

**ISOLATED FINDS POLICY MEETING
June 28, 2004**

Gainesville, FL

Attendees:

Ryan J. Wheeler
Della Scott-Ireton
Mark Berrigan
Hugh McKenzie
Thornton N. Pyles
Don McAlister
Daniel Reed
Robert Daniels
William Stanton
Steven Martin
Carlos P. Tatum
Bob Knight
Tom Nutter
Don Monroe
Tom Pertierra
Marion Almy
Paul Hoover
John Miller
Steve Terry
Paul M. Lien
Jim Tatum
Mark Burnett
Harley Means
Ryan Means
Guy Marwick
Jim Miller
David Thulman
Michael Faught
Micco Randy King
J.D. Stokes

CALL TO ORDER

Dr. Wheeler calls the meeting to order, and introduces himself. States that this is the second meeting that is being held for public input on the IF Policy. Thanks everyone for coming and says that the transcript for the last meeting is on the website for anyone that is interested. Asks all to sign in for contact information, and if anyone was left off of the

minutes last time that he will add them. Asks if all has an agenda, and hands out copies of extras.

DISCUSSION

Dr. Wheeler: “In the notice that we sent out, I indicated several possible options that our agency has been talking about, a lot of these are based on feedback that we’ve received from river diving communities or from people within our agencies. I think some of the things that are listed here are pretty straightforward. Some of them have probably elicited an overreaction. I’m just going to go through, I’m going to sit back down. I’ll go through and just discuss each one of these briefly, kind of how it relates to the existing IF Policy and how it may articulate with a new program. I can say that after the last meeting that we had I know that we had some discussion related to changing Chapter 267, and creating a rule of our agency that would govern any kind of program like this. Some people indicated that they were in favor of that, others indicated that they weren’t. In speaking with our attorneys and with staff in other agencies, it’s become pretty clear that if we have a policy or program like this we need to have specific authority in our statute that indicates that we can write a rule that would govern that activity. So pretty much no matter what the outcome of this is, whatever our recommendations are, we are going to have to go through the process of amending the statute and then if we ultimately have a new program we would have to create a rule that would govern that. So, keep that in mind, I know that some people had said they were in favor, some had said that they weren’t.”

Someone asks, “What specifically is not included in the current statute’s verbiage that does not allow you to currently develop a rule?”

Dr. Wheeler: “Well it actually doesn’t say that we may develop a rule in the current language that discusses Isolated Finds, and according to the attorneys in our General Counsel’s Office, it has to say that. It has to say that we have the authority to develop a rule related to river collecting, Isolated Finds collecting, whatever. So we have to go through that process, no matter what our sort of outcome is.

Mark Berrigan: “I also looked at the statute, and I had a number of attorneys from different agencies look at that, and because that language is specific to ownership it seems like you have specific rulemaking authority for this program. So, it would seem to me that there is some disagreement among legal opinions here.”

Dr. Wheeler: “Well, I have to rely on the opinion of our General Counsel’s office.”

Mark Berrigan: “Well they might not be that good!”

Dr. Wheeler: “Well they might not be, but they are the ones that are our attorneys. So, I think I can understand what they are telling me, I can understand why that has to happen.

So I don't have a dispute with it. I've come to understand that we have to amend the statute for pretty much whatever direction we might take."

Mark Berrigan: "Oh, I also had a legislator look at it, and he felt the same way. I mean attorneys have different opinions. We have different opinions in our agencies over interpretations all the time. But if the IF Program is identified as a program to provide ownership of those artifacts then it is covered in that authority. It says that, you can't dispute that it says that."

Dr. Wheeler: "I think that the other question is whether or not we want to simply codify Isolated Finds since so many people have pointed out that there are issues with it. So we will work it all out. But I pointed out to our attorneys that at the beginning of 267 it says we have rulemaking authority with respect to the rest of the things that are mentioned but they said that wasn't good enough. I'm going on what our General Counsel's Office tells us."

Mark Berrigan: "I'm not trying to be argumentative here or anything, but I am trying to guide this thing away from legislature though, because we don't need to go there."

Dr. Wheeler: "Well, we'll take it under advisement."

Someone asks if everyone can introduce him or herself, and state why they are here.

All introduce themselves.

Dr. Wheeler thanks all for introducing themselves.

Ryan Wheeler: "Back to our discussion, among the things that we identified, based on comments that we received, the first one was something that was discussed I believe quite a bit at the last meeting, and it relates to a certain extent to what we've already been talking about. That would be, instead of having a system that we currently have where people report to us after the fact, our agency would issue permits to those interested in collecting. And I think we've already had a number of people in this room indicate that they were in favor of something like that. I guess it would be parallel to the Vertebrate Fossil Permit Program that the Florida Museum of History currently operates. The second thing on here may be the most controversial thing. That is: closing rivers that are within Management Areas to collecting. What's interesting is that in discussing this issue we recognize that within the current IF Policy guidelines it already has provisions that address this. I'll go ahead and read it, it's available on our website, and as far as I know, this document has not been altered in any way, or changed. This is the original IF Policy guidelines. Dr. Wheeler reads the Isolated Finds Policy Guidelines."

Ryan Wheeler: "And that seems like it's probably a wise element of the Policy. Also, in doing some background reading I came across Dr. Knight's 1997 article in *The Florida Anthropologist*, and he reiterates that element of the Policy. Basically it says here from his article, 'Divers are permitted to collect exposed or disassociated artifacts in Florida

Rivers, except those that are part of State and Federal Parks, Preserves, Management Areas where cultural resources are specifically protected.’ The third thing on my list is a training program for river divers. It was mentioned by many people at the last meeting that they had a desire to work more closely with the staff from our office and other professional archaeologists. Since I wrote this we’ve had very positive feedback from many people who have read it. The fourth thing is also something that was brought up at the last meeting, which was amnesty for reporting older collections. The opportunity for getting river divers involved in assisting in reporting their collections. I think that’s excellent, I told Tom Pertierra the first time I met him that that was one of the most important things that we could do. Personally I have worked with collectors in reporting part of their collections, I’ve written articles on those things and I think that we probably need the help of the people in this room in doing this because there’s a lot of mistrust between the collecting community and the staff in our agency and other professional archaeologists. And I saw recently a proposal that Dr. Knight had developed to maybe get a grant and work with the staff at the Florida Museum of Natural History in Gainesville or another museum to develop a collector-reporting program for older collections. The last thing in this course if we develop a new program, the application of the misdemeanor and felony penalties for collecting without a permit would apply. So at this point, I’m happy to hear what people might have to say. I know that we have a couple representatives of American Indian groups here, Steve Terry had sent me a letter to read if he was unable to make it but since he is here he may want to speak to his concerns in person. So if you would like to speak or if Mr. King would like to speak we’d be happy to hear from you at this point.

Steve Terry: “When I received the letter from Dr. Wheeler about the first meeting on this, I had made another commitment, but that one has gone away, that’s why I’m here today, I did want to come. I’ve been looking at this; the Miccosukee Tribe supports the options to closing rivers within managed areas to all collectors. It’s our position that no bones, which to us means human remains, should be collected on all lands, and that includes state lands, federal lands and private lands. What’s in the ground should stay there, especially human remains. If you disturb them, the spirits of those remains will not remain at rest, they will come out and be angry, they will not be at rest; this is not a good thing. We need to let those bones stay where they are so that all the people can stay at rest. On private lands, we support the permit, but again we reiterate, no human remains should be collected. We support amnesty for reporting older collections, we think that’s a great way to find out what people have got. I was a little unclear in what was meant by an opportunity for river divers have amnesty, but I assume what that means is for you all to come forward and say, ‘I have a collection that I would like to get in, and I know so and so has got one too so you may want to check with him and see if they have anything.’ But if that’s the case we think that’s a fine idea. We feel that there should be enforcement. And if people are out there collecting without permits that that should be enforced, and of course we’d be relying on our friends from the Florida FWC.

Dr. Wheeler thanks him and says that existing statutes regarding human remains are not going to change, and that anyone who has seen human remains is required to reported them.

Steve Terry states that he encourages everyone that if they do come across remains to follow the law and report. States the main problem they encounter is pot hunting, where people go into burial sites and dig for pots.

Ryan Means interjects and says to divorce any of the people in the room from the people that he is calling “pot hunters.” States there is no one in the room that would do something like that, and that everyone including himself is as passionate about the artifacts as he is.

Dr. Wheeler states that the vast majority of artifacts that have been reported are stone tools, bone artifacts, and pottery that have found their way into the river. States that human remain discoveries are serious, but that’s not what the meeting is about.

Someone interjects again saying that pot hunting is illegal and that they condemn it.

Dr. Wheeler acknowledges Mr. King, who is waiting to speak.

Mr. King: “I know Ryan and Harley Means and their father and I have great respect for his work. But let me interject and divorce Native Americans from hobbyist collectors from Native American artifacts. We are not hobbyists; we are here on religious matters. I’m going to read this letter to Dr. Wheeler, this is a letter from our tribe to your agency, and this is our second letter. The first one came to you and you read it at the last meeting. This is our second letter, in answer to the letter you sent back to us after the first meeting inviting us to this one.

Mr. King reads letter.

Dr. Wheeler thanks Mr. King.

Someone asks who signed the first letter.

Dr. Wheeler states that Mr. King signed it.

Dr. Wheeler asks for any additional comments, and then recognizes Marion Almy.

Marion Almy: “Well, representing the Florida Historical Commission, and also a professional archaeologist, our concern was that we understand that the federal and state laws protect archaeology sites. And Dr. Bense, as the chairman of the FHC, brought the issue up of, “how does one know when a find is ‘isolated?’” That’s difficult for a professional archaeologist and it may be more difficult for others. So we had a question, “when is a find isolated?” And the bottom line was, I believe you said publicly, that we were not going to vote to allow artifacts that belong to Native Americans and the citizens of Florida to be removed from State owned lands. We feel it is our duty to guard these historic resources. And I just mentioned that as the request from Dr. Bense.”

Ryan Wheeler: “I can only answer that by saying, when I reviewed the actions of the FHC in deciding what course of action to take, it was clear to me that they voted to recommend to our agency to abolish the IF Policy and to explore other options for a program to replace it. I think what the intent of the FHC was for us to conduct this kind of public hearing to collect information from all groups that might be interested. So that’s why we’re having these, that’s why we’re developing plans to make a recommendation for what a new program can be. We’ve in fact been directed by the FHC to do that. And I think that’s a wise course of action, a wise recommendation on their part.”

Dr. Wheeler recognizes Jim Miller.

Jim Miller: “This is an inauspicious occasion for me and it’s a little unpleasant that Dr. Wheeler is sitting at the temple receiving the blame for something that I largely took responsibility for, and that is developing the IF Program probably 15 years ago. I just wanted to give a little historical perspective that might help us all understand why we are sitting in this room right now. First of all, 30 years ago, Florida’s Statute with respect to protection of archaeological resources on state lands was old fashioned, ineffective, it imposed a silly penalty or violation that did not act as a deterrent to the deliberate destruction and damage of archaeological and historical sites. Under Chapter 267 for almost 40 years now, the Division of Historical Resources has been charged by the Florida Legislature, first of all with ownership and title of those abandoned archaeological sites on state lands, and second, with ownership of them and responsibility to manage them for purposes of administration and protection. In the middle to late 1980’s, in addition to passing a law that prohibited damage to human remains under Chapter 872, we follow the recommendations of the Florida Senate, which determined after a study that the penalty provisions in Chapter 267 were insufficient and they were ineffective and that the Division of Historical Resources shall, with cooperation of the Fish and Game Commission at that time and DEP and the Florida Park Service and the Florida Archaeological Council and a couple other organizations, should review the penalty and should propose legislation. We did that and we created a felony provision in the statute and a misdemeanor provision in the statute and we thought we had done a pretty good job. There was a lot of discussion about how the law works, how the law is applied, how people exercise discretion, how you prevent a law of prohibition like that from affecting people it’s not supposed to affect and how you concentrate your protection on the resources that are significant. Several years after that statute was passed, as a result of its enforcement, we began to hear from river divers who had been collecting for decades in the State of Florida, who had cooperated with archaeologists, who had provided information, and essentially their message was pretty clear: ‘You have criminalized us, you have turned us into felons for doing what we understand to be the right thing to do. And for what we’ve been doing, in cooperation with you for years and years.’ As an outcome of that, Bob Knight approached me and said that he would like to work with us to develop some kind of way for divers to continue to collect artifacts and collect information and provide information to the state under something eventually to be called the Isolated Finds Program. And then Bob and I took ideas from many collectors and archaeological organizations and from others in a very wide-ranging discussion,

developed the provisions for the Isolated Finds Program. At that particular time, the State of Florida was swinging pretty far in one direction on its pendulum of you need a rule for everything, we have too many rules on the backs of the people cut them back. And Isolated Finds guidelines were developed with the intent of making them rules, but at that time the State of Florida was not interested in more rules, it was interested in less rules. So those guidelines, although they are unchanged from that time, have never had the force of rule. Several years ago, recognizing that there was not specific authority in the statute for something like Isolated Finds, we inserted a paragraph through the legislative process that said the Division may implement a program whereby people could collect isolated artifacts and could be granted ownership of those artifacts at the Division's discretion, in exchange for information about those artifacts. And that foundation has always been really the principle behind Isolated Finds.. There are certain artifacts and certain circumstances that do not have significant archaeological value, and in exchange for information about those artifacts where they are collected, the Division would convey title of the artifacts to the collectors. I think the reason we are all here today is because although that was maybe an innovative solution it was not a perfect solution. We've had 8 or 9 or 10 years now to see what could go wrong with something like that. A lot of things have gone right with it, we've received a lot of information, developed some good relationships and some good partners. I think the thing that has gone the most wrong with it that it is unenforceable, number 1. Number 2, it acts as a smoke screen for illicit activities that were never intended to be allowed under Isolated Finds. It is impossible for law enforcement to distinguish, in the criminal justice system, between legitimate Isolated Finds on the one hand, and looting on the other. So Isolated Finds has had some good aspects to it, its problem, it seems to me that needs fixing, if it is to continue as a program under that or any other name, is that law enforcement has to be able to distinguish between the activities that we intend to allow because they don't threaten archaeological sites, and the activities that we don't intend to allow, they are against the law they need to be punished, they need to be investigated, they need to be prosecuted, and Isolated Finds is interfering with this process. That's in my view why we are here. I think if we could focus on not so much whether we are right or wrong, or whether it should or shouldn't exist or who said what or who doesn't like it, let's try to fix what's wrong with this rather than rehash all over again how we got here and where we should be."

Dr. Wheeler thanks Jim.

Someone asks Mr. King: "In your letter, did you suggest or state that you're going to go to the legislature to ask them to do an interim project on this?"

Mr. King: "And the Federal Court system, yes."

The person replies: "Well the court system is separate, but you all are going to go to the legislature and ask them to review the statute?"

Mr. King: "We consider the statute to be illegal. First of all it was not put through the rules properly, so therefore it was illegal."

The person replies: “I won’t argue the legality, I just wanted to know. So next summer is what you’re shooting at for the interim?”

Mr. King: “Rules process is a required process for any policy or rule that needs to be enforced by law.”

The person states that they are familiar with that.

Mr. King: “It needs to be enforced by a law enforcement agency. Otherwise it is unenforceable. So therefore we consider the policy or rule to be illegal, illicit, improper, nonexistent. It has been used as available by many, to get by with something that can’t be enforced. Because the rule doesn’t exist.”

The person states that they are more interested in the process.

Mr. King: “We’d like to see archaeology stay in the profession, because from the profession, our people have received much. From private collection, we have lost a lot. We don’t wish to lose; we’d like to keep the knowledge. We are willing to go as far as necessary to keep it in the profession not in hobbyists, not in private collections, but in public knowledge. It’s public property, and that’s where it belongs in our opinion.

The person asks again what process Mr. King is going to take to take it to the legislature to review the statute.

Mr. King: “We’ll simply ask the legislature to create a legal committee to look into its validity. And we could do that through our lobbyist’s process, or we could do that through individual legislators. I imagine we would do it through our lobbyists.

Someone asks Mr. King: “You mentioned in your statement just then that you or your tribe has received benefit, could you elaborate for me?”

Mr. King: “Let me straighten one other thing out Dr. Miller, we don’t blame him for anything. We have gained much cultural knowledge from archaeological science, and that’s the key word. He said it earlier. And we support that. And we supported more than I can tell you, Dr. Miller is familiar with our tribe’s activities in support of his activities in the past and other legal archaeological entities he has licensed in the past to do work that were being interfered with by special interest Indian groups.”

Someone asks: “Are you making claim to the knowledge that comes from finds that are made in rivers and also claiming ownership of these finds?”

Mr. King: “The Federal Government gave us ownership of that, that’s already in law. Federal Statute and State Statute clearly give Florida citizens ownership of all of the funerary items.”

The person states: “Ok, you’re saying funerary items, from what time periods?”

Mr. King: “Any.”

The person asks: “Any and all?”

Mr. King: “That’s what it says.”

The person states: “NAGPRA says that? I’m afraid NAGPRA doesn’t say that, you might correct me since you’re the expert on that I believe. But NAGPRA doesn’t say that, or at least that’s an argumentative point and again I don’t want to belabor here.”

Mr. King: “I’m not going to allow you to argue that, the Supreme Court...”

DISCUSSION ENSUES

Someone asks: “So, if I’m not mistaken, human remains, we’ll talk about human remains here because I think we all respect that, and I think you’re tying human remains here with cultural artifacts as well. Human remains must be either of a tribe, people, or culture indigenous to the United States or they must bear a demonstrated relationship to such contemporary indigenous groups and it has to do with identifiable, and you’re making claim since everything from the beginning of time, am I correct?”

Mr. King: “Yes sir.”

The person: “Thank you, you’ve clarified that for me.”

Mr. Terry: “As far as almost every Indian tribe that I have ever encountered will all say one thing, ‘we are one people.’ It doesn’t matter if these remains are Seminole, Miccosukee, etc. it doesn’t matter. It should have not been disturbed; they need to be put back from where they came from. We make claims on everything that’s been in a museum that’s been founded for that will let us make a claim on. I don’t care if it’s culturally affiliated, or culturally unaffiliated. We have made a claim on culturally unaffiliated finds and the forest service on Ocala National Forest that went in front of the National Review Committee that was approved. And we put it right back where it came from. We’re all one people, it doesn’t matter who they are, and it needs to go back.”

DISCUSSION ENSUES

Someone asks Mr. King if he was referring to human remains when he said ‘broken spearpoint.’

Mr. Terry: “If it’s a funerary object, it’s the same thing.”

The person asks: “Is a broken spearpoint found on a limestone bottom a funerary object?”

Mr. Terry: “It could be, I don’t know.”

The person states that it also could not be a funerary object.

Another person interjects: “I don’t think, as the Means brothers were saying a minute ago, river divers are not interested in human remains, that’s not our object. I don’t know of any collector that proudly points to any human remains saying, ‘Look what I found in the river,’ I don’t know of any and I’ve been diving since 1977. We don’t look for those things and we respect it, and now we understand that viewpoint. I think maybe we’re on the same track but getting too far apart with human remains, which we respect and not wish to collect or even disturb. There aren’t human remains in the rivers, I mean, I’m sure there are somewhere, but I’ve never seen any.”

DISCUSSION ENSUES

Mr. King: “It’s well known, it’s historically documented that many items were buried with the dead. ‘Kill pots’ is a familiar term with most archaeologists, it’s a hole punched in a pot. It’s medicine and food put in a pot and buried with the person in their grave when the person has passed over, so their spirit can flow through the hole in the pot and get the food and medicine that he needs to make the journey to the other side. Along with men are buried their weapons. And with those weapons, in their graves may be spearheads, arrowheads, and knife points.”

Someone interjects saying that graves are not in rivers.

Mr. King: “There is no way for you to know. Sir, there are documented burial sites underwater in the State of Florida, there are known archaeological sites.”

DISCUSSION ENSUES

Mr. King: “It’s a well documented historical fact that these items are buried with the dead. So, in fact, the spearheads that you do pick up from the bottom of the river, along with scattered human remains on the bottom of many rivers that I’m aware of in Florida. Along with that could in fact be funerary items. And those are the religious issues where it crosses the line of Native Americans that Federal and State laws protect. And no law can circumvent those laws. Now we are sure the legislature is unaware that policies were created to circumvent the hard work and the laws that they passed to protect us. We are certain they are not aware of it, but they will be.”

Robert Daniels: “I just want to clarify, the rivers that I dive in North Florida, human remains are abundant. In one river in particular, fifty percent of my dives in that river, will find one or more human remain. There’s no doubt in my mind that long houses were built over the waters of Florida Rivers. A lot of the points you find in these rivers, there’s no doubt in my mind that they are cultural artifacts. There’s bones scattered from one end of the river...”

Someone interjects saying that there is already a law protecting that.

Another person asks Robert if he is disturbing any of the remains.

Robert Daniels: “No, but I know for a fact that we don’t report them as divers, we don’t collect them, but we don’t report them. We don’t put them on the Isolated Finds Forms that we’ve observed bones, we don’t do that because we’re selfish. We are scared that they will take that right to dive away from us. I’m backing Randy up and letting you know that there are human remains in these rivers. The archaeologists don’t know everything, they haven’t researched the rivers.

Someone says they haven’t seen any in the Sante Fe or the Suwannee, and that they’ve been diving there since 1977.

DISCUSSION ENSUES

Robert Daniels states that he knows there are a small amount of divers that collect human remains, and the previous person claims he doesn’t know of any.

Robert Daniels: “There is a small market for trafficking in human remains. Just recently in the US federal courts, seven individuals were charged in Florida for trafficking in the Seminole area.

DISCUSSION ENSUES

Tom Pertierra asks Robert where the materials were taken from, if the human remains were dug up, or dove up.

Robert replies that he doesn’t know where they were obtained.

Tom replies that he, Robert, won’t answer because he knows the answer, and so does everybody else.

Robert Daniels states that it doesn’t matter if they were dug up or dove up.

Tom exclaims that it matters to everyone in the room, and that Robert is making a general analogy that everyone there traffics in human remains.

Robert then asks Tom how many times they’ve dove the Wacissa River and found human remains, to which Tom replies: “Twice,” and then reminds Robert that they left the remains in the river, and that they were isolated.

Someone says: “I’d like to make a statement. I talked to Dr. Miller for two hours in his office, and he chastised me good for not reporting human remains in the river. If you encounter human remains in the river, by law you have to report it. If you have knowledge that human remains are being removed or collected it’s a misdemeanor if you don’t report it.”

Carlos Tatum: “I would just like to say that I’ve been diving since 1977 also, and I’ve studied vertebrate paleontology for a good part of my adult life and I’m somewhat familiar with the osteology of the mammalian things you may find at the bottom of the river, just like my father says, I agree that there is human remains. Fifty percent of the bones that you find are human related bones and I have never dove the Wacassasa but diving the Suwannee River and Sante Fe river and other rivers south of there that I myself have never found any human remains and I am very well versed, more so than the average person, at identifying mammalian finds in rivers. I agree it’s there, but I can tell you it’s not abundant. It may be in certain areas, but most of the rivers where these divers are diving to find artifacts and to report discoveries and that sort of thing, human remains is something that is hardly even spoken of because there is so little and so few of it. And what it is I think everyone gives it respect. People trafficking in human remains, I’ve never heard of such a thing, I’m sure there are people trafficking everything in this country and in this state.”

Someone interjects: “Fifty percent of the dives in a particular river I’ve found human remains.”

DISCUSSION ENSUES

Carlos Tatum wants to make sure that everyone knows this is not a common occurrence, and that the rivers he dives is different from the ones that everyone else dives.

Someone states that when these areas of human remains are found, that it should be closed and no diving should be allowed there again. Several people agree.

Someone states that they’ve been trying that for a long time and it hasn’t happened.

Mr. King: “I believe, reading the letter from the Seminoles and their statement about the legality of the policy, and the policy being in violation of federal law. We feel the same way. I think that what the tribes are looking at, is anything that is done by the agency needs to be legal and within the guidelines of federal and state law. Because up until now it has been illegal in our opinion and outside of those laws. The other issue we have is that all river and lake bottoms in the State of Florida are sovereign state land. Under the present laws of the legislature of Florida and present federal laws those artifacts are already protected by law and not allowed to be collected by anyone because artifacts are not allowed to be removed from state government lands or federal government lands. And that law already exists. So we don’t want to be a part of creating another illicit policy or rule that is in opposition to existing laws.”

Someone asks how this relates to dredging of rivers, and that he had noticed a lot of dredging was occurring for ships.

Mr. King: “Quite a scenario goes on for any agency to do anything with the land anymore. And a good bit of that process is due to cultural resource protection under

mandates and guidelines for example for Conservation of Recreational Lands Act of Congress. And every agency is required to get in touch with the Division of Historical Resources and have those ways cleared, guaranteed to be free of historical and valuable areas and this that and the other.”

The person states that this might be a way to do that.

Mr. King: “That’s a policy that already exists, but what we’re saying is that the land that exists at the bottom of the lakes and the rivers in the State of Florida are already sovereign state lands. And the law already exists that says it’s illegal to remove an artifact from those lands. It’s a misdemeanor, and if enough damage takes place it becomes a felony. Those laws already exist. We consider this policy to be illicit and veil that allows people to violate the law. We don’t wish to be a part of violating any law.”

Paul Lien: “You’ll find some modified human remains by Native Americans.”

Mr. King: “I don’t understand that statement.”

Paul Lien: “They’ve found skullcaps and things like that that have been modified into gorgets, they’ve got long bones that have been modified into daggers things like that. This becomes an art artifact. And in the archaeological record I think that’s clear isn’t it?”

Ryan Wheeler: “Well, that’s true, I’m not sure what that means though.”

DISCUSSION ENSUES

Someone mentions that the meeting has digressed and suggests that we move on and do what we are there to do.

Harley Means: “The point is, respectfully, Mr. King, I think the reason a lot of us river divers are interested in doing what we do is because we are interested in contributing to the knowledge base that you say has brought your tribe information that you all revere. I know that’s why I have done it, and I have done my best to contribute to that scientific body of knowledge. Is there a way that us as river divers can continue to contribute to that scientific knowledge base and appease all of the other opposing arguments that we have here, and I hope so, because I am impassioned about what I do, it pleases me immensely to report to Della that I have found something that I think is important and may require further investigation. Robert I know, hopefully, you are too when you are finding these sites in the rivers that are full of human remains, I hope you’re reporting that, that’s why I got into it. Of course I love to look at my artifacts and revere them, but what means the most to me is to know that I’ve contributed to that body of knowledge that we are all interested in getting at, and Dr. Wheeler I think you and Dr. Miller, the reason you guys are wisely looking at us is we are a resource base for you. We can do what you guys cannot. It could take you a thousand years to look the bottoms of these rivers, whereas us, it may only take a hundred. But it’s something that we can contribute

to you all, and I think we are mutually benefiting each other. How many things do you know of that have been discovered in these rivers that have been reported by the amateur community? Almost every single major site that has been uncovered underwater has been reported by an amateur diver. Is that a fair estimate?"

Ryan Wheeler: "I think we would add Harley that you and Ryan are the ones that have primarily reported the significant sites to our agency, I don't know if we made everyone aware of that at our last meeting, but I think Della will confirm that that's certainly the case."

Harley Means: "Well, I think that with a little help from you guys, and a little bit of outreach I think more of us would be willing to do that. It's just Ryan and I happen to be in Tallahassee and in easy communication with you guys. How many of the river divers in the room have recently heard of IF? To my knowledge, four years ago, five years ago Ryan and I first found out about it."

Ryan Means: "Thanks Robert. Robert met us out on the Wacissa. We were diving that day, he pulled us over, talked to us, said that IF was in its infancy at that point. He's like 'you guys know about the IF policy? I hope you report what you find today.' We said we didn't know about it, tell us. And he did, and ever since, we have religiously reported everything we've found, yes we're backlogged a little bit, but we are getting on it. I second everything that my brother says. Why we do this is to make a contribution to the body of knowledge that hopefully continues to grow; scientific knowledge on the states cultural resources. We find things, we love them, we revere them, we exchange information with the state about them, and it is pleasing to retain these artifacts, to have ownership. The people that find them would like to have them to do whatever they feel like with. I know this; I pretty much plan on donating everything I've found to some museum at some point in my life one time or another. Ownership is not the important thing; it is the contribution that I think most of us are in here for. And if we're not, I think that with the proper amount of outreach that can be achieved, we develop relationships here, not animosities. We are all here because we are passionate about the past. We are going to get this thing worked out, I know that and I feel it in my heart."

Guy Marwick: "I would like to say one other thing. My experience with river divers, I dove 17 years ago and so I've experienced that, and it was an interesting and wonderful thing to do. But the divers I've seen and a lot of the old time divers, people like my age who no longer dive have wanted to donate to museums, and we've had wonderful donations to museums including the one that I was operating. We just had a Seminole canoe that was given to the Florida Museum of Natural History, and it came through us. I've seen these things found 50 years ago, before anybody would have ever had concerns about these things, these things are still out there and people are looking to find a good home for them, and I think there ought to be a way to work together to make the tribe happy, I've got the utmost respect, the things that were in the museum that I ran, I've had friends who are Seminoles come in and give it their blessings and give it their approval, and I've asked for their opinions. I've submitted to NAGPRA things that should be submitted. I totally support that position. I hate to see that become adversarial when

maybe there's a chance to work things out in a way that the Native Americans tribes in Florida, as this gentleman over here seems to be I think possible able to do, and possibly if you were to sit in on meetings to work it out and find a way that would be appropriate that would be suitable to your people. Because when you have all these people like Ryan and Harley diving the rivers doing the work, they don't own that stuff. It goes in front of a committee that says 'this is significant, we need to, the state needs to take this, confiscate this,' and they have donated many, many things."

Someone interjects: "Can I butt in and say just that? When I say we like to keep things great yeah that's wonderful, but the number one important thing is that the state gets to look at what we find and determine if they need it or want it, and if they want it they can have it, because that is what's most important."

Another person: "So you have this group that's out there, and if we can train the ones, there's a bunch of rogues, and you either train people who are trainable, and the ones who aren't trainable, they need to be put down hard. And there are some people that haven't changed their ways and they need to be put down hard. And so, by doing this IF act, you're going to always have bank robbers. There are laws against robbing a bank, but people still do it. We're always going to have that no matter what laws you make. There are laws against murder, and people still do it. I think that we have an opportunity to work with the majority of people who are decent law abiding citizens to do things in a respectful way. I'm curious, Mr. King if you think there's a chance of looking at things in that fashion."

Mr. King: "We respect the Miccosukee's judgement greatly. Billy Cypress is a friend of mine, and I respect his knowledge and judgement and I know he doesn't hire people that don't know what they're doing. Our problem is, this policy has been a failed policy from the beginning. It's been used by those very people that you have been talking about that don't follow the law, the bank robbers, to evade the law. Our policy is, or our feeling is, that this agency shouldn't be creating policies that allow banks to be robbed. And that's what we see taking place. It's unenforceable. In other words, if I dive in the river tomorrow and Officer Daniels catches me, and I tell him that I have no intentions of sending them anything, is there anything you can do to me?"

Robert Daniels states that there is nothing he can do.

DISCUSSION ENSUES

Mr. King: "These agencies will have to through the legislative process, and the legislature is not allowed to violate the law either, so through the legislative process if this agency creates another form of this thing, that's legal, and the legislature codifies it, then there's nothing we can say anyway, but the legislature is not going to codify anything that is in violation of their present statute or federal statute because they can't. And that is our point on this whole thing."

DISCUSSION ENSUES

Mr. King: “All we’re say is that we don’t believe that this is being done within the guidelines of those existing state and federal statues and it is in fact an illicit rule or policy. It’s an illicit policy that has allowed people to rob the bank. We don’t have a problem with anybody in this room personally. If we do we’d call the law enforcement agency on them. If they are violating a law we know about. We have great respect for the scientific community, and all our people do. We support that community, because we are getting much knowledge back. We do not wish to see that knowledge end. We do not wish to see those sites unfound. We want to see these sites found, but we want it done within the law. We want it done properly. We want that knowledge to come back to us, not in your basement. We want that knowledge to come back to my children and my grandchildren; it belongs to us. That’s something that needs to be understood here. These are our ancestors items.”

Someone says: “I know that Dr. Webb had made a statement years ago that I always thought was interesting. Wherein he said that 80 percent of artifacts in museums were donations from private collections. And if that statement still holds true then in fact you do end up having these things come back to the surface eventually, sort of a full circle.”

Mr. King: “You know they do, and let me tell you I said in that letter, years ago Boy Scouts of America used to gather and put their uniforms on and dig up graves. It was legal, for a merit badge, archaeological merit badge. Many of you may have gotten started in archaeology in the Boy Scouts. Well if you’re a scientist now, a professional scientist, and you’re bringing that information back to the people, that’s great. But if you’re still going out and digging these things up for your merit badges, keeping them in your closet, you’re not helping anyone. You’re not helping the citizens of the state of Florida that own those waterways, own that land, and own those artifacts. You’re not helping my community out. And we consider it a policy in violation of the law. If you work something out that’s legal, and the legislature passes it in any form, if science can come back, and this thing can stay legitimate, then you will have the support of the Native American community, because we know the value of it. We’re not stupid. We’ve learned a great deal from many of you in this room, we’ve learned about ourselves, we’re not stupid. We don’t want that to stop.”

Tom Pertierra: “Mr. King, are you aware of State Statue number 267.13?”

Mr. King: “I sure am.”

Tom Pertierra: “Can you enlighten me as to why the State has never used its administrative fine of \$500 that they can impose on anyone that doesn’t comply with anything that they dictate?”

Mr. King: “The rule was never codified.”

Jim Miller: “This is a section of the statute that has been in since the beginning and it was never intended to apply to collectors or to land site, or to archaeological activities.

The main constituent at the time was treasure hunters. And this is a penalty provision not a criminal penalty provision that was intended to give the Division some authority over unpermitted treasure hunting activity in the 1960's and 1970's."

Someone asks for clarification on treasure hunting, as to whether he means shipwreck treasure hunting.

DISCUSSION ENSUES

Tom Pertierra: "Well, we said here a few minutes ago that there's never been any enforcement, and I agree, there never has been any enforcement, but there has been the means to at least administer this particular fine. I understand what you're saying doctor, but it's a little broader in the sense, according to your own state attorney. It could be used for that, and in fact it was threatened at one time in a particular case that I'm aware of from my public documents search, and it was not followed up on and not prosecuted, twice in fact. The question I'm asking here today, 'Is it a paper tiger?' I think it is, don't you?"

Mr. King: "That's our point, this needs to be done legitimately, if you can get it that way, then the Native American community will support you in your endeavors. But you need to get it that way."

Someone calls to hear from the felons, the criminals.

DISCUSSION ENSUES

Someone says: "They aren't here, they are digging up the sites. They are selling it off on their own sites, they are selling it on eBay. There is a tremendous pressure on archaeological sites on public land, public water, and it doesn't really involve us, it doesn't include us. But by the IF inadvertently, we have helped that to succeed, we have given it an excuse to exist and a way to slip under the cover of programs and policies and have no effective enforcement against it."

Someone else says: "I agree with you, I agree with Randy in many ways. I think that the artifacts themselves, they are just hard objects, they aren't the living breathing soul filled object, what is important is the information associated with those artifacts. I remember you indicating that the Bureau had more facts than it knew what to do with. The information was something that was important not so much the artifacts. The IF Policy was created to allow the collection and dissemination of knowledge about the artifacts that had previously been collected from rivers and that will continue to be collected from rivers, with or without stronger laws. And it's been my goal ever since the policy started to get people to report. I think that's my responsibility to my children or Randy's children or to any other citizen of Florida. I firmly believe these artifacts are the property of the State of Florida, until there is a title written to the knew owner because they've shared the information that came from those artifacts. The reason I think it's okay for a private citizen to obtain these artifacts is because of the labor and effort they put in to

recovering them. We are an extension of the BAR, and the ones that report the information are an extension of the Bureau. By reporting the artifacts we provide just as significant a contribution as professional archaeologists. And our payment is the fact that we get to keep and hold the inanimate objects until we will them, sell them, or give them to the museums. But our responsibility is reporting those.”

This person states that he’s done everything possible to report and to get everyone else to report, and that everything is improving, until this controversy arose very recently. Also that an increase in reporting came about even before the FHC made the recommendation that the IF policy should be abolished.

The person goes on: “My goal is always going to be the science of this, it’s to get as much information as possible, and I think tat there is some serious repercussions to come out of where we are right now. It’s partly because of very strong arguments that are not correct, that paint the archaeological resources in the rivers as funerary objects or burials and things like that, which is for the most part nonsense. Most of these objects are disassociated, have limited significance and can only be assembled into knowledge of the past by being collected in very large numbers and the data being entered and looked at in a comprehensive way.. That’s the only way you can really gain information from these artifacts they are so disassociated from their original context. And the only way to do that, the Bureau will never have the resources to do that, the Indian tribes will never have the resources to do that, the resources are in the hundreds and hundreds of people who are participating in this hobby, as long as we can bring them in to reporting artifacts. And anything we do in terms of making a permit or passing laws or making things more stringent that will keep people from reporting the information, is going to be a detriment, it will be a loss of knowledge for all of us, and that’s what I fear most out of this. I’m sorry if we can’t keep the IF Policy, if it is illegal then we have to let additional legislative mandates support it. But that mandate should be from the standpoint of increasing the knowledge and not making people criminals who aren’t criminals and who would report this information. A permit system may be inevitable, additional legislation may be inevitable according to your own attorneys, although I’ve felt that this was legal to turn the title of these objects over to the individuals who found them in return for the information. That needs additional looking. We have enough lawyers in the room that can vote on it. But I don’t think that we need to put additional burden on these divers, What we do need is additional help from the Bureau, to make the job of reporting this information a little easier and it’s something, the amount of information the Bureau has gotten never would have been reported. The amount of information the Bureau could get by going to some of these historic collections and getting ten to twenty thousand artifacts per collection easy reported by facilitating that it’s just amazing and it’s something that does need to be preserved. And I hope we can do that.

Someone says: Actually, there is one more issue that needs to be discussed and that is the way for law enforcement communities to be able to deal with this problem because right now they can’t. That is one more thing to be added to the isolated finds policy that needs a solution.

Someone says: I think that may be in the permit program. We talked about that for the workshop. A permit doesn't have to require a fee. We need Fish and Wildlife Commission to be comfortable in terms of telling the good guys from the bad guys. If there is such a thing.

Someone says: We need every law enforcement agency to be sure. Not just FWC. Every law enforcement needs to be able to tell what's right and what's wrong.

Robert Knight: Artifacts need to be recorded even if they were found in the past. I've been giving the information out to collectors at all these shows for years now that they don't legally own these artifacts and perhaps none of us do if the law is not really what it is supposed to be. I've got letters, titles basically, from the Bureau stating the artifacts recorded are mine now. And I would like for all collectors to have those because that would mean that they have shared that information with the Bureau. In the last year we've received 700-800 reports of individual artifacts at these shows. Just in the little bit of time that Don and I, with the help of Ryan and Harley, to gathering additional information from other people. They will come up and report 50-100 artifacts that they've collected back in the 1960's. They would have love to have help in their home to do this properly where you go in and scan all the artifacts instated which still exist. It won't exist in 50 years for a lot of these artifacts. If we criminalize things now, we're going to lose all of those old collections or the majority of them.

Someone: I would say that one of the terrible things I've seen, if you have a permanent system and you had a way to identify the people who are doing it properly and scientifically versus someone who can be arrested for not doing it that way, which would be good. If you make it just impossible to collect, you're going to have these people who are still diving. I don't see a way. They could say "Well I was just swimming the river. I've got an underwater camera. I'm just taking some pictures." I think there's ways to take this law and make it legislatively acceptable, to everyone in this room and put teeth in it and get this out and handled in a way that everyone feels acceptable and the devil will come down on the bad guys. I just think that as we said, there are people out there now diving the rivers that are not aware if this and not interested. You have to find a way to tap them on the head and get their attention. And this may be an opportunity to set it up to do that so you can in fact steer this ship in a way that is suitable to everyone in the room.

Ryan Wheeler: I was also going to add, and I don't know if this is addressed to Mr. King's concerns but as far as I understand the legislature already added this isolated finds language to the policy. So it was added by the legislature. They obviously took up this issue. I think the question of addressing the legislature and rule making issues are sort of a technical one and whether legal or illegal as far as I understand it. Go ahead Jim.

Jim Miller: Just to respond and then I have a bigger statement. The rule making process is a way that everybody gets to play. Everybody has already criticized that they didn't get a chance or appear without their knowledge or it wasn't wide open. I think rule making is a good thing. Everybody gets noticed. They get to comment. All of the opinions get put

on the table and then the agency does its final decision and there you have your rule. But rule making is not something we should be afraid of. What I hope we can maybe focus on a little bit is the thing that's broken about this and to me that is the law enforcement problem. If you can't distinguish or you can't effectively enforce the law, how are we going to do that? We have made a trade off here and we have said we are going to give away some of the State's publicly owned resources in exchange for information. And that seems like a fair transaction. Both sides benefit. What we really have done is, your giving away some of the state's resources which involve everybody in this room, but by doing that we have also given away very important archaeological resources to the loiters who can't be stopped because of this little deal that we made. So I think we should focus in the loiters. We should focus on the access problem and maybe there are some areas where say the archaeological resources are so important here that we're not going to run the risk of having out little deal about surface collections should impose this area to protect sites.

Someone: Jim, just let me make a quick point. One again, I would like to divorce everyone one in this room for the looters. You are not going to stop people who are really out to loot. Robert can tell you. Whether there is a policy or not, people who want to loot and pillage archaeological sites are going to do it.

Someone: Well, you can arrest them if you catch them.

Someone: And you still can. It is illegal to loot a site.

Ryan Wheeler: Our meeting is close to ending, but one of the things that I had suggested was to close certain rivers. We already discussed, and I already mentioned, the fact that in existing Isolated Finds policy there is a mechanism to identify rivers that are in some managed areas and closing zones. We also discussed the possibility of closing some rivers completely and identifying other rivers that collecting could occur in without much detriment. And that would make it a lot easier for law enforcement officers if they look at someone's permit and say you can collect in the Santa Fe, but you can't collect in the Aucilla. And I've heard from everybody on our staff as well as outside of our staff that the Aucilla and Wacissa are two of the areas that should be off limits to this activity. We think these may already be off limits basically by the information that we have. I am interested in any opinions on rivers that should be opened, rivers that should be closed, rivers that should be closed entirely.

Mr. King: I work in the Aucilla Management Area and one of the problems that I noticed there is you'll get people who are there diving and you don't know for what reason. Are they there to photograph or are they there to collect? It's already against the law to collect artifacts in State Parks. What we need there is more law enforcement. I've lobbied Congress for our national and our forest to have more law enforcement. I think we need to lobby to have more law enforcement in places where we can only catch people who are there in State Parks probably maybe diving illegally right now. But how do you know if they come up with one point. We need law enforcement person there so one of the things you need to find is a way to try to use this route to ask our legislative delegations to support more law enforcement. We don't have enough. We used to have two full time

law enforcement people in the Aucilla Management Area. Now we have one guy who is covering that park and tens of thousands additional acres. Way more than one person can handle. You don't see him very much. I used to see him everyday. Now I see somebody once a month. There are other aspects of this that could all come in to play and help put some _____ in this to make things go in the right direction.

Steve Martin: I introduced myself earlier as being with the Florida Park Service but I'm not here to represent the Florida Park Service in terms of them taking a position because they simply haven't got one at this point, but I go back to when Jim Miller told me about the policy that they were developing on Isolated Finds and I know he's walking a bit of a tight rope between areas that would be allowed and what all the provisions of this policy would be and he was also trying to avoid or at least make sure that one that was adopted would work out. And so he carved the areas of State Park land and recreation areas and that would be off limits. That kind of took care of any concerns Department of Environmental Protection should have except that people don't always know where the boundaries of the management areas are because they haven't been surveyed necessarily and you can't keep signs up and new acquisitions are made all the time. And the public doesn't know where the boundaries are. But beyond that is seemed to me to be highly unenforceable at the time because there too wide open. The solution to the problem is enforcement. We need more. The Florida Historical Commission's concern was that artifacts were being taken and sites were being impacted not by people necessarily knowing that they were taking from sites but the fact that people weren't realizing that they were taking artifacts from sites day in and day out as rivers erode exposing more artifacts even archaeologists sometimes have a difficult time determining absolutely if a group of artifacts constitutes a site. Usually it is a fairly scientific process but sometimes there are some squirrely things happening that impact _____. How does anybody that's diving know whether that's an intact site or not? You just don't know from surface collecting. And just like going to your hot spot fishing areas, that's where you want to go back. It's been productive. Is the information collected in the recording requirements sufficient to really give provenance? No. It's just location on such and such day. Artifacts were found roughly in this location as good as the person can identify. Does that _____ to archaeology? Most certainly not. But are we really getting efficient amounts of information? For those of you, who are concerned about information that sites, we're calling them sites now, are not all isolated. Where artifact finds occur is that reporting of that information really valid is a very important. Does it make a contribution to the understanding about archaeological sites in Florida or do we just keep a record of how many artifacts are found at that location? There are so many confusing aspects of the existing policy it is frightening from a land management stand point. The other is a confusing of the people in this room who find at no fault at all, I see on your faces and heard in the last two meetings the comments that you have made are concerned about providing the information to the state even if its insufficient and make much sense out of it then the number of artifacts that are recovered to give a location. What do we do in the long run? Is there a mad rush to find out where these sites are to uncover all of this information? We in the land management business are talking about managing lands for hundreds of years. As time goes on, technology gets so much better. Is it such an impossible dream to cruise the 52 drainage basins in the state of Florida and all tributaries

_____ with some future technology either to recover information about what not to do today? To me, safe guarding those resources without routine harvesting of what's exposed on the surface is the way to preserve those sites. My reaction to the question about this is there certain rivers that we should close. My thought is, is there certain rivers that we should allow to be open? That is in fact the reason the Division of Historical Resources wants to find out where the sites are in a given stream or river, lets open up that stream or river for the next year or say come one come all and search this area to find where the sites are. Once we understand where the sites are on that river, they get listed, they are formally sites, lets move onto another area. Why should it be wide open and free for everybody to take whatever they can find on any given river in the state of Florida? Except a few we find to be considered unique or special. There's probably not any better sites on State Park lands then there are on rivers all over the state of Florida that are not State Park lands. But we've made an arbitrary determination based on the Florida Park Services mission and other agencies missions to manage lands we don't know anything about archaeology. We've got one or two archaeologist in our agency but we're not out there to do underwater investigations to recover information about those sites. Even though there are small area within state park lands that are off limits, what about all of the other sites out there that are just being harvested for artifacts irregularly? So on that concerning agenda here about permits issued to river collectors based on a rule brought by the Division of Historical Resources similar to the Florida Vertebrate Fossil Permit. Is that an adequate roll model or model for what this program should be? I really don't think so. I'm just concerned to even see it associated with the fossil collection program when you see or read what a system added collection is. That provides for mechanical devices. Read that line. I don't think this program of isolated finds is going to get reborn should it be associated with this fossil program at all. It is not a good thing. And I really encourage that a small group of people like in this room that are very concerned and interested about the artifacts in the state of Florida or sites are to be a unique volunteer core that could help the states systematically locate where sites are along the rivers. The hell with everybody else. They're polluters. They're people who are not going to report sites. Don't try to convert them. It is an impossible dream. It's going to weight down this program and cause it to be even more ineffective. So I encourage you to consider increasing the amount of information of document indicated people should be able to keep their artifacts because they went to a whole lot of work to get it. Well how about a little more observation in reporting requirements in order to allow and permit a core group of very effective river divers to go out there and capture information the state really needs to know about. Part of the problem with increasing the amount of information that you want to collect is that if you make it to honest people aren't going to do it. So that is part of the problem that the Division of Historical Resources balanced with eliminating the threat of taking artifacts and disturbing sites on public lands. Don't make it too honest of people won't do it. They won't report the information. There's got to be a better trade off of the state giving away artifacts. We really need to have the information available for where artifacts are being collected.

Tom Pertierra: This raises a question to me. Della, what's done with the information that you gather right now?

Della: It's entered into a database.

Tom Pertierra: Ok. What's done with it?

Della: Well, in some cases for instance, it's like with the Flintlock Site, which the Means Brothers reported to us, the site itself was surveyed archaeologically and reported on. Not in all cases.

Tom: So of the 8,000 artifacts we generated?

Della: There's also the Santa Fe River survey, which was before my time.

Tom Pertierra: That was done by Dunbar as soon as you got the program started. I think I am correct on that. I guess what I'm getting at to talk to you about on the comment on what you had to say was "I've never met a scientist in my life, and I've met a lot of them, that didn't want everybody else to be a scientist too. I've never met a tax auditor that didn't want everybody to understand all of the tax codes. They want more, more, more, more, more. In dealing with people everyday, everyday people, some of us have some pretty good IQ's but we're everyday people. You said they make things simpler not harder. You make them clearer not more ambiguous. You're wanting more and more information that nothings being done with. I find a problem with that. I'm sorry. I don't mean nothing being done with, it's not being used to its extent. What you chose, I think Dr. Miller, to do with it one time was to have it as a database and have it available to a researcher, if you wanted to go in and do research on it.

Jim Miller: All of it is available to all researchers at all time. All they have to do is ask for it. And the fact that some are not interested and some are interested is not cause for delaying somebody's managing the information we are keeping.

Tom Pertierra: I am not pointing a finger here. I am just trying to point out how important is the information. Is it so important that we need so much more of it that we already get, that we already produce?

Someone: Yeah. If it was a complete database everybody was reporting, it would be much more valuable then it is right now.

Tom Pertierra: Oh. It is not worth anything right now.

Someone: I didn't say that.

Tom Pertierra: But it would be better if we had more. I don't mean more reports. I mean more information on reports.

Someone: I think that would be important too.

Someone: I think that this could work, if there is more information needed. Let's find out what makes sense without having to have a GPS on every piece.

Tom Pertierra: We need better ways of recording it. To that end, I've commissioned two programmers to build a program. An online program to allow the isolated finds report to be submitted online including photographs. That will dump on your desk, Della, that's where it will eventually come. It will be in Access format so you can bring it directly into your database. I brought this to your attention some time ago and obviously you were in the middle of all this.

Someone: She's going to get a raise with this too, right?

Tom Pertierra: Well again, be careful what you ask for. Cause you might get it. You have to have the infrastructure in there to deal with this a lot more. That's a simple business concept. I think you sat down and told me that you want it to be the Bureau of Archaeological Research not the Bureau of Isolated Finds. So, I say we look at this thing and we take little steps rather than really large steps and make gigantic changes in some thing that gets totally out of control or worse then what we have now.

Marion Almy: I just want to correct the record. Someone said that the Florida Historical Commission desired to bring this up and I believe it was brought out by Brenda Swann and Dr. Miller was not there. But I believe Brenda brought it to the attention of the Florida Historical Commission. I don't believe we asked for it. I believe Brenda asked for it to be put on the agenda. We were glad to take it up with anyone when we got the chance. But we didn't go searching. And that's the reason we certainly want to try and clear up any confusion. Because it was new to us.

Tom Pertierra: Well, I thank you for allowing us to have the process, but your procedures in how you did it were improper and you didn't allow rebuttal on the information that was submitted by Ms. Swann and in many cases that information was certainly debatable and argumentive. And I have since looked at it from a complete information stand point and found it to be an error. And I would like the opportunity to come before the Florida Historical Commission and let you know that, but Dr. Bense said no.

Ryan Wheeler: Well, I would advise anyone who wants to go to the public meetings of the Florida Historical Commission to attend. I went to the last one and I was the only audience member there. It was in Delray which is a little far field, but I would certainly advise anyone who has an opinion to share with the Historical Commission to visit with them. And also review their meeting minutes. Paul, did you have something to say?

Paul Lien: There was a question about the legislation on this thing. I would like to point out that the fossil bill went through the legislation and that's what we wound up with. I went through a representative process to the state. Betty Castor from our area generated this and it went through and this is what we have the fossil bill now. That did go through legislature. The other question I wanted to ask was "how about some of the entities like

Swift Mud?" You know we have the state sectioned up like the Southwest Florida Water Management District and Northwest Water Management District. The management districts are continually buying up our drainage sections and how could any program we have related to that? I mean, would they just be chopping off sections of the river as they went? How would that affect us?

Ryan Wheeler: Under the current policy managed areas are off-limits to collecting, specifically those that are managed, at least in part, for protection of archaeological resources.

Paul Lien: How would Swift Mud fall into that?

Ryan Wheeler: They're a state land managing agency and they directly own property. They own a lot of property that contains archaeological sites which have been significantly vandalized.

Paul Lien: I'm talking about the water segment.

Ryan Wheeler: I'm not familiar with any property that they have that would fit these conditions.

Paul Lien: All the way down to the Fletcher Avenue Bridge is from the State Park actually went above that. And they're significantly buying new segments for any of this drainage land and sooner or later any of the drainage lands that the rivers run through, cause they are the drainage portion of the things, they are going to be impacted by this.

Someone: Well, we're just talking about the adjacent land owners. All of the state sovereignty land is under the purview of the Department of Environmental Protection state lands. So just because the managing agency is upgraded (interrupted).

Someone: I think what Paul is pointing out is all these rivers, or a very large portion of these rivers, qualify as management areas.

(Interrupted)

Tom Pertierra: In the Northwest portion of the Choctawhatchee River, basically everything from Highway 98 north, management area. All of the Aucilla River, management area. All of the Wacissa River and the Upper Chipola River are all management area.

Ryan Wheeler: Tom, let me interrupt you. What do the leases say for those areas?

Tom Pertierra: Well, I'm just going by your statement in your letter when you say Management Area. Maybe I should ask your definition of a Management Area.

Ryan Wheeler: Well, in the existing Isolated Finds policy, in Bob's article, he identifies what Management Areas are. I think this is pretty clear also.

DISCUSSION ENSUES

Ryan Wheeler: Next question is, how are they managed? Does the lease that they hold indicate they are managed, in part, for the protection of archaeological resources?

Someone: Paul, can you answer this?

DISCUSSION ENSUES

Someone: (missed 1st part) is that they're right, that the management districts are involved, they're concentrated on property along river margins. And the bottoms of the rivers are owned by the state. Water management districts own these adjacent lands. But the managed areas, I believe, are state owned, as opposed water management owned, areas that are being leased out to managing agencies. It might be game and fish, it might be forestry, what ever it might be. They're all going to have preservation of archaeological resources as part of the management plan that gets approved and sent to the Board of Trustees.

Tom Pertierra: So does that make me right here?

DISCUSSION ENSUES

Tom Pertierra: Every management area.

Someone: I don't know. It depends on the definition of the term, so that if it is a management area as I understand the term, that's state owned, meaning the State of Florida owned, and leased out, upland area, that's managed by an agency. Whether that includes the water management district or not it would be a matter of interpretation.

DISCUSSION ENSUES

Someone: (middle of sentence) if the land was within a park public owned for the purpose of protecting archaeological resources that we didn't want to give permission to collect there. If the land was acquired for a different purpose and managed for the purpose other than not including, excluding archaeological resources then we wouldn't find a conflict.

Tom Pertierra: For example, like Crystal River archaeological site, the primary purpose of that purchase was the archaeological resources. Then waters or lands associated with that site shouldn't be off limits. We have said that all state parks are with this.

Jim Miller: The point of excluding waterways within managed lands was to avoid a conflict between collectors and the policies of the land managing agencies. And it seems

silly to me to spend millions of dollars in public funds to acquire archaeological sites and to open the doors and to leave them open to collecting.

Someone: What happens in the case, someone brought this up, when you preserve one side of the river and the other side is privately owned. Is that section closed to diving?

Jim Miller: Well, first of all, nothing as been proactively closed. Parks have always been closed and may always be closed, but at least in my experience the Division of Historical Resources has not closed a section of the river. Maybe that is what needs to happen.

Tom Pertierra: And it's allowed in the way it was written, that you could close sites. If there was, say, if the land for purposes of archaeological resources protection became more of a focus on that site possibly because artifacts have been reported from that area that have significance, then they could post that and close it specifically. It has been allowed but never been done.

Jim Miller: Your response could become reality. So if a significant site is discovered, or you have a looting problem, then we ask that you close the area.

Tom Pertierra: So the existing wording would allow closing of parts of the Wacissa adjacent to the mounds or a stretch of the Wacissa. To arbitrarily close the river because 10 percent of it has intact sentiments may just be the wrong approach. It may just be wrong because there are a lot of other information out there through the activities of these divers reporting their finds that would be lost.

Mr. King: Somebody made the suggestion that the Department of Environmental Protection is in the process of turning over all their sovereignty land to managing agencies. Jurisdiction and authority inside those management areas will be turned over to the agency that received the lease on those lands. So, for example, he brought up the Wacissa River. The authority of that water way and the bottom of that river will now come under the jurisdiction of the Florida Fish and Wildlife Conservation Commission. I'm assuming that it probably does the same thing as the water management district as well. But still, I'm not exactly sure where it all goes because of the policy. I still don't think the law enforcement community will have the powers and authority to do anything. Even with this authority being turned over to these agencies, I still don't see where they have the enforcement ability under the present policy, but I thought that you might be interested in knowing that.

Someone: Mr. King, is it not already such that if you go onto FWC land or where you guys manage it, for instance, the Wacissa, you can't pick up surface finds on that management area, correct? Cause that is part of your management plans.

Mr. King: First of all, I am not here to represent any agency. I am here for a tribal group.

Someone: I know you aren't and I understand.

Mr. King: Our understanding is that under the conservation and recreation lands act, and the mandates there are by standards that the lead agency or lease agency has full responsibility over all cultural resources not just Native American. Any and all cultural and historical resources on that property and they are responsible for that and they have to work hand in hand with the Division of Historical Resources and all activities on the land and on the management activities. That is our understanding. But I was also aware of this current move is being conducted right now by the Department of Environmental Protection. These water ways are actually going to be turned over to the agencies that are managing the lands around them. So, I just have to assume, the authority over the Suwannee River is probably going to end up with the lease to any managing agency with adjacent uplands. Authority from the Department of Environmental Protection over that sovereign waterway and the lands under it.

Someone: Well, Robert, then does FWC not allow any surface finds on its upland adjacent to the rivers? And if you guys now have purview over the river bottom does your management plan now carry over onto the river bottom? That is the question I'm ultimately getting at.

Someone: It is true under the state law, under 267, you can't surface collect uplands adjacent to the Aucilla River. What he is talking about has not happened and I don't know that will help us in some other areas if it does happen. But right, we don't have a policy on archaeological resources other than 267.

Someone: I guess what I am getting at is, is there an agency, for instance, if your management plan says no collecting around bottoms of these rivers and the Division of Historical Resources says, well there is through the Isolated Finds policy. Does the Division of Historical Resources get served here?

Ryan Wheeler: My understanding from the draft of the Aucilla Wildlife Management Area Conceptual Plan is that they desire to work with the Department of Environmental Protection and the Division of Historical Resources to close that area to collecting. I think we would be happy to cooperate and to make that a reality.

Someone: Understood. I guess what I'm getting at is the bigger picture, what Mr. King is saying is correct now the Division of State Lands is saying all right, and management agency that managed uplands adjacent to these sovereign lands now gives over management of those sovereign land to the managing agency. Does the managing agency now have the ability to say no collecting here? Or is the Isolated Finds policy still going to stand?

Ryan Wheeler: They are the land managers so it seems they are the ones to have the ultimate say over what happens on their property. As long as their policy is not inconsistent with any of the statutes. There is nothing that says that people are compelled to make Isolated Finds collections.

Jim Miller: But it is probably more on the nature they might be able to comment on this, since most agencies defer to the Division of Historical Resources regarding the collection policy.

Ryan Wheeler: We review all of the management plans.

Someone: Well, can you tell us where to go forward from here Ryan?

Ryan Wheeler: Well, my feeling is that it is our responsibility to follow the recommendation from the Historical Commission which was to develop a recommendation for a new program. So I will probably, over the next month or so, write up a paper that identifies who all of the stake holders are. And I think that their recommendation for repealing Isolated Finds is probably wise and we will make a recommendation of what a new program might be.

Someone: Will you repeal the Isolated Finds policy in the interim or are you going to keep its place?

Ryan Wheeler: I've been reluctant to get involved in tinkering with the Isolated Finds language because I think Mr. King's statements are true, that it sort of exists in a legal limbo. And that's what we've heard from a couple of attorneys that work for us. So I'm reluctant to do anything right now, though I think we'll make sure we'll look at some areas that should be closed under the existing guidelines.

Someone: Should collectors keep reporting their finds and enter them?

Ryan Wheeler: Certainly, and as indicated on the bottom of all of our agendas, please consult our web page. That is where we posted the minutes from our last meeting. We'll have the minutes from this meeting. That's the place to find out what's going on. We'll post things on there.

Someone: There was discussion at one point of putting together some sort of committee to discuss this other than these public forums. Has that been kind of set aside?

Ryan Wheeler: If anybody has anything else to tell me, I think that you need to do so, but at this point I think I have a pretty fair comprehension of what the positions are. I think that Jim's right. I think that was what was missing before. And my recommendation is that we go through that process.

Someone: Let me ask the same question. Let's go back through that process, which means that you are going to have to go back through the legislature to get specific authority or interpretation you already have it. Then assuming that the difficulty in some of these statutory changes can be tough. I've heard that it's really ambitious to assume you might get it in one legislative session. Assuming that you do, you get an interpretation that will allow you to go ahead in the rule making, then rule making is

going to probably be a year or so. What about the interim period? We're not talking about the period of three months or something. We're talking about several years. Two at least.

Ryan Wheeler: I don't have any plans to repeal anything unless the powers that be direct me to. I think it would be difficult to go through any process like this or any rule making, and at the same time start making significant changes.

Someone: I agree.

Someone: I think that if you can sit down and do a draft concept and try to appropriate everything that you've heard in this room today, every concern, as best you could possibly get.

Everyone is laughing.

Someone: No ones going to get it all, but I think if we do the very best we can and address everyone's issues and try to find that middle ground, it may just work. Do a draft and come up with something that everybody can sit down and look again.

Ryan Wheeler: I think from this point is to find that middle ground from the two poles. It makes it easier to search for that point. I think that we have to take that into consideration as well as what looks good for the resources. But I think we have identified the major issues here that we have to overcome.

Someone: Bottom line and to everyone in this room, thank you.

Ryan Wheeler: Thank you all for coming.

Applause

MEETING ADJOURNED

Minutes prepared by
Chandra Boley and Bonnie Shivers from tape recording



Miccosukee Tribe of Indians of Florida

Business Council Members
Billy Cypress, Chairman

Jasper Nelson, Ass't. Chairman
Max Billie, Treasurer

Andrew Bert Sr., Secretary
Jerry Cypress, Lawmaker

June 14, 2004

Dr. Ryan Wheeler
Chief, Bureau of Archaeological Research
Florida Department of State
Division of Historical Resources MS #8
500 S. Bronough Street
Tallahassee, FL 32399-0250

Dear Dr. Wheeler:

The Miccosukee Tribe of Indians of Florida received your letter concerning the Isolated Find Policy that allows river divers to collect artifacts from Florida Rivers. After discussion with Mr. Fred Dayhoff, Tribal Consultant, and review of the five options, we state the following as the position of the Miccosukee Tribe.

We support option 2 to closing rivers within managed areas to all collecting. It is the position of the Miccosukee Tribe that absolutely no "bones" or human remains of any kind should be collected on all lands, especially state or federal lands. On private lands, a permit should be mandatory for collecting but no "bones" or human remains be collected. We support amnesty for reporting older collections but are unclear on the part "and an opportunity for river divers to assist in recording data on older collections". Clarification of this would be helpful. We further support utilizing existing felony penalties for collecting without a permit. We have no comments on either permits or training.

We will be unable to attend the Gainesville meeting due to other commitments. The Tribe appreciates the opportunity to provide comments. Please feel free to read this letter at the meeting. If you require additional information or have any questions concerning this letter, please call me (305) 223-8380, Ext. 2243, or e-mail at SteveT@miccosukeetribe.com.

Sincerely,

Steve Terry
NAGPRA & Section 106 Representative

P.O. Box 440021, Tamiami Station, Miami, Florida 33144, (305) 223-8380, fax (305) 223-1011
Constitution Approved by the Secretary of the Interior, January 11, 1962



CENTRAL FLORIDA MUSCOGEE CREEK TRIBE

MICO MACHETVHY
MAD NEW TOWN

P.O. BOX 968 LACOOCHEE, FL. 33537
STATE RECOGNITION UNDER FLORIDA STATUTE 285.19
SINCE 1975

Ryan J. Wheeler, Ph.D.
Chief, Bureau of Archeological Research
500 S. Bronough Street
Tallahassee, Florida 32399-0250

6-21-04

Dear Dr. Wheeler,

After receiving your letter dated 6-10-04, it is evident to us that your agency intends to continue to support and allow, in one illicit form or another, the theft of historical resources and artifacts from sovereign state lands. You have received letters of objection to this from two of the three Native Florida Indian Tribal Governments, plus the recommendation and unanimous vote of the Florida Historical Commission and the recommendation and unanimous vote of the Florida Anthropological Society to repeal / rescind your agencies illicit rule or policy known as the ("Isolated Finds Policy"), along with numerous letters from concerned citizens as individuals and organized groups supporting the same, and supportive testimony from state Law Enforcement Agencies as to the policy being illegal and un-enforceable.

We consider these actions by your agency to be intentional culpable negligence in your duties to "all" the citizens of the state of Florida and a violation of the State constitution in the protected ownership and the disposal of their state properties and historical resources. We also consider these actions to be in violation of the spirit and intent of all federal and state statutes ever granted by the governments of this state and the United States to protect and preserve historical resources. We also consider these actions to be in opposition to and a flagrant violation of the Native American Grave Protection and Repatriation Act, as many of these artifacts are in fact funerary items, that are being removed from underwater burial sites located on sovereign state government lands and federal navigable waterways and held in private collections with the illegitimate authority and granted permission of your agency through this illicit policy. We are greatly insulted by the audacity of your agency, in that you would presume to fix this flaw in your system by tagging the same failed program with a different or new form or name.

We had hoped that your agency would recognize the mistake they had made in the past, by forming and issuing an improper illicit rule and failed policy that subverts the intent of the law in support of a very small "sporting / hobbyist" special interest group. We had hoped that your agency would return to it's constitutionally mandated directives to protect "all" historical cultural resources and artifacts located within or upon state lands and we had hoped that a sense of ethical right and moral obligation would or could be found among the leadership of your agency. At one time in this country it was legal for the Boy Scouts of America to dig up bodies from Native American Graves for an Archeological Merit Badge. Thank God, the United States Congress and the Florida

Legislature, that conscience, times and laws have changed, your agency needs to catch up with the times and understand the intent of these laws and stop allowing less than 0.1% of the population of Florida's citizens to "plunder" underwater Native American burial sites, by using illicit loop holes in the law that your agency created.

It is our intent to request a finding from the legal community and the Florida State Legislature in these matters, as to these past policies and future proposed rules legality or the violation thereof and request that all procedures necessary be brought to bear on your agency in order to bring these matters into compliance with the law. We have been asked, and we consider it to be our fiduciary responsibility not only to our Native Florida Indian families and Native American Community, but to the citizens of the State of Florida, to join other concerned and organized groups of Florida citizens in a court action to force your agency to recognize their mistakes and take the proper action that you have had full and ample opportunity to recognize and correct. We are asking for this legal action of injunction to be filed in the federal court system for the fair and swift public protection against a rogue division of a state agency and its illicit policies and rules.

We regret that your agency does not wish to comply with or understand the intent of the laws passed by the legislative bodies of the Great State of Florida and the United States, who were elected and entrusted to protect the interest and property of their citizens and have done so, only to have their good work unknowingly demeaned.

It is evident that your agencies past and planned future actions concerning this matter "circumvent" the law. Your agency is not authorized nor empowered to do so. Your agencies planned action of in-action stated in your letter of 6-10-04 is irresponsible and disrespectful to us all!

Sincerely,

Micco R. E. King
Elected Tribal Chairman
Central Florida Muscogee Creek Tribe Inc.

cc: Tribal Council
Tribal Dept. of Legislative Affairs
Tribal Dept. of Legal Affairs
United States Attorney General
United States Department of Interior
United States Dept. of Historical Resources
Florida Attorney General
Florida Historical Commission
Florida Anthropological Society
Florida Tribes
Florida Chapter of the American Indian Movement
Independent Seminole Tribe of Florida Inc.