

ANTH 549/449 – Winter 2018	
<b>CULTURAL RESOURCE MANAGEMENT</b>	
Wednesday, 2:00-4:50 PM, 201 Villard	
Professor Madonna L. Moss	
Office: 327 Condon	
Office Hours: 2-3 pm Fridays	
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### Course Description

The term *cultural resource* “means data/money to the archaeologist, heritage to the Native American, obstacle/cost to the developer, and legislation to the bureaucrat,” according to David Kamper, writing in the May, 2010, issue of *Anthropology News* (p. 49). This course addresses all these meanings (and more) within the context of what it takes to actually do archaeology in the U.S. today. As many as 80% of the people who find jobs in archaeology will work in cultural resource management (Newmann & Sanford 2001), and many archaeologists will work exclusively in CRM for sustained periods of their careers. In the United States, 85% of the money spent on archaeology funds CRM archaeology (Schuldenrein 1998:33). The over-arching goal of CRM is to design and carry out scientific studies under applicable preservation and environmental laws, to conserve cultural resources through avoidance of destruction, and to recover and preserve information through data recovery when destruction is unavoidable. This course will introduce students to the objectives of CRM work and the methods of designing research in the CRM context that will make contributions to our knowledge of the past. We address the myriad considerations modern archaeologists confront in our efforts to carry out archaeological research within a complex legal and ethical framework. We trace how the legal framework for archaeological work in the United States has developed, and how contemporary archaeological research is conducted in compliance with federal and state laws and regulations. In this seminar, you will gain a working knowledge of the legal basis for doing public archaeology, and will learn how to use existing regulations and guidance to design and carry out research. We also address research ethics throughout the term by considering:

- accountability: What are our responsibilities to the archaeological record, to fellow professionals, to the public who pays the bills, and to Native Americans and other descendant communities affiliated with the materials we study? How can we more effectively convey the value of archaeology to various stakeholders? How can we justify archaeology to disinterested groups?
- looting and commercialization: How widespread is the theft of archaeological materials and vandalism of archaeological sites in the United States? How can we educate the public (including law enforcement personnel, juries, and judges) about the value of archaeological site protection and preservation?
- the relationship between archaeologists and stakeholder communities: Why is there antagonism toward archaeologists in some parts of the country? How can archaeologists and Native Americans effectively work together to protect archaeological and sacred sites and reduce looting and vandalism? What is the context for addressing issues of reburial and repatriation of human remains and associated artifacts? How can archaeology itself be transformed and enriched through genuine collaboration with descendant and local communities? How are Native American archaeologists influencing the direction of CRM and the discipline of archaeology more generally?

**Requirements** In this seminar the responsibility for success is shared equally among us. CRM has grown increasingly complex in recent years. An enormous amount of background information and reading relevant to this class is now available, much of it online.

**Class attendance is mandatory**, and because class meetings will be devoted to seminar discussion rather than lecture, it is essential that you keep up with the readings and come to class prepared to engage in lively and critical discussion of the material. If you miss a class, it will detract from your participation grade by at least 10% because we have only 10 class meetings. If you have to miss class due to a contagious illness, it will be incumbent on you to derive a way to make

up the material. As you read through the assigned reading, you should mark up your texts, prioritizing specific passages you want to discuss with the group. These might be the passages you find most important, useful, interesting, provocative, puzzling, and so forth. Bring your marked-up book and readings to class. I will print and bring your marked-up **essay** (see below), will return it to you at the start of class. After discussion (from 4:40 to 4:50 pm) you will have 10 minutes to hand-write additional comments, reflections, insights, and/or a postscript to your essay and turn it in. This format should help insure that every student actively contributes to each discussion. It will also help me evaluate the learning that has gone on from the discussion itself.

There are **nine weekly writing assignments** and a final paper, for both undergraduate and graduate students. In response to each prompt, students write a concise ~700-word essay on the readings. The essay should be single-spaced and formatted to be printed on front and back (to save paper). For Week 3, the assignment is a different length. For Weeks 8, 9 and 10, follow protocols and recommendations described in *Ethics in Action*. To facilitate discussion, students will turn in assignments **by 11 am on the day they are due** for weeks 2-7 via email. This gives me feedback on your thinking and allows me to anticipate productive directions for discussion. Papers will be handed in at the end of class, but available for you to pick up in the main ANTH office on Friday mornings by 8:30 am.

### Required Texts

Colwell-Chanthaphonh, C., J. Hollowell, and D. McGill. 2008 *Ethics in Action: Case Studies in Archaeological Dilemmas*. SAA Press, Society for American Archaeology, Washington, D.C.

King, Thomas F. 2013 *Cultural Resource Laws & Practice: an Introductory Guide*. (4th ed.) Altamira, Walnut Creek, CA.

**Additional required readings are posted on Canvas under "Files" or can be found at the listed URL.** They are listed below in alphabetical order.

Advisory Council on Historic Preservation (2005) Washington: Construction of the Port Angeles Graving Dock. ACHP Digest, electronic document, <http://www.achp.gov/caseswin05WA.html>

Anonymous (1990) The Current Times. *Indian-Artifact Magazine* vol. 9-1:1.

Bowman, Blythe A. (2008) Transnational Crimes Against Culture: Looting at Archaeological Sites and the "Grey" Market in Antiquities. *Journal of Contemporary Criminal Justice* 24(3):225-242.

Colwell-Chanthaphonh, Chip, Rachel Maxson & Jami Powell (2011) The repatriation of culturally unidentifiable human remains, *Museum Management and Curatorship*, 26:1, 27-43, DOI: 10.1080/09647775.2011.540125

Griffin, Dennis and T. E. Churchill (2003) Cultural Resource Management in the Pacific Northwest: Working within the Process. *Journal of Northwest Anthropology* 37(1):27-42.

Hinsley, Curtis M. Jr. (1996) Digging for Identity: Reflections on the Cultural Background of Collecting. *American Indian Quarterly* 20(2):180-196.

King, Thomas F. (2009) Backing into Disaster: Lessons in Cultural Resource Management from the "Graving Dock" at Port Angeles, Washington. *Journal of Northwest Anthropology* 43(2):153-161.

Mihesuah, Devon A. (1996) American Indians, Anthropologists, Potheunters, and Repatriation: Ethical, Religious, and Political Differences. *American Indian Quarterly* 20(2):229-237.

Pitblado, Bonnie L. (2014) An Argument for Ethical, Proactive, Archaeologist-Artifact Collector Collaboration. *American Antiquity* 79(3):385-400.

SAA Archaeological Record (2015) This publication from the SAA is uploaded intact as a single pdf. Specific articles to read are by Cox (pp. 17-19), Goebel (pp. 29-32), Pitblado & Schott (pp. 36-39), and Watkins (pp. 14-16).

Watkins, J.E. (2004) Becoming American or Becoming Indian? NAGPRA, Kennewick, and Cultural Affiliation. *Journal of Social Archaeology* 4(1):60-68.

Westfall, Tom (2004) A Lifetime of Memories. *Indian-Artifact Magazine* 23-4.

## Required Internet Resources

The class schedule includes references to required reading on the internet. In most cases, these are comprised of pertinent federal laws, regulations, and guidelines. Be sure to budget adequate time for this reading; some documents are rather long. The assigned web reading for this class is approximately **600 conventional pages**, but some portions of the regulations and guidelines you can just peruse.

**Grading for undergraduates** will be based on a percentage of 270 points:

Attendance		50
Participation		50
Weekly Essays/Writing	Each student does nine @ 15 points each	135
Final Essay	Due March 19	35

**Grading for graduate students** will be based on a percentage of 320 points:

Attendance		50
Participation		50
Weekly Essays/Writing	Each student does nine @ 15 points each	135
Abstract	Due Feb. 23	10
Final Paper	Due March 19	75

## Course Outline and Schedule

**January 10 - Course Introduction, Orientation to Internet Resources** - Course overview, orientation to federal laws, regulations, and guidance on the internet. View and discuss film: *In the Light of Reverence*.

### January 17 - The Legal Framework for CRM in the United States

Read King (2013) pp. 1-82 and Appendix 3; on internet: Antiquities Act of 1906, Historic Sites Act of 1935, NHPA of 1966, AHPA of 1974, <http://www.nps.gov/archeology/tools/laws/index.htm>; when using this URL, be sure to scroll down to read statute text; Historic Sites Act at [http://www.nps.gov/history/local-law/FHPL\\_HistSites.pdf](http://www.nps.gov/history/local-law/FHPL_HistSites.pdf)

Essay Prompt: Explain how the readings help you understand either 1) how laws must be understood in their historical context, or 2) how work you've done on a CRM project fits into the larger picture of heritage resource management.

### January 24 - National Register of Historic Places

Read King (2013) pp. 83-104. See: <https://www.nps.gov/nr/> and read about the National Register and multiple property submissions, also National Register Bulletins 15, 16A, 16B, 38 at <https://www.nps.gov/nr/publications/>

### Rosemont Lake Case Study Assignment

Essay: Use the National Register criteria A-D to determine the eligibility of properties located in the Rosemont Lake area. Accept the fact that *The Rosemont Case Study* provides limited information. Evaluate the significance of the identified properties. Which properties are eligible to the National Register of Historic Places? In your discussion, make explicit reference to the National Register criteria. In addition to using definitions and understandings outlined in King (2013), be sure to use the guidance in National Register Bulletins 15 and 38. In the case of some sites, you may also have to consider how integrity and the criteria considerations come into play. Papers should be 2 pages (single-spaced). We will discuss these evaluations in class.

### January 31 - Section 106 of National Historic Preservation Act

Read King (2013) pp. 105-208, King (2009) also Advisory Council on Historic Preservation (2005) on Tse-whit-zen; also online: NHPA of 1966, 36 CFR 800, 36 CFR 60, 36 CFR 63: <http://www.nps.gov/history/laws.htm>; and scroll down under

the subhead "Historic Preservation." Browse contact information on SHPOs and THPOs, <http://www.achp.gov/shpo.html>, click on "National Conference of State Historic Preservation Officer's SHPO list" and <http://www.nps.gov/history/thpo/> for "Find a THPO office." See also Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites, <http://www.achp.gov/archguide/html>

Essay Prompt: For those with experience working in CRM, identify both 1) the parts of the section 106 process with which you have had experience, and 2) the parts of the section 106 process with which you have not had experience. For students who lack on-the-ground experience, summarize the most useful advice and "tips" offered by Tom King.

### **February 7 - The Legal Context for Addressing American Indian Values: AIRFA, NMAIA, NAGPRA**

Read American Indian Religious Freedom Act and 1994 amendments [http://www.nps.gov/history/local-law/FHPL\\_IndianRelFreAct.pdf](http://www.nps.gov/history/local-law/FHPL_IndianRelFreAct.pdf); E.O. 13007 Indian Sacred Sites; National Register Bulletin #38, NAGPRA of 1990 <http://www.nps.gov/history/laws.htm>, National Museum of the American Indian Act of 1989 <https://nmai.si.edu/sites/1/files/pdf/about/NMAIAct.pdf> and see also <http://www.anthropology.si.edu/repatriation/index.htm>; another way: click on NMAI Act (on the side bar after clicking on "What is repatriation?") Read King (2013) pp. 255-274, 293-316, and text of NAGPRA <http://www.nps.gov/history/nagpra/MANDATES/25USC3001etseq.htm>. Read Mihesuah (1996) and Watkins (2004).

**GRADUATE STUDENTS:** Read Colwell-Chanthaphonh et al. (2011)

Essay Prompt: How well are American Indian values addressed in the laws and regulations governing CRM and heritage resource management?

### **February 14 - Archaeological Resource Protection Act - Looting, Vandalism**

Read King (2013) pp. 275-291. Read ARPA of 1979 (under archaeology), 43 CFR 7, <http://www.nps.gov/history/laws.htm#arch> Read: Anonymous (1990); Westfall (2004) Hinsley (1996); Cox (2015), Goebel (2015), Pitblado & Schott (2015), Watkins (2015). Please note that the last four readings (all in 2015) are from a single issue of the SAA Archaeological Record that is uploaded in its entirety (and under that name).

**GRADUATE STUDENTS:** Read: Bowman (2008), Pitblado (2014).

Essay Prompt: Today we've read conflicting points of view. Choose three authors for today (or sets of authors) and put them in dialog with one another in an attempt to gain mutual understanding of how best to address the looting of archaeological sites.

### **February 21 - Bringing it "Home:" Professional Qualifications, Codes and Principles of Ethics, and Oregon Laws**

Qualifications: Read: Secretary of Interior's Professional Qualifications Standards, see the main page: Links to an external site [http://www.nps.gov/history/local-law/gis/html/table\\_of\\_contents.html](http://www.nps.gov/history/local-law/gis/html/table_of_contents.html)

Here is where the 12 specializations are described in some detail: <http://www.nps.gov/history/local-law/gis/html/quals.html>

Codes and Principles of Ethics: Read Colwell-Chanthaphonh et al. (2008 Appendix 2) for codes for AAA, AIA, AAA, CAA, RPA, SAA, and WAC. Read Griffin and Churchill (2003) and for Oregon laws & administrative rules see [http://www.oregon.gov/oprd/HCD/SHPO/pages/programs\\_laws.aspx](http://www.oregon.gov/oprd/HCD/SHPO/pages/programs_laws.aspx) and links to:

- ORS 97.740 et seq. Indian Graves and Protected Objects
- ORS 358.905 et seq. Archaeological Objects and Sites
- ORS 390.235 et seq. Archaeological Sites and Historical Materials
- OAR 736-051 Archaeological permits

Essay Prompts:

**Option #1** - Analyze Oregon laws with regard to Griffin and Churchill's paper. What problems and contradictions are the most serious ones in conducting archaeology in this state?

**Option #2** - Analyze your own professional qualifications using the Secretary of Interior's Professional Qualifications Standards. Then analyze the professional codes of the seven organizations listed above and explain whether these make it more or less likely that you would join these groups.

## **February 28 - Ethics in Archaeology I**

Read: King (2013:351-375) and Colwell-Chanthaphonh et al. (2008:1-75). Using the resources you've learned about thus far in the course, and the recommendations in Colwell-Chanthaphonh et al. (2008), write-up your solution to the dilemma posed in case study #16 (*The Private Landowner and the 3\$! Government*) on p. 92, using the principles described in *Ethics in Action*. This may involve additional readings outside of those assigned for class. In your paper, follow the eight steps: 1) identify the dilemma, 2) identify the facts (including relevant sections of laws, ethical principles and professional codes), 3) identify the stakeholders, 4) generate possible solutions, 5) generate practical constraints, 6) generate alternative solutions, 7) solve the dilemma, and 8) prepare for negotiation. This should follow the format on pp. 48-51, and the first three steps can take the form of bulleted lists as opposed to a narrative. This paper may be up to 3 pages (single-spaced, 12 point font). 20 minutes at the end of today's class will be devoted to team organization and planning for next week (see below).

## **March 7 - Ethics in Archaeology II**

Each of the teams will prepare for x number of the following cases studies, x being the number of team members:

#2 *Bad Press*, p. 77

#6 *When Education Leads to Looting*, p. 81

#20 *Amateur Archaeology Collectors*, p. 96

#28 *Building upon Burials*, p. 104

#29 *An ARPA Dilemma*, p. 105

#30 *Problematic Repatriation*

Teams will meet outside of class to pool resources and discuss cases. Teams can assign individual members to be "experts" on specific cases. Individuals will produce one page (single-spaced) "abstracts" for each case that summarize the analytical response (eight steps). A three-person team will submit three abstracts, and four-person team will submit four. These abstracts will comprise this week's writing assignment. In class, each team will present a different case, with time for rebuttals from other teams. At the end of class, we'll review the rules for the Ethics Bowl (pp. 129-131) to be held on March 14.

See <http://www.saa.org/AbouttheSociety/AnnualMeeting/EthicsBowl/Tips/tabid/197/Default.aspx> for tips for teams that competed in the SAA Ethics Bowls in the past. The March 14 Ethics Bowl cases will be identified and/or distributed at the end of class. Teams will meet outside of class to prepare.

## **March 14 - The 2018 University of Oregon Archaeological Ethics Bowl**

I will serve as moderator and recruit two outside judges. We will follow the Ethics Bowl rules (pp. 129-131). Once again, teams will meet outside of class to pool resources and discuss cases. Each team will prepare one-page abstracts (to be handed in).

**Undergraduate Student Final Papers Due March 19, noon** - Undergraduates will write a 5-page paper (double-spaced, 12 point font) that is an analytical response to a case study that has not been previously presented in class. In addition to cases in the book, you can also choose from cases presented at more recent SAA Ethics Bowls:

<http://www.saa.org/AbouttheSociety/AnnualMeeting/SAAEthicsBowlCases/tabid/194/Default.aspx>

**Graduate Student Final Papers Due March 19, noon** Graduate students will write a 10-page (double-spaced, 12-point font) research paper of their choice. A 200 word abstract/paper proposal and preliminary bibliography are due the Friday of Week 7 (February 23) by 3 pm for feedback.

**Personal Devices:** All portable electronic devices must be *turned off and stowed away*. I would prefer that laptop and notebook computers also be stowed because their presence can be incompatible with good face-to-face interaction. In the interests of saving paper, however, I will allow students to use computers to consult electronic readings, but ask that computer cases be lowered when we are not consulting specific passages. Newspapers, other reading materials, etc., that are not relevant to class should put away by the time class begins and stay put away.

**Academic Honesty:** Each student is expected to produce independent written work. All written work should be in your own words and a product of your original work. Plagiarism can result in a failing course grade. Be very careful to avoid plagiarism and learn how to quote and paraphrase effectively, see <https://researchguides.uoregon.edu/citing-plagiarism/plagiarism> for excellent advice.

**Disability:** If you have a documented disability and anticipate needing accommodation, please contact me soon. Please also request that the Counselor for Students with Disabilities send a letter verifying your disability.

## Reference Documents

### Legislation

Antiquities Act of 1906 (16 U.S.C. 431-433)  
Historic Sites Act of 1935 (16 U.S.C. 461-467)  
National Historic Preservation Act of 1966, as amended in 1992, 1999 (54 U.S.C. 300101-307101)  
National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347)  
Archaeological and Historic Preservation Act of 1974, "Moss-Bennett" Act (16 U.S.C. 469)  
American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996-1996a)  
American Indian Religious Freedom Act Amendments of 1994 (P.L. 103-344)  
Archaeological Resources Protection Act of 1979, as amended (16 U.S.C. 470aa-470ll)  
National Museum of the American Indian Act of 1989 (P.L. 101-185)  
Native American Grave Protection and Repatriation Act of 1990 (P.L. 101-601)  
1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (19 U.S.C. 2601)  
Executive Order 11593 Protection and Enhancement of the Cultural Environment (1971)  
Executive Order 13007 Indian Sacred Sites (1996)

### Regulations

36 CFR 60 National Register of Historic Places  
36 CFR 61 Procedures for Approved State and Local Governments Historic Preservation Programs  
36 CFR 63 Determination of Eligibility for Inclusion in the National Register  
36 CFR 65 National Historic Landmarks Program  
36 CFR 68 Secretary of the Interior's Standards for Treatment of Historic Properties  
36 CFR 78 Waiver of Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act  
36 CFR 79 Curation of Federally-Owned and Administered Archaeological Collections  
36 CFR 800 Protection of Historic Properties  
43 CFR 7 Protection of Archaeological Resources, Uniform Regulations; Final Rule (joint rule published with 18 CFR 1312, 32 CFR 229, 36 CFR 296)  
43 CFR 10 Native American Graves Protection and Repatriation Act Final Rule  
43 CFR 10.11 - Disposition of culturally unidentifiable human remains

### Guidelines

Guidelines for Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act  
Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation  
Secretary of Interior's Proposed Historic Preservation Professional Qualifications Standards.  
U.S. Department of Interior, National Park Service; the following four items can be found at  
1991 How to Apply the National Register Criteria for Evaluation. National Register Bulletin 15.  
1991 How to Complete the National Register Registration Form. National Register Bulletin 16A.  
1991 How to Complete the National Register Multiple Property Documentation Form. National Register Bulletin 16B.  
1990 Guidelines for Evaluating and Documenting Traditional Cultural Properties. National Register Bulletin 38.

### State of Oregon

ORS 97.740 et seq. Indian Graves and Protected Objects  
ORS 358.905 et seq. Archaeological Objects and Sites  
ORS 390.235 et seq. Archaeological Sites and Historical Materials