spent. But when you're going after federal highway dollars or state highway dollars, you're going after project money. So long as we were talking about \$100 here and \$100 there, nobody really paid a whole lot of attention to it. Again, you weren't dealing with archeologists and you might have been pulling the wool over somebody's eyes but, as the dollars go up and it gets to be a fairly large amount of money from thousands of dollars plus, you can bet that the other agencies and the other professions are learning your game. You may pull the wool over somebody's eyes this time and next time and a few times more, but sooner or later you're going to get caught at it. When you do, there's going to come a public backlash and all the students that are getting in on the game right now when it looks like there's going to be a great future for archeologists are going to wake up and find there's not a job to be had. You're competing for project money to do a job and this gets back to that thing I was bringing up a while ago about significance.

Bill Simpson (State Parks)

I may get static on this, but I see State Parks as perhaps unique. State Parks lend themselves to an ongoing research project. As I understand State Parks, they go into protection, preservation, and interpretation of state lands. Therefore, we need more than building permits; we need recommendations for cultural resources management, interpretations,

and clearance. And this may be kind of an exception to the problems that the engineering and construction firms have. We need research.

Brent Glass

Why would that be different from what engineering firms need?

Bill Simpson

Because they're asking for clearance to build, to construct. We need a resource management policy. I'm sure there's disagreement within State Parks.

Ned Woodall

Brent (Glass), I'd like to ask Bennie (Keel) a question. When we were talking about the relative importance of compliance, what's there, what it is, versus research, I seem to recall that on the scope of work documents that are sent out there is a brief description of how the TEP makes their decision, their selection decision, and a percentage of the weighting is given on the different aspects of the report such as research design. I seem to recall that research design had a pretty big percentage in terms of the consideration it was given. Do you remember the percentage there?

Bennie Keel

These fluctuate from scope of work to scope of work.

Ned Woodall

It struck me from listening to what you were saying that the scopes of work that we have examined, scopes of work that we have looked at, research design was a good hefty part of the consideration, yet if we're just interested in compliance and an attitude of "do the research if you can work it in," this doesn't seem to really jive with what I've seen.

Bennie Keel

I think we were having some trouble with some semantic difficulties here. What is research design? We might as well have called it work plan. In other words, research designs are very abstract types of designs to specific questions that you've generated. Again I think, even in terms of the RFP, the work that is outlined to be done is pretty specific. We have to be specific. So consequently, maybe research design is an over consideration.

Tom Loftfield

I don't have a specific question yet. I'd like to make a comment about some of the things that have transpired. Perhaps I am paranoid but I have felt very much that the onus of this whole discussion all day has been that the federal and state agencies are good guys and universities

are bad guys because we're late all the time. I'd like to point out that perhaps it's not always our fault that we're late. So frequently proposals come in saying, "Please, can you do this three weeks ago?" I think that often this may reflect bad planning at other levels of the operation and that if the university was given a reasonable lead time, then perhaps they wouldn't always be so late with everything. I seriously question at times the validity of asking somebody to go out and perform a survey in the field at ridiculous times of the year. I have personal experience with fighting off the water moccasins and every other pesty thing in the coastal swamps in the middle of the summer, which isn't a good time to be back off the road in zero areas. I think you can see what I'm getting at. We could all work a little more effectively if we weren't asked for things postdated. Let me make one more statement before you go on. I'm going to poke some at you too. I have one project that I'd love to do and have waited since May for several federal agencies to get together and make a kind of determination about things, but I get very irritated when I see a lot of money being paid out for people to walk down empty sewer lines where there is nothing and there's no chance of finding anything when there are really significant things that are of interest being potentially lost. It seems like you can't get anything to happen on them. I'm not pointing any fingers; I'm just saying that perhaps it isn't always the university's fault.

Let me make just one more pitch for the university operation, a contrary proposal to what was mentioned this morning by somebody else in terms of overhead. I've worked for a private firm moonlighting on the side and was floored by the overhead percentage. It was like 125 percent and there seemed to be no problem with that. I'm aghast that the university has to ask as much as they do. The University of North Carolina at Wilmington right now is asking 61 percent which I think is high but I've heard of other universities getting 80 and 90 percent right now. I'd like to point out in terms of overhead the university is making up that difference. Yes, the universities' real overhead probably is more than a private concern but then overhead is being spent anyway as tax dollars at work and their research laboratory, or my laboratory, or your laboratory is going to be there, the fiscal plan is going to be there, the secretary is going to be there, regardless of whether you have a contract or not so why should you pay overhead twice, once to the university that is already there and once again to the private concern?

Bennie Keel

Jim Fitting has a very deep economical and philosophical paper dealing with the attitude of underwritten research. I think you might find it very interesting. It brings in some very fundamental ideas that certainly are in conflict with ours, that he sees a conflict with the business ethics of the country.

David Phelps

Let me point out a couple of things. For example, take something as everyday as the secretary. She's there, but she's not there for the purpose of archeological research. In general, she's there for the department. When you overload her without some sort of compensation or addition to the faculty, to the secretarial staff, what you're doing is taking away

from some of your colleagues and the universities do make this point in fact and it is unfair. Secondly, I'd like to go back to this; this isn't an invidious comparison, I feel, this is simply the way things are in this particular state system. What it boils down to is that the university system--not only here but in any state, I presume--is not there for the service of archeological contracts. It is there for the general service of education of which archeology is a minor part. In this particular system, you cannot establish each one of those 15 units as a major university. The people of North Carolina cannot afford that. Plus, many of us will never have the ability to support research, as, for example, Chapel Hill can or the University of Tennessee, or Georgia, the major institutions of each one of the systems. This is the point to be made. Thus, we will have to continue if we do this sort of thing, moonlighting on our own time or taking only as many contracts as we can afford to take. The same thing is incidentally not just happening in archeology, it's happening in the natural sciences too. I have a couple of colleagues in biology who do biological assessments and their weekends for the last year have been taken up moonlighting because they can't get in the Biology Department. Big as it is, it is not going to provide their time to go out and do biological assessments. So it's not just our problem. It gets into other areas. I'm not condemning anybody, I'm simply telling it like it is. I wish it were different. It strikes me that some states have better mechanisms for doing archeology, for accomplishing what is needed that will satisfy both research and contract. And, incidentally, the two things are not disparate items that we hear. It strikes me that every fragment of research we do on these negative sewer lines, for example, a piece of a right-of-way that cuts through other sites, is part of a master design that the archeologist who knows the area carries in his head. He already has a research design if he knows anything, even enough to put in a proposal. For that particular fragment, it's a valuable phenomenon to add into the rest of it at some time when it can be done. So nothing is wasted and I think we are all hung up on what is commonly known in anthropology as the Bandwagon effect. When you say research design, lights flash, and this sophisticated little model that we all have to work by whatever it may be, everything you write from work plan on up is a research design. It may not be the ideal, it may be only a manifest salvage, and I love the word, only a salvage job but it's still part of a master research design so don't feel bad. I wouldn't go so far as to say I can do that and here's the way we're going to.

Trawick Ward

The staff at the University of North Carolina at Chapel Hill consists of three full-time archeologists and a secretary and I've been up to my ears in briars since coming out of the field in July and I don't know if we can handle all of it or not. I don't see us as being that unique in terms of manpower available.

Sue Collins

Although we've heard the statement that archeology has expanded tremendously in recent times, I have the impression (and granted it's not based on any kind of rigid counting) that there hasn't been an incredible expansion of field workers. We archeologists are playing a game, getting a free ride, and we have armies of students out there who are apparently

receiving filet mignon on the taxpayer's money. I don't know where these people are--I sure haven't seen too many of them. Maybe I've been in Cullowhee too long. I do think there has been a terrible expansion of archeological legislation. There has also been a terrible growth of archeological administration. All the archeologists who are getting jobs these days aren't going into the field. They're going into government, either at the federal or the state level. So, what we have in this room right now are maybe 10, at the most, field workers, and about 35 people who are involved, in one way or another, in the enforcement or the review, of the work that the 10 irresponsible, free-riding, tax-dollar stealing archeologists are doing. There's something wrong here.

Bennie Keel

Brent (Glass), I think Kathleen (Pepi) had something ulterior when she invited me. I agree, where do we get all of these people? As I've said today, we are having expansion right now in the federal government. I think this gets back to the point Barney (O'Quinn) made. It's my impression that in many cases agencies who did not have archeological capabilities felt that they had been had. In some cases I submit that they had been. This is one of the reasons that many agencies are hiring their own archeologists. They want to be protected, you know, from you. I would submit that in many cases, not always, they try to find and recruit the best talent they possibly can. Certainly that is not the situation in my own case but just pure "happenstance." But in view of the disparity, the kind of black look that's been painted here today, I think it needs to be uncovered. I think you need to examine where we've failed. Commenting on Tom's situation here, they're asking us always to do something we can't do at that time. They want it done three weeks ago--yesterday. Tell them you can't do it. In spite of all of the bad things we've said about the profession, let me say from my position as an archeologist (as an ex-archeologist--I was one for about 20 years), I have been, in the last few weeks, revitalized by my colleagues. Let me share a couple of things with you. A major land-modifying agency in the United States in so many words told me "No, we're not going to comply; we do not have to comply; we will not have to comply; we are going to hire a university that we already have under contract to go out and so what needs to be done for this amount of money." It was the greatest feeling in the last 16 months when the PI of that university said, "We will not do it; we won't take your money, and if it goes under, we will sue you." And that came out of an institution. Just no one could ever have convinced me that that kind of statement would be made--not in this time period. So, I see responsibility when the profession gets up and says, "No, we can't do it." And when you can say it, you're going to make believers out of bureaucrats too.

Brent Glass

I wonder if any of you (from Pennsylvania) would have anything to offer or reflect on anything you've heard here today in respect to research or administration--one or the other?

Jim Hatch

I've known Alan Snavely for several years now (since graduate school), and he has long ties with the state of North Carolina and the contract program development here. I got a little envious listening to Alan and I had to come down here to see if it was a reality and I think it is. The degree of success in an organization, and cooperation through universities and institutions that Dr. Phelps was talking about is remarkable and, in my mind, virtually absent in the state of Pennsylvania. I would have to categorize our state as terminal Paleo-Indian, if not Early Archaic. One of our problems over the years, unfortunately, was from a less than desirable working relationship with our Harrisburg office, the State Historic Preservation Office, which I don't think has the organization and the dialogue established with the various institutions which you have here.

Fortunately, I think I see signs on the horizon that the Harrisburg connection is going to be a little more operational than it has. It will be several years before we come up with the degree of sophistication you have here though. I have enjoyed the conference very much.

Brent Glass

Any other comments? One thing that hasn't been brought out, and I don't want to go on this too much, but there has been one piece of state legislation and one State Executive Order that corresponded very closely to the federal legislation and federal Executive Order we've talked about earlier today, and there are some earlier pieces of legislation that relate specifically to archeology that our office is responsible for implementing or executing, so there is a body of state and federal legislation and executive orders that we have to go on. As I said to Ned earlier, I repeat this for the general consumption, we have updated our guidebook or handbook on environmental assessment legislation and we should have that out soon. We'll probably use the mailing list of those who attended this workshop to get this out to you. Any other general comments?

Peter Cooper

This is in line with the comment about the bureaucrats and some of the guidelines of the discussion during the break about deciphering some of this legislation and some of these guidelines relating to a practical application of them. I did not know we had zone archeologists until the other day. I received an appraisal, an evaluation of a report that I had done for the federal government. It is one of the best things that has ever happened. This person could not have written this evaluation unless he knew something. So they did snatch a good man out of the field and we are short that man, but it was the best critique of a report that I'd ever seen. There were some things mentioned, to be quite honest, that I just didn't think of. There were some other things mentioned that were old bad habits. It was done very properly and very neatly and very pleasantly because the fellow really knew what he was doing, and that in a bureaucrat is unique. We are going to have to lose some good field people to fill these jobs because we need to know exactly how to implement some of these little things, chapter and verse. This to me is going to be one of the biggest problems. I'm like Bennie said, not a great model builder, but I'll tell you what I want to do. I'd like to have known what somebody had

in mind as constituting a proper report on this or that. There were, in many cases, very few guidelines and most all of the books about guidelines are such that they don't really do much more than repeat the problem. So I think some of the bureaucracy is earning its keep and personally I was very pleased. You might get some of these zone archeologists to come to our next meeting.

Dave Phelps

Most agencies will furnish you an evaluation whether or not they have an archeologist; most of them do. Before Mike was with the corps when we first started doing some surveys for them, I didn't know whether our report would meet their needs or not, but someone in their environmental office responded with a whole set of evaluative statements on the report--what they needed, what we didn't have. So this is always available. It may not be automatically sent, but in order to ensure your compliance with the agency's needs you can always get this.

Bennie Keel

I'd like to comment also in terms of availability of information. Those of you who want to see what a winning proposal looks like on one of our RFPs, write me and I'll send them to you. I have to. Also, if you submit a proposal to us and it is not accepted, you are entitled to a debriefing if you want it. We have to give it to you. I would suggest after the debriefing if you think that you have not been treated fairly, that you could sue me.

Tim Thompson

I would like to make, hopefully, a very short remark in support of something Tom Loftfield said before we broke, and those of you who know me will recognize this as rap 14. I think he made an important point and this also gets back to the part about mutual responsibilities of the participants in this process. He made an important point when he pointed out that for whatever reasons, good or bad, time available to do a particular piece of work--if it's a survey, if it's testing, if it's mitigation--activity is frequently limited because agencies have not fulfilled an important aspect of their responsibility and that is including consideration of the resources at the earliest stage of planning. I think in many cases the state office in the past has been guilty of failing to provide enough guidance in this area. I think in both cases there is a marked improvement, but I think it's important for agencies to recognize that if they don't want delayed reports and they don't want their projects held up, then they had better start talking to their archeologists a little sooner than they are.

Archeologists are going to have to learn more about the planning process if they are going to participate effectively at that stage. It's not normally part of the archeologist's training unless they work in government, where they get exposed to it a little more frequently. These processes are important and in some cases they may determine the fate of a particular landscape or a river basin 100 years hence. Archeologists, I'm sure, will recognize that they have an interest in these kinds of planning processes and there is a strong need to participate. It also means they are going to have to acquire some additional knowledge of how the planning processes

work, who is involved, and what kind of considerations enter into them in order that they can frequently participate.

Mark Mathis

I think someone ought to add here this little advertisement. The job of providing information relative to those problems lies with, to a certain extent, the Archeology Branch. I think that is one of the roles that we serve for the archeologists of the state. If they have a problem, legal or otherwise, we request that they contact us. We may or may not be able to help them, but we are available for that service.

Brent Glass

If we don't have any other comments, this has been a useful day for me and I hope it has been for you too.

Ned Woodall

Brent, could I make one more point? As a member of the North Carolina Archeological Council, I'd like to offer our appreciation for the facilities here and the work Jacquie Fehon and Kathleen Pepi put into this conference.

GLOSSARY

36CFR800 - Advisory Council on Historic Preservation's Procedures

CRM - Cultural Resource Management (state, North Carolina)

DCR - Department of Cultural Resources (state, North Carolina)

DNRC - Department of Natural Resources and Community Development
(state, North Carolina)

DOT - Department of Transportation (state, North Carolina)

EDA - Economic Development Administration

EIS - Environmental Impact Statement

EPA - Environmental Protection Agency (federal)

Executive Order 11593 - President Nixon's "The Protection and Enhancement
of the Cultural Environment"

FHWA - Federal Highway Administration

FMHA - Farmers Home Administration (federal)

HUD - Department of Housing and Urban Development (federal)

IAS - Interagency Archeological Services (federal)

NEPA - National Environmental Policy Act

NPS - National Park Service (federal)

OMB - Office of Management and Budget

PI - Principal Investigator

Public Law 93-291 - Moss-Bennett Act of 1974 (The Archeological and
Historic Preservation Act of 1974)

RFPs - Request for Proposal(s)

SCS - Soil Conservation Service (federal)

SHPO - State Historic Preservation Officer

SSI - Soils Systems, Inc. (private)

TEP - Technical Evaluation Panel

WRC - Wildlife Resources Commission (state, North Carolina)