



# *Advisory Council on Underwater Archaeology*

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October 15, 2002

Admiral James D. Watkins, USN (Retired), Chairman  
U.S. Commission on Ocean Policy  
1120 20<sup>th</sup> St., NW  
Suite 200 North  
Washington, DC 20036

Dear Chairman Watkins:

As Chair of the Advisory Council on Underwater Archaeology (ACUA), I am writing to express the Council's position on issues concerning management of our nation's underwater cultural heritage. The ACUA is a scientific and educational organization dedicated to the advancement of underwater archaeology as a scientific profession. It works with various organizations, agencies, and individuals to promote goals supporting science and preservation, and to encourage ethical and professional standards in underwater archaeology and management of our submerged cultural heritage. It is also closely affiliated with the Society for Historical Archaeology (SHA), one of the largest professional historic archaeology societies in the world.

As the U.S. Commission on Ocean Policy strives to establish a coordinated and comprehensive national ocean policy for the United States, it will face myriad issues concerning the ownership, study, and preservation of historic shipwrecks and other submerged cultural resources. The ACUA, as the national and international advisory body on issues relating to underwater archaeology, conservation, and submerged cultural resources management, believes that the inclusion of an accredited underwater archaeologist to the Commission's Science Advisory Council, or as a special task advisor, would greatly benefit the Commission's goal of obtaining "the best scientific information available" from all ocean study disciplines.

Management of submerged cultural resources, particularly historic shipwrecks, has become a significant management issue during the past three decades. Most recently, the advent of the Abandoned Shipwreck Act, the discovery of a number of significant historic shipwreck sites, and the development of UNESCO's Convention on the Protection of the Underwater Cultural Heritage, has increasingly drawn the attention and interest of both the general public and a wide variety of user groups within the United States and abroad. The United Nations Convention has spearheaded a world mandate to prohibit commercial exploitation of underwater cultural heritage and improve the effectiveness of international, regional, and national efforts to manage and preserve these assets in perpetuity. The international treaty

was passed by an overwhelming majority of participating countries last year, and it strongly reinforces the ethics policies and guidelines outlined in the ACUA's bylaws, and those of its affiliate organization the SHA.

Our nation's underwater cultural heritage is a fragile, nonrenewable resource that provides a tangible and very unique link to our past. The proper management, study, and protection of historic shipwrecks and other submerged archaeological sites for educational and scientific purposes, as well as tourism and recreation, will ensure that these resources will be available to Americans for generations to come. Should the Commission wish it, the ACUA is prepared to recommend a credentialed and qualified archaeologist among its members, who would be honored to serve the Commission in an advisory capacity for the remainder of its tenure. Thank you very much for your consideration of this matter.

Respectfully,

Robert S. Neyland, Ph.D.  
Chair, Advisory Council on Underwater Archaeology

Enclosures: List of websites for legislation pertaining  
to the preservation of underwater cultural  
heritage



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U.S. Commission on Ocean Policy  
1120 20<sup>th</sup> St., NW  
Suite 200 North  
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Honorable Committee Members:

As Chair of the Advisory Council on Underwater Archaeology (ACUA), I am writing to express the Council's position on issues concerning management of our nation's underwater cultural heritage. The ACUA is a scientific and educational organization dedicated to the advancement of underwater archaeology as a scientific profession. It works with various organizations, agencies, and individuals to promote goals supporting science and preservation, and to encourage ethical and professional standards in underwater archaeology and management of our submerged cultural heritage. It is also closely affiliated with the Society for Historical Archaeology (SHA), one of the largest professional historic archaeology societies in the world.

Management of submerged cultural resources, particularly historic shipwrecks, has become a significant management issue during the past three decades. Most recently, the passage of the Abandoned Shipwreck Act, the discovery of a number of significant historic shipwreck sites, and the ratification of UNESCO's Convention on the Protection of the Underwater Cultural Heritage, has increasingly drawn the attention and interest of both the general public and a wide variety of user groups within the United States and abroad. The protection of wrecks in international waters—and the sovereign immunity of a flag state's military or national vessels within the territorial waters of other countries—is poorly regulated and has become an increasingly politicized issue. Consequently, the United Nations Convention has spearheaded a world mandate to prohibit commercial exploitation of underwater cultural heritage and improve the effectiveness of international, regional, and national efforts to manage and preserve these assets in perpetuity. The treaty was passed by an overwhelming majority of participating countries last year, and it strongly reinforces the ethics policies and guidelines outlined in the ACUA's bylaws, and those of its affiliate organization the SHA.

In addition to shipwrecks, underwater cultural heritage includes physical evidence of past cultures preserved in submerged structures, buildings, aircraft, artifacts, and human remains. Systematic archaeological investigation enables a "window" to this unknown past to be opened, and allows us to observe life as our forebears lived it. Scientific archaeology's search for greater understanding of past

history through the study of cultural material stands in direct contrast to the goals of treasure salvors, non-accredited “professional archaeologists,” and other profit-minded entities who wish only to recover material from shipwrecks so that it may be sold or marketed for a profit. Despite frequent statements by the salvage community to the contrary, very little effort is made by these individuals to conduct proper scientific inquiry, conserve non-saleable artifacts, or adequately publish the results of their research. As a result, what little information that may be recovered through these endeavors is either lost forever or unavailable to a wide audience.

The ACUA’s Constitution and Bylaws promote the conservation, preservation and research of submerged archaeological resources. The Council promotes the dissemination of research results within its own profession, to other related disciplines, and to the general public. Additionally, professional archaeologists following Council standards and guidelines have an ethical obligation to preserve the data they collect during archaeological projects for future generations. The Council’s guidelines were developed with the explicit goal of fostering the long-term preservation of archaeological collections and maintaining their research and public education values.

Most in the treasure salvor community contend that there are certain categories of artifacts (primarily coins, ingots and bars produced from precious metals) whose “economic resource value” outweighs their archaeological significance. Unfortunately, this is a shortsighted view of artifacts and their role in the overall interpretation of shipwrecks. The thousands of artifacts contained within an average shipwreck site have relationships not only to one another and the wreck fabric in which they are contained, but also to the larger culture that produced and placed them aboard the ship in the first place. To have any significant meaning, these relationships must be understood and recorded in great detail. In most instances, salvors are not willing to devote more resources than necessary to obtain the maximum return for their efforts. More often than not, this results in the complete loss of information and interpretation potential.

ACUA asserts that artifact assemblages and other cultural material recovered from shipwrecks and other submerged sites are the collective heritage of humanity. Consistent with this belief, ACUA does not support the sale of artifacts and objects or the dispersal of artifact collections. In addition to being inconsistent with accepted national and international professional museum standards and practice, the sale or dispersal of federally-owned artifacts is contrary to U.S. federal regulation, which states that an artifact collection “should not be subdivided and stored at more than a single repository unless such a subdivision is necessary to meet special storage, conservation, or research needs” [36 CFR 79.6(b)(2)].

Dispersal of artifact assemblages to different owners and facilities detracts from their value as cultural heritage and their collective ability to inform professionals and the public alike. Further, it limits the ability of researchers to locate, travel to, and study these materials. Perhaps worst of all, artifacts in dispersed collections end up being conserved (if at all) in markedly different ways, which frequently results in their deterioration and ultimate loss. None of the aforementioned scenarios are consistent with UNESCO’s goal of “preserving underwater cultural heritage for the benefit of humankind.”

Currently, treasure salvors and like-minded individuals base their claim to historic shipwrecks on legislation or custom that was enacted before a concept of the historical or archaeological value of shipwrecks was developed. It is the position of ACUA that these existing laws and conventions, particularly Admiralty Salvage Law and the International Law of Salvage and Finds, are incompatible with the purposes of both UNESCO’s Convention on the Protection of the Underwater Cultural Heritage and the International Council on Monuments and Sites (ICOMOS) Charter. Commercial activities promote the private economic interests of salvors and those who invest in their undertakings, rather than

the broader interests of humanity, and consequently should not apply to national and international underwater cultural heritage.

Although UNESCO has sought to adopt a world mandate for the preservation of shipwrecks and other submerged archaeological sites, most wrecks within the waters of various nations (including the United States) currently fall under the jurisdictions of those countries, whose laws vary widely. In a few instances, treasure salvage is not permitted in a nation's territorial waters under any circumstances; many nations, however, freely admit salvors and take a share of the finds. In the United States, ownership of a particular historic shipwreck rests with either the federal government or the State in whose waters it is located. While some U.S. states do not permit non-scientific recovery of submerged cultural material, others allow it and are awarded a share of the spoils. Tragically, the latter scenario has often resulted in salvors losing interest or funding for a particular site and abandoning the salvaged wreck and artifacts to the State, which in turn is expected to take responsibility for management of a resource that retains little or no information potential. Adopting a uniform national policy similar to that proposed by UNESCO for underwater cultural heritage worldwide would be a way to ensure that submerged archaeological sites are preserved and studied by scientists and enjoyed by the public in perpetuity. In this way, all people, not just a select few, may benefit from their preservation.

If underwater cultural heritage is to be preserved for the benefit of humankind, responsibility for its protection rests not only with the State or States most directly affiliated with it (geographically, historically or culturally), but with all nations, states, and subjects of international law. It is the position of the ACUA that the entire international community commits itself to the development of stringent measures to prevent clandestine or unsupervised excavation of submerged archaeological sites. By doing so, the irremediable loss of the underwater cultural heritage's historical or scientific significance can be effectively controlled or eliminated. The ACUA also urges the U.S. Commission on Ocean Policy to assume a leading role in the protection of submerged cultural resources by drafting and supporting new legislation that prohibits commercial exploitation of underwater archaeological sites, creating a strong, comprehensive national program for the protection and management of submerged cultural resources, and working towards the inclusion of the United States as a member of the International Convention on the Protection of the Underwater Cultural Heritage.

Our nation's underwater cultural heritage is a fragile, nonrenewable resource that captivates and enlightens us, and provides a tangible and unique link to our past. The study and enjoyment of historic shipwrecks and other submerged archaeological sites for science, tourism, recreation, and education will ensure that these resources will be available for Americans for generations to come. Additional information about underwater archaeology, current protective legislation for historic shipwrecks, and the protection and preservation of submerged cultural resources in the United States can be found at the ACUA website: <http://www.acuaonline.org/>. Thank you very much for your consideration of this matter.

Respectfully,

Robert S. Neyland, Ph.D.  
Chair, Advisory Council on Underwater Archaeology