

NOV 28 1989

CLEMSON
LIBRARY

NATIONAL REGISTER BULLETIN

Technical information on comprehensive planning, survey of cultural resources, and registration in the National Register of Historic Places.

U.S. Department of the Interior
National Park Service
Interagency Resources Division



Figure 1. This privately-owned farm in Kentucky rests over what was, until recently, an intact prehistoric Indian village site. The site was systematically looted by relic hunters, destroying much of its archeological value. Artifacts from such sites are sold to collectors for hundreds, sometimes thousands, of dollars, creating a strong financial incentive for raiding cultural resources. (Kenny Barkley, Union County [KY] Advocate)

GUIDELINES FOR RESTRICTING INFORMATION ABOUT HISTORIC AND PREHISTORIC RESOURCES

INTRODUCTION

Information about historic and prehistoric resources in the National Register of Historic Places and in Federal, State, and local government inventories is part of the public record and is usually made available to all who are interested. It is sometimes necessary, however, to

withhold information from the public about the location and character of certain resources to protect them and their setting. Cultural resources are often fragile, and their value as a physical representation of the past and as a source of information about human activities can easily be destroyed by theft, vandalism, and unauthorized public visitation.

This bulletin provides guidance for determining which resources should have information restricted from general distribution. The guidelines presented here generally refer to National Register listings and nominations, but they also apply to resources in Federal and federally-assisted inventories.

LEGAL AUTHORITY

Section 304 of the National Historic Preservation Act (NHPA), as amended, and Section 9(a) of the Archaeological Resources Protection Act (ARPA) of 1979 provide the legal authority to restrict information about endangered resources.

Section 304 of the National Historic Preservation Act

The head of any Federal agency, after consultation with the Secretary [of the Interior], shall withhold from disclosure to the public, information relating to the location or character of historic resources whenever the head of the agency or the Secretary determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.

Section 9(a) of the Archaeological Resources Protection Act

Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act or under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of title 5 of the United States Code or under any other provision of law unless the Federal land manager concerned determines that such disclosure would further the purposes of this Act or the Act of June 27, 1960 (16 U.S.C. 469-469c) and not create a risk of harm to such resources or to the site at which such resources are located.

SYNOPSIS

The legal authority for restricting information is provided by:

- * *Section 304 of the National Historic Preservation Act and*
- * *Section 9(a) of the Archaeological Resources Protection Act*

Information can be restricted if its publication is likely to:

- * *endanger the resource,*
- * *worsen existing damage,*
- * *endanger the resource's setting, or*
- * *cause the desecration of a site used in traditional cultural practices.*

To restrict information on National Register forms:

- * *check the "Not for Publication" box,*
- * *briefly describe the reason for the restriction,*
- * *specify what information is to be restricted, and*
- * *compile the restricted information on a separate Continuation Sheet.*

Restricted information will be:

- * *excluded from NPS publications,*
- * *excluded from reproductions of the National Register form, and*
- * *made inaccessible to data base users and visiting researchers, except under certain circumstances.*

Application of NHPA and ARPA to the National Register

The National Park Service, in applying NHPA and ARPA to its administration of the National Register of Historic Places, will not make public any information revealing the location or character of historic or archeological resources if it is likely that this would open the

resources or their settings to a substantial risk of harm, theft, or destruction. The National Register regulations (36 CFR 60) also provide that Federal or State nominating authorities need not reveal the specific location or character of a resource listed in or being nominated to the National Register if disclosing this information would endanger the resource.

This bulletin was developed by John Knoerl, archeologist, National Register Branch, Diane Miller, Chief, Information Management Unit, and Rebecca H. Shrimpton, consulting historian, National Park Service. It was edited by Rebecca H. Shrimpton. The text was given technical and policy review by Lars Hanslin, attorney, Department of the Interior Solicitor's Office, Carol D. Shull, Chief of Registration, National Register Branch, and Lawrence E. Aten, Chief, Interagency Resources Division. We are indebted to the many preservation professionals who reviewed the drafts and offered their assistance.



Figure 2. This Utah cliff-dwelling is one of the largest in the southwest, containing as many as 200 rooms, and is important for its potential to reveal information about early Native American culture. It is being threatened with destruction, however, by relic hunters, hikers climbing on the walls, and vandals who have painted graffiti near pictographs on the cliff face. (Marc Gaede, Museum of Northern Arizona)

Application of NHPA and ARPA to Other Inventories

The authority to restrict information about historic and archeological resources applies to inventories that receive Federal assistance under the authority of the NHPA or Executive Order 11593. Such inventories include the survey and inventory data of all State Historic Preservation Offices, Federal agencies, and Certified Local Governments. Administrators of Federal and federally-assisted State and local inventories should use the guidelines below to establish procedures for limiting access to information on endangered resources. The NPS recommends that all survey and inventory forms include a place to indicate that the location or character of a resource should be restricted and an explanation for the restriction.

GUIDELINES FOR RESTRICTING INFORMATION

Definitions

NHPA and ARPA authorize the restriction of information about both a resource's location and its character or nature. "Location" refers to any information that specifically places a resource in its geographic setting, including street addresses, highway and route numbers, Universal Transverse Mercator (UTM) coordinates, and descriptions of the resource's position in relation to local landmarks or natural features. "Character" and "nature" refer to the physical features, setting, and contents of a resource, such as archeological artifacts or architectural ornamentation, that could attract theft and vandalism. Nominators to the National Register may request that the NPS withhold information about a resource's location, or they

may request that, in addition to location, particular elements of the resource's character be withheld.

Which Resources Should Be Restricted

The following is a list of conditions in which a resource's location and/or character should be restricted.

1. *The resource is likely to be damaged or destroyed if its location and/or character is published.*
2. *The resource has already been damaged by looting or vandalism, and there is reason to believe that such damage would recur.*
3. *The resource is used in traditional cultural practices, such as those by Native Americans and Pacific Islanders, and disclosure would likely result in a desecration of the property.*

4. Aside from the resource itself, the place on which the resource is situated has been or is likely to be harmed by disclosure of its location and/or character.

If none of the conditions listed above are applicable to a resource then its location and character will not be restricted by the National Park Service and should not be restricted in Federal or federally-assisted State and local inventories. (See the Appendix for examples of specific situations in which information should be restricted.)

How to Restrict Information on a National Register Form

To restrict information on the location or the location and character of a resource, place an "X" in the "Not for Publication" box in the Location Section of the National Register standard registration form.



Figure 3. Ranger Burchick, National Park Service, and Officer Walters, U.S. Park Police, are seen here with the sifter screen used by a relic hunter, known as the "Green Mole," to raid a federally-owned archeological site in Washington, DC. The site consists of the ruins of a house built c.1790, and, until destroyed by the "Green Mole," it contained artifacts representing at least 130 years of occupation. In the foreground can be seen the dirt pile and rejected artifacts left by the relic hunter. (Stephen R. Potter, National Park Service)



Figure 4. These Civil War artifacts were confiscated from a relic hunter caught using a metal detector in a National Historical Park. They are just a sampling of over 60 pounds of artifacts the collector was hauling out of the park in a backpack. Consisting of bullets and small pieces of soldiers' equipment, they illustrate the seemingly unlikely types of artifacts that are both appealing to collectors and important to trained researchers. (Stephen R. Potter, National Park Service)

At the beginning of the Description Section briefly explain the reason for the restriction, including the nature of the threat, and specify what, if any, information about character is to be restricted in addition to location.

These procedures apply to both nominations and determinations of eligibility submitted on standard registration forms. Determinations of eligibility that are *not* submitted on standard registration forms should include the phrase "Not for Publication" near the resource's address. An explanation of the restriction and whether it applies to character as well as location should be included in the resource's description.

When preparing National Register forms, bear in mind that all references to sensitive information will be omitted from reproductions, including photocopies and microfiche. Information intended to be restricted should be compiled on a separate Continuation Sheet. Addresses and specific locations should also not

appear in the Resource Name (for example, "House at 604 Main St.") since the Resource Name must be published in the *Federal Register*. Following these suggestions will not only make it simpler and quicker to exclude restricted information from reproductions, but it will ensure that all the appropriate, and only the appropriate, information is withheld from general distribution.

Information Restricted by the Keeper of the National Register

In practice, most information restrictions for National Register documentation are initiated by the nominating authority. The Keeper of the National Register, however, can restrict information under the conditions listed above, even if the nominating authority has not checked "Not for Publication" on the registration form. This policy applies to all National Register documentation, including that recorded on pre-1974 registration forms, which did not have "Not for

Publication" indicators. For all incoming nominations, the nominating authority will be notified of the Keeper's decision to restrict information before the resource is listed in the National Register, by means of a Supplementary Listing Record.

EFFECTS OF RESTRICTING INFORMATION

If National Register documentation is classified as "Restricted," information on location and/or character (as applicable) will be:

- * *Excluded from NPS publications;*
- * *Excluded from reproductions of the registration form; and*
- * *Made inaccessible to users of the National Register Information System and to visiting researchers, except under the conditions outlined below.*

As previously mentioned, all references to restricted information contained anywhere in National Register documentation, including text, maps, UTM coordinates, and photographs, are subject to the restrictions listed above. If restricted information is compiled by the nominating authority on a separate Continuation Sheet, then the National Park Service staff will be able to control the information much more effectively.

HOW TO RELEASE RESTRICTED INFORMATION

Restricted information may be released for the following purposes:

- * *Evaluation of government agency actions affecting the resource,*
- * *Protection of the resource, and*
- * *Scholarly research.*

To gain access to restricted National Register information, submit a request to the Keeper of the

National Register or to the nominating authority. When making this request, indicate how the information will be used and kept secure. If the information is to be used for one of the purposes listed above *and* its release is not likely to endanger the resource, then the requested information will be released. The Keeper of the National Register will usually make a decision about releasing information only after consulting with the relevant State or Federal Historic Preservation Officer.

Federal or State agencies wishing to reveal or deny access to restricted information from National Register nominations initiated by *another* agency should first consult the original nominating authority and keep a record of the consultation. If there is disagreement between

agencies or between an agency and another party about releasing or withholding information from National Register nominations or documentation in inventories, the matter should be referred to the Keeper of the National Register for an opinion.

The National Park Service will cooperate with Federal land managers by consulting with them and the appropriate Federal Preservation Officers before responding to requests for the location of archeological sites subject to Section 9(a) of ARPA. The heads of Federal agencies wishing to consult with the Secretary of the Interior pursuant to Section 304 of NHPA should contact the Keeper of the National Register.



Figure 5. These walrus skulls and whale mandible arches are part of a nationally-significant Alaskan archeological site, which has been critical to understanding prehistoric Eskimo cultures. The site has been looted for its valuable ivory to such an extent that it lost its designation as a National Historic Landmark. It is estimated that as much as 80 to 90% of the subsurface deposits have been disturbed by ivory hunters. (Susan Morton, National Park Service)

APPENDIX

Examples of Situations in Which Information Should Be Restricted:

EXAMPLE 1: Site 12-FG-343 is a Chacoan outlier in pristine condition containing kivas, block rooms, storage rooms with whole ceramic vessels, obsidian projectile points, and other exotic artifacts. Commercial pothunters are active in the area, but there is no evidence that they are aware of the site's existence.

The excellent condition and exotic artifacts make this site appealing to pothunters. The site's location and contents should remain unknown to the public.

*Condition #1 applies.**

EXAMPLE 2: A group of Civil War shipwrecks sunk off the Carolina coast contains important examples of both merchant vessels used for blockade running and naval warships. The ships have remained largely untouched because most of them are completely submerged and difficult to reach.

Most of the sites' damage has been caused by natural decay and water currents. The increasing popularity of sport diving, however, is likely to spread knowledge of the ships' existence and heighten the risk of disturbance.

Condition #1 applies.

EXAMPLE 3: Site 34-KC-119 has been known to local collectors for many years and has been surface collected since the area was first cultivated in the early 1800s. The collectors have been mainly interested in projectile points for their private collections. The owner of the property gives permission to collect only during the spring before the crops are planted.

The site is considered significant for its extensive carbonized faunal and floral remains, which have not been disturbed by the surface collection. Continued surface collection will, however, remove the remaining projectile points which, through their association with dated material, could become diagnostic artifacts to help date related sites with similar points. Surface collection should be discouraged by restricting information about the site.

Condition #2 applies.

EXAMPLE 4: Magnolia Hill is an antebellum plantation house which was used as an encampment by General Sherman and his troops during their "March to the Sea." It is vacant and in an isolated area and has been subject to vandalism.

Despite the damage caused by neglect and vandals, the house is still in fair condition and retains much of its original architectural ornamentation. These surviving features require the protection of an information restriction.

Condition #2 applies.

EXAMPLE 5: The Pa'Haea is an isolated site containing temple platforms, hunting shrines, wall alignments, and agricultural terraces. The native elders consider the site sacred, and offerings can still be found.

Releasing information about the site would attract visitors, who would disturb private ceremonies and increase the risk of desecration to the grounds and relics.

Condition #3 applies.

EXAMPLE 6: The site of an important gold discovery contains the ruins of early mining equipment. It is on agricultural land that is fenced to protect the crop from wild animals.

If the location of the site and the nature of some of the remains became known, the site, the fence, and the crops probably would be damaged by unauthorized visitors.

Conditions #1 and #4 apply.

EXAMPLE 7: Benson House is an early 20th century private house in an old urban residential area. The house has fine interior and exterior features, including elaborate stone carvings and stained glass panels, and contains a large collection of antiques.

The risk of burglary, already prevalent in the neighborhood, would be increased by the publication of the house's address and description of its contents and architectural features.

Conditions #1 and #4 apply.

EXAMPLE 8: Pictographs in a cave are well protected by a locked iron gate at the cave's entrance. The cave is located five kilometers from the nearest public road. The owner believes that publication of the cave's location will increase trespassing in off-road vehicles.

Although the pictographs are protected, there is a likelihood of landscape damage by off-road vehicles.

Condition #4 applies.

*See pages 3 and 4 for list of Conditions.

SELECTED READING LIST

For further information on cultural resources and their protection, the following sources are recommended:

Government Regulations, Guidelines, and Reports

Advisory Council on Historic Preservation. *Preparing Agreement Documents*. Draft. April 1988. See Section VII.C.8(a).

Department of the Interior. National Park Service. "Code of Federal Regulations, Title 36, Part 60 (Interim Rules for the National Register of Historic Places)." *Federal Register* (1 November 1981) vol. 46, no. 220. See p. 56191.

Department of the Interior. National Park Service. "Guidelines for Federal Agency Responsibilities, Under Section 110 of the National Historic Preservation Act." *Federal Register* (17 February 1988) vol. 53, no. 3. See p. 4738.

Department of the Interior. National Park Service. "Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation." *Federal Register* (29 September 1983) vol. 48, no. 190. See pp. 44725, 44728, 44729, 44737.

U.S. Congress. House. Committee on Interior and Insular Affairs. Subcommittee on General Oversight and Investigation. *The Destruction of America's Archeological Heritage: Looting and Vandalism of Indian Archeological Sites in the Four Corners States of the Southwest*. 100th Congress, 2d session, 1988. Washington, DC: GPO.

U.S. General Accounting Office. *Cultural Resources: Problems Protecting and Preserving Federal Archeological Resources*. (Report to Congressional Requesters) Washington, DC: GPO, 1987.

U.S. General Accounting Office. Comptroller General. *Are Agencies Doing Enough or Too Much for Archeological Preservation? Guidance Needed*. (Report to the Chairman, Committee on Interior and Insular Affairs, House of Representatives) Washington, DC: GPO, 1981.

Periodicals

Arden, Harvey. "Who Owns Our Past?" *National Geographic* (March 1989) vol. 175, no. 3, pp. 376-392.

Drake, Carol. "The Buried Don't Rest in Peace." *The Centre View Magazine*, 25 November 1987, pp. 19-20.

Fagan, Brian. "Black Day at Slack Farm." *Archaeology*, July/August 1988, pp. 15-16, 73.

Friedman, B. Robert. "Digging Up the U.S." *American Heritage* (August/September 1983) vol. 34, no. 5, pp. 35-47.

Goodwin, Derek V. "Raiders of the Sacred Sites." *New York Times Magazine*, 7 December 1986.

Robbins, Jim. "Raiders of the Lost Art." *Chicago Tribune Magazine*, 10 August 1986, pp. 8-17.

Stuart, George E. "The Battle to Save Our Past." *National Geographic* (March 1989) vol. 175, no. 3, pp. 392-393.

Wellborn, Stanley N., et al. "When Greedy Collectors Plunder the Past." *US News & World Report*, 4 March 1985, pp. 29-30.

National Register Bulletins

12 *Definition of National Register Boundaries for Archeological Properties.*

15 *Guidelines for Applying the National Register Criteria for Evaluation.*

16 *Guidelines for Completing National Register of Historic Places Forms.*

20 *Nominating Historic Vessels and Shipwrecks to the National Register of Historic Places.*

34 *Evaluating and Nominating Historic Aids to Navigation (in preparation).*

36 *Historic Archeological Sites: Guidelines for Evaluation (in preparation).*

38 *Guidelines for the Evaluation and Documentation of Traditional Cultural Properties.*

National Register Bulletins are available by writing:

U.S. Department of the Interior
National Park Service
Interagency Resources Division (413)
P.O. Box 37127
Washington, DC 20013-7127

