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LD 1028 - Protection of Indian Archaeological Sites: Report to the Standing Committee on Appropriations and Financial Affairs

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LD 1028 — PROTECTION OF INDIAN
ARCHAEOLOGICAL SITES

*REPORT TO THE STANDING COMMITTEE ON
APPROPRIATIONS AND FINANCIAL AFFAIRS*



Arthur Spiess, Archaeologist
Maine Historic Preservation Commission
with
Representative Donald Soctomah

January, 2000

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Ceramic pot rim sherds, 2000 years old



Shell midden excavation. Photo courtesy of University of Maine at Orono

INTRODUCTION

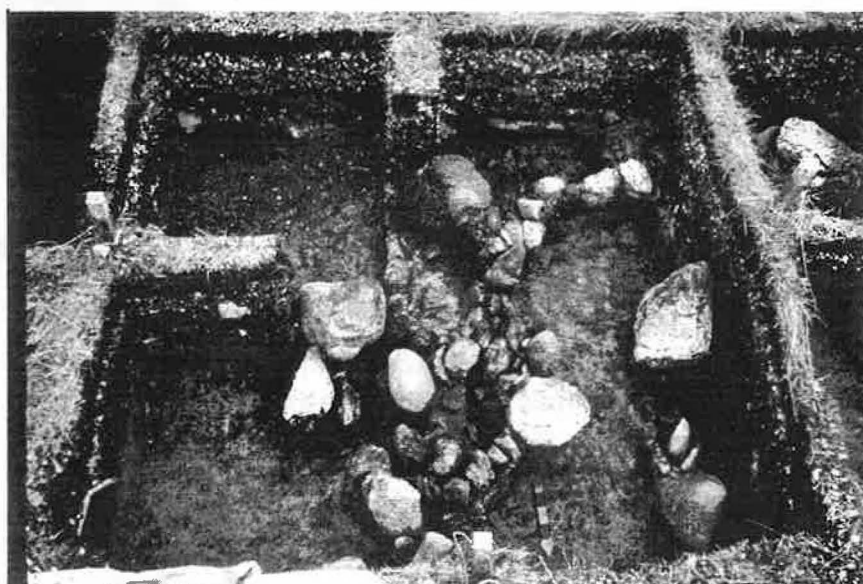
In the spring of 1999 the 119th Legislature passed the following Resolve requiring study of the issue of looting and vandalism of Native American archaeological sites, and preparation of a report recommending solutions:

119th LEGISLATURE LD1028

Resolved: That the Maine Historic Preservation Commission and the Representatives of the Penobscot Nation and the Passamaquoddy Tribe jointly shall conduct a review of the threats to Native American archaeological sites from looting and vandalism and report their recommendations for implementing a monitoring or stewardship program for site protection and preservation. The review must also involve the following law enforcement agencies: the Maine Warden Service, the Maine Forest Service, the Bureau of Marine Patrol and local and state law enforcement. The review must also involve the Native American community and other interested parties.

To fulfill this legislative charge, Arthur Spiess held a series of meetings with Representative Donald Soctomah in August and September, 1999, and Spiess, Soctomah and Representative Donna Loring met on September 8, 1999. Spiess met with the state law enforcement agencies mentioned in the legislation or held discussions over the telephone during September through December, 1999. Donald Soctomah presented the legislation to inter-tribal meetings for discussion. Comments were sought from the Board of the Maine Archaeological Society.

This report is organized to (1) present the resource and scope of the problem, (2) review the existing laws, (3) discuss the options of site monitoring or stewardship and how they are practiced currently in Maine and elsewhere, (4) present our discussions with law enforcement, and (5) make recommendations to the Legislature.



Native American fire hearth, about 1000 years old, in shell midden. Photo courtesy of the Maine State Museum.

THE RESOURCE

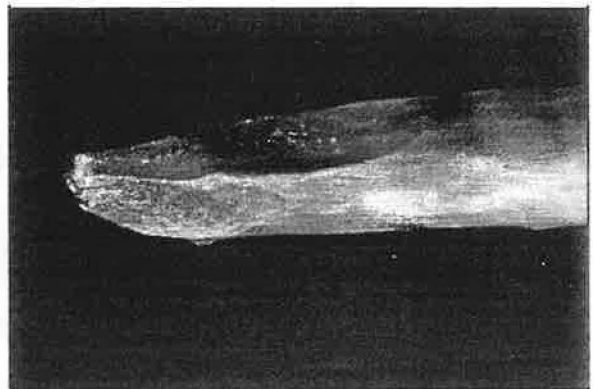
There are about 7000 Native American archaeological sites known in Maine at present. Archaeologists place these in prehistoric (pre-written record or pre 1500 AD) and Contact period (after European arrival and written records) categories. Based upon professional archaeological examination of a sample of a few thousand of these sites, approximately half are well enough preserved to contribute information to archaeological study or the study of the history and prehistory of Maine's Native peoples. Moreover, archaeological survey is not complete, and there are many more sites to be found. Thus, we are concerned with managing and preserving at least 3000 archaeological sites for the future. These sites range in size from less than 1/4 acre to more than 10 acres; but the average size is about 1 acre, so the total area involved is small. However, the sites are widespread geographically: Kittery to Fort Kent to Eastport. Most are located near the coast, lake shorelines, river banks, and larger streams. A few are on sandy soils away from canoeable water.

Native Americans have lived in Maine for about the last 11,000 years. During this time they have created several types of archaeological sites in various geological and topographic settings. The vast majority of prehistoric sites in Maine are habitation/workshop sites, which combine evidence of a range of activities from food procurement and processing through tool maintenance and material manufacture. These sites comprise the majority, certainly more than 95%, of the known archaeological record. They exist in a continuum of size and density which is currently impossible to subdivide in any meaningful fashion. We will return to this category of site for further discussion below.

Lithic quarry sites are highly localized mines for rock useable for stone tools at bedrock outcrops, or as cobble material along exposed, stony stream and river bottoms. Bedrock outcrop quarries occur at localized quartz, rhyolite and chert sources which are predictable on bedrock geology maps of Maine. A fishweir, wooden stakes up to 5000 years old preserved in mud in Sebasticook Lake, is the best example of a rare "wet site" type in Maine that preserves wood and other normally perishable material.

Cemetery sites are locations for multiple interments of the dead, spatially separated from habitation sites. Cemeteries were produced only during specific portions of Maine prehistory, notably the Laurentian and Moorehead Late Archaic (or "Red Paint" circa 8000 to 4000 years ago), the Susquehanna Tradition (4000 to 3000 years ago), and the early Ceramic period (3000 to 2400 years ago). Cemeteries are always located on well-drained sandy or gravelly-sand soils near a large or small river or lake shore, or within 100 yards of a major habitation site.

Rock art sites include petroglyphs and pictographs. There are now approximately ten petroglyph locations known in Maine, and one pictograph or rock painting site. All contain shamans' mnemonic (memory aiding) representations of spirit journeys or related designs, and probably date from the last 3000 years or less. All are located immediately adjacent to canoe-navigable water on particular kinds of bedrock outcrops.



Cut tip of wooden stake #142 from the Sebasticook fishweir, Newport. About 2.5 inches in diameter. Despite the excellent preservation the stake is 5100 years old.

Habitation/workshop sites are found in two soil depth situations in Maine: shallowly buried, and deeply buried. The majority are shallowly buried on soils derived from glacial till, reworked till, sand, gravel, and silt emplaced by geological processes before 12,000 years ago, and before human beings arrived in Maine. In these situations there has been no net accretion of the land surface except by human agency. Archaeological material is distributed within the top 30 or 40 cm (1½ feet) by active soil turnover (by frost action, animal burrowing, and plant growth) on these types of soils. In these situations, which represent more than 95% of the land surface of Maine, archaeological material is shallowly buried and can be discovered or destroyed by any process that disturbs the top 1½ feet or so of the soil. Deeply buried sites occur only in alluvial settings along rivers and streams, where periodic flooding has deposited silt or sand. Such sites can be up to 3 meters (10 feet) deep in Maine. Ninety-five percent or more of known prehistoric habitation/workshop sites in Maine are located adjacent to canoe-navigable water (coast, lake, river, stream, swamp) or "fossil" (former) waterways or shorelines of the same types, such as where a river has abandoned an old channel and cut a new one. Well drained sandy soil of low slope near a small stream seems to be the attractive factors for most of the remaining (approximately 5%) sites.

A small sample of these sites have occupation components dating from the last 400 years or so, since European contact. Some of these sites are particularly and directly relevant to the recent history of the modern tribes in Maine and therefore deserve protection for their potential contribution to understanding recent Tribal heritage in addition to their significance as archaeological sites.

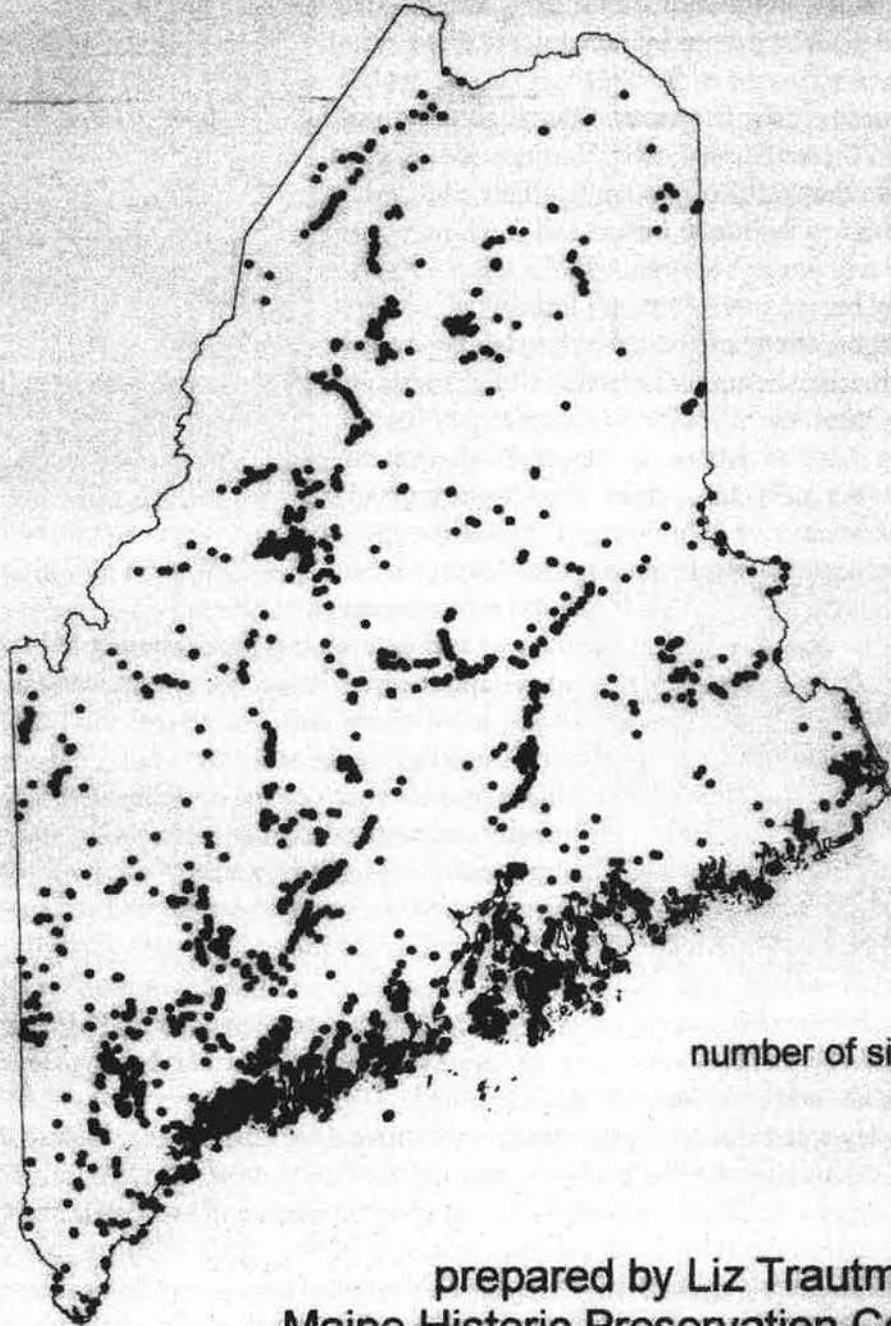
Preservation of sites for the future is critically important, because archaeological techniques improve over time, particularly laboratory analysis techniques. Having sites to excavate in the future is a guarantee that we can ask questions with the improved science of the next century, questions not only of relevance to Native American life in Maine and world history in more general terms, but specific questions of environmental change in Maine's animal and plant communities. Because significant Maine archaeological sites often contain food animal bone and charred plant remains as well as Native American tools, they can answer questions about environmental change and response to change by human, animal and plant communities.

Maps on the next two pages show the distribution of Native American archaeological sites listed in the National Register of Historic Places (149 sites), and all sites that are known to be or are likely to be scientifically significant (2978 sites). All of these sites are worthy of protection for the future. They are distributed across the state, in all counties and in many townships. Since listing a site in the National Register requires a significant investment of time and resources to complete necessary archaeological testing, mapping, and analysis, the National Register listed sites are a non-random sample of all significant sites where work has been done in response to a specific problem or opportunity.



Deep site excavation. 3000 year old Native American occupation under Fort Halifax, Winslow.

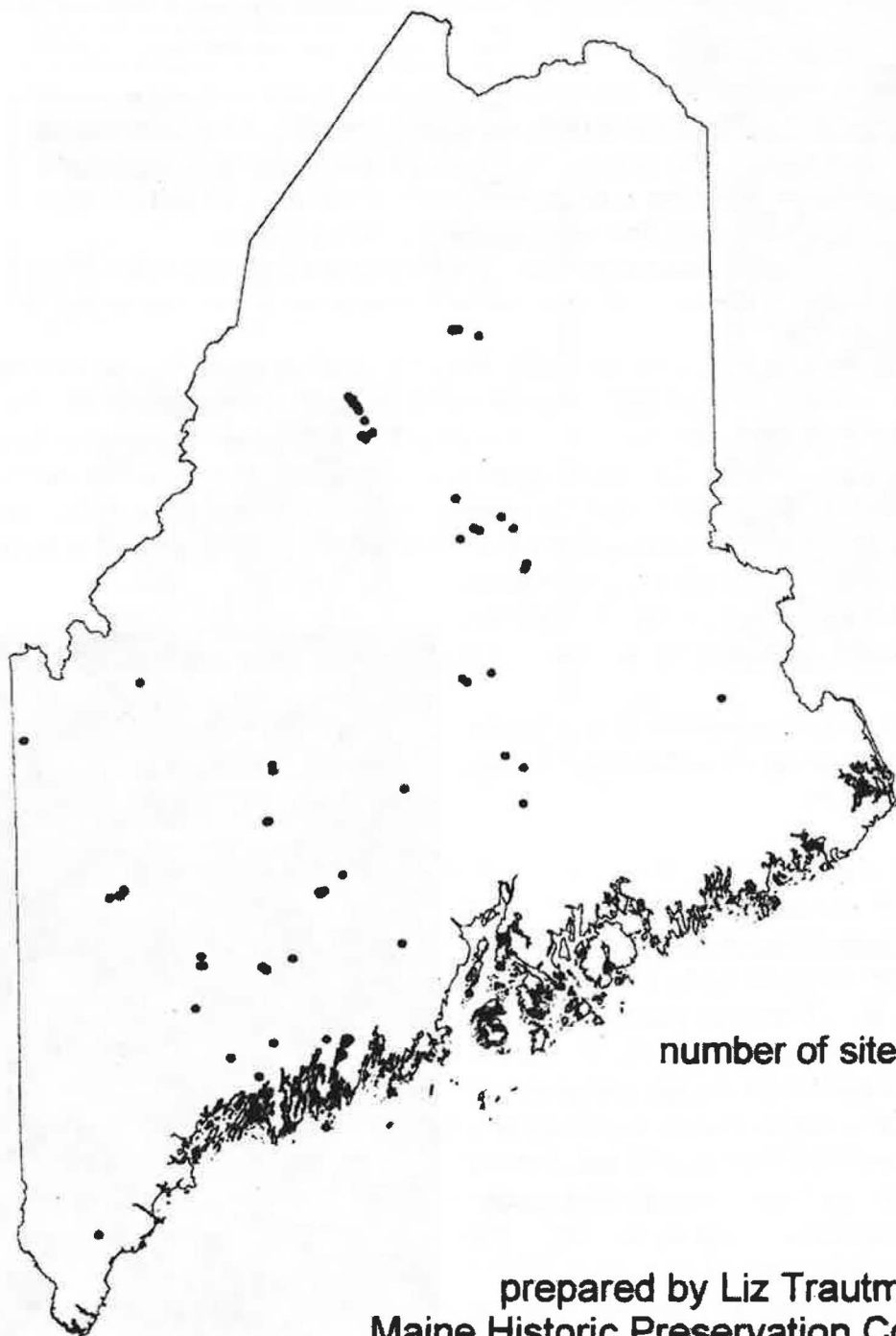
Native American Archaeological Sites in Maine Potentially Eligible for Listing on the National Register of Historic Places



number of sites=2978

prepared by Liz Trautman
Maine Historic Preservation Commission
November 1999

Native American Archaeological Sites in Maine Listed on the National Register of Historic Places



number of sites = 149

prepared by Liz Trautman
Maine Historic Preservation Commission
November 1999

THE PROBLEM

The major sources of damage to archaeological sites in Maine are erosion along the coast or inland lake or river shores, development without prior archaeological survey, and looting (or illegal excavation and collecting). Looting seems to be increasing in frequency, and it is the subject of this report.

"Our archaeological heritage is under constant threat by those who loot for pleasure and profit. The crime may be metal detecting on a battlefield, defacing rock art, pilfering a shipwreck, looting a burial, or trafficking in artifacts. Year after year, the devastation becomes clearer"

► The Federal Archaeology Program, Report to Congress 1996-1997

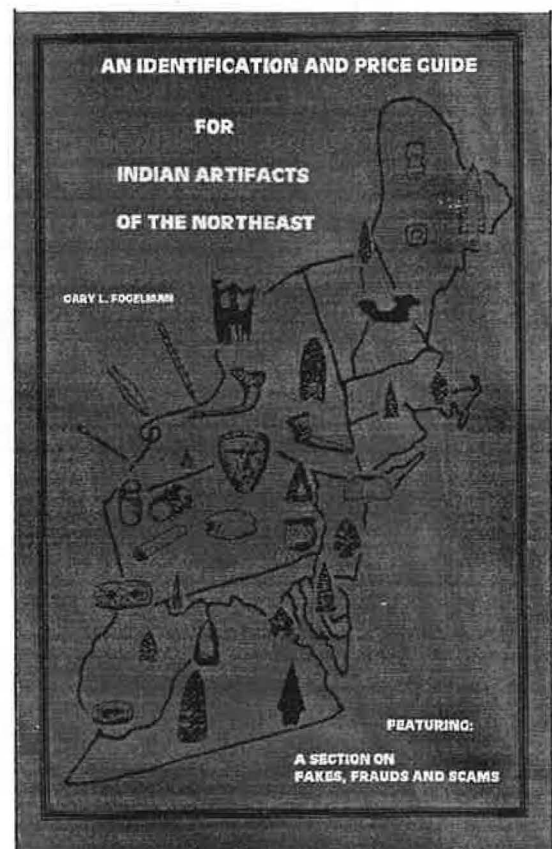
Looters act for two reasons. Some are driven by the joy of collecting, and some loot for profit through the sale of artifacts. Occasionally, someone crosses that line, collecting avidly for awhile and then selling the collection. In this section we provide a catalogue of looting or vandalism incidents and reports of sale of artifacts as background on the possible magnitude of the problem.

We should note, too, that there are many responsible collectors who pick up artifacts that have been eroded onto a beach or lake shore, artifacts that would otherwise be destroyed or transported away by the forces of nature in a relatively short time. They would never dream of selling their collections, and would dispose of them only by donation to a museum.

We are, in this section, separating those who dig or otherwise vandalize or deface archaeological sites, and labeling them looters.

The Market in Artifacts

There is an active market for Native American archaeological artifacts in the United States. Luckily, much of this activity seems to be centered elsewhere than in Maine, so far. There are price guides published for collectors of artifacts from the Northeast, however, such as Fogelman's *An Identification and Price Guide for Indian Artifacts of the Northeast* (see Figures). Prices in 1994 for rare artifacts that are found in Maine, such as heavy woodworking gouges and axes in best condition, range up to \$500. The "average" common Maine arrowhead might bring \$10 according to this guide, and broken points less than that. There are, however, a few types of Maine Paleoindian spear points that might fetch more than \$1000.



Late Paleo

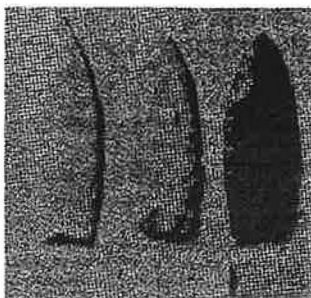
During the late Paleo a few more knives/projectiles appear in the Northeast, but not in great numbers. Most notable, perhaps, is the Agate Basin and McConnell Lanceolates. A very few parallel-flaked Eden-like points have appeared here in the Northeast, but very few. They are much rarer than fluted points, but are priced about the same.

The Agate Basin is found randomly over a wide area but mostly in the western areas of the Northeast. These are often well made and eagerly sought, not only by the Paleo nuts, but others as well, as they are often very well made. Of course, this is why non-Paleo nuts sometimes buy fluted points. They are made mainly of New York and Ohio flints, generally the same good grade flints seen in fluted points.

The McConnell Lanceolates from Ohio are probably related to the Agate Basin, but confined mainly to western Pennsylvania and western New York. The Stringtown Lanceolates are also early, but seldom seen outside the West Virginia panhandle and surrounding area.

One other rare western type comes about as often as the Eden-like points, and this is the Scottsbluff type.

	GOOD	BETTER	BEST
Agate Basin	\$100 - 200	\$200 - 300	\$300 - 500
Eden-like	\$100 - 200	\$200 - 300	\$300 - 500
McConnell	\$ 50 - 100	\$100 - 200	\$200 - 400
Stringtown Stemmed	\$ 50 - 100	\$100 - 200	\$200 - 400
Scottsbluff	\$100 - 200	\$200 - 300	\$300 - 500



Three late Paleo points. The first two are either Agate Basin or unfluted Clovis, the third is a McConnell. Best, good, better.

14

Interior pages of price guide, dealing with Late Paleoindian point styles.



Three Stringtowns and a McConnell. Best, good, good, better.



Top - Agate Basin and three unfluted Clovis? All good to better. Bottom row - 1g. knife and four McConnell points. All better to best.



Top - all Agate Basin, full range from good to best. Bottom - Base of a Debart point, Scottsbluff and two Dalton-like points. The Scottsbluff in best, the others better.

15

Recently, sale of objects through the Internet, and especially through such auction houses as eBay™, have provided a broader market for artifacts that stretches across state lines. A review of the eBay listings for Native American stone tools on May 21, 1999 found no Maine artifacts for sale, but did locate many pieces being auctioned for \$30 to \$500. (We also noticed, incidentally, that many of the pieces for sale seemed to be fakes.) The Internet will only increase the ability of looters to dispose of artifacts acquired unscrupulously. (Note that interstate offers to sell stolen artifacts is a violation of a Federal statute called ARPA. See review of legislation section below.)

The "high-end" market for Native American stone tools, as well as the problem of fraudulent production of stone tools, was explored in an article in *The New Yorker* ("Woody's Dream" by Douglas Preston, 11/15/99, pages 80-87). We need only quote briefly to make the point that market forces are helping to drive the looting problem:

"Nine months earlier ... he had bought three Clovis points from an antique dealer in Rollins, Montana, for fifteen thousand dollars. Then ... the dealer had arrived on his doorstep with nine more, and wanted to sell them for a hundred and thirty-five thousand dollars. Eventually, the dealer dropped the price to eighty-five thousand dollars."

Looting Hurts Individual Landowners

In addition to the damage to science, looting is usually seen as offensive vandalism by private landowners. And, to the extent that a significant archaeological site on private property may be eligible for conservation easement protection and favorable tax treatment, destroying archaeological site value can also hurt landowners financially.

Professional archaeologists are contacted several times a year in Maine by landowners who wish to stop repetitive looting incidents on their property, or prevent isolated looting from happening again. For example, in September, 1999, the Abbe Museum notified the Maine Historic Preservation Commission that a private landowner in Lamoine had reported ongoing vandalism on a shell midden, and wanted to know what he could do about it. We respond with advice about the remedies available under Maine's "Antiquities Law" (see below), including posting and emergency site designation under 27MRSA§378. But, in the case of a seasonal landowner (summer resident from Massachusetts, in this case), the real issue is enforcement and monitoring of the site to prevent looting.

A Catalogue of Looting and Vandalism

Site 69.4, the Hodgdon site in Embden on the Kennebec River, is the location of a major petroglyph site, and an adjacent archaeological campsite used for the last few thousand years through the 1720s when Father Rasle was the missionary at Norridgewock. Thus, the archaeological site contains stone tools, pottery, and metal and other objects manufactured from European goods. The site is on private property, protected by a conservation easement, and posted. In the fall of 1998, Eric Lahti, a former high school teacher, local resident and part-time employee of the Commission, visited the site on an unofficial monitoring visit. He noticed an area about four square meters in extent, located immediately below a "Posted -- No Ground Disturbance" sign on an adjacent tree, that had been looted. Fragments of stone tools, chips of stone (debitage, manufacturing debris), and broken pieces of Native American pottery were lying on the surface of the back dirt. The Maine Historic Preservation Commission notified the landowner of the incident, and sent Mr. Lahti and a full time employee to screen the backdirt, recover the disturbed artifacts, map the disturbance on the site plan, backfill the looter's hole, and restore the surface appearance of the site.

A vandalism incident at the nearby petroglyph ledge in 1983 resulted in the only court case filed under Maine's Antiquities Law. In the summer of 1983 a Massachusetts resident and self-employed archaeological researcher applied white paint to the petroglyph designs in an attempt to enhance their visibility for photography (Figure). Following the procedures in the law current at the time, at the request of the Commission the Attorney General's office filed suit against the perpetrator in the 12th Dis-



Embden petroglyph images close-up after 1983 painting incident.

trict Court in Skowhegan asking for a financial penalty. The perpetrator claimed that the paint was water-based. Subsequent scrubbing by Commission staff and about two years of rainfall and weathering eventually removed the vast majority of the paint. The suit was eventually dropped after the petroglyphs recovered with minimal damage.

Looting incidents occur much more often than they are reported to the profession. In a few cases we do know when the incident happened exactly. In April 1999 Ellen Cowie, Director of the Archaeology Research Center, University of Maine at Farmington, reported to Spiess that someone was seen using a metal detector on the Norridgewock mission site and had evidently dug into the soil in a few places. (This site is a National Historic Landmark. Increased monitoring of this isolated area is a necessity.) Two or three years ago, an archaeologist working on the Downeast Maine coast reported that a major portion of a shell midden on an offshore island had been “dug over” in a short period of time. Inquiries have pieced together the story that a group of three or four local fishermen had decided to go see what they could find with the help of clam forks and other tools, after spending a few hours in a bar. Subsequent visits to the site by the archaeologist confirmed that between 25% and 50% of the upper layers of the site had been turned over in this one event.



Looter's hole in a shell midden in the Mount Desert Island area. Photo courtesy Abbe Museum.

The TP and RL Case

The Maine Historic Preservation Commission has been able to tie together several looting incidents and sales of artifacts through the identity of two looters working together. In this report these two individuals are referred to by their initials: RL and TP. In July 1993 a student in central Maine recorded a license plate number of a car used by two individuals to loot a site in Solon, and



Stone gouge or woodworking tool collected by TP from submerged state lands, Sebasticook Lake.

his teacher passed the information to Spiess. Spiess asked the Capitol Police for registration information. In September the same car was spotted at a site (54.1) in Burnham while two individuals (“one skinny guy and one fat guy”) dug on the site; the site was currently being investigated by a professional archaeologist who reported the same plate number to Spiess. Within a week, the individual who owned the car called Spiess and started asking questions about artifacts: how do you identify certain types, what were they worth? Spiess spoke at length with TP, who stated in addition that he was a diver and had found some artifacts underwater in Sebasticook

Lake.

In February 1994, by prior arrangement TP and another man brought (some of?) TP's (or their?) collection(s), mostly from the Burnham site, to the Commission where it was photographed and examined by Spiess and the professional who had been working on the Burnham site. These individuals fit the description of the looting incident at Burnham, and they readily admitted having artifacts from the site. During that conversation, TP identified the place of origin of many of the artifacts he had brought in, including several pieces from underwater off the mouth of Sebasticook Stream in Sebasticook Lake (Figure). Spiess cautioned that they were probably state property, and Spiess also received assurances that TP and his partner "did not dig." Spiess asked for and received the three artifacts that were clearly state property from Sebasticook Lake and subsequently turned them over to the Maine State Museum. In March, 1994, Spiess received a call from RL, mentioning TP as his partner, said he had over 1300 artifacts and needed to know how to classify them. Spiess subsequently received a call from RL's Parole Officer (Department of Corrections) with the information that RL had mentioned Spiess's name and the fact that RL was an avid artifact collector. Subsequently RL offered his collection to a Maine museum, and a call to his parole officer indicated that RL had been in custody a few days earlier (previously on parole for trafficking scheduled drugs), and was now looking for bail money. In September, 1994, Spiess was notified by a member of the Maine Archaeological Society that prehistoric artifacts were for sale in a shop on Silver Street in Waterville. Spiess went to the shop, purchased two pieces for a total of \$12 plus tax, identified himself to the shop owner, and received permission to photograph the display. Subsequent conversations with the owner established the fact that he had purchased the collection from RL for \$178.50, and the owner allowed Spiess to borrow the collection and photograph it at the Commission. (The collection was returned, and never put on display again.) In October, 1994, Spiess wrote to District Attorney James Mitchell in Waterville, stated the facts, and asked whether the case might be prosecuted. D. A. Mitchell's office subsequently advised us that prosecution under the Antiquities Law (27MRSA371-378) would have to be referred to the Attorney General's office, and that prosecution under other statutes would not be worthwhile. Spiess concluded that the State did not have a case under the Antiquities Law, since none of the sites were covered by the law.

In the fall of 1996 Spiess noticed a collection of prehistoric Native American ceramic sherds on sale in a gem and mineral shop in Belfast, and asked the proprietor who had sold them. The store records identified RL. The proprietor subsequently allowed Spiess to take the collection to the Commission and record it photographically, and then removed it from the marketplace. The final chapter began in February, 1999, when Spiess received a phone call from a staff member at a major Maine museum asking for advice on purchasing a collection of Native American stone artifacts offered for \$15,000 by an antique dealer in southern Maine. The antique dealer had stated to the museum that he had purchased the collection from TP. Spiess advised not to purchase the collection without the involvement of law enforcement and conferred with the Maine State Museum. The State Museum had received and ignored similar offers of sale. The antique dealer then threatened the major museum with putting the collection up for auction on the Internet. The State Museum checked with the U. S. Attorney's office in Portland, and the Commission was advised to watch eBay to see if the collection was offered for interstate sale. It has not been, to date.

This case proves that at least some of the looting in Maine is caused by individuals who may be interested in the artifacts, but who are ultimately driven by market forces to sell the objects. Seemingly, more intensive site monitoring and greater involvement of law enforcement are necessary to deal with such individuals.

SYNOPSIS OF EXISTING LAWS

This section provides a summary of existing Federal and Maine statutes that may be applicable to the issue of archaeological site protection. Herein it is pointed out how the law is or may be applicable, but leaves discussion of any recommended changes or problem areas for the Discussion section below.

The National Historic Preservation Act of 1966, as amended

PL 89-665 and PL 96-515

The National Historic Preservation Act established the National Register of Historic Places as the official register of "significant" historic properties and archaeological sites in the United States. The NHPA is relevant to this report because Maine's Antiquities Law (see below) uses the standard of National Register listing as one of several criteria for defining a "site" that can be legally protected. The reason that this standard was adopted is that National Register listing of an archaeological site requires a significant amount of archaeological testing as well as a boundary description, produced in a written format. Thus, any site that is listed in the National Register will be defined and mapped. As well, the standard of National Register listing means that Maine does not otherwise (i.e., in a separate, parallel state system) have to deal with the issue of what constitutes a "significant" site worthy of protection.

Nominations to the National Register of Historic Places from Maine are made by the Maine Historic Preservation Commission (upon staff advice) at quarterly meetings. Usually, but not always, those nominations are accepted by the National Register of Historic Places, and the site is listed. A significant amount of archaeological work and time to prepare a National Register nomination for a site is usually necessary, added to which is a time for Commission review and review in Washington. The time and budget factors are relevant to the discussion of Emergency Site designation for protection under section 378 of Maine's Antiquities Law (see below).

Archaeological Resources Protection Act of 1979

PL 96-95 (16 USC 470)

The Archaeological Resources Protection Act (ARPA) is a Federal statute. It provides for a permit system for lawful excavation. Collecting of archaeological artifacts on Federal land and Indian lands, and collecting or excavating without a permit on these lands is a violation. ARPA also establishes that interstate sale or offers for sale of any artifacts obtained in violation of State or local statute is an ARPA violation. This latter provision is a powerful one: any offer for sale of an artifact stolen from personal or State property (with theft defined as unauthorized taking under Maine statute) is a Federal offense. In theory, ARPA could be used to shut down all interstate commerce in artifacts obtained without landowner's permission. We quote the statute in part:

Section 6 (a). No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4....

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or

removed from public lands or Indian lands in violation of --

(1) the prohibition contained in subsection (a), or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

Penalties for violation (Section 6 (d)) are fines of not more than \$10,000 and imprisonment for not more than a year, except that those penalties are doubled if the value of the objects offered for sale or damage done exceeds \$5000. Multiple violations of the statute can result in fines of not more than \$100,000 or imprisonment for not more than 5 years.

Maine's Antiquities Law

27 MRSA§371-378

The full text of Maine's Antiquities Law is reproduced as Appendix A to this report. A copy of the posting sign designed by the Commission for this statute is reproduced in an accompanying Figure. This statute has several relevant provisions for the subject of protecting archaeological sites. In the statement of policy (§371) the state specifically asserts its ownership of artifacts, specimens and materials found on, in, or beneath state land. In addition to that provision, the law defines archaeological "sites" that will be protected and establishes a permit system for lawful excavation or removal of artifacts from such sites. There is a penalty clause (civil violation with forfeiture of \$50 to \$1000 per violation) for excavation or disturbance of a site or removal of artifacts without a permit.

The definition of "site" to be protected by the statute is complicated. It seems that even many professional archaeologists are not familiar with this definition. If the property is state-controlled land, a "site" is defined by being listed in the National Register of Historic Places *and* being posted. For private property or municipal or county property, a "site" is defined by being listed in the National Register of Historic Places *and* being posted, *and* the subject of a preservation agreement (conservation easement) between the landowner(s) and the Commission under 33 MRSA §1551. In addition, a "site" can be defined as protected under §378 Emergency Site Designation, that requires the written permission of the property owner for such listing and posting, and filing a notice

**POSTED
NO GROUND
DISTURBANCE**

27 MRSA 371-378
PENALTY UPTO \$1000
PER VIOLATION

Property Eligible for Listing
in the National Register
of Historic Places

Posting sign, about 50% of original size.

of the designation in the County Registry of Deeds.

Several issues dealing with possible changes to this statute are addressed in the Discussion and Recommendations sections below.

Theft by Unauthorized Taking or Transfer

17-A MRSA §353

Although this statute does not specifically mention archaeological artifacts, they are, under common law, property of the landowner. Unless the landowner has specifically transferred mineral rights, or transferred the rights to ownership of archaeological artifacts by some means, taking them from the property is theft. Means by which a landowner may transfer ownership of archaeological artifacts would include specific provisions of a conservation easement, verbal or written permission to search for artifacts, or an archaeological excavation on the property.

The value of the artifacts taken, presumably the fair market value on the antique market, would determine the classification of the theft offense. If the value of the property exceeds \$10,000, the theft is a Class B crime punishable by imprisonment up to 10 years. Similarly, theft of between \$2000 and \$10,000 is a Class C crime punishable by up to 5 years; theft between \$1000 and \$2000 is Class D punishable by imprisonment up to 1 year; and theft of less than \$1000 is a Class E crime punishable by imprisonment up to 6 months. Since most Maine prehistoric artifacts would have relatively low market values, archaeological artifact theft would most often be a Class E or Class D offense.

Criminal Trespass

17-A MRSA §402

Quoting §402(1)(C), a person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters any place from which that person may lawfully be excluded and that is posted in accordance with subsection 4 or in a manner that is reasonably likely to come to the attention of intruders Under (4)(A) posted signs must indicate that access is prohibited, access is prohibited without permission of the landowner, or that access is prohibited for a particular purpose. Thus, any person who enters onto an archaeological site that is posted against ground disturbance and who digs to collect artifacts without permission should be guilty of criminal trespass. Criminal trespass is a Class E crime punishable by up to 6 months imprisonment.

DISCUSSIONS WITH LAW ENFORCEMENT

LD 1028 provided that this review of threats to archaeological sites must involve “the Maine Warden Service, the Maine Forest Service, the Bureau of Marine Patrol and local and state law enforcement.” On July 19th, 1999, Spiess sent letters requesting consultation and a copy of LD1028 to the Maine State Police, the Department of Inland Fisheries and Wildlife, the Maine Forest Service, and the Department of Marine Resources. On September 21 Spiess contacted James Ricker, Newport Chief of Police, and he put Spiess in touch with the Maine Chiefs of Police. In October we contacted the Maine Bureau of Parks and Lands after learning that they had enforcement authority on some state lands.

The following paragraphs provide a summary of discussions and comments with specific

agencies. Where they have replied in writing, that reply is summarized in the appropriate section below, and the written reply is reproduced in Appendix B.

Two consistent themes ran through our discussions with law enforcement agencies, and those themes serve as a summary of the consultation process. First, all would like more information on archaeology and some requested specific training in the form of presentations at meetings. Spiess committed to working to fulfill those requests. Second, law enforcement officers are very busy and, with the possibility of rare exceptions of an archaeological site near a regular patrol route, cannot take it upon themselves to regularly monitor archaeological sites for vandalism or looting. The Maine State Police and the Maine Warden Service specifically stated that they would be willing to help with a criminal investigation if the interested archaeological community identifies a criminal act or can provide leads to a pattern of criminal acts.

The Vermont Division of Historic Preservation has approached the issue of co-ordination with law enforcement on the issue of archaeological site looting by convening a group of law enforcement professionals and archaeologists to work out a protocol for responding to specific cases of looting. The Commission recommends developing protocols with the Maine State Police and the Maine Warden Service for future response.

The Maine State Police

Spiess met with Lt. Anne Schaad and Dr. Timothy Kupferschmid on September 1, 1999. (Dr. Kupferschmid is director of the State Police DNA laboratory and had worked for Spiess as a field and laboratory archaeology crew member in the early 1980s.) The State Police have expressed their willingness to investigate specific acts of looting or vandalism, but cannot assume the burden of monitoring specific properties. They are willing to work out a pre-arranged protocol and response for such situations when they are detected. Dr. Kupferschmid stated that the crime lab would help with evidence examination, but such evidence had to be submitted by law enforcement personnel.

The Maine Warden Service

Spiess met with Fred Hurley, Assistant Commissioner Maine Department of Inland Fisheries and Wildlife, and Col. Tim Peabody, Chief Warden on October 1, 1999. We discussed the need for additional training materials for wardens and biologists. Spiess committed to producing an article for the agency internal newsletter and to presenting training or awareness workshops at District meetings. Col. Peabody stated that we had to be sensitive to work overload for the wardens, but in the normal course of their duties the wardens could take appropriate action if they suspected someone of looting an archaeological site. Such actions would include talking to people, making them aware of the law, and getting a name or other identification (such as a boat registration number). The Warden Service would be happy to work with the archaeological profession on specific cases of looting on significant sites. Some individual wardens might be able to visit exceptional archaeological sites during the normal course of their duties.

The Maine Forest Service

Spiess wrote to Tom Doak on August 18, 1999, and spoke with Tom Parent at length about LD 1028 and archaeological site looting on September 1, 1999. The Maine Forest Service stated in a memo of December 7 that Forest Rangers would be limited to acquiring information about any archaeological site looting incidents they encounter, and reporting the information to local law

enforcement. However, the Maine Forest Service is open to receiving training about archaeological sites and inspecting some sites with known or anticipated problems at more frequent intervals than they are not now being monitored.

The Bureau of Marine Patrol

On December 7, 1999 Spiess spoke at length with Col. Joe Fessenden of the Marine Patrol, Department of Marine Resources. Col. Fessenden had previously been briefed by Representative Donald Soctomah concerning LD 1028. After discussing applicable laws, Col. Fessenden recommended changing the penalty for looting to a criminal penalty. Civil penalties allow the issuing of citations, but a criminal penalty allows arrest and posting of bail, which is the best way to ensure that an out-of-state-resident violator will respond to a summons. Expanding the criminal trespass statute, including prima facie presumption that someone is violating the law if digging on property that is not their own, was another recommendation.

Col. Fessenden stated that the Marine Patrol would be willing to ask anyone they observed digging on a shell midden whether or not they know who the landowner was and whether they had permission to be digging. We then discussed in-service training and educational material for Marine Patrol officers. Spiess committed to providing a seminar at annual in-service training meetings for Marine Patrol officers, and developing an informational flier that could be mailed to all Marine Patrol officers as a reminder every other year. Col. Fessenden expressed a willingness to help with investigations of patterns of looting, or specific incidents of looting that might be pursued, including incidents that might be first detected with a system of volunteer site monitors.

Maine Chiefs of Police

Chief James Ricker of the Newport Police Department kindly contacted Chief Joe Rogers, President of the Maine Chiefs of Police Association, who put Spiess on the agenda of the Maine Chiefs of Police Executive Committee for their December 8 meeting at the Maine Criminal Justice Academy, Waterville. Approximately 20 Chiefs of Police and representatives of other law enforcement agencies were present. Spiess made a brief presentation describing the scope of the archaeological resource, the looting problem, and the market for stolen antiquities, including a specific case in the Waterville area. A helpful discussion followed, centered on the need for avoiding publicity for archaeological sites that are not otherwise physically protected because there are not enough police officers in the state to monitor them all. The consensus result of the discussion is that archaeologists should approach the Police Chief in towns that have a special concentration of important archaeological resources or an identified looting problem, and work directly with individual police departments on local solutions. Another helpful suggestion was to develop a brochure on archaeology and the looting problem to make available to law enforcement officers when beginning discussions focussing on a specific looting incident or problem.

Bureau of Parks and Lands

On September 30, 1999 Spiess delivered a training session on recognizing and managing archaeological sites to the field staff of the Lands division of the Bureau of Parks and Lands. Although Bureau of Parks and Lands was not specified in LD 1028, the Bureau does have enforcement powers under 12 MRSA §1801 ff. on Parks properties, public reserved lands and public non-reserved lands. Thomas Morrison considered the issues raised by LD 1028 and stated Bureau

policy in an October 25, 1999 letter. Staff will issue verbal warnings and make education efforts when looting is detected, but will call in local or state law enforcement professionals if further action is needed. Spiess agreed with Parks staff to provide revised maps of known archaeological sites on Parks properties (having provided a map set in the early 1980s), and to work with Bureau staff to develop site protection and monitoring plans during the planning process for each specific property.

SITE MONITORING OR STEWARDSHIP

Site monitoring or stewardship is the term for site protection from looting by repeated or regular visits to the site. Herein are discussed two site monitoring programs: a small one that has been in place in Maine since 1988, and a much larger one in Arizona.

The Maine Site Monitoring Program

In 1988 the Maine Historic Preservation Commission and the Maine Archaeological Society signed a memorandum of agreement (Appendix C) establishing a site monitoring system for a selected few archaeological sites where long-term site monitoring was required as a condition of development or license. This site monitoring system is modeled after an informal system in British Columbia. The Maine Archaeological Society is the non-profit corporation organized by and for responsible amateur and professional archaeologists in Maine, so they were the natural choice for a public-private partnership to provide labor and responsible individuals for site monitoring. Since 1988 the Maine Archaeological Society has signed three contracts (example, Appendix C, contract with Patten Corporation) to provide twice-yearly (minimum) monitoring at a total of five archaeological sites involved with hydroelectric development and land development. Individuals sign contracts with the MAS to provide the monitoring services, in exchange for token payments of \$100 or \$200 per year (see contract example in Appendix C). Monitoring forms are filled out and submitted to the Commission staff after each visit (example for site 74.8 in Appendix C). Monitoring has occasionally detected vandalism and break-ins at a fence-secured site (74.8 in Eddington, on Bangor Hydroelectric property). Spiess notified the appropriate staff at Bangor Hydroelectric, and the physical protection (fencing) on the site was repaired. Annual reports on the monitoring program are prepared by Commission staff, and examples from 1989 and 1998 are included in Appendix C.

The Arizona Site Steward Program

The Arizona Site Stewardship Program is a much larger effort than the existing Maine program, in part because the severity of archaeological looting is much greater in the Southwest with its many exposed ruins and generally higher value of the "best" loot from such sites. In addition, looters in the west are often armed. Included in Appendix C is a copy of the Arizona "What to do if you witness pothunting" fact sheet, and a Cultural Resource Vandalism Report. Note the emphasis on personal safety on the fact sheet.

The Arizona Site Steward Program is described (in part) in a 40 page handbook for volunteers, produced by the Arizona Historic Preservation Office, from which the following description of the program is summarized.

Arizona Site Steward Program -- Mission Statement

The Arizona Site Steward Program is a statewide organization of volunteers, sponsored by the public land managers of Arizona and the Hopi Tribe; selected, trained, certified and appointed by the State Historic Preservation Office. Stewards are committed to cultural resource preservation activities, especially monitoring designated cultural resources for damage caused by vandals or nature.

In 1992 the program had over 400 site stewards, arranged in a hierarchical organization of regional co-ordinators overseeing individual stewards and reporting to a staff member in the State Historic Preservation Office with overall responsibility for the program. Training is provided for all new volunteers. Site visits are carefully planned and documented, including notifying someone not going on the trip in case trouble develops. (Much of Arizona is desert, and as mentioned above, site looters are often serious.) Remote sites are visited on a 6 to 12 week rotation basis, less remote sites more often. There are guidelines for approaching sites without being seen (given the treeless, often hilly country observation without detection is often possible), and there are guidelines for protecting evidence if a looting incident is detected. There are also procedures for accompanying a law enforcement response team. In general there is much in the Arizona model that could be adapted to use in Maine, or a smaller scale.

DISCUSSION

The Native American archaeological resource in Maine is broad-based geographically. Of 7000 known sites in Maine, about 3000 are or may be significant (eligible for listing in the National Register of Historic Places). These sites are distributed from Kittery to Fort Kent to Eastport. Their broad geographic distribution means that protection and monitoring efforts cannot be geographically concentrated.

A market for archaeological artifacts exists as a force to drive illegal looting. In addition, some misguided individuals who collect artifacts dig to obtain them on property that is not their own, thus severely damaging archaeological sites. As shown by at least one case, some artifact collectors may be interested in the subject of archaeology, then sell their collections when under financial pressure. Some individuals involved in collecting are otherwise operating on the fringes of the law, too.

Existing laws seem to provide a framework for site protection and prosecution, with possible amendments suggested below. Interstate commerce or offer for sale of illegally obtained artifacts is a violation of Federal statute (ARPA). Criminal trespass and theft statutes can be enforced within state for those who dig on property not their own, or on posted property not their own, although the offense would usually be a Class E crime punishable by less than 6 months incarceration. And for some individuals, seemingly, threat of prosecution for a Class E crime is little deterrent if the risk of getting caught is low.

Maine's Antiquities Law could be an additional effective legal deterrent to looting, but as it is currently written it applies to a limited number of sites. Punishment of up to \$1000 per looting incident may be effective, given that looters could be identified, and the threat of a fine double the price of artifacts offered for sale should also stop in-state sale of artifacts obtained from protected

sites. The Commission proposes several changes to the definition of “site” to make the law more broadly applicable.

- ▶ Because National Register listing can take time and financial resources that are often limited, and because all significant sites on *state, county or municipal* property should be protected, we propose adding the idea that a site judged eligible for NR listing by the Maine Historic Preservation Commission (with the concurrence of the appropriate land managing agency director or local government official), *and posted*, shall be defined as a site protected by the law. Thus, any posted archaeological site on state or local government property could be legally protected.
- ▶ Section 378 allows emergency site protection at the request of a landowner for one year. There is clear demand for such protection evidenced by complaints of looting and requests for help from private land owners to the Commission every year. Because patterns of looting behavior seem to persist over years, perhaps decades, and because it often takes several years to find the resources to accomplish testing necessary for National Register nomination, the Commission suggests changing the 1 year term for emergency site protection to a period up to 10 years. A one year term is simply not enough to change their behavior if the looters have easy access to the site area. As written, the clause requiring that the designation be filed with the county registry of deeds does not make sense. Such filings, for example, would take place anyway in the case of a conservation or preservation easement. The requirement for filing in the county registry should be replaced by a written agreement between the landowner and the Commission specifying the area to be protected. Note that the posting requirement remains to notify anyone intent on looting that they should not be doing what they intend.

Law enforcement agencies clearly do not feel that they have the time to provide archaeological site monitoring anything more than an exceptional basis. However, several law enforcement agencies, notably the Maine State Police and the Maine Warden Service, volunteered to help with criminal investigations of specific looting incidents. Steps to make that possible response swifter and more effective should include development of a protocol or reaction process for such events, and training sessions in the basics of archaeological site form and content for interested officers. The Commission can provide the training and much of the leadership for the development of protocols in the future.

Given the above changes and considerations, we are still left with the issue of preventing archaeological site looting by individuals who will not heed posted signs and the property rights of others. The only way to inhibit those individuals is to increase the threat that they may be discovered and ultimately prosecuted. *For these reasons the primary recommendation of this report is to increase the frequency and intensity of archaeological site monitoring in Maine.*

We have presented two site monitoring programs as examples: the small one in place in Maine, and the much larger Arizona Site Stewardship program. We should take aspects of both, and design an intermediate-sized program that will serve Maine’s needs better. There should be a handbook and standardized procedures for field visits and reporting. There should be central co-ordination at Maine Historic Preservation Commission, and we ask for funding for part-time staff help to perform that work under the supervision of the Commission’s archaeologist. In the expanded program we believe that volunteers can perform much of the site monitoring, but strongly suggest that they be reimbursed a token amount for their travel, telephone calls, postage, film costs, etc. The current MHPC-MAS monitoring program will work well as a model for expanded volunteer participation.

In addition, there will be room for participation in site monitoring by Tribal governments and professional archaeologists. Moreover, state employees of some land-managing agencies may monitor sites on some state lands. Tribal governments that have formally designated a Tribal Historic Preservation Officer (under the revised National Historic Preservation Act) should be invited to participate in the site monitoring program on tribal lands and *with permission* on private property in their geographic area of Maine. Funding for this monitoring may come in part from Department of the Interior Historic Preservation Funds grants directly to THPOs, and in part from state appropriated funds designated for this monitoring program. Professional archaeologists should also have a place in the monitoring program, including Commission field staff, other state and university staff archaeologists, and private contract archaeologists. Many of these individuals will volunteer some of their time, but in some cases (such as sites requiring considerable effort to access) or repeated visits to sites under real threat, payment of costs will probably be necessary. In addition to the above, we anticipate working closely with field personnel of State land managing agencies (primarily the Bureau of Parks and Lands) to design site monitoring programs for individual state properties. We ask that the details of designing the monitoring system be left to the Commission and co-operating groups if the Legislature decides to fund this option.

RECOMMENDATIONS

The following recommendations fall into three categories: changes in existing “Antiquities” legislation (27MRSA §371-378); specific actions including expanding a site monitoring program, plus training and coordination with law enforcement; and a funding request to pay for the actions. The recommendations are presented in that order.

Recommendation 1

Remove the requirement for National Register listing for State, county, or municipally owned sites to be protected from looting. If a site is owned by the State or one of its political subdivisions, and posted, then no one should be digging on the site without a permit. Revise 27MRSA §373-A (8)A as follows:

A: On or under state-controlled land and is:

(1) Listed in the National Register of Historic Places or judged eligible for National Register listing by the Maine Historic Preservation Commission and with the concurrence of the appropriate land managing agency director or local government official; and

(2) Posted.

Recommendation 2

A portion of the penalty clause (27MRSA §375(2C) for excavation without a permit on a site does not make archaeological sense. The clause currently reads: “direct the violator to restore the site to the condition that existed prior to the unlawful excavation or to ameliorate the effects of unlawful excavation.” *Once looted or disturbed, archaeological context is gone and cannot be restored.* We recommend that this clause be replaced with the possibility of additional judgement as compensation for the amount of information that would have been obtained by appropriate archaeological excavation of the portion of the site that was damaged in the amount that would reasonably have been spent on such archaeological excavation. In addition, we recommend reconsideration of the entire penalty clause to consider a criminal penalty, and/or raising the minimum penalty in the statute from \$50 to \$250.

Recommendation 3

27MRSA §378, the emergency site designation provision currently allows designation of a “site” protected under this legislation (with private landowner written approval) for a period of one year. The one year term is not useful, considering that looters attention to a site might last for years, and it may take several years to fund and complete excavations appropriate for National Register nomination, followed by a period of several months to obtain National Register listing. To react effectively to landowner’s concerns for looting on their property, and effectively stop looting on particular sites, we request that the “period not to exceed one year” be changed to “period not to exceed ten years”. We recommend that the requirement for filing in the county registry of deeds be eliminated. The requirement for filing in the county registry should be replaced by a written agreement between the landowner and the Commission specifying the area to be protected.

Recommendation 4

It is impossible to deter looters without periodic site visits, and law enforcement agencies do

not have the capability of providing that service on a broad scale. We recommend taking the successful model of the Arizona Site Stewardship program and the existing joint Maine Archaeological Society - Maine Historic Preservation Commission Monitoring Program, and expand active site monitoring in Maine. The program would be staffed by a part-time monitoring coordinator on the Maine Historic Preservation Commission staff (using existing part-time project personnel, *not a new position*) reporting to the the Commission staff archaeologist and Director. Site monitoring would be accomplished by professional archaeologists working for the State government (some Commission part time project personnel), the State University system, private contracting archaeologists (including some Tribal members), and volunteers (including some Tribal members) who may be reimbursed for expenses. Note that most professional archaeologists would likely volunteer some of their time to the program in exchange for reimbursement of expenses, although some professional time would have to be paid.

Recommendation 5

Law enforcement does not have the time to do site monitoring, but several law enforcement agencies have expressed willingness to take over investigations of looting incidents that might lead to prosecution. In addition, several State law enforcement agencies and local law enforcement (Maine State Chiefs of Police Association) have expressed an interest in continuing training in the subject of archaeology and potential looting. We, therefore, need to develop protocols or written agreements with several law enforcement agencies on how to respond to looting incidents, as well as provide periodic training sessions in various formats (in person, videotape, paper materials).

Recommendation 6 -- Funding

Additional funding of \$20,000 per year through the Maine Historic Preservation Commission's budget should be adequate to institute this program as follows:

- a) \$5000 per year for site monitoring coordinator, part time project position;
- b) \$5000 per year to pay for law enforcement investigation costs and/or development and delivery of training materials for law enforcement;
- c) \$10,000 per year to pay for increased site monitoring, including professional archaeologists who would be paid and volunteers who would be reimbursed for expenses.

APPENDIX A

TEXT OF 27 MRSA 371-378 AS AMENDED TO DATE

§ 371. Statement of policy

The Legislature, in recognizing the importance of Maine's cultural heritage of the distant past to our understanding of Maine's people, declares that it is the policy of this State to preserve and protect archaeological sites for proper excavation and interpretation.

It is the public interest to provide for the preservation and interpretation of archaeological artifacts and specimens for the benefit of the people of the State. In order to ensure proper preservation and interpretation of artifacts, specimens and materials which are found on, in or beneath state-controlled land, it is in the public interest that a single state department be designated to hold title, as trustee for the State, to all such artifacts, specimens and materials, except as may be authorized by section 376.

The State Museum Bureau is best qualified to assume that trusteeship by virtue of the fact that its facilities are intended to function primarily for the purpose of preserving and interpreting artifacts, specimens and materials as defined within this subchapter.

§ 372. Legislative intent

1. Transference of custody. The several departments of the State are authorized to transfer any archaeological objects, materials or specimens in their possession to the custody and trusteeship of the State Museum Bureau.
2. Museum responsibility. The State designates the State Museum Bureau to hold title, as trustee for the State, to all archaeological objects, materials and specimens found on, in or beneath state-controlled lands. The State charges the State Museum Bureau with the responsibility of protecting, preserving and interpreting such objects, materials and specimens as may be placed under its trusteeship; preventing their defacement, damage, destruction or unauthorized removal; and ensuring their continued availability for scientific study by qualified persons, agencies or institutions.

§ 373-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Artifact. "Artifact" means a physical entity which has been worked or modified by human action.

- 1-A. Owner. "Owner" means any person, corporation, partnership, organization or other legal entity, including a municipality, county or other political subdivision of the State, an agency of the Federal government and any quasi-governmental entity, which owns or controls historic property.
2. Authorized representative. "Authorized . representative" means any official or group of officials employed by the permittors or other competent person authorized in writing by the permittors.
3. Excavation. "Excavation" means any turning over, removal or disturbance of the soil, artifact in the soil or ground matrix or recovery or disturbance of artifacts that are fully or partially submerged in the water and tidal sites. "Excavation" includes, but is not limited to, activities such as purposeful looting, material procurement or construction activities or vandalism. In the case of private property the term "excavation" on a site shall not include activities associated with agriculture or forestry unless specifically, provided for in the permit or the preservation agreement as defined in Title 33, section 1551, subsection 2.
- 3-A. Landowner. "Landowner" means any person, corporation, partnership, organization or other legal entity, including a municipality, county or other political subdivision of the State, an agency of the Federal Government and any quasi-governmental entity, which owns or controls a site.
4. Materials. "Materials" means 3-dimensional items, other than artifacts and specimens, and excludes books, papers, manuscripts and archival or library material commonly included in the display or research collection of museums.
5. Object. "Object" means any archaeological monument, artifact, relic or article.
6. Permittors. "Permittors" means the Director of the Maine Historic Preservation Commission and the Director of the State Museum Bureau as well as the director of any state department administering state-controlled lands, acting in concert in the review, approval and granting of permits.
7. Principal investigator. "Principal investigator" means the senior scientist in charge of an archaeological excavation.
8. Site. "Site" means any area containing archaeological artifacts or materials or other evidence of habitation, occupation or other use by historic or prehistoric people, and which is either:
 - A. On or under state-controlled land and is:
 - (1) Listed in the National Register of Historic Places; and
 - (2) Posted;
 - B. The subject of a preservation agreement between the landowner or landowners and the

Maine Historic Preservation Commission, pursuant to Title 33, section 1551 and is:

- (1) Listed in the National Register of Historic Places; and
 - (2) Posted; or
- C. Subject to Section 378.

- 9. Specimen. "Specimen" means any items, set of items or parts of items collected as representative samples of geological media or biological forms found within the State.
- 10. State-controlled land. "State-controlled land" means any land or water area owned in fee simple by the State, with the exception of those lands contained within Baxter State Park. State-controlled land includes, but is not limited to, state parks, state recreation areas, wilderness and wildlife preserves, located public lots and land beneath great ponds or navigable bodies of water and other submerged lands owned by the State.

§ 374. Legislative provisions

- 1. Purpose. The people of this State benefit only when a site is systematically excavated, analyzed and interpreted by a qualified principal investigator
- 2. Permit procedure. The procedure for obtaining a permit to excavate a site shall be as follows:
 - A. Any person, agency or institution desiring to excavate a site shall submit a written application.
 - B. Application for a permit shall be in the form of a letter and research proposal directed to the Director of the Maine Historic Preservation Commission and shall be accompanied by a copy of the preservation agreement attested by the Register of Deeds and the written permission of the landowner to proceed with the excavation. The landowner may give permission to excavate in the preservation agreement.
 - C. The permit to excavate shall be cosigned by the Director of the Maine Historic Preservation Commission and the Director of the State Museum Bureau, except for state-controlled lands where the permit also shall be cosigned by the director of the agency with primary jurisdiction.
 - D. The application shall state the nature and specific location of the artifacts, specimens and materials to be removed, the legal name and address of the, person, agency or institution seeking authorization and the date or dates on which the artifacts, specimens or materials are to be removed.
 - E. Upon receipt of an application, the permittors may issue a written permit authorizing the excavation of the site for such term and upon such conditions as they deem reasonable and which are consistent with subsection 3.
- 3. Permit conditions. The conditions which may be imposed upon a permit are as follows.

- A. In order to minimize damage to state-controlled lands and to artifacts, specimens or materials to be removed, and, in order to ensure the recording and preservation of significant data regarding those artifacts, specimens, materials or sites, the permit may set forth requirements or limitations regarding the methods and equipment to be employed in the removal, the procedures to be followed in documenting the removal and the report or reports, if any, to be submitted to officials or agencies of the State upon completion of the removal activities.
 - B. The permitors may require that an authorized representative of the State be present to witness and document the removal of artifacts, specimens or materials from state-controlled land.
 - C. The permit shall clearly indicate the type of artifacts, specimens or materials to be removed, the location of the site, the time of the proposed removal activity or excavation, the legal name and address of the permittee and any other limitations and requirements that may be imposed by the permitors.
 - D. On excavations authorized by the permit process, the principal investigator should normally possess the minimum qualifications of a graduate degree in anthropology, archaeology or a related field, accompanied by institutional facilities to ensure proper conservation and curation of the artifacts, materials and specimens or extensive experience and demonstrated ability.
4. Permit revocation. All permitors, or their authorized representatives, may revoke or suspend a permit if there is evidence to indicate that the permittee has violated or exceeded the limitations of his permit, or if there is evidence to indicate that artifacts, materials or the site are being unnecessarily defaced, damaged or destroyed in the course of their removal. Any willful violation of the provisions or limitations of a permit is grounds for immediate revocation of the permit and shall be construed as unauthorized excavation.
5. Permit possession. The permit shall be retained in the personal possession of the permittee during the course of removal activities, and shall be made available for inspection upon demand of any authorized representative of the State. Any person or persons engaged in excavation on a site who do not produce a valid permit upon demand of an authorized representative of the State, are presumptively engaged in unauthorized excavation.

§ 375. Unlawful excavation

- 1. Definition of unlawful excavation. "Unlawful excavation" means unauthorized excavation at a site, unless:
 - A. A demonstrable emergency situation existed relating to the survival of the site; and
 - B. An excavation permit is immediately applied for in accordance with section 374.
- 2. Penalty. Violation of this chapter is a civil violation for which a forfeiture of not less than

\$50 nor more than \$1,000 shall be adjudged. The unlawful excavation for any one day shall constitute a separate violation. The Director of the Maine Historic Preservation Commission, in the name of the people of this State through the Attorney General, may in addition to other remedies provided bring an action for an injunction seeking one or more of the following remedies:

- A. To restrain a violation of this chapter;
 - B. To enjoin future unlawful excavation; or
 - C. To direct the violator to restore the site to the condition that existed prior to the unlawful excavation or to ameliorate the effects of unlawful excavation.
3. Prosecution. The Attorney General, upon receiving notification of a violation of this section from the Director of the Maine Historic Preservation Commission, is authorized to file a complaint against the person named in the District Court or the Superior Court of the district or county in which the person resides, or in the district or county in which the violation occurred.

§ 376. Antiquities recovered from archaeological sites

1. State-owned artifacts to remain in Maine. No artifacts, objects, specimens or materials originating from a site on state-controlled land may be authorized to leave the State permanently without written permission of the permittors. They may be loaned for a term specified by the permittors for proper study or exhibit.
2. Sale of artifacts. Attempts to sell, offers of sale and sale of artifacts, objects or specimens, excavated after the effective date of this Act, whether excavated lawfully or unlawfully from a site, without the written permission of the permit grantors or the Director of the Maine Historic Preservation Commission and the Director of the State Museum Bureau, shall be punishable by a civil penalty not greater than twice the price for which artifacts, objects of specimens are sold or offered for sale.
3. Prosecution. The Attorney General, upon receiving notification and evidence of violation of this section from the Director of the Maine-Historic Preservation Commission, is authorized to file a complaint against the person named in the District Court of the district in which the person resides, or in the district in which the violation occurred.
4. Artifact ownership. Artifacts, objects, materials and specimens recovered from sites on state-controlled land are the property of the State Museum Bureau. Artifacts, objects, specimens or materials originating from a site on other than state-controlled land are the property of the landowner and shall be deposited with a suitable repository as designated by the landowner in the preservation agreement, or the permit.

§ 377. Protection of site location information

In order to protect the site from unlawful excavation or harm, any information on the location

or other attributes of any site in the possession of the Maine Historic Preservation Commission, the State Museum Bureau, the Bureau of Parks and Recreation, other state agencies, or the University of Maine may be deemed by the Maine Historic Preservation Commission or State Museum Bureau to be confidential and exempt from Title 1, Chapter 13. Such data shall be made available for the purpose of archaeological research. The directors of the Maine Historic Preservation Commission and the State Museum Bureau shall jointly adopt rules establishing standards and procedures for obtaining the data, and may impose reasonable requirements on its use, including requirements of confidentiality.

§ 378. Emergency Site Designation

In the case of an area containing archaeological materials or artifacts that is directly threatened with unauthorized excavation, the Director of the Maine Historic Preservation Commission, with the written permission of the landowner, may designate the area as a site that is subject to this chapter for a period not to exceed one year. All sites given emergency designation under this section must be posted against unauthorized excavation. Notice of the designation must be filed with the registrar of deeds in the county in which the site is located.

APPENDIX B

WRITTEN COMMENTS FROM STATE AGENCIES ON LD 1028 CONSULTATION



STATE OF MAINE
Department of Public Safety
Maine State Police
42 State House Station
Augusta, Maine
04333-0042

Col. Malcolm T. Dow
Chief

Lt. Col. David D. Viles
Deputy Chief

September 17, 1999

Dr. Arthur Spiess, Archeologist
Maine Historic Preservation Commission
55 Capitol Street
Augusta, ME 04333-0065

Dear Doctor Spiess:

I am writing in regard to 1999 Resolve, c. 23 entitled Resolve, to Prevent Tampering With Indian Archeological Sites. Lt. Anne Schaad recently met with you regarding the issues involved with a monitoring program for site protection and preservation to prevent looting and vandalism of Native American archeological sites. Lieutenant Schaad related the conversation to me.

The vast majority of the 7000 Native American archeological sites are located away from the State's roads and highways. Because of the great number of sites, their locations and the demands for service that the State Police is currently responding to, we do not have the resources to assist in monitoring the sites for possible looting and vandalism. While our officers are trained to be suspicious and aware of the potential that a crime may occur in order to prevent it, we rarely monitor specific properties. We will investigate and work with you if you report looting or vandalism at a site to us.

I have also reviewed the resource protection protocol from Vermont. If you convene a group to discuss the formulation of a similar protocol in Maine, the State Police would like to be invited to participate.

Sincerely,

COLONEL MALCOLM T. DOW
Chief

cc: Lt. Anne P. Schaad

OFFICES LOCATED AT: 36 HOSPITAL STREET

(207) 624-7068 (Voice)

(207) 624-4478 (TDD)

(207) 624-7088 (Fax)



STATE OF MAINE
DEPARTMENT OF CONSERVATION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

ANGUS S. KING, JR.
GOVERNOR

RONALD B. LOVAGLIO
COMMISSIONER

25 October 1999

Arthur Spiess
Maine Historic Preservation Commission
State House Station 65
Augusta, Maine 04333

Dear Art,

Thank you for your letter regarding the implementation of L.D. 1028, "An Act to Prevent Tampering with Indian Archaeological Sites."

Properly trained Bureau of Parks and Lands staff can have law enforcement authority on bureau lands; however, we have elected not to have staff issuing summons or making arrests. If education and verbal warnings do not deter offenders and cause them to cease their activities and immediately turn over any materials in their possession to staff, our policy would be to call in designated local or state law enforcement professionals for further action.

We are very interested in your work on L.D. 1028 and will do whatever we can to see that the archaeological resources on our lands are better protected. Please don't hesitate to let me know how we can do this job better within the limitations described above. As you note, your speaking to our staff at Bigelow was a first step in that direction and we deeply appreciate the time that you took to do that. Your talk, by the way, was very well received.

Please don't hesitate to contact me on this issue. We look forward to seeing the report that you write as a result of L.D. 1028.

Sincerely,

Thomas A. Morrison
Director

cc: Sheila McDonald
Herb Hartman



Spiess, Arthur

From: Doak, Tom
Sent: Tuesday, December 07, 1999 5:43 PM
To: Spiess, Arthur
Cc: parent, tom
Subject: Historic Preservation Commission Response - Draft Letter



archeo~1.lwp

Attached is our response to your request for information regarding the protection of archaeological sites. Please feel free to call me at 287-2795 with any questions.

Thank you for sending us a summary of issues, laws and activities related to protecting archaeological sites in Maine. After reviewing the information that you sent to us, it is our belief that the Maine Forest Service can assist in protecting archaeological sites. However, our role would be somewhat limited and likely fall short of your needs. Following is a summary of the actions that we believe can be taken. Please feel free to incorporate this summary into your report.

Forest Rangers are the only sworn law enforcement employees within the Bureau of Forestry. Their law enforcement authority is established in 12MRSA section 8901 which limits their authority to forest and forest preservation statutes. Should a forest ranger find a problem with an archaeological site, their role, in most cases, would be to acquire information and report it to local law enforcement officials.

We are open to receive training about archaeological sites, their location, typical problems, and what we might be able to do without involving law enforcement. If you have some sites where there are known or anticipated problems, we could plan to inspect the sites at some more frequent intervals.

Sincerely, Thomas Doak

APPENDIX C

ARCHAEOLOGICAL SITE MONITORING MATERIALS



MAINE HISTORIC PRESERVATION COMMISSION
55 Capitol Street
State House Station 65
Augusta, Maine 04333

Earle G. Shettleworth, Jr.
Director

Telephone:
207-289-2133

SITE MONITORING
MEMORANDUM OF AGREEMENT

WHEREAS, the Maine Archaeological Society and the Maine Historic Preservation Commission agree that the long-range protection of Maine's archaeological resources is one of the foundations of an effective public archaeology program; and

WHEREAS effective long-range protection of archaeological sites from vandalism and from natural disaster must include a program for periodic site visitation to monitor site condition;

NOW THEREFORE, the Maine Archaeological Society and the Maine Historic Preservation Commission agree as follows:

1. The Maine Archaeological Society agrees to accept funds for the purpose of long-range archaeological site monitoring. Such funds may be offered by a third party, hereinafter referred to as "Developer".
2. Acceptance of such funds, and a decision to contract with a Developer to provide long-term site monitoring services shall be made on a case-by-case basis by the Board of the Maine Archaeological Society, based on the considerations of fiscal soundness of the proposed contract, the

significance of archaeological site(s) in question, and availability of responsible personnel to undertake a monitoring program.

3. The normal term for site monitoring after completion of a mitigation plan or licensing agreement between the Maine Historic Preservation Commission and the Developer shall be twenty (20) years. The normal charge for each individual site to provide twenty-year monitoring services by the Maine Archaeological Society shall be \$3,000; \$2,000 to be used to pay for field expenses and labor, and \$1,000 to provide for management services. The cost per site figure may be lowered substantially if sites are closely grouped geographically and can be visited in a short period of time.
4. The Maine Archaeological Society shall use approximately 1/20 of the money designated for field expenses and labor to contract annually with an appropriate individual or individuals to visit each site bi-annually (once every six months) and to prepare confidential reports on the site's condition to the Maine Historic Preservation Commission. These individuals shall be referred to as Regional Conservation Archaeologists. As Regional Conservation Archaeologists, their legal powers shall be limited to site access privileges as specified in any easement or other agreement between the Maine Historic Preservation

Commission or the Maine Archaeological Society and a Developer. They shall refer all reports of vandalism, natural disaster or damage, or other items needing legal or regulatory action to the staff or Director of the Maine Historic Preservation Commission.

5. The Maine Historic Preservation Commission will supply summary statements on the effectiveness of the program, number of sites checked, changes in their condition, and other relevant data, without endangering site security, to the Maine Archaeological Society on an annual basis.
6. Choice of individual contractors to monitor certain sites is subject to approval by the staff archaeologist of the Maine Historic Preservation Commission and Board of the Maine Archaeological Society.
8. The Maine Historic Preservation Commission shall supply forms to be used for reporting site visits and a staff contact person for Regional Conservation Archaeologists, normally the staff archaeologist.
9. This agreement does not effect the rights of the Maine Historic Preservation Commission, as holder of an easement on any property, to enter that property for the purposes of inspection for compliance with terms of this easement.
10. This memorandum of agreement may be terminated upon six (6) months prior notice by either party, and the conclusion of arrangements for transfer of funds and monitoring

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project and compliance with the terms and conditions of this Contract;

- g. Understand that this Contract may be cancelled, terminated, or suspended by the Society only upon replacement with another Contractor acceptable to the Maine Historic Preservation Commission;
- h. Understand that payment of this contract will be by a lump sum payment upon initiation of the contract;
- i. Ensure that adequate financial resources will be available for performance, including necessary experience, organization, technical qualifications and facilities, to complete the project;
- j. Ensure that an adequate financial management system will be maintained which provides efficient and effective accountability and control of all property, funds and assets;
- q. Provide the Maine Historic Preservation Commission with copies of all contracts entered into in connection with the project;

3. The Society further agrees to

- a. Ensure that the project will be directed by a person who has been approved by the Society and the Maine Historic Preservation Commission for this purpose;
- b. Provide a summary reports on a periodic basis to the Maine Historic Preservation Commission as specified in the attached Memorandum of Agreement;

Bernice Doyle
Bernice Doyle, President
Maine Archaeological Society, Inc.

Patten Auction + Land Corporation
Developer

By Steven R. King
Signature

Steven R. King
Name (Typed or Printed)

Executive Vice President
Title (Typed or Printed)

Lorie Rich 12/6/88
Witness: Notary Public Date
LORIE L. RICH
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUG. 13, 1993

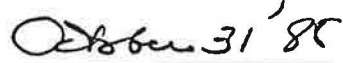
Susan G. Mulholland 11-28-88
Witness: Notary Public Date
My Commission Expires 2/18/93

responsibility to another non-profit or government agency.

Approved

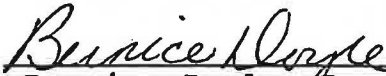


Earle G. Shettleworth, Jr., Director
Maine Historic Preservation Commission

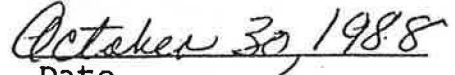


Date

Approved



Bernice Doyle, President
Maine Archaeological Society



Date

ARCHAEOLOGICAL SITE MONITORING CONTRACT

between

THE MAINE ARCHAEOLOGICAL SOCIETY, INCORPORATED
P. O. Box 982, Augusta, Maine 04330

and

Patten Auction and Land Corporation
P.O. Box 601, Bangor, Maine 04401

THIS CONTRACT is made and entered into by and between the MAINE ARCHAEOLOGICAL SOCIETY, INC. (hereinafter called the "Society") and Patten Auction and Land Corporation (hereinafter called the "Developer"). The Society and the Developer mutually agree as follows:

1. The Society accepts payment from the Developer in the amount of \$1500 for the purpose of conducting long-term archaeological site monitoring of archaeological site(s) number 107.4 over a period of 10 years.
2. In carrying out the archaeological site monitoring the Society agrees to execute its responsibilities in accordance with the Memorandum of Agreement with the Maine Historic Preservation Commission for such activities, appended below and to:
 - a. Duly and faithfully comply with all conditions of this contract;
 - b. Duly and faithfully comply with all applicable Federal and State laws, regulations, policies, requirements, and guidelines, including but not limited to 27MRSA Sections 371-378, the National Historic Preservation Act of 1966 as amended, and the Archaeological Resources Protection Act;
 - c. Duly and faithfully ensure that procurement actions will be conducted in a manner that provides for maximum protection of the archaeological resource under the agreement with the Maine Historic Preservation Commission;
 - d. Duly and faithfully ensure that all costs charged to the grant project will be in payment of an approved budget item during the project period;
 - e. Permit representatives of the Maine Historic Preservation Commission and the Developer complete and free access to all files and records relating to the project at all times during regular business hours;
 - f. Provide documentation as requested by the Commission and/or the Developer relating to the status of the

MAINE ARCHAEOLOGICAL SOCIETY-MAINE HISTORIC PRESERVATION COMMISSION
SITE MONITORING CONTRACT

I, the undersigned, _____, do agree to undertake the responsibilities of monitoring the condition of archaeological site(s) _____ in the Town(s) of _____ for a five-year period beginning January 1, 19__, and ending December 31, 19__, for the sum of \$_____/year. I understand and agree as follows:

1. I shall report my findings on the appropriate site monitoring form, accompanied by a photograph, directly to the staff archaeologist, Maine Historic Preservation Commission, 55 Capitol Street, State House Station #65, Augusta, Maine 04333.
2. My powers as a representative of the Maine Historic Preservation Commission are limited to the right of access to the archaeological site(s), and the right to collect photographic or physical evidence of damage to the site(s) on the site(s).
3. I will not endanger the security of the archaeological site(s) by divulging location(s). All requests for site location information will be referred to the staff archaeologist, Maine Historic Preservation Commission.
4. I will visit the site(s) at least once in the period January 1st through June 30th, and once during the period July 1st through December 31st each year, except that if only two visits are made during the year, then they must be at least 30 days apart.
5. Payment shall be half of the contract price upon submission of the report for the first half of the year, and half of the contract price upon submission of the report for the second half of the year. This contract may be cancelled by two-week written notice of the contractor, the Maine Archaeological Society Board of Directors, or the Maine Historic Preservation Commission staff archaeologist.

Contractor Signature Date

President, Date
Maine Archaeological Society

Contractor Address:

Approved, Date
Me. Historic Preservation Comm.
Archaeologist

MAINE ARCHAEOLOGICAL SOCIETY-MAINE HISTORIC PRESERVATION COMMISSION
SITE MONITORING CONTRACT

I, the undersigned, _____, do agree to undertake the responsibilities of monitoring the condition of archaeological site(s) _____ in the Town(s) of _____ for a five-year period beginning January 1, 19____, and ending December 31, 19____, for the sum of \$_____/year. I understand and agree as follows:

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Contractor Signature Date

President, Date
Maine Archaeological Society

Contractor Address:

Approved, Date
Me. Historic Preservation Comm.
Archaeologist

MAINE HISTORIC PRESERVATION COMMISSION/MAINE ARCHAEOLOGICAL SOCIETY
SITE MONITORING REPORT

Reporter Name Parrell Crawford

Site Number 74.8 Date of Visit 10/18/98

No change from previous visit: YES, a change ☒ NO, no change ☐

If you checked yes, there had been a change since the previous visit or recent evidence of some damage to the site, please describe the details below.

Evidence of recent vandalism, such as intentional looting or unintentional human soil disturbance?: No soil disturbance, but evidence of site being used as a dump (see photos).

Evidence of recent on-going erosion or bank slumpage?:

On-going erosion of riverbank at area of past slumpage (see photo #3). The large appliances were dumped just upstream of the area of slumpage.

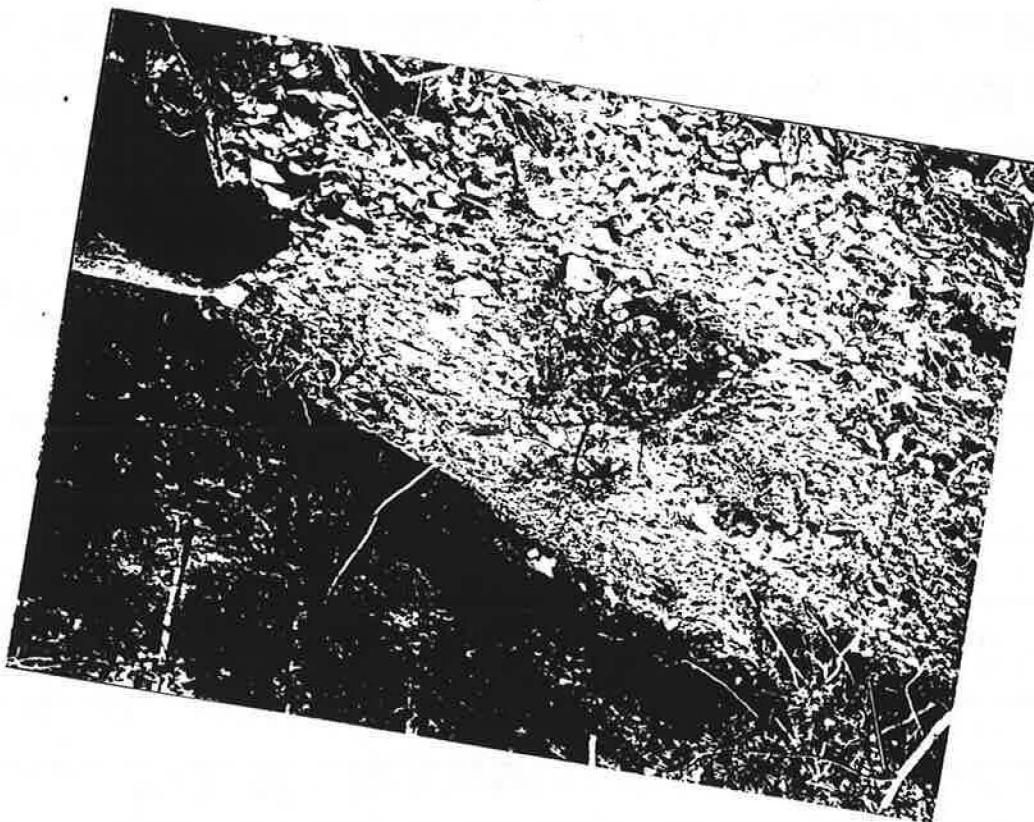
Evidence of damage by other natural phenomena, such as tree throws?:

None

Are the posted signs in good shape? yes Missing? see back →
If so, did you replace them?

Comments (contact with landowner, observations on human foot traffic, or expansion of any of the above): Both access cables are cut. One washer and two dryers have been dumped over the bank, across from the lower gate. Much evidence of fishing, drinking, and "other" activities. Refuse containing check stubs of Matt Kelley and Douglas Grass, 10/09/98, found (employed @ The Coach House Family Rest.) Also, Doug's STS receipt, dated 10/14/98. Found discarded snowmobile frame. Three photos included.

NOTE: Please append a photograph of the site, or some portion thereof to the back and indicate any special features in the photograph with arrows or verbal description.



One sign inside fenced-in area is still missing.



MAINE HISTORIC PRESERVATION COMMISSION

55 Capitol Street
State House Station 65
Augusta, Maine 04333

Earle G. Shettleworth, Jr.
Director

Telephone:
207-289-2133

REPORT ON JOINT MAS-MHPC SITE MONITORING PROGRAM FOR 1989

Arthur Spiess
February 5, 1990

Calendar year 1989 saw the initiation of our joint archaeological site monitoring program, with the signing of two contracts to provide site monitoring services. All contracts require two visits to the site during the year, and submission of written (form) reports and photographs. Developers had previously funded a 20-year monitoring program (Patten Corporation, site 107.4) and a 10-year program (Benton Falls Hydro, site 53.34).

A contract was signed in March with Michael Brigham of Milo to monitor site 107.4. We received a report dated 4/28 that pits from Phase I testing of the site were still visible on the surface, and that portions of the riverbank were actively eroding but that spring 1989 flood waters did not increase erosion. Posted signs were placed on 6 trees. On 10/15 a second report was submitted that indicated the erosion scarp (started by the 1987 flood) was beginning to stabilize as vegetation grew on it. The posted signs were still in good shape. Photos of posted signs and the vegetating bank were appended.

A contract was signed with Richard Doyle in April 1989 to monitor site 53.34. We have received reports of visits of 4/30 and 11/4/89, accompanied by a sketch map keyed to excellent color slides. There may have been some unauthorized cutting and earlier movement of the riverbank to construct a boat access.

The first year of the program must be judged a success.



MAINE HISTORIC PRESERVATION COMMISSION
55 CAPITOL STREET
65 STATE HOUSE STATION
AUGUSTA, MAINE
04333

ANGUS S. KING, JR.
GOVERNOR

EARLE G. SHETTLEWORTH, JR.
DIRECTOR

REPORT ON JOINT MAS-MHPC SITE MONITORING PROGRAM FOR 1998

Arthur Spiess
January 27, 1998

Site 107.4

The MAS accepted \$1500 to pay for monitoring of this site for 10 years in December 1988, so the obligation ends in December 1998. \$100/year is to be used to pay for monitoring, and \$50/year to be used for administrative expenses. MAS monitoring obligations on site 107.4 are complete.

Site 53.34

Richard Doyle visited site 53.34, and filled out a site visit report form for both visits. No damage.

Dick has signed a 5-year contract to monitor site 53.34 for a sum of \$100/year, ending December 31, 2000. The MAS accepted \$3000 to provide monitoring for the site for 20 years beginning in the spring of 1989, so that obligation will expire in 2009. \$100/year is to pay for monitoring, while \$50/year is to pay for administration.

Sites 74.8, 74.19, 74.61

Darrell Crawford continued monitoring three sites in the Bangor Hydroelectric Basin Mills project area: sites 74.8, 74.19, and 74.61. He made twice-yearly site visits and reported them. No major changes or problems.

Mr. Crawford has signed a contract with the MAS to do the monitoring of sites 74.8, 74.19, and 74.61, for the sum of \$200/year (\$100 each 6 months). The MAS, in January 1992, accepted \$5000 from Bangor Hydro to provide for the monitoring of these sites for 20 years (ending 2012). \$50/year from the sum is to be used to pay for administration, and \$200 for monitoring.



WHAT TO DO IF YOU WITNESS POTHUNTING

WRITE DOWN WHAT YOU SEE (OR HEAR)

- Identify the **LOCATION** of the site.
- Identify exactly what the **ACTIVITY** consists of (digging, collecting, or other).
- Identify **WHO** is doing it: record descriptions of the people you see (height, weight, race, hair color, clothing, etc.).
- Identify any **VEHICLES** associated with the activity (make, model, type, color, distinctive modifications, and **LICENSE PLATE NUMBERS**).
- Identify the **TOOLS** that are being used. If you hear heavy equipment (maybe a backhoe) ahead when approaching your site, beware!
- If you are unobserved, take **PHOTOGRAPHS**. **DO NOT** take them if the intruders on the site, or dogs they may have nearby, have seen you or can hear the click of your camera.
- **NOTIFY THE AUTHORITIES** as soon as possible. Call 1-800-VANDALS, and ask the operators to connect you with the proper law enforcement agency or land managing agent or call the number on your OPS form in your Site Kit.

POTENTIAL DANGERS TO AVOID

- **DO NOT** attempt to confront pothunters; they are usually armed and dangerous.
- **DO NOT** pick up or disturb any artifacts, trash, tools, or anything else left on the site. This material is evidence and must be treated like any other crime scene.
- **DO NOT** call attention to yourself; do not let them see you taking notes or photographs.
- **DO NOT** play cops & robbers; you do not enforce laws.
- **ALWAYS** call for help when needed.
- Potential **ACCIDENTS** in the field: vehicle accidents or breakdowns, broken tree limbs on the road or path, rattlesnakes, personal injuries, muddy roads, etc.
- Lawsuits from suspected pothunters or injured Stewards if you are not acting according to the guidelines of the Program and the Land Manager you are representing. **DO NOT** carry a firearm with you while on duty.

REMEMBER-SAFETY FIRST ALWAYS

WHAT TO DO IF YOU WITNESS POTHUNTING

WRITE DOWN WHAT YOU SEE (OR HEAR)

- Identify the **LOCATION** of the site.
- Identify exactly what the **ACTIVITY** consists of (digging, collecting, or other).
- Identify **WHO** is doing it: record descriptions of the people you see (height, weight, race, hair color, clothing, etc.).
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REMEMBER-SAFETY FIRST ALWAYS

ARIZONA SITE STEWARD CULTURAL RESOURCE VANDALISM REPORT

Date Incident Noted: _____ Time: _____ Name or Site Number: _____

Land Owner: _____ USGS Map: _____

Recorded by: _____ Phone Number: _____

(If the site has not been previously recorded, attach site form, map and other locational information as available).

Nature of Damage: ☐ Vandalism ☐ On-site Erosion/Flooding ☐ Visitor Impacts

If vandalism, type of Vandalism Observed (check all applicable)

Code #	Code #	Code #
1__Potholes	6__Bullet Holes	11__Human Remains
2__Bullet Holes	7__Rock Art Removal	Uncovered
3__Postholes	8__Spray Paint	12__Fencing down
4__Backhoe Trench(s)	9__Misc. Graffiti	13__Signs Removed
5__Bulldozing	10__Artifacts Removed	14__Other (Describe):

Attach site map showing location and extent of damage; identify with code numbers at left.

Photographs taken: ☐ no ☐ yes (☐ b&w ☐ color ☐ slides)

Photo log kept: ☐ no ☐ yes Sketches made: ☐ no ☐ yes

WITNESSED VANDALISM

Suspects at Site: ☐ no ☐ yes Tire or Foot Tracks Observed at Site: ☐ no ☐ yes

Physical Description(s): _____

Activities Observed (use codes above which apply): _____

Equipment Used: _____

Length of Time Observed at the Site: _____ Number in Party: _____

Vehicle Make: _____ Model: _____ Year: _____

License Number and State: _____ Decals: _____

Additional Information/Comments: _____

Please write description of damage on back of form.

SITE DAMAGE OR VANDALISM NOT WITNESSED

Apparent Age of Damage (Refer to previous field notes/photographs): _____

Date of Your Last Visit to Site: _____

Was Evidence Noted at Site (tools, cans, tracks, etc): _____

Make Comments/Additional Information on backside of form. Mention contacts and conversations with suspects (if any), etc. Attach copies of any photos and/or sketches of the site damage or suspects.

Signature

Date

FIGURE 3. VANDALISM REPORT FORM