Cultural Resources Compliance during Construction

Cultural Resources Program
Construction Compliance Training
November 12, 2014

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Legal Basis for Cultural Resources Compliance

WSDOT Policy

- It is WSDOT policy to avoid any adverse impacts, where practical, to cultural resources in planning, constructing, operating, or maintaining the state’s transportation systems

Federal Law

- National Historic Preservation Act (Section 106); National Environmental Policy Act (NEPA); US Department of Transportation Act [Section 4(f)]; Archaeological Resources Protection Act (ARPA)

State Law

- Executive Order 05-05; State Environmental Policy Act (SEPA); Archaeological Sites and Resources Protection Act; Indian Graves and Records Act; Abandoned and Historic Cemeteries Act
Cultural Resources Commitments

• All projects will have cultural resources commitments
• At a minimum, all projects will have an Inadvertent Discovery Plan (IDP) / Unanticipated Discovery Plan (UDP)
• Familiarize yourself with these commitments in the Environmental Compliance Notebook (ECN) and Commitment Tracking System (CTS)
• Contact the Environmental Permitting and Documentation Specialists (formerly EC and ETA) or the Cultural Resources Specialist early and often with questions
• Some examples of cultural resources commitments include: archaeological monitoring; tribal monitoring; exclusion zones; additional trainings or briefings; archaeological excavations
• If commitments are not met, a project can be delayed or shut down
Consequences of Non-Compliance

Agency Implications

• Loss of project funding from federal partners
• Additional costs and schedule impacts
• Loss of trust from tribes, consulting parties, federal partners, and regulatory agencies

Personal Implications

• Disturbance of a burial or burial marker is a felony offense
• Not reporting discovery of human remains is a misdemeanor offense ("duty to report")
• Disturbance of an archaeological site is a misdemeanor offense
• Disturbance of “any glyptic or painted record of any tribe” is a felony offense
Communications as Key for Compliance

- Environmental Permitting and Documentation Specialists (formerly EC and ETA) and Cultural Resources Specialists are here to help keep projects moving forward.
- The more we communicate, the better we can meet our commitments and the better we can keep a project on time and under budget.
- Immediate communication generally leads to quick resolution.
- Project changes, no matter how seemingly small, must be messaged out quickly so that their potential impacts can be analyzed.
- When we find out about something after the fact, it is much more difficult to deal with, but finding out after is better than not finding out.
- Remember that we are all in this together and have the same goals in mind of delivering projects that are on time and under budget.
Inadvertent Discovery Plan (IDP) / Unanticipated Discovery Plan (UDP)

• IDP / UDP must be located on site at all times

• All personnel on site should know where the IDP / UDP is located

• Protocols in the IDP / UDP are put in place as soon as a discovery is made by anyone on site

• Contact PE and Cultural Resources Specialist if artifacts or bones are uncovered

• If you have a question as to whether a find might be archaeological or human, contact the Cultural Resources Specialist immediately and provide as much information as possible, including a photograph if possible

• Treat the find with respect

• Only essential personnel should be allowed into the area and appropriate channels for communications should be followed
I might implement the IDP / UDP if …
I see chipped stone artifacts.

- “Arrowheads”
- Regularly-patterned flaking
- Fractures like glass
- May have an “unnatural” shape
- May be an “unusual” material
- Angular
I might implement the IDP / UDP if …

I see chipped stone artifacts.

- Fractures like glass
- May have an “unnatural” shape

- Angular
- May be an “unusual” material
I might implement the IDP / UDP if ...

I see chipped stone artifacts.

- Glass-like material
- Angular
- "Unusual" material
- Regularity of flaking
- Variability of size
I might implement the IDP / UDP if …

I see chipped stone artifacts.

- Regularity of flaking
- Overall “unusual” shape
- Variability of size
I might implement the IDP / UDP if …

I see chipped stone artifacts.

- Fractures like glass
- Angular
- Overall “unusual” shape
I might implement the IDP / UDP if …

I see ground or pecked stone artifacts.

- Striations or scratching
- Unusual or unnatural shapes
- Unusual stone
- Etching
- Perforations
- Pecking
- Regularity in modifications
- Variability of size, function, and complexity
I might implement the IDP / UDP if …

I see ground or pecked stone artifacts.

- Pecked
- Regularity to modification
- May not be smooth
- May be only slightly modified

- Etching
- “Flat” sides
- Variability of size
I might implement the IDP / UDP if …

I see ground or pecked stone artifacts.

- Smooth
- Unusual shape
- Perforated
- “Flat” sides

- Smooth
- Etching or incising
- Variability of size
I might implement the IDP / UDP if …
I see bone or shell artifacts.

- Often smooth
- Unusual shape
- Perforated
- Carved
- Incised
I might implement the IDP / UDP if …
I see bone or shell artifacts.

- Often smooth
- Unusual shape
- Carved
- Often pointed if used as a tool
- Often wedge shaped like a “shoe horn”
I might implement the IDP / UDP if …

I see bone or shell artifacts.

- Often smooth
- Unusual shape
- Perforated
- Variability of size
I might implement the IDP / UDP if …
I see bone or shell artifacts.

- Tubular shells ("tusks")
- Perforated
- Variability of size
I might implement the IDP / UDP if …

I see fiber or wood artifacts.

- Wet environments needed for preservation
- Variability of size, function, and complexity
- Rare
I might implement the IDP / UDP if …
I see fiber or wood artifacts.

- Wet environments needed for preservation
- Variability of size, function, and complexity
- Rare
I might implement the IDP / UDP if ...  
I see historic period artifacts.
I might implement the IDP / UDP if …
I see strange, different or interesting looking dirt, rocks, or shells?

- Human activities leave traces in the ground that may or may not have artifacts associated with them
- “Unusual” accumulations of rock (especially fire-cracked rock)
- “Unusual” shaped accumulations of rock (e.g., similar to a fire ring)
- Charcoal or charcoal-stained soils
- Oxidized or burnt-looking soils
- Accumulations of shell
- Accumulations of bone or artifacts
- Look for the “unusual” or out of place (e.g., rock piles or accumulations in areas with few rock)
I might implement the IDP / UDP if …
I see strange, different or interesting looking dirt, rocks, or shells?

- “Unusual” accumulations of rock (especially fire-cracked rock)
- “Unusual” shaped accumulations of rock (e.g., similar to a fire ring)
- Look for the “unusual” or out of place (e.g., rock piles or accumulations in areas with few rock)
I might implement the IDP / UDP if …

I see strange, different or interesting looking dirt, rocks, or shells?

- Accumulations of shell
- Often dense
- Often associated with a dark black soil
- Often associated with fire-cracked rock
I might implement the IDP / UDP if …
I see strange, different or interesting looking dirt, rocks, or shells?

- Accumulations of shell
- Black soil
- Fire-affected and fire-cracked rock
I might implement the IDP / UDP if …

I see strange, different or interesting looking dirt, rocks, or shells?
I might implement the IDP / UDP if … I see strange, different or interesting looking dirt, rocks, or shells?

- Often have a layered or “layer cake” appearance
- Often associated with black or blackish soil
- Often have very crush and compacted shell

Site located within WSDOT ROW near Anacortes Ferry Terminal
I might implement the IDP / UDP if …
I see historic debris?

- If the materials are 50 years or older, they could be historically significant and must be evaluated
- Foundations
- Walls
- Roads
- Railroad grades
- Wells
- Privies
- Infrastructure
I might implement the IDP / UDP if ...

I see historic debris?
I might implement the IDP / UDP if …
I see historic debris?

- Wooden gutter beneath historic demolition rubble
I might implement the IDP / UDP if …

I see historic debris?

- Wood not so rare in historic sites
- Dimensional
- Sawn or cut
- Nails or fasteners
- Variability of size, function, and complexity
I might implement the IDP / UDP if … I see historic debris?

- Wooden, spread-foundation footing for Plummer Street
I might implement the IDP / UDP if …

I see historic debris?
I might implement the IDP / UDP if …

I see historic debris?
I might implement the IDP / UDP if …

I see historic debris?