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SHPO PROCEDURES FOR THE PROTECTION OF INDIAN BURIAL SITES



NEVADA
**STATE HISTORIC
PRESERVATION OFFICE**

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PREHISTORIC BURIALS OR CAIRNS ON PRIVATE LAND

- A. A prehistoric burial or cairn is discovered on private property (not during lawful construction, mining, logging, or farming):

Situation #1: A person discovers a prehistoric burial or cairn and calls local law enforcement or the SHPO.

SHPO response: Once notified either by law enforcement, the person discovering the burial or cairn, or the landowner, the SHPO will:

- a) Prepare and send a formal letter to the Tribal Chair in both electronic and hard copy within one (1) working day of the notification. This letter will initiate consultation with the Tribe;
- and
- b) The certified letter will also identify a proposed date, time, and place for consultation with the landowner on the disposition of the burial or cairn.
- and
- c) recommend that unless deemed necessary by law enforcement, the burial or cairn should be left in place and protected from excavation, vandalism, or destruction until the process outlined in NRS 383.170.2 is complete.

Situation #2: An interested landowner calls local law enforcement, and notifies and requests the assistance of the SHPO.

SHPO response:

- a) The SHPO may recommend that unless deemed necessary by law enforcement, the burial should be left in place until the SHPO notifies Tribal representatives;
- and
- b) The SHPO assists the landowner to contact the Tribe that has the closest cultural affiliation to a burial site. Once contact has been made, the landowner may directly consult with the Tribe concerning the treatment and disposition of the burial site;
- and
- c) no additional SHPO action is required if the Tribe's recommendations are accepted.

Situation #3: Either the landowner or Tribal representatives request SHPO assistance to mediate a dispute relating to the treatment and disposition of a prehistoric burial site and any artifacts and human remains associated with the burial site.

SHPO response: The SHPO will contact both the landowner and the Tribal representatives to establish a date and time to meet and discuss options available to all parties.

BURIALS OR CAIRNS ON PRIVATE LAND (contd.)

B. A prehistoric burial or cairn is discovered during lawful construction, mining, logging, or farming:

SHPO response: Once notified either by law enforcement, the person discovering the burial or cairn, or the landowner, the SHPO will:

a) Prepare and send a formal letter to the Tribal Chair in both electronic and hard copy within one (1) working day of the notification. This letter will initiate consultation with the Tribe;

and

b) The certified letter will also identify a proposed date, time, and place for consultation with the landowner;

and

c) recommend that unless deemed necessary by law enforcement, the burial or cairn should be left in place and protected from excavation, vandalism, or destruction until the process outlined in NRS 383.170.2 is complete.

BURIALS OR CAIRNS ON LAND OWNED OR CONTROLLED
BY THE STATE OR ITS POLITICAL SUBDIVISIONS

A. A prehistoric burial or cairn is discovered (no project planned for the location):

SHPO response: Once notified either by law enforcement, the person discovering the burial or cairn, or the governmental agency responsible for managing or controlling the land, the SHPO will:

a) within five (5) working days of notification determine, in consultation with the agency responsible for the land, if the burial or cairn is in any danger of immediate destruction.

and

b) if no immediate destruction is foreseeable, the SHPO will notify the culturally affiliated Tribe of the discovery and the proposed use of the land within five (5) working days from the determination that there is no immediate danger of destruction.

or

c) if immediate destruction is possible, the SHPO will notify the Tribe with the closest cultural affiliation of the discovery within one (1) working day from the determination and the notification may include a description of any proposed efforts to protect the artifacts and human remains associated with the burial or cairn.

and

d) the SHPO may request that the governmental agency responsible for the land hire a professional archeologist to excavate the burial and remove all funerary objects and human remains associated with the grave under the supervision of the Tribe, at the Tribe's discretion, for subsequent reinterment.

and

e) the SHPO will ensure that the human remains and any funerary objects discovered during excavation are not subjected to scientific study unless no reasonable alternatives exist to determine which Tribe has the closest cultural affiliation to the remains and/or funerary objects;

and

f) the SHPO will ensure that nondestructive analysis on any other artifacts removed from the area immediately surrounding a prehistoric grave is only conducted with the explicit written consent of the Tribe, if identified;

and

g) if repatriation elsewhere on the public property will ensure preservation of the human remains, the SHPO may assist the public land manager and the Tribe to conclude the consultation, prepare the proposed location for repatriation, and ensure that any human remains and funerary objects are not separated when reinterred;

- A. A prehistoric burial or cairn is discovered during a project on land managed or controlled by an agency of the State or its political subdivisions:

SHPO response: Once notified either by law enforcement, the person discovering the burial or cairn, or the governmental agency responsible for managing or controlling the land, that a burial or cairn has been discovered during a project and/or is potentially endangered, the SHPO will:

a) Prepare and send a formal letter to the Tribal Chair in both electronic and hard copy within one (1) working day of the notification. This letter will initiate consultation with the Tribe;

and

b) The certified letter will also identify a proposed date, time, and place for consultation with the SHPO on the disposition of the burial or cairn. The date of the proposed meeting should be no more than ten (10) days and no fewer than three (3) working days after the date the letter was mailed to ensure arrival of the hard copy letter via regular mail;

and

c) The SHPO will ensure that the agreed resolution is incorporated into the project plans and any mitigation developed for the project.

NATIVE AMERICAN INDIVIDUALS SUBMITTED TO THE SHPO BY:
AN AGENCY OF LAW ENFORCEMENT, A LOCAL HEALTH DEPARTMENT, OR OTHER
AGENCY OF THE STATE

Situation #1: An agency or department notifies the SHPO that it has identified human remains in their custody to be that of a Native American individual or an individual suspected to be a prehistoric Native American from Nevada.

SHPO response: Once notified, the SHPO will:

- a) arrange for the remains to be transferred to SHPO custody within five (5) working days of the notification.
and
- b) Prepare and send a formal letter to the Tribal Chair in both electronic and hard copy. This letter will initiate consultation with the Tribe;
and
- c) The certified letter will also identify a proposed date, time, and place for consultation with the SHPO on possible repatriation of the individual;
and
- d) While in SHPO's temporary custody, the individual's remains will be treated respectfully;
and
- e) If the Tribal Chair or their designated representative, does not respond to the formal letter submitted under section 1.b above within sixty (60) calendar days of their receipt, the SHPO will both prepare a second notification letter and will call the Tribal Chair to determine if a consultation meeting is desired;
and
- f) If there is no response from either the Tribal Chair, or their designated representative, to the second reminder letter within sixty (60) calendar days of their receipt, the SHPO will arrange for a respectful burial at the Lone Mountain Cemetery in a location designated for that purpose.

DEFINITIONS

- Burial and/or Burial site:** means the area including and immediately surrounding the cairn or grave of a native Indian. (NRS 383.150(4)).
- Cairn:** means stones or other material placed in a pile as a memorial or monument to the dead. (NRS 383.150(1)).
- Cultural Affiliation:** means that there is a relationship of shared group identity that may be reasonably traced historically or prehistorically between a present day Indian tribe and an identifiable earlier group which is associated with a particular artifact or site. (NRS 381.001(3)).
- Cultural Item:** means human remains, a funerary object, a sacred object or an object of cultural significance. (NRS 381.009(6)(a)).
- Cultural Resources:** means any objects, sites or information of historic, prehistoric, archeological, architectural or paleontological significance. (NRS 383.011(5)).
- Funerary Object:** means an object that, as a part of the death rite or ceremony of an Indian tribe is reasonably believed to have been placed with individual prehistoric native Indian human remains either at the time of death or later. (NRS 381.001(7)).
- Grave:** means an excavation for burial of a human body. (NRS 383.150(3)).
- Indian Tribe:** means any tribe, band, nation or other organized group or community of Indians which is recognized as eligible for the special programs and services provided by the United States to native Indians because of their status as native Indians. (NRS 383.011(9)).
- Nondestructive Analysis:** means analysis performed using scientific or technological techniques to evaluate the properties of a material, component, or system without causing damage. (NRS 383.150(5)).
- Prehistoric:** means before the middle of the 18th century. (NRS 381.195(4)).
- Prehistoric Site:** means any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, burial ground or sites of religious or cultural importance to an Indian tribe. (NRS 381.185(5)).
- Professional Archeologist:** means a person who holds a graduate degree in archeology, anthropology or a closely related field as determined by the Administrator. (NRS 383.150(6)).

TITLE 33, CHAPTER 383
CURRENT STATUTES FOR THE PROTECTION OF INDIAN BURIAL SITES
(selected sections)

[To be added when available]

SPECIFIC BURIAL PROTECTION MEASURES REQUESTED BY INDIVIDUAL TRIBAL GOVERNMENTS

The Nevada SHPO wishes to ensure that individuals identified as a Native Indian receive the respectful repatriation that they deserve. The Nevada SHPO strives to ensure that communication, transportation, and repatriation occurs in a manner that is consistent with the wishes of the appropriate Tribal government. Consistent with this policy, the Nevada SHPO is responsive to specific requests from Tribal governments to augment and tailor the practices above (within the requirements of statutes) to ensure that the process is consistent with Tribal customs and practices.

A summary of specific practices requested by Tribal governments to be undertaken by SHPO staff during the identification of burials and cairns and repatriation of any human remains or funerary objects, if deemed appropriate for a public document, will be attached as finalized.