

PROTOCOL FOR THE POTENTIAL INADVERTENT DISCOVERY AND IDENTIFICATION OF NATIVE AMERICAN HUMAN REMAINS, FUNERARY OBJECTS, SACRED OBJECTS AND OBJECTS OF CULTURAL PATRIMONY

PURPOSE

The purpose of this protocol is to establish forestwide procedures in the event of an inadvertent discovery of human remains and/or artifacts on public lands administered by the Stanislaus National Forest that could potentially be Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony. These procedures have been developed in a collaborative effort between the Stanislaus National Forest and the Tuolumne Band of Me-Wuk Indians to assist in the discovery and identification process, and to afford protection measures in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (P.L. Law 101-601; U.S.C. 3001-3013; 104 STAT. 3048-3059, Section 3) and implementing regulations (43 CFR Part 10, Section 10.4).

A. INITIAL DISCOVERY

1. BUSINESS HOURS (Monday through Friday, 8:00 a.m. to 4:30 p.m.):

- a. Stop the activity and secure the area. The "area" is defined as any ground surrounding the discovery needed to ensure protection of the find and/or might contain additional materials. At a minimum, securing the area will include: flagging off the area of discovery and, if the circumstances of the discovery make it reasonable to do so, posting a guard at the site until the proper authorities are notified.
- b. If there is no activity, secure the area as stated above.
- c. Forest Service personnel receiving the discovery information will directly contact the District Heritage Program Manager (HPM); or if unavailable, the Forest HPM, and contact the Forest Law Enforcement Officer (LEO).

2. NON-BUSINESS HOURS:

- a. Forest Service personnel receiving the discovery information will fill out the attached Preliminary Discovery Form.
- b. Forest Service personnel receiving the discovery information to contact dispatch who will in turn contact the Forest LEO on duty and secure the area per (A)(1)(a).

3. SITE VISITATION AND DOCUMENTATION:

- a. Business hours: District HPM and/or LEO will visit the site on the same day as the discovery.
- b. Non-business hours: the LEO on duty will visit the site as soon as possible (within 36 hours) and will notify the District HPM or, if unavailable, the Forest HPM on the first business day following the discovery.
- c. The District HPM will document the area of discovery. At a minimum, documentation will include: a map pinpointing the location of the discovery, photos, sketches or tracings of the item/s, amount and description of the item/s, pertinent physical and/or man-made features (roads, trails, erosion, etc.) and a description of the surrounding environment.

B. IDENTIFICATION AND NOTIFICATION

1. IDENTIFICATION AND NOTIFICATION OF CULTURAL ITEMS

- a. Cultural items as defined under NAGPRA are funerary objects, sacred objects, and objects of cultural patrimony. Examples of such items may include, but are not limited to, glass or shell beads, shell pendants or certain stone items.
- b. Upon encountering cultural item/s during *business hours*, either by receiving them from the public or through inadvertent discovery, Forest Service personnel will contact the District HPM and/or Forest HPM at the time of potential discovery.
- c. Upon encountering cultural item/s during *non-business hours*, either by receiving them from the public or through inadvertent discovery, the LEO will contact the District HPM and/or Forest HPM on the first business day following the potential discovery.
- d. The District or Forest HPM will notify the Tribal Chair by phone within 48 hours of the potential discovery and will request a meeting with the Tribe to review object/s and records and, if needed, schedule a field trip to the area.
- e. The District or Forest HPM will review site records, the site location atlas, and the appropriate files to determine if the area has been previously documented as a cultural site and provide confidential copies of this information to the Tribal Chair upon written request.
- f. The District or Forest HPM will contact the District Ranger and the Forest Supervisor or their acting on the same day as discovery.
- g. If the Tribe identifies the cultural objects as funerary objects, sacred objects, or objects of cultural patrimony, compliance with Section 10.4, Section 3(d) of NAGPRA will be implemented immediately, per (C)(1) below.

2. IDENTIFICATION AND NOTIFICATION OF SKELETAL MATERIAL

- a. If skeletal material is brought to Forest personnel either in the field or in the office, and it seems reasonable that the material is human, the person/s receiving the material will contact Forest Dispatch and the LEO on duty. The LEO will contact the appropriate District HPM immediately or, if unavailable, the Forest HPM, and will arrange a site visit with the Sheriff/Coroner.
- b. If the *location* of skeletal remains is identified to forest personnel, the person receiving the information about the location of the find will contact the LEO on duty. The LEO will visit the site on the same day, and identify the type of remains, if possible. If the LEO reasonably believes the remains are human in origin, s/he will immediately secure the area and contact the Sheriff/Coroner and District HPM by phone or radio regarding the potential for Native American human remains.
- c. If skeletal material discovered *cannot* be reasonably identified as non-human, do not disturb the find, call the Sheriff/Coroner on the same day as discovery, and secure the area as described above (A)(1)(a).
- d. Only the Sheriff/Coroner has the authority to remove the skeletal material to make a final determination as to its origin.
- e. Under no circumstances will any unauthorized Forest Service personnel remove the skeletal material or use potentially destructive means (trowels, probes, shovels etc.) to determine if the remains are human.

- f. The Sheriff/Coroner will obtain a forensic analysis, if necessary, to determine if the remains are human and of Native American origin. The Sheriff/Coroner will report the findings to the District or Forest HPM by phone.
- g. The District HPM will report the findings to the Tribal Chair, District Ranger, and Forest Supervisor by phone or in person on the day reported by the Sheriff/Coroner.
- h. All health and safety requirements will prevail in situations where contamination from hazardous waste and materials (HazMat) is present on archaeological sites, or where an archaeological deposit is encountered during removal of such materials, and/or in cases where hazardous materials may have contaminated burials and associated items where reinternment is necessary. In these cases, the Forest HazMat coordinator will be contacted.

C. IMPLEMENTATION OF 43 CFR PART 10 REGULATIONS

1. HUMAN REMAINS

- a. If human remains are identified as Native American in origin, the Forest will initiate compliance of NAGPRA, Section 3(d), and implementing regulations 43 CFR Part 10, S10.4.

2. CULTURAL OBJECTS:

- a. If cultural objects are identified by the Tribe as funerary objects, sacred objects, or objects of cultural patrimony, the Forest will initiate compliance of NAGPRA, Section 3(d), and implementing regulations 43 CFR Part 10, S10.4.

Execution of these guidelines by the Stanislaus National Forest and the Tuolumne Band of Me-Wuk is evidence that the Forest has collaborated with the Tuolumne Me-Wuk Tribal Council and the Central Sierra Me-Wuk Cultural and Historic Preservation Committee and that the Forest agrees to implement these guidelines on the effective signature date given below. If, during the implementation of these guidelines, it becomes necessary to adjust or amend this document, any of the above consulting parties may initiate this amendment process by written request to the other parties.

By: /s/ Kevin Day Date: November 24, 1999
 Kevin Day
 Tribal Chairperson
 Tuolumne Band of Me-Wuk Indians

By: /s/ Ben L. del Villar Date: August 12, 1999
 Ben L. del Villar
 Forest Supervisor
 Stanislaus National Forest

Attachment: Preliminary Discovery Form

PRELIMINARY DISCOVERY FORM

DATE: _____ TIME: _____

DISTRICT OFFICE: _____ REC'D BY: _____

NAME OF FINDER: _____

ADDRESS: _____

LOCAL ADDRESS: _____ PHONE: _____

MAY WE CONTACT YOU IF WE HAVE ANY QUESTIONS? Y _____ N _____

CIRCUMSTANCES SURROUNDING DISCOVERY: _____

AREA OF DISCOVERY: _____

LOCATION ON MAP ATTACHED: Y: _____ N: _____ # OF ITEM/S _____

DESCRIPTION OF ITEM/S _____

IF ADDITIONAL SPACE IS NEEDED, PLEASE USE BACK.

WAS ANYTHING REMOVED FROM SITE & WHERE IS IT NOW? _____

CONTACT: LEO NAME: _____

DISTRICT: _____ DATE: _____

DISTRICT HERITAGE PROGRAM MANAGER: _____ DATE: _____