

Leave No Trace Ethics

and

Historic Preservation Law

What's the right thing to do and why in regards to historic and archaeological sites?

4. Leave What You Find



Leave What You Find means retaining the original character of the Alaskan wildlands such that natural ecosystems and traditional human sites remain intact and we pass on the gift of discovery to those who follow.

- Before your trip discuss how you are both visitors and stewards for the present and future.
- Throughout your trip emphasize the value of leaving natural and cultural objects undisturbed.
- In many areas collecting natural and archaeological or historic objects is prohibited or regulated: know the pertinent laws and regulations for the areas you will visit.

- [The Archaeological Resources Protection Act](http://www.fs.fed.us/spf/tribalrelations/Policy/ARPA_PL96-95.pdf) and other federal laws make it illegal to damage, destroy, deface, or remove archaeological and historic resources from public lands. (Link: http://www.fs.fed.us/spf/tribalrelations/Policy/ARPA_PL96-95.pdf)

Images in stone and wood created by Native artisans entwine tradition, belief and location. The essences of the images are inseparably joined to their location in the cultural landscape.

- Artifacts and structures that may be found along the Alaskan coast include rock art, stone tools, ancient fish traps, culturally modified trees, shell middens, grave sites, totem poles, cabin remains, village sites, and industrial remains including mines, canneries and fur farms.
- Preserve Alaska's past: appreciate, but do not touch, cultural or historic structures and artifacts. Leave them as you find them.
- Gain a sense of discovery by learning the local human history and understanding how people and nature have inter-related where you now visit.



Less than 1% of the Tongass and Chugach National Forests have been inventoried for the presence of archeological resources.

- If you find artifacts during your expedition, please note/GPS their location, photograph them and share your discovery with your local USFS archeologists.
- Assist archeologists by volunteering for a [Passport in Time](http://www.passportintime.com/) project. (Link: <http://www.passportintime.com/>)

Legislation designating public lands in Alaska recognizes and allows the continuation of traditional uses.

- Respect private inholdings, permitted cabins and traditional/subsistence camps you encounter in the wild.
- If you believe a trespass cabin has been built on public lands, inquire with local USFS staff.



Specifically address souvenir-gathering before and during your trip, recognizing that many people value possessions more than undisturbed nature.

- Teach your clients and party to load their cameras, not their packs; to fill their journals, not their pockets.
- Explain to collectors and children the role that natural objects fill in the ecosystem, such as how antlers nourish red-backed voles and how beach stones shelter amphipods (beach hoppers).



Modern portable equipment lets us visit a site comfortably without modifying it. This allows the site to retain its natural integrity and appeal.

- Do not build structures, furniture, or dig trenches.
- Do not cut down trees, break branches or clear vegetation.
- If you choose to move a few small sticks and stones for your tent site, replace them before you leave.



Non-native species that alter natural ecosystems are rapidly being introduced to and proliferating in Alaska, especially along popular roads, trails and waterways.

- Water, mud and soil may contain harmful seeds, spores, tiny plants and animals.
- Empty and clean your packs, tents, boats, fishing equipment, vehicles after every trip.
- Before setting out on your trip, clean the dirt from your boots and tire treads.
- Make sure the coat of your pet is free from seeds, twigs and ticks.

Federal and State Laws affecting Cultural Resources in SE Alaska

Paraphrasing by Terry Fifield, Archaeologist

Prince of Wales Districts, Tongass National Forest

February 2009

Archaeological Resources Protection Act (1979)

Purpose of ARPA is:

...to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data.

Under the terms of ARPA it is illegal to excavate, damage, remove, or otherwise alter or deface any archaeological resource located on federal public lands or Indian Lands without an ARPA permit. Criminal penalties are specified for violations of the law as follows.

- **Misdemeanor:** (total value \$500 or less) – maximum penalty \$100,000 and/or One (1) Year
- **Felony:** (total value exceeds \$500) – maximum penalty \$250,000 and/or Two (2) Years

Second Offense: (prior misdemeanor or felony conviction, no damage limit) – maximum penalty \$250,000 and/or Five (5) Years.

Civil penalties may also be assessed.

Forfeiture: Those convicted of a civil or criminal violation of the Act are subject to the forfeiture of vehicles and equipment used in the crime.

Definitions from ARPA

CFR 296.3(a) Definitions. "Archaeological resource" means any material remains of human life or activities which are at least 100 years of age, and which are of archaeological interest. (1) "Archaeological interest" means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation. (2) "Material remains" means physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated

36 CFR 296.4 Prohibited Acts. (a) No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under 296.8 or exempted by 296.5(b) of this part; and (b) No person may sell, purchase, exchange, transport, or receive any archaeological resource, if such resource was excavated or removed in violation of: (1) The prohibitions contained in paragraph (a) of this section; or (2) Any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

36 CFR 261.9 – (Theft of Govt. Property)

All historic (generally 50 years or older) and archaeological (defined in ARPA as more than 100 years old) artifacts on federal lands belong to the U. S. Government.

36 CFR 261, General Prohibitions, Subpart A, 261.9. "The following are prohibited: (g) Digging in, excavating, disturbing, injuring, destroying, or in any way damaging any paleontological, prehistoric, historic, or archaeological resources, structure, site, artifact, or property; and (h) Removing any paleontological or archaeological resource, structure, site, artifact, or property.

National Historic Preservation Act (1966 as amended)

NHPA requires that federal agencies manage historic and archaeological sites in accordance with accepted professional standards as established in the act. The act establishes the State Historic Preservation Office in each state as a quality control agency and data repository. The act requires consultation with tribes and Native groups (including ANCSA Corporations) about the effects of planned activities on culturally significant properties in the traditional territories of potentially affected tribes.

The National Environmental Policy Act (1969)

NEPA requires that an analysis of the potential effects of planned actions on natural and cultural resources be part of planning for all land disturbing activities on federal lands, using federal funds, or conducted under federal permits. The Act also requires that resource information be provided to the public during the public scoping process.

The Native American Graves Protection and Repatriation Act (1991)

NAGPRA provides a procedure for Native American individuals and tribes to claim culturally affiliated and unaffiliated human remains, burial items, and objects of cultural patrimony held by federal agencies or in facilities (museums and universities) which receive federal funding. The act also provides guidance on the treatment of inadvertently discovered human remains, funerary items, and items of cultural patrimony found on federal lands. Finally the act defines the interstate trafficking in these items as a federal crime.

Alaska Historic Preservation Act (Alaska Statute 41.35)

It is the policy of the state to preserve and protect the historic, prehistoric, and archeological resources of Alaska from loss, desecration, and destruction so that the scientific, historic, and cultural heritage embodied in these resources may pass undiminished to future generations. To this end, the legislature finds and declares that the historic, prehistoric, and archeological resources of the state are properly the subject of concerted and coordinated efforts exercised on behalf of the general welfare of the public in order that these resources may be located, preserved, studied, exhibited, and evaluated.

Unlawful Acts

(a) A person may not appropriate, excavate, remove, injure, or destroy, without a permit from the commissioner, any historic, prehistoric, or archeological resources of the state.

(b) A person may not possess, sell, buy, or transport within the state, or offer to sell, buy, or transport within the state, historic, prehistoric, or archeological resources taken or acquired in violation of this section or 16 U.S.C. 433.

(c) [Repealed, Sec. 3 ch 83 SLA 2001].

(d) An historic, prehistoric or archeological resource that is taken in violation of this section shall be seized by any person designated in AS [41.35.220](#) wherever found and at any time. Objects seized may be disposed of as the commissioner determines by deposit in the proper public depository.

Criminal Penalties

A person who is convicted of violating a provision of AS [41.35.010](#) - [41.35.240](#) is guilty of a class A misdemeanor.

Civil Penalties

In addition to other penalties and remedies provided by law, a person who violates a provision of AS [41.35.010](#) - [41.35.240](#) is subject to a maximum civil penalty of \$100,000 for each violation.
