

“The Legal Framework for the Protection of Cultural Resources”

Gardiner Dalley, archaeologist, retired from the BLM in Cedar City

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Gardiner Dalley

A core premise is that an archaeologist’s work is important to human society:

- It provides a tie to the past
- It allows us to appreciate past cultures
- It provides lessons from interactions with groups and the natural environment
- It can demonstrate how pressure on local resources can result in adverse consequences

Another core premise is that professional anthropologists and archaeologists need data to help them form theories and conclusions. Cultural anthropologists work with large groups of people or cultures. Physical anthropologists work with human remains. Archaeologists work with non human artifacts. Importantly these artifacts, these must be viewed in-situ so that their context can be known and understood.

A major problem encountered by archaeologists is the absence of surface artifacts. The collecting of artifacts by amateurs destroys a main source of data needed by archaeologists.

Physical or “dirt:” archaeology is a “destroy as you go” profession. You only get one try to excavate and obtain surface artifacts. Gardiner estimates that over 95% of the sites in Washington County have been “dug up” by amateurs, consequently much potential data has been lost or compromised.

Surface artifacts can be extremely important in establishing who was responsible for the site and for dating the site. Surface artifacts can include things like scrapers, grinding implements, projectile points and pottery shards.

Projectile points developed slowly over time, and this development timeline is understood. A projectile point can help date a site to +/- 1000 to 2000 years.

Pottery developed at a much more rapid pace. Pottery shards can help date a location to within 30-50 years. Importantly, the structure of the pottery and its physical appearance (shape, color and design) can also help pinpoint the location where the pottery was manufactured. The location of manufacture combined with the location of the find can help define the movement of people and perhaps trade routes.

Unfortunately, the surface artifacts, or low hanging fruit of archaeology, are absent in many of the sites viewed today. Gardiner attributes this to increased population, increased leisure time and those "DAM ATV'S".

Gardiner summarized some of the legal remedies that can be applied to protect our archaeological resources:

Antiquities Act of 1906: Short, sweet and to the point. It was only 1 page long. Importantly, section 2 of this act established National Monuments.

Archaeological Resource Protection Act of 1979: Long and very comprehensive relative to what is covered.

Both of these laws apply to Federal Lands. Utah has corresponding state laws that apply to State Lands. These laws do not apply to private land.

Gardiner said that practically, it is very hard to make a legal case on either of these two laws. Likewise, judges have been reluctant to apply penalties that are specified.

Native American Grave Protection and Repatriation Act: The desecration of a body can apply to Federal, State and Private Land.

In summary, we as DAS members should take Gardiner's message to heart. When we visit a site, we should view the rock art or other site, but not do anything that may disturb the surrounding area, as this may have importance for archaeologists. We should also know our limitations and not get involved in any "digs" unless we are well supervised by a trained archaeologist.

John Mangels