Hearts and Minds: Collaborative Approaches to Archaeological Site Preservation

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HEARTS AND MINDS: COLLABORATIVE APPROACHES TO
ARCHAEOLOGICAL SITE PRESERVATION

A Thesis
Presented to
the Faculty of Arts and Humanities
University of Denver

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts

By
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Advisor: Bonnie Clark
Abstract

Archaeological relic hunting on public lands in the southwestern United States accelerated with 19th century westward expansion and it continues today. Efforts to curb looting through the passage and enforcement of laws has been only moderately successful. Americans’ misunderstandings of archaeology’s ethical responsibilities, particularly with regard to Native Americans and other descendant communities, have further undermined historic preservation initiatives. My thesis addresses the usefulness of public, private, and nonprofit site protection efforts in changing the beliefs and behaviors associated with site looting, focusing particularly on the need for collaboration outside the heritage management profession. Using Postcolonialist, materialist, pragmatist, and collaborative theories, this research answers the following research questions: (1) Does archaeological site preservation matter to the public? (2) How can stakeholders’ attitudes towards archaeology and site preservation be improved? (3) What is the most effective approach to archaeological site preservation? I investigate four models of site preservation under the headings of Enforcement, Education, Privatization, and Community Archaeology. Through participant observation, semi-structured interviews, surveys, and secondary research, these findings suggest that the most effective methods for protecting our collective past are through community archaeology and education.
Acknowledgments

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Ashley Rogers has been my faithful proofreader, listener, consoler, taskmaster, travel companion, and best friend throughout this process.

This work is dedicated to Russ and Joan Sanders
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Chapter 1: Introduction

Overview

In 2008, while working as a newspaper reporter in Santa Fe, New Mexico, I heard about a man named Forrest Fenn. Then-state archaeologist Glenna Dean had long been exasperated with Fenn, thanks to his practice of excavating portions of a former Spanish mission and 13th century Tano Indian settlement on his land called San Lazaro Pueblo (which was also the subject of former University of Denver anthropology student Sara Gale’s 2007 graduate thesis). Fenn owned the land and could do as he pleased with it, I was told. He could buy and sell artifacts excavated on his property, provided they were not associated with Native American graves. I was shocked to find that what Fenn was doing was perfectly legal.

Two years later I earned my certification as a federal law enforcement officer and began working for the National Park Service. My reason for pursuing this was simple: I hoped to apprehend and help prosecute looters who were in violation of the Archaeological Resources Protection Act (ARPA), a 1979 law that protects archaeological sites on federal lands. I soon learned that busts of this kind were rare and successful prosecutions of those violators rarer still. I began wondering what other means of protecting sites might prove more effective.

In my thesis, I examine four broad and, at times, overlapping approaches to archaeological site protection. The most widely known of these is law enforcement,
though other, less punitive measures have also become prevalent over the past three decades. Educational initiatives have been established as alternatives to criminal investigations and arrests. The privatization of archaeological sites through land sales and conservation easements is a controversial approach to preservation, but may well help to shield sites from pothunters. Finally, community-based approaches to preservation incorporate the voices of non-archaeologists and indigenous archaeologists into studies that have traditionally been the sole domain of nonindigenous, scholarly archaeologists. This has enhanced historical research while addressing the injustices of archaeology’s colonialist past. This multivocal approach also enhances public awareness and involvement that are crucial to site preservation efforts.

To better understand how public participation may affect site preservation, archaeologists must first consider people’s perspectives on archaeology as a discipline. Previous studies on public sentiment have indicated that, while Americans support the work archaeologists do, there are considerable misunderstandings of what we do, and why the material past is worth protecting.

The Public’s Complicated Relationship with Archaeology

Clearly, there would be no looting and collecting of archaeological materials if no one were interested in them. It is ironic that the fascination with the past which motivates all positive public behavior toward archaeological resources also causes so much damage and destruction [McAllister 1991:96].

The question of whether site preservation is important at first seems simple – the public appears largely supportive of the work archaeologists do (Ramos and Duganne 2000; Merriman 2004:9; Pokotylo and Guppy 1999). However, such discussions often become heated arguments about property rights, government encroachment, and notions
of ownership of the past. In his paper addressing media coverage of archaeology, Robert Kuhn writes, “Coverage is almost universally positive when the press focuses on the actual work of the archaeologist” (2002:207), yet he also notes, “there is usually little sympathy for archaeology when people perceive that it is being used without merit to stop or delay a project” (2002:203).

Professional archaeology, and specifically academic archaeology, can rightly be accused of institutional myopia for not being more forthright about sharing research with a broader audience, and consequently for not addressing some of the misunderstandings about the role archaeologists play in the historic preservation process (Pokotylo and Guppy 1999:404; Lipe 1974:216; McManamon 1991:122). Barbara Little (2010:155) surmises that the field risks losing its relevance if it does not interact more with the public. J. H. Jameson rightly asked, “despite the promises and predictions of 30 years ago, what has the public, who has footed most of the bill in terms of tax dollars spent on these studies, appreciably gained?” (1997:13). Professional archaeologists have an obligation to answer that question and are best suited to do so. At least in 2002, according to Kuhn (2002:206), they had not.

Compounding this problem is archaeology’s characterization in the mass media as “infotainment.” American archaeology as depicted on television and in magazines may be informative and romantic (Gero and Root 1994), but history in general and archaeological preservation in particular have not historically been portrayed as an urgent national or international priority.
One telling example is personal: in 2011 I participated in a Discovery Channel television series called *American Treasures*, hosted by anthropology Professors Kirk French and Jason DeLeon, which focused heavily on preservation. The show was canceled before the first season ended, due in part because of French and DeLeon’s refusal to incorporate dollar value assessments of artifacts on the show. DeLeon writes, “The pricing of artifacts was a big point of contention and Kirk and I were generally considered ‘difficult talent’ because we fought [Discovery Channel] tooth and nail about it” (Jason DeLeon, Mark Sanders, April 10, 2012)

By contrast, there are two new television shows (*Diggers* and *American Digger*) that promote backyard archaeology and selling artifacts. These shows have both been roundly criticized by the professional archaeological community (as illustrated in Society for American Archaeology president Fred Limp’s 2012 open letter) but their very existence shows at least some degree of presumptive public interest. As of April 20, 2012, according to *American Digger’s* website, the show was seen by 1.2 million viewers in its inaugural season. Preservation is not a priority on this program; the commoditization of the past is.

Previous research on the public’s perception of archaeology has so far been limited, despite early calls, such as William Lipe’s (1974:217) urging that thorough, quantitative research should be done on this topic. Exactly how the public perceives archaeology, outside of anecdotal evidence and two primary studies consulted for my thesis, is largely unknown. The benefits of promoting such scholarly research to an audience beyond the academy have been long touted, yet studies on public sentiment
toward the field have been historically based on highly subjective firsthand observations. The most recent formal survey of archaeology’s importance to people (Ramos and Duganne 2000) is now more than a decade old.

Two studies inform my thesis’ effort to understand how the public perceives archaeology and the politics of preservation. Pokotylo and Guppy (1999:401) conducted a survey in 1996, delivering 2,000 questionnaires to a random sample of residents in southwestern British Columbia. The goals of this study were to determine the public’s knowledge of archaeology; its level of interest in archaeology; its opinions on the significance of archaeology to society; its awareness and support of archaeology-related initiatives; its attitude towards native rights as they relate to archaeology; and demographic information on the respondents.

Maria Ramos and David Duganne coauthored a survey of 1,016 adults in the contiguous U.S. to determine “how well Americans understand archaeology – its practice, its results, and its value” (2000:4). It relied on Pokotylo and Guppy’s work as well, and largely supports both Lipe’s and Kuhn’s hypotheses. While the public’s perceptions of archaeology are diverse, there is consistency among the kinds of responses gathered in these surveys. Both Ramos and Duganne and Pokotylo and Guppy reach a similar conclusion: that the public finds archaeology interesting, but that the discipline is “isolated from the main concerns of society” and “of little importance to the public and critical issues are misunderstood” (Pokotylo and Guppy 1999:414-415).

Furthermore, write Pokotylo and Guppy, “public opinion on issues of Aboriginal stewardship of the archaeological record and intellectual property tends toward negative
attitudes” (1999:412). According to the authors’ research, the public believes archaeology is a discipline best left to scientists and scholars. Indigenous peoples’ voices are held in lower regard than those of the archaeologists. Former Hopi and current Zuni Tribal Historic Preservation Officer Kurt Dongoske echoes this sentiment. When asked, “Do you think if there was more public awareness of the need for tribal consultation in archaeology, it might get more attention?” he responded tersely: “I don’t think the public really cares” (Kurt Dongoske, Mark Sanders, June 18, 2012). This presents an obvious challenge for collaborative work between archaeologists and Native Americans.

Scope of This Project

The geographic scope of this project is limited to the southwestern U.S., with a particular emphasis on preservation efforts in the Four Corners region. This region is a microcosm of preservation hazards and efforts in the United States, as it is one of the most archaeologically rich parts of the nation. Site protection efforts here can and should be applied to sites in the rest of the country. Examples of successful preservation initiatives are taken primarily from the Southwest, but also include successful projects in other parts of the U.S.

Timeliness is a considerable factor here. I am interested in what works now. Accordingly, preservation initiatives that worked 20 years ago may not be as useful as those currently being used. Therefore, my research is limited to in-progress programs and recently completed efforts.
In order to understand how the landscape of preservation initiatives in the U.S. came to be what it is today, and how attitudes towards archaeology and looting have become what they are, some historical perspective is needed.
Chapter 2: Historical and Cultural Context

The title of numerous Indian tribes to vast tracts of country has been extinguished; new States have been admitted into the Union; new Territories have been created and our jurisdiction and laws extended over them…. It is confidently believed that our system may be safely extended to the utmost bounds of our territorial limits, and that as it shall be extended the bonds of our Union, so far from being weakened, will become stronger.

- From President James K. Polk’s inaugural address, 1865

Manifest Destiny, Romanticism, and the Opening of the American West

The United States’ hunger for new lands led the young nation to repeatedly look westward throughout the 19th century. The Louisiana Purchase added 827,000 square miles of land to a country barely 25 years old, doubling the nation’s size overnight (Joy 2003:21). The U.S. expanded again in 1848 with the territories won from the Mexican-American War, in an annexation of acreage that was larger even than that of the Louisiana Purchase. Lands acquired after the Mexican-American War included present-day Utah, as well as large portions of New Mexico, Arizona, and Colorado.

By 1848, the U.S. had already sent explorers and scientists to the frontier lands, journeys that had some anthropological and archaeological significance. Lewis and Clark’s odyssey to the Pacific Ocean in 1804 – 1806 constituted some of the first known written accounts on 72 different tribes (Ambrose 1996:206.) During and after the Mexican-American War, the U.S. Corps of Engineers set to mapping the American West for the sake of ascertaining what natural resources were available and what infrastructure
was needed. This also yielded some of the earliest ethnographic data on Native Americans, including the first published sketches of Zuni Pueblo and the earliest systematic descriptions of Chaco Canyon (Fowler 2000:42-44).

Archaeology itself, if not preservation, was becoming a valid discipline. This was the era of the King, Hayden, and Wheeler surveys, all of which, while conducted for the sake of converting Western lands to private property, were nevertheless critical for archaeology’s development. While the transcontinental railroad was being completed in 1869, John Wesley Powell made his now-famous journey down the Colorado River, collecting specimens for the Illinois Natural History Museum and stopping in present-day Glen Canyon to admire and collect “especially fine pottery bits as souvenirs” from Ancestral Puebloan ruins (Dolnick 2001:196). Archaeologist Don Fowler writes, “anthropology as a profession grew out of the new western surveys and the attempts to study the Indians for management and scholarly purposes” (2000:81).

Midcentury forays into Native Americans’ western territories were driven by the scientific inquiries of the Corps of Engineers and large-scale surveys, the growing public fascination with the West via adventure tales such as George Ruxton’s *Life in the Far West*, and politicians’ belief that expansionism was nothing less than a divine mandate.

A New York publisher named John O’Sullivan coined the term “Manifest Destiny” in 1845. Frederick Merk, author of *Manifest Destiny and Mission in American History*, characterizes the concept as “expansion, prearranged by Heaven, over an area not clearly defined” (1963:24). U.S. Senator Thomas Hart Benton, one of the most outspoken advocates of Manifest Destiny, saw God’s will at work in the U.S. victory
over Mexico (Fowler 2000:34). Native Americans were seen as obstructions to the perceived inevitability of U.S. expansion, as noted in President James K. Polk’s inaugural address (Bauer 1974:8). The U.S. had not just become a continental power, but an imperialistic one as well. Nineteenth-century Westward migrants claimed dominion over the West—its land, its people, and its vast archaeological resources.

The Wetherills, Antiquities Act, and the Professionalization of Archaeology

Eighteen seventy nine was a watershed year for archaeology (Lee 2006:15). Congress established the John Wesley Powell-led Bureau of Ethnology, and Frederic Putnam, curator of the Peabody Museum of Archaeology and Ethnology at Harvard University co-edited a popular book detailing the archaeology of the Southwest. Finally, two important organizations were founded that year: the Anthropological Society of Washington (which would later become instrumental in creating the American Anthropological Association) and the Archaeological Institute of America.

Ironically, the rise of interest in anthropology and archaeology assisted the destruction of archaeological sites. The Wetherill brothers – Richard, Benjamin Alfred (“Al”), Clayton, Winslow, John, and brother-in-law Charles Mason – began a brisk business in guiding tours through what later became Mesa Verde National Park (fig. 1; Fowler 2000). The brothers are credited with “discovering” the cliff dwellings at Mesa Verde in 1888. In the decade following that initial sighting, the brothers would host nearly one thousand visitors at Mesa Verde (Wetherill 1977:181), while also excavating the ruins and selling artifacts from them. From the earliest Anglo settlements in the Four Corners, archaeology had become commoditized (Goddard 2011:3).
Prominent institutions were complicit in the early antiquities trade. According to Benjamin Wetherill’s autobiography, the art director of the Minneapolis Industrial Exposition paid the brothers well for Mesa Verde artifacts in 1892 (Wetherill 1977:126). This same collection was shown at the Columbian Exposition in Chicago the following year, and was eventually purchased by the University of Pennsylvania. From 1895 to 1897, the Wetherills accompanied T. Mitchell Prudden from Yale University on expeditions throughout the Four Corners, collecting artifacts and shipping them to the Yale Peabody Museum (Wetherill 1977:244). According to Fowler (2000:188), the Wetherills also sold $3,000 worth of artifacts to the Colorado Historical Society (now known as History Colorado); those relics remain in the state’s collections.

Across the state line, University of Utah Professor Byron Cummings had contracted the Wetherills to excavate sites at Rainbow Bridge in Utah and Tsegi Canyon in Arizona for the sake of stocking the college’s collections (Fowler 2000:257; Spangler 2012). According to Mark Varien, archaeologists’ employment of local pothunters in the Four Corners, who excavated with little regard for provenance or the descendants of those who made the artifacts, “created this message that the archaeologists are the ones telling the locals to [loot sites]” (Mark Varien, Mark Sanders, June 13, 2012). As scores of artifacts were being hauled from their sites of origin, bound for Eastern institutions, the “treasure hunter from the city” image was thus born (Lipe 1974:220).

The Wetherills are by no means exceptional in their attitudes or practices. Rather, they are indicative of a much larger legacy of individuals who claimed ownership of and dominion over particular archaeological sites (Wetherill 1977:125; Doelle 2012:8). An
1879 Smithsonian Institution expedition to southwestern pueblos netted five tons of artifacts (Fowler 2000:107). The “skeleton picnics” of the early 20th century Southwest (Gulliford 2000:19), in which entire families would hunt for Native American artifacts, is another example of perceived ownership of natives’ material legacy. Most significantly – as this pertained to the eventual creation of the first federal anti-looting law in the U.S. – Swedish archaeologist Gustaf Nordenskiöld was detained in Durango, Colorado, in 1891 for attempting to ship Mesa Verde artifacts out of the country. He was soon released however, as railway officials determined the artifacts as “being merely of nominal value” (Wetherill 1977:228). By 1909, Mesa Verde had been overrun by curio seekers, prompting park superintendent Hans Rudolph to claim, “probably no cliff dwelling in the Southwest has been more thoroughly dug over in search of pottery and other objects of commercial purposes than [Mesa Verde’s] Cliff Palace” (Lee 2006:24). Utah archaeologist Winston Hurst adds, “sites were excavated and in some cases destroyed for the artifacts they could produce” (Spangler in press).

Citing the rampant destruction of sites in the Southwest, Congress authorized President Benjamin Harrison to reserve the Casa Grande ruins in southern Arizona in 1892. This created the first national archaeological reservation in U.S. history (Lee 2006:20). However, the chief means of protecting sites on public lands at this time was the General Land Office’s removal of specific tracts from sale or entry (Lee 2006:27), effectively preventing private individuals from buying prominent archaeological sites. The federal government removed public lands from sale between 1900 and 1906 that
included what would later become Mesa Verde National Park, Bandelier National Monument, and Chaco Culture National Historic Park.

In 1906, Mesa Verde became the first national park to be established solely on the basis of its archaeological significance (National Park Service 2013a). The same year, Congress passed the Antiquities Act, making archaeological site destruction on federal lands a crime. The Act also established the National Monuments system, an important development that allowed the president to act unilaterally (i.e. without congressional approval) when protecting new federal lands (Harmon et al 2006:7). The Antiquities Act also created the Secretary of the Interior’s permit system for archaeologists who wanted to conduct research on federal lands.

While the Antiquities Act is still invoked for the sake of creating national monuments – Chimney Rock National Monument is the most recent example (National Trust for Historic Preservation 2013[2012]) – the law has proven inadequate for successful prosecution of pothunters and vandals. The Act was seldom used in the courts. Between 1906 and 1979, only 18 convictions resulted from enforcement of the Act (Fowler and Malinky 2006:9; Swain 2007), with only two of them resulting in jail time of 90 days each. While it is impossible to say definitely whether the Antiquities Act had a deterrent effect on looters, anecdotal evidence suggests it did not.

New Deal-Era Archaeology and Post-World War II Expansionism

Since 1906, numerous laws were passed that recognized the importance of site preservation. The National Park Service was created in 1916, and the Historic Sites Act of 1935 stated the federal government had a responsibility to provide technical assistance
to “historic American sites, buildings, objects, and antiquities of national significance, no matter their land status” (McManamon 2006:168) Other significant developments included New Deal-era initiatives such as the creation of the Civilian Conservation Corps, the Tennessee Valley Authority and the Works Projects Administration, which was the first large-scale government initiative to employ field crews on archaeology projects around the country (Neumann and Sanford 2001a:5; Merriman 2004:26).

The nonprofit National Trust for Historic Preservation (NTHP), whose mission is “to engage America’s diverse communities in preserving and sharing the stories and places that matter to them,” was created in 1949 by President Harry Truman, with a federal mandate to preserve the nation’s architectural heritage (Rogers 2006:180). It became and continues to be a major contributor to the preservation of cultural resources on public lands.

Industrialization and suburbanization in the first half of the 20th century threatened archaeological sites with destruction, as more land developments impacted historical places. An early example of this was the “noxious odors, smoke, and biological or hazardous wastes” produced by factories adjacent to Cahokia Mounds east of St. Louis, now a World Heritage Site (Colten 1990:92). Rapid suburbanization after World War II further impacted sites (Horwitz 2010; Bureau of Labor Statistics 2010:7), as did Kennedy-era urban renewal projects (King 2008:18) and infrastructural projects brought about by federal law (e.g. the Federal-Aid Highway Act of 1956) (Neumann and Sanford 2001b:16; King 2008:17). These developments in part led to the creation of the first comprehensive preservation law, the National Historic Preservation Act of 1966 (NHPA),
the much broader National Environmental Policy Act of 1968 (NEPA), and Executive Order 11593 (EO 11593). These laws and order reflected a growing environmental and cultural awareness in the public consciousness, aided by Rachel Carson’s *Silent Spring* (published in 1962) and the Johnson-era report *With Heritage So Rich* (published in 1965). The NHPA established the National Register of Historic Places (NRHP), the Advisory Council on Historic Preservation (hereinafter referred to as “the Council”), and Section 106 review.

The NHPA effectively created the modern business of cultural resource management (CRM). The Code of Federal Regulations, Part 800.1(a), states,

“Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Council a reasonable opportunity to comment on such undertakings.”

“Undertakings” are defined here as land-altering projects, while “historic properties” are defined as those that are eligible for inclusion in the NRHP (defined generally as 50 years old or older). The Council is responsible for overseeing compliance with these regulations described in the NHPA (King 2002:45). Furthermore, Section 106 of the NHPA requires “a review by the [State Historic Preservation Officer] of projects that have federal agency involvement” (Kuhn 2002:195).

The lead federal agency involved in the project is responsible for determining whether its action is one that requires review, consulting with the State Historic Preservation Office and tribal groups, and deciding what it needs to do in order to identify historic properties. However, Thomas F. King writes, "no agency is really fully staffed to carry out Section 106 review in accordance with the regulations on every one
of its projects” (2002:46). Private CRM firms are hired therefore to act as surrogates for the lead agency, consulting on projects as the agency itself would, and reporting back to them. However, in some cases, the agencies themselves conduct their own CRM activities (e.g. through National Forest Service or Bureau of Land Management archaeologists).

While CRM is often mistakenly confused with “contract archaeology,” i.e. excavations at any potentially NRHP-eligible sites, it is in fact much more than that. Section 106 review is accomplished through historic building surveys, consultation with descendant groups, and negotiation with engineering firms and other contractors to minimize potential adverse effects on NRHP-eligible properties. There are a host of techniques that do not involve excavations that can be employed to comply with Section 106 regulations. Still, excavation-centric CRM firms arguably employ the majority of archaeologists working in the United States (Neumann and Sanford 2001a:2; Neumann and Sanford 2001b:24).

The Rise of Cultural Resources Management and Indigenous Archaeology

With the American Indian Movement’s founding in 1968, indigenous groups became more active in opposing archaeologists’ role in reporting their history and removing burials and sacred objects. However, Zimmerman writes (2008:94), non-native archaeologists led programs on Indian lands because there were virtually no native archaeologists at that time. Perhaps this is because, up to that point, Native Americans had become disenfranchised, receiving little benefit from working with archaeologists (Hollowell and Nicholas 2008). Eventually, in their quest for greater sovereignty, tribes
(particularly the Zuni and Navajo) began working with anthropologists in what could be argued were the first instances of collaborative, multivocal archaeology (Anyon 1991:220). The Zuni Archaeological Program was founded in 1975, a year after the term “cultural resource management” was allegedly coined in a Denver bar (King 2002:5).

Concurrently and in the decades since, states and the federal government began passing more preservation laws. The Archaeological Resources Protection Act (ARPA), the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), and Executive Order 13007 (enacted in 1996) are the most recent laws enacted to protect archaeological sites and Native American rights (King 2008). ARPA, sponsored by former University of Denver law student (and later U.S. Representative) Morris K. Udall (D-AZ) and U.S. Senator Pete Domenici (R-NM), came about as the result of U.S. v. Diaz, a 1974 case that determined the Antiquities Act as “unconstitutionally vague” (King 2008:23). This new law added more stringent civil and criminal penalties than the Antiquities Act and clarified what the government defined as “objects of antiquity.”

NAGPRA was passed two decades after the American Indian Movement’s founding. It was the result of decades of human rights abuses, both overt and covert, by museums, the federal government, private individuals, and what Pawnee tribal historian Roger Echo-Hawk referred to as “imperial archaeology” (2000:3). Native Americans’ remains had been stored or put on display in museums, used as scientific specimens, or, worse, discarded by private individuals. Site looters were particularly guilty of the latter; throughout many indigenous cultures worldwide (e.g. Maya, Inca, ancient Egyptians), highly prized goods were placed alongside graves. According to numerous federal
lawsuits, skeletons were unceremoniously cast aside by looters who sought only these grave goods. NAGPRA was enacted, in part, to prevent this.

The law is an example of Native Americans asserting increased control over their rights through the protection and repatriation of their material remains. Specifically, these cultural items include human remains, associated funerary objects, unassociated funerary objects, sacred objects, and objects of cultural patrimony (according to 25 U.S.C. 3001 et seq.).

NAGPRA-type programs, albeit in piecemeal fashion, exited in some areas prior to the federal law. For example, Iowa had its own Native reburial laws prior to NAGPRA, as did California. Indiana University anthropology Professor Larry Zimmerman writes, “For many, NAGPRA was just national recognition of what was already happening” (2008:96). The passage of this federal law required various and sometimes historically antagonistic parties (e.g. Native Americans and archaeologists) to begin working together. Notably, Working Together: Native Americans and Archaeologists is the title of a book that highlights collaborative work spurred by repatriation law.

However, NAGPRA is a notoriously difficult and complicated law to comply with, even under the best circumstances. It details a process by which Native Americans and other tribal groups (e.g. Native Alaskans and Hawaiians) consult with museums, archaeologists, and the federal government, with the ultimate goal of repatriating their remains and associated cultural items back to them. Thomas King writes, NAGPRA “is
like many other laws in being well intentioned, justified, and virtually impossible to make work well” (2008:260).

Neither archaeologists nor native groups, I believe, view NAGPRA as a simple solution to righting historical wrongs imposed by scientists. Perhaps the most outspoken opponents of NAGPRA were University of California, Los Angeles anthropologist Clement Meighan and Arizona State University anthropology Professor Geoffrey A. Clark. In a strongly worded journal article, Meighan framed repatriation as “the massive losses of scientific data now legislated by the federal government and some of the states” (1992:704), and the draconian measures dictated by NAGPRA in the name of indigenous rights. Clark, meanwhile, accuses NAGPRA as “wreaking vengeance on history” (2000:88).

Ethical conflicts over the law extend to indigenous groups as well. Joe Watkins, the Director of the Native American Studies Program at the University of Oklahoma, has written extensively about incidents where NAGPRA has undermined native rights. He cites one incident (2008:164) in which a native group was denied rights under NAGPRA because it was not federally recognized – a requirement for consideration under the law. In another instance, a Kiowa war shield did not meet the criteria for being “sacred” under NAGPRA, even though the tribal members believed it to be so (2007:168). Finally, the long and troubled history of Kennewick Man has been discussed at length by David Hurst Thomas (2001) and other scholars.

Kurt Dongoske, Director and Tribal Historic Preservation Officer of the Zuni Heritage and Historic Preservation Office, says of NAGPRA, “Why should Zunis be
subject to continued colonialism, which is what NAGPRA is? You have to convince the colonial powers that you have a right to this place” (Kurt Dongoske, Mark Sanders, June 18, 2012).

Growth of the Black Market and Diversification of Protective Approaches

The 1980s saw a significant increase in antiquities trafficking, both licit and illicit, in the United States (Messenger 1989:29). The trade in Native American artifacts such as Mimbres bowls and Hohokam baskets had grown tremendously in value since the 1970s, fetching high prices on the black market (King 1991:86). With this came a rise in antiquities thefts as well as large-scale federal investigations into such crimes. In May 1986 federal agents raided 16 homes in Blanding, Utah, confiscating hundreds of artifacts in an ARPA operation. Notably, a similar sting in 2009 would net more than 20 arrests in Blanding as well (Goddard 2011:1).

Law enforcement alone would not correct the problem, however. The Society for American Archaeology (SAA) acknowledged this in 1988, stating that ARPA and NHPA were “often ineffective, not only because of the greed of criminals, but also because of the attitude of many people who ignore or condone such activities” (Messenger 1989:236). Arizona State University archaeologists Sophia Kelly wrote, “Sanctions and restrictions against landowners, nicknamed ‘big stick’ methods of site protection, are often met with hostility and prove ineffective in the long run” (2013[2007]:23). This is especially worth considering in light of the 1986 Blanding raids, which reinforced deep and long-held resentment towards federal land management agencies that had existed for
decades, but which gained momentum with the Sagebrush Rebellion and “wise use” movements of the 1970s and 1980s.

The 1980s and 1990s saw the rise of nongovernmental entities working towards archaeological site preservation and public archaeology. The Archaeological Conservancy, a nonprofit organization that purchases private land for the sake of preservation, was founded in 1980. Archaeology Southwest, whose president coined the term “preservation archaeology,” was founded in 1982. This was followed by preservation organizations Crow Canyon Archaeological Center (1985), Passport in Time (1988), and Project Archaeology (1990). Along with long-standing organizations such as the National Trust for Historic Preservation (founded in 1949) and various indigenous archaeology initiatives (particularly the Zuni Cultural Resources Enterprise, formerly the Zuni Archaeology Program), the preservation movement has grown to include numerous approaches to site stewardship.

Also notable are government-oriented site stewardship programs that rely on volunteers help to monitor sites. Colorado’s site stewards program, operated through the San Juan Mountains Association in conjunction with the Bureau of Land Management (BLM) and National Forest Service, was established in 1988. Arizona’s site stewards program was established in 1996 and has since become the BLM’s model program (Bureau of Land Management 2012).

Small- to large-scale looting and site destruction on public lands continues, however. The federal Operation Indian Rocks investigation involved five individuals who pleaded guilty to ARPA charges in 2002 for looting sites at Death Valley National Park.
The damage caused to archaeological sites in that investigation totaled over $500,000 and was at the time the largest monetary damage ever assessed in such a case (Canaday and Swain 2005:28). The 2009 Blanding raids received national media attention and are the subject of a documentary film currently in production.
Chapter 3: Theoretical Frameworks

Three main frameworks are employed throughout this research project. They are reflective of a more general attitude of reflexivity that is necessary for changing attitudes towards preservation. Materiality theory, the primary approach used in framing my thesis, investigates the relationship between people and objects – their intent, what objects signify, what gives objects agency, and, most importantly, how materiality relates to willful archaeological site damage and the approaches proposed to address it. The second theory, postcolonialism, arose in the latter half of the 20th century as a response to previous notions of dominance towards indigenous peoples by anthropologists. Lastly, pragmatism, “the distinctive American philosophy that holds that the meaning of ideas or action can be determined by considering … its practical consequences” (Preucel and Mrozowski 2010:115), is used because of its humanist, inclusive approach towards interpreting archaeology.

Materiality

Materiality is the study of the motivations of the people who made and/or used a particular object. A wide range of questions arise from this theoretical framework, including (but not limited to) the following: why do people use one material for construction, tool-making, or ceremonial item-making over another? How do they value that material, both economically and socially? How does that value increase between its
raw and finished state? And how does the perspective of those who make and use those materials change over time?

As illustrative as these questions are of the usefulness of materiality theory, it would be difficult to apply them all to this thesis. In this section, I explain briefly how certain aspects of materiality apply to my research. These aspects include: how value and meaning are ascribed to objects by different cultural groups; how social identity is influenced by objects; how attitudes towards objects change over time (a phenomenon I call the “fluidity” of materiality); and finally, how elements of material theory have influenced anthropology as a discipline over time.

One person’s evaluation of an object for its economic value is different from one who assesses an object based on its religious or sentimental value. Those values change over time and within various social contexts (Taylor 2009). Other considerations include the “authenticity” and “singularity” of an artifact – a frequent question that arises often in instances of looted and forged antiquities (Appadurai 1986:27). The phenomenon of uniqueness increasing an object’s value is easily seen in the commercial art market. The infamous case of the Lydian Hoard, in which the Metropolitan Museum of Art paid $1.5 million for looted objects found in Uşak, Turkey, is one of many examples of this (Waxman 2008:149).

In terms of archaeological site looting, the spiritual/economic divide is most apparent when an artifact is taken to market. In April of 2013, a collection of 71 Hopi and Zuni Pueblo sacred masks were auctioned in Paris, over the objections of tribal members. The tribes contended that the objects had been stolen. The dollar value of the masks
(estimated at over $1 million in total) was not part of the tribal members’ argument for repatriation; in letters and interviews, they made no claims of wanting the money resulting from the sale of the objects. The spiritual value of the masks to the Hopi (but not to the auction house, which strongly defended its right to sell the objects) was more important than the economic value of them. According to Hopi resident Robert Rhodes, some of the masks were no longer of use to the tribe. If they had been returned to the Hopi, they would have been disposed of (Robert Rhodes, Mark Sanders, April 10, 2013).

With regard to the authenticity of an artifact and how that connotes value, we can also look to the mainstream art market. An object with verifiable provenance (i.e. the ownership history of an object) is considered more economically valuable than an artifact without provenance (Waxman 2008:124). Aside from the ethical complications of selling unprovenanced artifacts, ancient art dealers are also confronted with the greater possibility that an unprovenanced object they are selling may be a fake.

The study of materiality is rooted in the late 19th century philosophy of E.B. Tylor. Taylor (2009:299) writes that Tylor was the first to use “materiality” in an anthropological context. McGee and Warms (2006:9, 30) note Tylor’s seminal writings on the comparative method of cultures, using indigenous peoples’ tools (in other words, objects) to illustrate levels of sophistication. This study of cultural development through objects alone led to the culture-historical archaeology of the 1940s and 1950s.

The arch culture-historical archaeologist V. Gordon Childe best illustrated this theory in his description of modern and ancient shipbuilding. Modern ocean liners are made using sophisticated technology that is sourced from around the world, while that
ship’s ancestor, the canoe, was made with simpler, locally sourced materials. Childe writes, “The ship and the tools employed in its production symbolize a whole economic and social system” (1961:13). Childe was not interested in extra-material decisions that created that same system.

Karl Marx’s emphasis on material culture has echoed to present-day studies of materiality. His term “fetishism of commodities,” which holds that people see inherent value in objects of manufacture and trade, is applicable to studies of looted materials. Marx believed that commodities defined us, shaping everything from the smallest decisions of taste to our very belief systems (Marx 1954:76).

Materiality is distinguishable from Marxism, however, in its de-fetishization of commodities. Marxism focused on production and exchange, and the values contained therein. Materiality focuses more on the agency of those who actually created and used those objects – in other words, what they thought. The difference here is not subtle; it recalls Marvin Harris’s later emic versus etic perspectives, with materiality emphasizing attention towards the former, and Marxism focusing squarely on the latter. Harris himself focused on the overarching meanings of objects that were imperceptible to their users (2001), which conflicts also with material theory. Materiality focuses on the meanings of objects as they are perceived by their users.

A host of scholars have written on materiality recently. University College London anthropology Professor Daniel Miller, University of Bradford archaeologist Timothy Taylor, Arjun Appadurai of New York University, and University of Toronto art
Professor Carl Knappett are among them. For my work, Taylor’s 2009 chapter in *Handbook of Archaeological Theories* has proven especially useful.

Shifting from archaeologists’ and philosophers’ perspectives to those of consumers and producers, we can say that some items are valued more than others. The rarity of an artifact is commonly cited as an indicator of this. Yet the term “rarity” requires clarification. An artifact found across a broad geographic area (e.g. a Clovis point) that is discovered in an unexpected place (e.g. South America) is indeed rare, though it is more because of its geographic context than because of the object itself.

However, the rarity of a manufactured object itself is not an adequate means of determining value, either. For example, the Actun Balam Vase, a Late Classic Maya vessel discovered in Belize in 1964, was found shattered in an obscure cave. Local mahogany cutters, descendants of the Maya themselves, had taken some sherds to their home village 60 miles away. Archaeologists soon learned that the sherds had been given to the loggers’ children, who consequently discarded them (Pendergast 1969).

In this example, rarity of manufacture did not connote commonly accepted value. The archaeologists, loggers, and children all valued the sherds differently. Complicating this matter is the fact that, as we have seen often in Central America (Parks et al 2006:425) and the American Southwest (Ron Maldonado, Mark Sanders, June 16, 2012), indigenous peoples have sometimes looted their own heritage. All native peoples do not place the same economic and social values on their tangible past, just as archaeologists vary widely on the scientific merits of, for example, fire cracked rock or lithic debitage.
Exoticism is also frequently cited as a measure of value. In a capitalistic sense, the stranger or more fantastical the artifact, the more valuable it is on the antiquities market (Childs 2010:107; Wittman and Shiffman 2010:155; Waxman 2008:381). There is a geographic dimension to this as well. The distance an artifact travels from origin to market may affect its value. In the early 20th century, Native American pots that were commonplace in the newly opened West were prized possessions in the East and in Europe (Fowler 2000:190). This was aided with the exoticism of the West itself, with frequent magazine advertisements showing the region as a strange and dangerous frontier (Fowler 2000:113).

However, an object’s value in the marketplace often bears little resemblance to the spiritual value imbued by its makers or the descendants of them. When the Wetherill brothers first saw what would later become Mesa Verde in 1888, they saw in it a fortune to be made through tourism (Wetherill 1977:179). Yet the Utes who had lived in the same region for thousands of years, and had long known the cliff houses’ locations, had not theretofore capitalized on Mesa Verde’s tourism potential. Benjamin Alfred Wetherill writes, “The Indians, always reluctant to discuss the ancient cities, readily admitted that they did exist” (1977:13). Native peoples clearly valued the site differently, though not consistently – while many Utes saw digging at Mesa Verde as disturbing tribal members’ ancestors, others willingly went to work as crewmembers for archaeologists (McPherson 2001:75). The Utes’ varied perspectives on how and whether to preserve the material past is made more complicated by the fact that those who built Mesa Verde – the Ancestral Puebloans – were not direct ancestors of the Utes.
Exoticism and nationalism, opposite qualities at face value, are intricately tied together in the Southwest. New Mexico’s Zia symbol on its state flag is testimony to this, as is the Colorado Welcome Center in Cortez. In both cases, Precolumbian Native American iconography (exoticism) is used to promote state identity (nationalism). As of March 13, 2013, the Colorado Welcome Center’s website shows Indians in full ceremonial regalia, while non-Indians are portrayed in casual, non-ceremonial clothing (e.g. a Euro-American man golfing). Early advertisements for Mesa Verde promoted the site as if it were a curio in the U.S.’s big back yard, thus straddling the line between the exotic and the patriotic (Figure 1).

Figure 1. Advertisement from the September 5, 1885 edition of the Colorado Springs Gazette
In these cases, the connection to material culture is apparent. On the Colorado Welcome Center’s website, traditional notions of “Indianness” are reinforced through depictions of Native Americans in traditional clothing, doing traditional activities (e.g. ceremonial dances). Golfing, peach-picking non-indigenous peoples are shown wearing prototypically American clothing, further reinforcing the notion of Indians as the exotic, more naturalistic Other. The distinction between the two would not be so obvious without the reliance here on adornments.

Artifact collecting has similarly shaped attitudes. Empires and nations from the 16th century onward sought to reaffirm their colonial power through the display of objects from faraway locales, as did wealthy individuals who displayed obscure and exotic foreign items in their homes (Conn 2010:207; Colwell-Chanthaphonh and Ferguson 2008:148). The rise of archaeology itself in the late 19th century facilitated this empire-building, via quasi-scientific methods of collecting objects. The very notion of the modern museum is directly tied to materiality, since a museum without objects defies the very definition of “museum.” Likewise, the traditionally held view of archaeologists is that fieldwork – collecting things – is what defines the discipline (Proulx 2013:113). I believe this view is untenable, an issue I address in Chapters 5 and 6.

Material culture is equally important to Native American identity, though for wholly different reasons than collecting and analyzing artifacts for the sake of science. Indigenous archaeology seeks to move beyond nationalist and internationalist values of cultural ownership (Colwell-Chanthaphonh et al 2010:232). Objects of antiquity should
not, in their entirety, be owned by all people, one nationality, or any one group; that is a commonly held but essentialist view that encourages divisiveness. Rather, Colwell-Chanthaphonh et al suggest, artifacts must be dealt with on a case-by-case basis.

Materiality shapes my understanding of both archaeological site looting and various stakeholders’ attitudes towards material culture. The spiritual-economic divide illustrated by the Hopi masks scenario suggests that indigenous peoples value their artifacts differently from non-Indians. However, not all Native Americans share the same reverence for patrimonial artifacts. This is an example of the “fluidity” of materiality – the notion that attitudes towards an object’s value are situational. In Chapter 1, I write of the public’s situational attitude towards preservation (i.e. it is generally viewed positively, so long as it does not hold up construction projects). In Chapter 5, I write that pothunters’ attitudes towards artifacts are often shaped by their attachment to the land itself.

Materiality also shapes my research via its connection to fetishism. The Colorado Welcome Center example, in which body adornments made subtle references to colonialism and the fetishization of Native Americans, illustrates the power of objects to convey stereotypes. A more in-depth discussion of this is in the section on postcolonialism that follows.

Finally, materiality informs my research via its treatment throughout the history of anthropology. Seminal anthropologists such as E.B. Tylor, and later culture-historical archaeologists such as V. Gordon Childe, exemplified at least two generations of researchers who believed cultures could be understood solely through their objects. I
believe anthropologists (including archaeologists) are still wrestling with this paradigm. This question of “how do we best interpret material culture?” question is addressed in the Chapter 5, in the section on community-based archaeology and multivocality.

Postcolonialism

Postcolonialist theory informs the entirety of my thesis. Aspects of it are employed throughout my research. The history of colonialism in the western United States, and the subsequent efforts to remedy anthropology’s complicity in that enterprise, is discussed in Chapters 2 and 5. However, these chapters address how postcolonialism is practiced (e.g. through NAGPRA) rather than how it was conceived and is perceived. The following section addresses this.

A discussion of postcolonialist archaeology requires a discussion of colonialist archaeology. Some examples can be found in Chapter 2’s descriptions of 19th century archaeologists in the Southwest who were effectively looting sites. The larger pattern of colonialist archaeology (and cultural anthropology) is well described by native Maori anthropologist Linda Tuwihai Smith (1999:1-3). Colonialist anthropologists, as she writes, claimed ownership of indigenous peoples’ ways of knowing, their cultural patrimony, and their stories. Furthermore, by ignoring native peoples and neglecting their views of their own culture, colonialist anthropologists’ views were accepted by the public as fact. The Eurocentric, researcher-oriented stories of native peoples were presented to the public in museums and universities. This was done under the pretense of promoting knowledge for all of humanity, which helped justify more and more research. The indigenous “voice” was all but ignored, if not mocked.
Postcolonialism is rooted in mid-20th century anthropological theory. Claude Levi-Strauss’s characterization of culture as an assemblage of symbols aided in “decolonizing” the field, via its emphasis on universal cultural truths (i.e. he focused on underlying structural commonalities among people rather than differences between them). Furthermore, Levi-Strauss asserted that cultures operate on their own logic – which may be similar or different from researchers’ epistemologies (Gosden 2004:163). Symbolic anthropologists (notably Clifford Geertz) took this idea further, though they were applying this anti-culture-historical to ethnography – not anthropology as a whole. In the 1970s and 1980s, archaeologists (particularly James Deetz) began applying structuralism to archaeology.

Despite the benefits that structural anthropology brought to archaeology, the field still lacked the humanistic element that postcolonial archaeology is associated with today. Specifically, its emphasis on cultural universals ignored the notion of “local” histories, particularly as perceived by those people whose cultures were being researched. Processualist archaeology, developed in the 1960s and 1970s, emphasized the importance of the scientific process in understanding cultural histories. Cultural ecology and cultural materialism are the two most prominent theories of the processualist paradigm. Both stress the importance of circumstantial factors (e.g. environmental conditions) in determining cultural variations among different groups. This approach would later be derided as colonialist archaeology, for its privileging of scientists’ research over that of indigenous peoples.
Postprocessualist archaeology sought to correct this. This theoretical paradigm developed in the 1980s, calling for a more reflexive approach to research; postprocessualism required archaeologists to be aware of their own biases when making decisions about the cultural past. Critical self-consciousness was demanded of archaeologists, as was the acknowledgment of anthropology’s dark past (best described in texts such as Edward Said’s *Orientalism* [1979] and Vine Deloria’s *Custer Died for Your Sins* [1969]). Ian Hodder (2012:9) argues that there are overlaps between the processualist and postprocessualist paradigms, adding that any clear-drawn distinctions between the two are faulty and oversimplified.

Repatriation – the effort to return sacred cultural objects and human remains to their original owners – was the next landmark in postcolonial archaeology. Wayne State University archaeology professor Tamara L. Bray writes that the repatriation movement of the 1970s through the 1990s challenged the accepted view of how archaeology was done. It made academic archaeologists acknowledge that their perspective was not universal, but local (Bray 2008:79). This fundamental power shift – from archaeologists to nonacademic (and historically disenfranchised) Native Americans – allowed for indigenous archaeology to develop. In Chapter 5, I discuss the oldest of these indigenous archaeology enterprises that developed in the Pueblo of Zuni.

More nuanced aspects postprocessual archaeology, of which repatriation and indigenous archaeology are a part of, are increasingly gaining the attention of scholars. A review of the online academic database JSTOR shows a marked increase in such postprocessualist terms as “multivocality” (described further in Chapter 5), “indigenous
archaeology,” and “collaborative archaeology.” In April 2013, I researched the occurrences of these three terms over a 21 year period. Figure 2 illustrates this increase.

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Figure 2. List of occurrences of three postprocessual archaeology terms in the online database JSTOR, between the years 1989 and 2010.

Oxford University archaeology Professor Chris Gosden (2012:262) writes of the Greek notion of *poleis* – the idea of culture arising from a community of people with shared interests, values, and language. Such communities can and do arise independently of one another, and are both fluid and situational. As cultures grow, they merge or
separate depending on innumerable circumstances. This harkens back to Victor Turner’s writing on the concept of “normative communitas.” In Turner’s article on pilgrimage processes over long periods of time, he writes of the social bond created “among pilgrims and between pilgrims and those who offer them help and hospitality on their holy journey” (1974:194). A “temporary culture” is thus created. A more recent example of normative communitas is found in the annual Burning Man festival in Nevada, in which individuals collaborate for a number of days to create a temporary community (Kozinets 2002).

To be clear, the above examples of pilgrims and Burning Man attendees are not evidence of postcolonialism. However, the concept of a community assembling, breaking down, and then reassembling is a quality that those so-called temporary cultures share in common with Native Americans. Just as these instances of normative communitas assemble, break down, and reassemble, Gosden believes that Native Americans are doing the same, in the receding tide of colonialist archaeology. He writes,

Some Native groups work with a similar view of an organic community which pre-existed the devastating effects of colonialism and which can be reconstituted through recuperative action working to heal the effects of colonial histories and their contemporary consequences [2012:262].

In short, the organic community that had existed prior to Euro-American intervention, and which was broken down during the late 19th through 20th centuries, can be revived. I suggest that this is beginning to be assisted through postcolonial archaeology.

There is by no means consensus on how this recuperative action should be accomplished, however, either among native peoples or archaeologists. Indigenous
anthropologist Tuwihai Smith offers guidelines that will help move archaeology towards a more inclusive, decolonized discipline. In her work *Decolonizing Methodologies* (1999), Tuwihai Smith argues that the very term “research” is a racially charged word, remindful to indigenous peoples of the waves of nonindigenous anthropologists and archaeologists who have descended on their homes for decades. Archaeologists, she writes, would be well served to acknowledge the painful, imperialistic history associated with the word (1999:183).

Moving towards how recuperative, postcolonialist anthropology (which here includes archaeology) should actually be pursued, Tuwihai Smith offers a number of suggestions. First, she writes, Maori researchers should be researching their culture. It is possible for non-Maori anthropologists to carry out their studies as well, but Tuwihai Smith emphasizes the need to include (perhaps through collaboration) Maori researchers on any given ethnographic project. As I write in Chapter 5, this is already being done through such endeavors as the San Pedro Ethnohistory Project.

Cultural aspirations should be taken into account as well, Tuwihai Smith writes (1999:184). She acknowledges that this approach is anti-positivist (positivism being the processualist philosophy that “social phenomena were subject to general laws that could be discovered using the scientific method” [McGee and Warms 2000:38]). Indigenous archaeology is concerned with uncovering truths via scientific inquiry, but is also concerned with matters of cultural sovereignty. Accordingly, Tuwihai Smith asserts that indigenous-based research in New Zealand must be rooted in Maori philosophies and
principles, and that it must take for granted the legitimacy of Maori culture. This philosophy is widely applicable to other indigenous-based research worldwide as well.

Sonya Atalay, an indigenous archaeologist at the University of Massachusetts-Amherst, writes on other ways in which postcolonialist archaeology can and should be pursued. Specifically, she notes the past successes of indigenous peoples involving themselves in recuperative action (e.g. their protests against displaying open burials in museums, their assistance in developing the Native American Graves Protection and Repatriation Act (NAGPRA) [2006:270]), as well as current efforts (e.g. the training of Native Americans as archaeologists, the inclusion of Native Americans in developing museum programs, and research of Native Americans done by Native Americans).

The answer to the question, “How do we decolonize archaeology?” is thus answered simply: by building what Atalay terms “positive relationships and mutual respect and understanding between archaeologists and Indigenous communities through consultation and collaboration” (2009:271). This is not an easy task, however.

Robert McGhee of the Canadian Museum of Civilization (2008) dismisses this “50/50” approach to collaborative archaeological research between Native Americans and nonnative archaeologists as insufficient. He writes that it takes an uncritical view of the past and of native peoples in general. McGhee accuses indigenous archaeology’s supporters (e.g. Croes, Watkins, Colwell-Chanthaphonh, Ferguson) of “Aboriginal essentialism” – the belief that indigenous views are fundamentally static, unchanging, and reduced to epistemologies that are non-Western (2008:583). He argues that the framing of indigenous archaeology as ethical archaeology undermines critical analysis of
it. In other words, to question the very validity of indigenous archaeology is to question the rights of indigenous peoples.

At the core of McGhee’s argument is that indigenous archaeology provides special treatment to indigenous peoples. He writes, “Such projects strip archaeology of the scientific attributes that make it a particularly powerful narrator of the past” (2008:591). Native peoples do not have a privileged right to the past, he says, any more than do anthropologists.

Colwell-Chanthaphonh et al (2010) respond by saying that McGhee does not understand the very meaning or spirit of indigenous (which is an important strain of postcolonialist) archaeology. Science is not undermined by indigenous voices, they write, but rather is enhanced by it. George P. Nicholas writes, “Indigenous archaeology seeks to make archaeology more representative of, relevant for, and responsible to Indigenous communities” (2008:1660). This is the ideal of indigenous archaeology, and, contrary to what McGhee argues, it is not strictly prescriptive.

Indigenous archaeology is part of (but not the same as) multivocal archaeology. Indigenous archaeology has developed as an answer to colonialist archaeology done by non-Indians, and incorporates indigenous voices with studies of material culture. It does not privilege one group over the other either, as McGhee asserts. One of McGhee’s targets is the special legal status afforded to native groups (e.g. through NAGPRA). However, these laws were not made to privilege indigenous peoples above all. Colwell-Chanthaphonh et al write, “A commitment to democracy is a commitment to ensuring that all citizens are given the chance to flourish” (2010:233). Under colonialism,
aboriginal peoples never had that chance. Laws such as NAGPRA, and, I would argue, the movement towards postcolonialist, inclusive archaeology in general, are sound efforts at offering underprivileged groups the opportunity to have their voices heard at an equal volume to archaeologists’.

Both camps – McGhee on one side, Colwell-Chanthaphonh et al on the other – agree that we must be wary of “an Indigenous form of Orientalism” (Colwell-Chanthaphonh et al 2010:228). Orientalism, as explored by philosopher Edward Said, is a theory of how Western powers romanticized (and, Anne McClintock would say, sexualized [1995:14]) Middle Eastern cultures. In Said’s (1979) argument, orientalism facilitated European and American colonial ambitions in Asia. I believe Said’s theory has application beyond Asia. The same can be said of Western powers’ romanticization of a number of preindustrial peoples, including pre-1900s Native Americans in the Southwest.

This either-or approach to culture – Native Americans versus non-indigenous Americans, Middle Easterners versus Europe and America, this versus that – both undermines the complexities of these cultures (and the numerous subcultures and sub-subcultures contained therein), and reduces people to fetishized objects (Goldstein and Kintigh 1990:589). Late 19th century depictions of Native Americans in newspaper accounts are rife with examples of this. With specific regard to the Southwest, it is also an oversimplification of us-versus-them cultural dichotomies.

Pragmatism

Carol McDavid’s writings about American pragmatism fit with post-processualist theory, materiality, and postcolonialism (McDavid 2002:305). Pragmatism, she writes,
advocates a pluralistic view towards truth, allowing for multiple interpretations of the meaning of objects and historical circumstances. However, she warns, this does not mean that one truth is as valid as any other. Rather, people must discover for themselves over time which truths are more meaningful. She writes that pragmatism, as described by Richard Rorty (1991), sees all human interaction as a “historically situated conversation” (2002:305). In the example McDavid gives of effective collaborative archaeology, the conversation was held between descendants of African American and European plantation residents, researchers, and community members at the Levi Jordan Plantation.

Rorty writes that the Western scientific tradition, from the Enlightenment to the present, has valued objectivity over solidarity. Pragmatism seeks to join the two together, while maintaining the integrity of both. He asserts that,

“For pragmatists, the desire for objectivity is not the desire to escape the limitations of one’s community, but simply the desire for as much intersubjective agreement as possible, the desire to extend the reference of ‘us’ as far as we can” (1991:23).

The same could be said for effective collaboration in archaeology.

Rorty says that there is no “foundational point on which truth can be grounded” (Preucel and Mrozowski 2010:118), leaving us with a wholly contingent version of truth. Considering this, we must therefore look to other people for guidance. Gaffney and Gaffney (Preucel and Mrozowski 2010:30) write that theory that does not produce anything in archaeology is useless. Pragmatism’s strongest quality is that it is not abstract; for it to work as a theory, it must have practical application in the field. Without that application, archaeology risks losing its relevancy.
To summarize, Yorston et al (1987:107) establishes four principles for pragmatism:

1. It should be humanistic;
2. It should accept the contextual dependence of knowledge (i.e. there can be no final answers in archaeology);
3. It should be free in its use of hypotheses (i.e. the scientific method should not hinder or limit interpretation);
4. It should use theory as a leading principle (i.e. theory is only a tool, and must have practical application in order to be valid).

These four principles appear vague until they are put into action. In the case of the Levi Jordan Plantation, discussed by McDavid, the need for pragmatism’s reflexivity was especially important – she was, after all, doing collaborative archaeology with descendants of both slaves and their owners. Pragmatism’s “notion of truth- as-created (not discovered)” (McDavid 2002:303) is directly applicable to indigenous, postcolonialist archaeology, as well as the educational initiatives described in Chapter 5.
Chapter 4: Research Design

Research for my thesis was conducted over a one year period beginning in March 2012 and ending in April 2013. This included comparisons of the four preservation models detailed in Chapter 5, using representative organizations of each model as case studies.

Methodology

Participant Observation

Malinowski wrote that, in order to understand a culture, precise scientific data must be supplemented by “the observation of the manner in which a given custom is carried out” (2003:13). Interviews and background research are not sufficient for understanding how a particular culture – whether it is comprised of indigenous peoples or a preservation organization – actually works.

With this in mind, I began actively working in the fields of public outreach and education since February 2012, for the sake of fulfilling Malinowski’s charge. That month, I accepted the position of outreach coordinator for the Colorado Plateau Archaeological Alliance (CPAA), a nonprofit organization specializing in archaeological site preservation. In this role I have developed a social media outreach campaign, including creating and maintaining CPAA’s Facebook page, blog (coloradoplateauarchalliance.wordpress.com) and Twitter feed. I also have conducted
fieldwork at historic and prehistoric sites in central and southern Utah (e.g. Nine Mile Canyon and Desolation Canyon), photographed and mapped sites, conducted site research at state archives, and submitted Intermountain Antiquities Computer System and site damage assessment forms to Utah’s State Historic Preservation Office. Other initiatives have included writing fundraising letters, identifying potential donors and providing logistical support for backcountry trips. Much of the research for my thesis is informed by my employment with CPAA.

Other participatory work relevant to this study has included my speaking and volunteer roles at area grade schools (Prairie Middle School/Institute of Science & Technology, Aurora, Colorado, visited in March 2012; Monument Academy, Monument, Colorado, visited in February, 2013; Campus Middle School, visited in March 2013); the National Conference on Cultural Property Protection (Los Angeles, California, February 2012); the Society for American Archaeology’s annual meetings (in Memphis, Tennessee, April 2012 and Honolulu, Hawaii, April 2013); the Colorado Archaeological Society’s annual conferences (Boulder, Colorado, October 2012); the Colorado Council of Professional Archaeologists’ annual conferences (Denver, Colorado, March 2013); the Archaeological Institute of America’s annual conferences (Seattle, Washington, January 2013); Colorado Preservation, Inc.’s Saving Places Conferences (Denver, Colorado, February 2012); and the Project Archaeology Leadership Academy (Bozeman, Montana, June 2012).

Archaeological fieldwork-related participant observation in the summer of 2012 included a weeklong river survey on the Green River in eastern Utah, excavations in
Utah’s Nine Mile Canyon, and a visit to Zuni Pueblo in eastern New Mexico, where I excavated alongside Native American archaeologists.

A critical theory approach towards participant observation was adopted in the course of this research. According to LeCompte and Schensul, critical theorists are “interested in how the history and political economy of a nation, state, or other system exerts direct or indirect domination over the political, economic, social, and cultural expressions of citizens or residents, including minority groups” (1999:45).

This is relevant to my research since it relates to recurring themes of colonialist domination in the American West (which facilitated the appropriation of Native American artifacts and sacred sites), and the ideological divides between scholars, preservation advocates, and rural Southwesterners (which Lipe describes as the “contrast between the urban-academic and the non-urban, non-academic life styles” [1974:221]).

LeCompte and Schensul also write that, under this paradigm, “scientists are expected to function as intellectual advocates and activists” (1999:45). Because my research has a clear agenda – understanding the best means of promoting the preservation of archaeological sites – it assumes that archaeological site protection is important and worthy of consideration. It is also admittedly activism-oriented and advocative.

**Semi-Structured Interviews**

Personal observations and subjective responses from interview subjects constituted the bulk of my data. The scope, nature, and content of interviews with individuals were approved by the University of Denver Institutional Review Board (IRB) in June 2012. More than 20 hours of interviews were conducted with the consent of all subjects involved. Interviews were recorded on a handheld digital voice recorder
(Olympus model WS-700M). As noted in the IRB application, interviews were comprised of open-ended questions, and transcriptions of all interviews have been made available to subjects involved as well as the thesis oral defense committee.

Some initial interviews (e.g. those with Kevin Jones, Karen Mudar, Winston Hurst, Blanding mayor Toni Turk, and Martin McAllister) and numerous follow-up interviews were conducted telephonically during the months following initial fieldwork. Follow-up interviews were conducted for the purpose of clarifying statements made during the initial interviews.

LeCompte and Schensul’s *Designing and Conducting Ethnographic Research* (1999) was the primary source consulted for guidance on conducting interviews, particularly their writings on construct validity (matching the intended meaning of an interview question with the meaning assumed by the respondent) and controlled field studies (conducting interviews in respondents’ customary environments to determine the effectiveness of programs).

Review of Literature

A number of texts framed the historical background section of my research. In *A Laboratory for Anthropology: Science and Romanticism in the American Southwest, 1846-1930*, University of Nevada-Reno anthropology Professor Don Fowler describes significant events in the Southwest during the latter part of the 19th century, through the lens of ethnographic and archaeological research at the time. Mark Joy’s *American Expansionism, 1783–1860: A Manifest Destiny?* informed much of my writing regarding expansionist ideology and westward movement in the years following the Mexican-

There is a large body of scholarly research on site preservation initiatives, particularly focusing on public participation. Much of this research has been published since the 1970s, following the rise of professional cultural resource management and post-processual archaeology (Zimmerman 2008:94). Three of the most important texts on non-legalistic means of site preservation are Barbara Little’s edited volume Archaeology as a Tool of Civic Engagement (2007), Nick Merriman’s Public Archaeology (2004) and M. Jay Stottman’s Archaeologists as Activists (2010). These edited collections of essays frame my research by examining recent advocacy-based efforts, the history of preservation initiatives and case studies of successful projects.

Opening Archaeology (2008) was useful throughout my research, from understanding the history of preservation initiatives in the U.S., to understanding debates in indigenous archaeology, to understanding the theoretical underpinnings of the repatriation movement. Essays by Larry Zimmerman, Tamara L. Bray, Joe Watkins, and Dorothy Lippert were especially helpful here.
The main texts that informed the chapter on theoretical frameworks included Anne McClintock’s *Imperial Leather: Race, Gender, and Sexuality in the Colonial Conquest* (1995), Preucel and Mrozowski’s *Contemporary Archaeology in Theory: The New Pragmatism* (2010), and Timothy Taylor’s 2009 article “Materiality” (from the *Handbook of Archaeological Theories*). Ian Hodder’s edited volume *Archaeological Theory Today* (2012) also informed my research.

My fieldwork was aided by Andrew Curry’s article on Indian Camp Ranch, “Anasazi in the Backyard” (2006), various annual reports and Forms 990 from nonprofit preservation organizations, *Opening Archaeology*, and John H. Jameson’s *Presenting Archaeology to the Public*. Many articles written or co-written by Chip Colwell-Chanthaphonh (most notably “The Premise and Promise of Indigenous Archaeology”) were especially helpful as well.

Colwell-Chanthaphonh’s writings on archaeological ethics were also useful (particularly his co-edited volume *Archaeological Ethics* [2006]), as was Kurt Dongoske et al’s *Working Together: Native Americans and Archaeologists* (2000). Lynott and Wylie’s *Ethics in American Archaeology: Challenges for the 1990s* (1995) was useful in bridging the gap between ethics and legalities in archaeology, as were Hutt et al’s *Presenting Archaeology in Court: Legal Strategies for Protecting Cultural Resources* (2006).

Finally, my understanding of issues related to public outreach was formed by Ramos and Duganne’s 2008 survey of public perceptions of archaeology. Additional information came from Barbara Bundy’s 2005 dissertation *Preventing Looting and*

Analysis of Documentation

Dr. Chip Colwell-Chanthaphonh is an archaeologist, chair of the SAA’s Native American Scholarships Committee, and a prolific writer on the subject of collaborative archaeology. He recommended that nonprofit organizations researched for my thesis should be evaluated “by the extent to which they fulfilled both their mission and other stated objectives” (Chip Colwell-Chanthaphonh, Mark Sanders, February 10, 2012).

Nonprofit organizations’ mission statements, bylaws, Forms 990 and annual reports were analyzed and are a matter of public record.

Forms 990 were collected from the Archaeological Conservancy, Archaeology Southwest (formerly the Center for Desert Archaeology), and Crow Canyon Archaeological Center. In order to best evaluate the fiscal health of these organizations, I enlisted the help of Hugh Jones, a Colorado Springs, Colorado-based lawyer who specializes in nonprofit tax law.

State agencies’ documentation related to site stewardship programs, as well as official documentation from the federal/state entities (such as Project Archaeology, Passport in Time, plus laws related to historic preservation) were also reviewed in an effort to better understand the background and culture of heritage management at the state and federal levels. The federal Department of the Interior’s Technical Brief 22: Developing and Implementing Archeological Site Stewardship Programs (2007) and the
Department of Defense’s *Development of DoD Guidance for Archaeological Site Monitoring and Condition Assessments* (2011) were especially helpful, providing important information that assisted in developing interview questions.

There have been many prosecutions related to archaeological site destruction since the passage of the Archaeological Resources Protection Act (ARPA), one of the primary laws used to prosecute cultural resource crimes perpetrated on federal lands in the U.S. In 2010, National Park Service Special Agent Todd Swain referred to me a list of seven significant ARPA cases (summarized in Appendix A). Research on these cases, plus journal articles and Donald Forsyth Craib’s edited volume *Topics in Cultural Resource Law* (2000), formed the basis of my understanding of cultural resource criminal prosecutions in the United States.

The Four Preservation Models, Defined

Four models of archaeological site preservation are addressed in this project. I classify these models as Enforcement, Education, Privatization, and Community Archaeology. Each of these has shown promise, though none have proven completely successful in eradicating or controlling the looting epidemic. I have researched each approach and the epistemologies behind them, noting the successes and failures of each. It would be impossible to fully understand the facets of each preservation initiative without the use of the archaeological theories discussed in Chapter 3. In the concluding section of this chapter, I describe in general how materiality theory, postcolonialism, and pragmatism are applicable to site preservation.
Each section concludes with a synopsis of each organization or entity, along with recommendations for how site preservation could be improved and made more effective within them. It is worth noting that these models, particularly Education and Community Archaeology, share some similarities. What follows is a brief description of each model.

**Enforcement.** A suite of federal laws have been used to prosecute archaeological site vandals and looters on public lands, most notably the Archaeological Resources Protection Act (ARPA). This and other laws, which also include the Embezzlement and Theft, and Malicious Mischief statutes, are effective when implemented properly (Fetterman 2012:iii).

This model is rife with complications, however. Among them is poor financial and logistical support for land management agencies. For example, as of 2007, the Bureau of Land Management had only one law enforcement ranger per million acres, and the National Park Service had one law enforcement ranger per every 56,000 acres (Swain 2007:3). States, whose laws mostly mirror federal antiquities statutes, have lately been threatened with park closures due to budget cutbacks (Yardley 2011). This would presumably have a detrimental effect on law enforcement efforts as well. These facts, combined with the difficulty of prosecuting ARPA cases (Elwood Jones, Mark Sanders, April 11, 2010), implies that enforcement may not be the most effective means of combating looting.

However, it is the only way to stop some offenders, even if only temporarily (Martin McAllister, Mark Sanders, January 29, 2013). For the most dedicated looters, motivated by financial gain rather than a passion for the past, education and collaborative
initiatives simply do not work. Perhaps the most infamous example is Earl Shumway, a Utah pothunter best known for using backhoes to loot artifacts. He was apprehended twice and served five years in prison, yet resumed looting upon his release (Childs 2010:84).

Materiality theory is relevant here. The valuing of objects is central to both looting and the laws designed to prevent it. Pothunters are driven by the desire to either own a tangible piece of history or to earn money from the trafficking of artifacts. Likewise, court cases in which looters are prosecuted depend partly on the dollar value of objects, either in the commercial art market or on the black market.

Education. Karolyn E. Smardz Frost writes (2004:59) that public archaeology and education programs have been increasing in the United States and Canada in recent years, as evidenced by federal land management agency initiatives, statewide Archaeology Months, and cultural resource management (CRM) firms’ outreach programs. Early intervention is key to forming children’s attitudes towards preservation. I seek to incorporate quantitative sociological data on the effectiveness of early education supporting this notion.

I will focus specifically on two educational initiatives: Project Archaeology, a collaboration between the Bureau of Land Management and Montana State University, which seeks to incorporate archaeology and preservation into grade school curricula; and Crow Canyon Archaeological Center, a Cortez, Colorado-based nonprofit organization which, among other initiatives, organizes experiential education programs for children and teachers.
These educational initiatives embody the spirit of pragmatic archaeology. The goal of both Project Archaeology and Crow Canyon is to enhance understanding of the past in order to effect good stewardship. Pragmatism is served here by these organizations’ dedication to open-ended inquiry (i.e. they both eschew pedantic approaches to teaching archaeology), and to the spirit of collaboration between disparate groups.

*Privatization.* In a recent news article, Greek archaeology Professor Michalis Tiverios is quoted as saying, “Mother Earth is the best protector of our antiquities. Let us leave our antiquities in the soil, to be found by archaeologists in 10,000 CE” (Israel National News 2012). That is the idea behind the Archaeological Conservancy, which claims to be the only national nonprofit dedicated to acquiring and preserving archaeological sites (The Archaeological Conservancy 2012). By keeping sites secret, largely unexcavated, and in private hands, the Archaeological Conservancy does little to enhance public knowledge of its holdings, yet it is also arguably the best means of preserving site integrity (Mark Michel, Mark Sanders, June 20, 2012).

I attempt to understand the implications of keeping sites from public view, and the motivations of those who sell their land to the Archaeological Conservancy. This model could prove to be extremely effective due to the amount of privately owned land in the Southwest, as well as pervasive anti-government sentiments found throughout the Four Corners.

The privatization of archaeological sites relates well to materiality theory. By purchasing these places of both scientific and spiritual significance, organizations like the
Archaeological Conservancy are effectively commoditizing the past. While under other circumstances (e.g. pothunting) the exchange of artifacts for dollars would be abhorrent, in this case it is perhaps essential for the preservation of entire sites.

*Community Archaeology.* Community archaeology began, arguably, with the Indian rights movement of the 1960s, and was strengthened with the passage of the Native American Graves Protection and Repatriation Act in 1990. The term “multivocality” came to the fore in the 2000s as a means of creating “alternative histories that do not eschew scientific principles while respecting native values of history” (Colwell-Chanthaphonh and Ferguson 2006a:148). This concept can be broadened to other descendant communities as well as public stakeholders (Wylie 2008). Involving the public and descendant communities in archaeological projects is at the core of the books *History Is in the Land: Multivocal Tribal Traditions in Arizona’s San Pedro Valley* (2006), *Archaeologists as Activists* (2010) and *Archaeology as a Tool of Civic Engagement* (2007), among others. Public archaeology and multivocality are exemplified in my thesis by site stewardship programs, Zuni- and Navajo-run CRM firms, and Archaeology Southwest’s San Pedro Ethnohistory Project.

Native American-directed archaeology programs are bold examples of the promise of Postcolonialist archaeology. Postcolonialist archaeologists such as Linda Tuwhai-Smith, Joe Watkins, and Kurt Dongoske, stress the importance of indigenous peoples’ involvement with archaeology at multiple levels, from fieldwork to project management to interpretation. The programs I write about in the following chapter embody Postcolonialist approaches, while also illustrating the complications of applying
pragmatism to indigenous archaeology programs. In short, pragmatist archaeology’s goal is to benefit the most people, which is not necessarily the goal of indigenous archaeology firms whose main priorities are more aligned with self-governance.

The preservation methods described above are not mutually exclusive. All, with sometimes widely varied methods, attempt to achieve the same goal: that of protecting cultural relics and structures. These are terms devised in order to emphasize the strengths of individual initiatives and organizations, noting what I consider to be their primary methods of achieving site preservation. However, there is much overlap between some. For example, Archaeology Southwest is respected for its collaborative work with Native American communities (Chip Colwell-Chanthaphonh, Mark Sanders, February 10, 2012), yet the organization also has a robust educational component (according to the Center for Desert Archaeology Annual Reports of 2009, 2010). The same can be said for Crow Canyon (according to Crow Canyon Archaeological Center’s Annual Report 2011). The Cortez, Colorado-based nonprofit organization’s primary function is as an educational institution, yet it, too, does collaborative work with tribes and the public (“About Us,” Crow Canyon Archaeological Center, accessed March 14, 2013, http://crowcanyon.org/about/about.asp).

The term “public” is problematic, as is the catch-all term “Native Americans.” Joe Watkins writes that “it is extremely difficult to offer a single ‘Native American’ perspective” (2000:91). Dorothy Lippert, herself a Choctaw archaeologist, writes about the widely varying perspectives of different Indian groups on burial practices and archaeology itself (2008:156).
Arizona State University archaeology Professor Francis McManammon has identified five different “publics,” under the headings of General Public; Students and Teachers; Congress and the Executive Branch; Government Attorneys, Managers, and Archeologists; and Native Americans (1991:123-127). This research addresses what McManammon would term the General Public, a group that he subdivides further into three distinct categories: the small minority of “truly scientifically literate” individuals, the somewhat larger contingent of “well-read laypersons,” and the vast majority of those who “gets [their] archaeology, to the extent that [they] get any, from Indiana Jones or the nightly news” (1991:123).

These models are directed toward the latter of McManamon’s two groups, since the former is the least likely to advertently or inadvertently threaten archaeological resources, and constitutes a small minority of the population anyway.
Chapter 5: Field Research

Enforcement

*The 1986 and 2009 Federal Raids*

On the morning of May 8, 1986, 48 federal agents from Idaho, Wyoming and Arizona began systematic and calculated raids on the homes of 16 individuals in Blanding, Utah (Goddard 2011:180). With search warrants in hand, law enforcement officers rummaged through local residents’ fireplace mantels, boxes stuffed in their garages, and their basements and bedrooms. By the end of the day, they had confiscated 325 Ancestral Puebloan artifacts with a street value worth well into the thousands of dollars. At the time, it was the largest exercise of the Archaeological Resources Protection Act – an experiment in the enforcement of a still-new law that had been enacted in 1979.

The local community’s reaction was swift and severe. Grand County Commission chair Jimmy Walker said at a May 27 meeting, “the manner in which these raids were conducted was appalling” (San Juan County Commission 2013[1986]). San Juan County Commissioner Calvin Black described the raids as an “act of terrorism” (Keele 1986:2B). Numerous editorials decrying the federal government’s actions began appearing in Utah newspapers.
By all period accounts from the time, the execution of these raids appeared to be heavy-handed. Those under investigation were not all hardened criminals, either. They included churchgoing Mormons whose family roots grew deep in this town of 3,000. They included Rose and Duke Simpson, who owned the local Blue Mountain Trading Post. They included the aforementioned Commissioner Black as well.

Yet by 1986, the casual, Sunday afternoon “skeleton picnics” that had been the norm in southeastern Utah for decades had become a very profitable enterprise for some. In a 1986 interview, Archaeological Conservancy executive director Mark Michel was quoted as saying, “For years, collectors ignored American antiquities because they thought they were inferior…. Suddenly, [Precolumbian antiquities from the Southwest] were discovered” (Goodwin 1986:2). New York Times reporter Sid Kane wrote at the time of a “sophisticated chain of professional diggers, buyers and sellers” (1986:F13) that had developed throughout the 1970s, due to an increased worldwide interest in southwestern Indian artifacts and a long-depressed economy in the Four Corners. The uranium mining boom of the 1950s disappeared around this time (Blake 1999:491; Kane 1986:F13), leaving many locals without jobs. Struggling economies throughout the world make the prospect of looting archaeological sites more appealing to locals. This is especially true in the Four Corners region (Martin McAllister, Mark Sanders, March 1, 2013; Figure 3), where the economy has remained depressed for decades. At the same time as the economic downturn in the Four Corners, Mimbres bowls and Ancestral Puebloan baskets were beginning to fetch thousands of dollars at auction (Kane 1986;
King 1991:86). From a preservation perspective, the timing of these two circumstances could hardly have been worse.

Figure 3. Income disparity in the Four Corners states. Source: Census.gov.
In 2009, Blanding experienced a repeat of the 1986 investigation, though this time with deadly consequences. The Federal Bureau of Investigation employed a confidential informant, a former antiquities dealer and scion of a Utah supermarket chain, to buy artifacts from pothunters in Blanding, Durango, Colorado, and Santa Fe, New Mexico. The informant, Ted Gardiner, bought artifacts over a two year period and was given $335,685 by the U.S. Government to purchase 256 sacred objects (Berkes 2009).

On June 10, 2009, dozens of armed agents from the Federal Bureau of Investigation and Bureau of Land Management, search warrants in hand, began arresting individuals who included San Juan County’s primary physician, the county sheriff’s brother, and, as in 1986, a county commissioner. Hundreds of artifacts were confiscated. The ensuing media frenzy included a press conference featuring Interior Secretary Ken Salazar, plus scores of news stories that brought a heretofore relatively unknown crime to the national spotlight – if only briefly.

Though initially hailed as a win for Native American antiquities, the operation (dubbed “Cerberus Action”) has in the months and years since been considered a mixed success at best. Within a week of the 2009 raids, three of the men involved in the case – informant Ted Gardiner, Dr. James Redd and Santa Fe resident Steven L. Shrader – had committed suicide. Without Gardiner’s testimony, prosecutions of the remaining 21 suspects was severely compromised. The death of a popular local doctor left the community devastated and only reinforced the seditious attitudes Blanding residents had long held towards the federal government. By the time the final case was heard, not a single defendant had served jail sentences.
Operation Indian Rocks

On December 15, 2001, a park ranger at Death Valley National Park spotted two men loading a metate into the back of a car. Intrigued, he questioned them. The men said they were collecting “Indian rocks” (Slattery 2004). Thus began one of the largest-ever cultural resource crime cases in American history.

A month later, the men, Frank Embrey and David Peeler, were under investigation for violating the ARPA. Both men’s houses and gardens were decorated with Indian relics. Embrey was quoted as saying he had been caught by rangers in the past, but that he planned to continue collecting (Canaday and Swain 2005:26).

The men were not alone in these activities, either. Rather, Embrey and Peeler were part of a sophisticated and skilled artifact collecting ring that became the subject of Operation Indian Rocks, a three-year investigation into antiquities crimes in California and Nevada.

Law enforcement agents discovered thousands of artifacts in a storage locker belonging to Embrey’s and Peeler’s associates, Bobbie and Deanne Wilkie (Canaday and Swain 2005:27). As investigators turned up more evidence, including maps and photographs of sites, a fifth suspect, Kevin Peterson, was soon targeted by federal agents as well. When the two-year operation was completed, agents had recovered 11,108 artifacts, including yucca fiber sandals, clay figurines, and numerous other relics collected from 13 different sites under federal jurisdiction near Las Vegas, Nevada. The total archaeological value of the damage, calculated using the Society for American Archaeology Professional Standards for Determining Archaeological Value, totaled...
$419,676.59 (Canaday and Swain 2005:28). Archaeologist Tim Canaday, quoted in a 2004 *Washington Post* interview, said "there were holes deep enough to hide a truck” at some of the Las Vegas-area pothunting sites (Slattery 2004).

All five individuals involved were placed on probation and ordered to pay fines totaling $334,247.08. Embrey, Peterson, and Bobbie Wilkie each received prison terms as well – Wilkie having received the largest-ever jail sentence for a first-time offender.

Operation Indian Rocks included another artifact theft ring as well. ATV Adventures, a Logandale, Nevada company specializing in archaeological site tours, was included in the investigation that netted the five individuals. According to Canaday and National Park Service Special Agent Todd Swain, ATV Adventures would pick up tourists on the Las Vegas Strip and then shuttle them to sites, wherein they would find and collect Native American artifacts. During the federal investigation, National Park Service and Fish & Wildlife Service agents posed as tourists to witness the looting and damage firsthand.

On November 11, 2004, U.S. District Judge James Mahan sentenced ATV Adventures to two years’ probation for violating ARPA. Additionally, the company was ordered to pay $60,000 to the National Parks Foundation, plus $13,500 in restitution. Finally, the company was suspended for 30 days from using their special recreation permit, which had allowed ATV Adventures to operate on public land (Rogers 2004). This imposed further financial hardships on the company.

Unlike the 2009 Cerberus Action and the 1986 raids, Operation Indian Rocks was hailed as an unqualified success. Citing the importance of public outreach, federal
officials had artifacts confiscated during the investigation put on display in high profile areas such as the federal courthouse in Las Vegas and the Department of the Interior headquarters in Washington, D.C. Tribal officials were contacted early in the process as well. Canaday and Swain write, “Involvement by the tribes during the sentencing phase of the court proceedings as well as during the press conference proved to be extremely beneficial in putting a human face to the desecration perpetrated by the defendants” (2005:31). In 2005, Canaday and Swain were among seven individuals given the Conservation Service Award by then-Interior Secretary Gale Norton (The United States Attorney’s Office, District of Nevada 2013[2005]).

*Three Types of Looters*

Martin McAllister (1991) has written extensively on the motivations of looters. There are three general types of them, he says. These include:

*Casual looters.* Most people who take home a potsherd or projectile point fall under this category. This includes some (but certainly not all) of the individuals investigated in the 1986 and 2009 Blanding raids. McAllister says that casual looters are perhaps the most destructive kind, due to their sheer numbers (Martin McAllister, Mark Sanders, November 27, 2010). Visitors to archaeological sites in the West who are unaware of federal laws are far more numerous than the Bobbie Wilkies and Frank Embreys of the world. Because so many of these casual looters are unaware of the importance of site preservation (I had my own projectile point collection as a child), this group is also the most amenable to change. This could occur through education.
Signage placed at or near archaeological sites, warning visitors that artifact theft is a federal crime, has been a widely hailed but underused deterrent to casual looters (David Dove, Mark Sanders, June 14, 2012; William Doelle, Mark Sanders, September 17, 2012). Verbal warnings from park personnel are also likely effective for day hikers who have no intention of damaging sites en masse. Finally, the media attention temporarily given to cases like Cerberus Action and Operation Indian Rocks may also be an effective deterrent to casual looters.

Another group that does not fall under any of these three categories is worth considering here. Ambient effects of site visitation (e.g. walking on features) and unintended destruction to archaeological features (e.g. through farming or home construction) are rarely malicious acts, yet taken together, they potentially cause massive damage to the archaeological record. Crow Canyon Archaeological Center supervisory archaeologist Shanna Diederichs says, “Most people wouldn't even notice it if they were building a house on top of an archaeological site. If it's a burial or an intact pot, finally the light bulb goes off. But a lot of stuff is destroyed just through naïveté” (Shanna Diederichs, Mark Sanders, June 14, 2012). While this group is not the focus of my thesis, corrective measures used in cases of casual looting are applicable to these people as well.

*Part-time looters.* This group includes mainly individuals who have full-time jobs and who supplement their income with the trade in illicit antiquities. Many ARPA defendants fall into this category, including some of the 24 defendants implicated in the 2009 Cerberus investigation in southern Utah (Kloor 2009:254). They are typically
motivated by money but are not professional black market antiquities dealers. Educational measures sometimes work in these cases as well.

*Commercial looters.* This category includes individuals like those implicated in Operation Indian Rocks and other cases listed in Appendix I. These are the men and women who have built entire careers on the theft and selling of artifacts. This category also includes large-scale antiques thieves who work with national or international dealers and whose interests extend to illicit narcotics and stolen art (Wittman and Shiffman 2010:17). This group is the least likely to be influenced by educational or collaborative approaches to site preservation and is best addressed by intensive law enforcement efforts.

*Synopsis*

There are stark differences between the executions, outcomes, and perceptions of the Blanding raids and Operation Indian Rocks. While the latter case was considered an unqualified success, the former cases – now years after the fact – are still capable of inciting anger and frustration. I believe there was a difference here in both scale and the intentions of the subjects involved.

Regarding scale, a large net was cast in both Blanding raids to include many individuals who may or may not have deserved such harsh and embarrassing treatment by federal agents and prosecutors. The scale of Operation Indian Rocks was considerably smaller. It involved suspects whose illicit activities had been conducted for years, sometimes while under surveillance. The fact that fewer than a dozen individuals were prosecuted here (versus 24 in the 2009 Blanding investigation) is significant. Had federal
agents focused only on the most egregious of the Blanding offenders, the outcome may well have been better for both the prosecutors and for public perception.

The phrase “Gestapo tactics” was used in interviews and official documentation in the wake of the 1986 and the 2009 incidents, both of which involved some of the same individuals (Goddard 2011:181; Toni Turk, Mark Sanders, August 3, 2012). In the 1986 case, investigators could not prove that the Blanding suspects had knowingly taken artifacts from public land. As a result, confiscated artifacts were returned and the prosecutions were ultimately unsuccessful (Jones 1986). No jail time was served in any of the 1986 or the 2009 cases. The anemic outcomes to such intensive investigations are indications of governmental mishandling, both from law enforcement and prosecutorial standpoints.

Consider the case of Dr. Redd. He had delivered many Native American babies in his practice (Yardley 2009) and was “beloved in that community” (Mark Varien, Mark Sanders, June 13, 2012). Archaeologists (including Redd’s childhood friend Winston Hurst) have spoken in defense of Dr. Redd and against the government’s handling of the case:

The thing that bothered me about the raid is not that they were enforcing ARPA, but how they orchestrated the whole thing. It was turned into a media event. It was theatre. It's not so much I'm opposed to ARPA. I just want them to be sensitive to the way they (enforce) it. It did a lot of harm. [Winston Hurst, Mark Sanders, December 8, 2012]

Regarding intentions, there was no comparable public outrage in the wake of Operation Indian Rocks, likely due to both the egregiousness of the crimes and the dispositions of the suspects involved. The five individuals whose activities initiated the
investigation were construction workers who had shown patent disregard for the preservation of Native Americans’ material culture. Court documents show they were fully aware of the illegality of their actions. According to Texas Tech University archaeology Professor Brett Houk, Bobbie Wilkie fled to avoid prosecution, telling his wife Deanne, "I ain't going to jail for this" (2004). He eventually served 37 months in prison (Canaday and Swain 2005:28).

The Nevada/California case shows a group of nonlocal looters (including Oklahoma City native Bobbie Wilkie) pillaging sites 40 to 45 weekends per year (Canaday and Swain 2005:27). They sometimes drove up to 100 miles from Las Vegas to seek out sites. These were anything but casual pothunters.

By contrast, pothunting was (and likely continues to be) an entrenched part of local culture in southeastern Utah that stretches back generations. A number of the individuals arrested in the 2009 raids had deep roots in this community, including Harold Lyman, whose grandfather founded the town (Yardley 2009).

This does not excuse the looting and vandalism of Four Corners sites, but it bears remembering when considering the differences between these cases. There is a continuum of malice inflicted involved with cultural material theft, with the Operation Indian Rocks offenders at one end and at least some of the Blanding suspects at the other.

Chip Colwell-Chanthaphonh says,

“if you look at the debacle in Utah over the last few years, one thing that struck me is how deeply embedded the values of looting – though they wouldn't call it looting – taking Indian artifacts for your own is embedded within these families” (Chip Colwell-Chanthaphonh, Mark Sanders, February 10, 2012).
Referring to looting and vandalism at Canyon de Chelly National Monument, Arizona, University of Leicester doctoral candidate Jennifer Lavris writes, “Oftentimes in depressed economies with indigenous cultures, looting can be viewed as a birthright” (2009:28). That many Four Corners residents are descended from early pothunters adds credence to this statement.

The difficulty of prosecuting these – or any – ARPA cases can be summarized in three ways:

Limited resources. As noted in the introductory chapter of my thesis, there are unquestionably too few law enforcement agents needed to patrol all archaeological sites found on public land. According to a 2011 paper, National Park Service (NPS) Special Agent Todd Swain estimates there is one law enforcement officer per one million acres of Bureau of Land Management (BLM) lands. Additionally, of an estimated 4 to 4.5 million sites, only 5 percent have been surveyed (Swain 2011:2). The U.S. Forest Service, with 191 million acres under its supervision, fares similarly, with an estimated one law enforcement officer per million acres. The U.S. Fish and Wildlife Service and National Park Service fare somewhat better, though they still have one officer per 104,000 and 56,000 acres respectively.

Within San Juan County, Utah, where most of the 1986 and 2009 federal raids occurred, there is a staff of 13 deputies at the San Juan County Sheriff Department (Sheriff Rick Eldredge, Mark Sanders, January 29, 2013) within a county totaling 5,077,120 acres. While federal agencies (particularly the U.S. Forest Service and Bureau of Land Management) are responsible for enforcing ARPA, there are only two law
enforcement rangers based in the BLM’s district office in Monticello, Utah (Don Simonis, Mark Sanders, January 29, 2013).

The BLM, by far the largest administrator of federal lands (totaling approximately 264 million acres), had a 2010 budget of $959,571,000, or $3.69 per acre (Swain 2011:2). Of this acreage, only 14 percent of that budget was allocated for cultural resources, compared with 20 percent for recreation and 66 percent for habitat restoration projects respectively. The National Park Service’s budget for fiscal year 2010 was $2,261,559,000 for the administration of approximately 84 million acres, or $26.92 per acre (Swain 2011:2). The U.S. Fish & Wildlife Service received $1,269,406,000 for the administration of approximately 191 million acres, or $6.64 per acre.

Considering the limited funds allotted to these federal land management agencies, and the limited staff at their various parks, monuments, and other recreational areas under their control, there is strong evidence that there is simply too little oversight of cultural resources.

Apathy towards prosecution. Anecdotally, sentences resulting from successful ARPA investigations and prosecutions are usually minimal. University of Oregon PhD candidate Barbara E. Bundy writes, “many archaeologists express frustration with law enforcement agencies’ lack of interest in looting cases that do not involve other criminal violations” (2005:154).

This is aided by a commonly held view of ARPA as being a “victimless” crime (Martin McAllister, Mark Sanders, January 29, 2013). As with law enforcement personnel, judges too often see cultural resource violations as less important than other
crimes, despite the steep penalties involved with ARPA. BLM Anasazi Heritage Center/Canyons of the Ancients National Monument manager Marietta Eaton says,

There's no backbone to the law. You can get caught and it doesn't matter what you've done. Doesn't matter how many artifacts you have. Doesn't matter if you're disturbing human remains. You're still gonna get basically a slap on the wrist. And what disincentive is that? [Marietta Eaton, Mark Sanders, June 13, 2012]

Eaton’s assertion that too many criminal ARPA investigations result in a “slap on the wrist” is well-founded. The ineffectiveness of prosecutions in the 1986 and 2009 Blanding cases is testimony to this. I disagree, however, with Eaton’s point of there being “no backbone to the law.” The steepest penalties for violating ARPA include up to five years’ imprisonment and up to $500,000 in fines. When there is strong evidence and vigorous prosecution, as in the Operation Indian Rocks case, ARPA works well. The law itself is not the problem; rather, the application of it is.

_The complexities of ARPA._ ARPA is a law with arcane provisions that are often poorly (if at all) understood by law enforcement, attorneys, and judges alike (Longenecker and Van Pelt 2002:31). Adding to this problem is the paucity of cases that are routinely tried in court. Todd Swain writes that only 14 percent of discovered and documented cases are ever “solved,” and that “ARPA investigations can be as complex as murder cases” (2011:6). Physical evidence linking a suspect to the crime scene must be established, and the definition of an “archaeological resource” under ARPA may require expert testimony.

Under the law, elements of the crime that must be proven by prosecutors are highly subjective and easily argued against. Specifically, under Title 16 of the United States Code (Section 470ee), the value of the archaeological resource involved and the
restoration and repair of it must exceed $500 in order to be considered a felony. While this may appear to be an easy threshold to cross, the fact that 94 percent of ARPA cases are at the misdemeanor level indicates otherwise (Swain 2011:7; Martin McAllister, Mark Sanders, January 29, 2013).

In summary, Operation Indian Rocks and both the 1986 and 2009 Blanding cases illustrate how law enforcement, when used to prevent the theft of ancestral Native American cultural material, must be considered more carefully than it has been in the past. There is no consensus among heritage management experts as to whether cultural resource crimes are in decline (Mark Varien, Mark Sanders, June 13, 2012; Larry L. Baker, Mark Sanders, February 7, 2013) or are intensifying due to the current (2008-2013) economic recession (Martin McAllister, Mark Sanders, February 18, 2013). There are currently no undisputed figures on the scope of the looting problem. Difficulties in assessing the scope of the problem persist (Swain 2011), as do challenges to prosecutions.

Education

Archaeologists began writing about the need for public education in the 1970s, concurrent with the growth in professional cultural resource management (Jameson 2004:21; Lynott 1997; Sabloff 2010; McManamon 1991). However, retired National Park Service archaeologist Steven Pendery writes, “despite these early calls for outreach, there was little movement to engage the public until the 1980s and 1990s” (2002:177). Even after archaeologists began working in the public sphere, fractures emerged between the competing ideologies of processualist (focusing on the purely scientific aspects of
archaeology) and the more humanistic, reflexive post-processualist philosophies. This ideological debate unfolded within the archaeology profession at the same time it emerged in classrooms (South 1997:54; Jameson 2004:37).

Archaeology by the 1980s had already been taught in public schools for decades, under the guise of “history” (Stone 1997:24). Grade-level history classes’ static, incontrovertible-facts-based approach to significant events of human existence ran counter to the newer, past-as-constructed ideology promoted by University College London Professor Nick Merriman (2004:11) and critical theory proponents Mark Leone et al (1987). Based on my experiences as a visiting archaeologist at Denver area schools, I believe that the old ways of rote instruction in history classes have been (and continue to be) a hindrance to archaeology instruction for grade-level students, despite Stanley South’s contention that critical approaches to educating the public about archaeology is an “anti-science fad” (1997:54).

Beyond object-based versus story-based approaches, there are ideological and circumstantial minefields that include conflicting interpretations of the past (McDavid 2002; Stone 1997:9), funding for educational projects, and simply gaining access to grade school students (Jeanne Moe, Mark Sanders, June 29, 2012). The reality of having no centralized public archaeology program in the U.S. only adds to the challenge of educating laypersons about our field.

Nevertheless, the shift in teaching archaeology as a purely academic discipline to a more inclusive, public-oriented enterprise is heartening. As archaeologists have begun to look beyond their own research (spurred in part by the 1990 passage of the Native
American Graves Protection and Repatriation Act [NAGPRA]), older Americans with disposable income are participating in educational programs. Barbara Little and Larry Zimmerman (2010) and Mitchell Allen and Rosemary Joyce (2010) have written on the changing cultural landscape that is opening archaeology to these audiences. CRM archaeologist Lawrence E. Moore comments specifically about the Baby Boomer generation’s increasing participation in heritage tourism and adventure learning programs (2006).

Childhood education has gained prominence as the most effective way of shaping attitudes towards preservation. Marietta Eaton, Anasazi Heritage Center/Canyons of the Ancients National Monument manager, says,

“We're not going to change the minds of people who are doing this activity [looting] now. But where we have an impact is through the schools and the kids, and if we focus on getting the word out to that generation, then they'll have a completely different paradigm than their parents” (Marietta Eaton, Mark Sanders, June 13, 2012).

In my research, I acknowledge the wealth of public archaeology approaches (particularly museums and public parks that do outreach work), but have chosen to focus on two relatively recent initiatives that show particular promise: Project Archaeology and Crow Canyon Archaeological Center.

*Project Archaeology*

Project Archaeology’s goal is to educate teachers and students about archaeology and historic preservation. It is a joint project between the Bureau of Land Management and Montana State University, founded in 1990 as a response to the rampant looting and site destruction occurring in Utah (Project Archaeology 2009:x).
Jeanne Moe started Project Archaeology while working as the Assistant Cultural Resources Program Leader for the BLM in Utah. To broaden the program’s reach, she sought partnerships with similar entities, eventually joining with a consortium of curricular and extracurricular national programs including Project Wild and Project W.E.T. (“Water Education for Teachers”).

As of April 21, 2013, Project Archaeology stated on its website that it operated 15 state programs in 1999; today there are 45. The program’s lesson plans have reached an estimated 180,000 children as of 2009. More than 7,000 educators have participated in its workshops, in which 4th to 7th grade teachers learn how to implement lesson plans. Additionally, Project Archaeology operates an annual Leadership Academy in Bozeman, Montana, in which archaeologists and educators learn how to conduct workshops specifically for school teachers. I was fortunate to have participated in the academy in June of 2012.

Project Archaeology has two main teaching tools. *Intrigue of the Past: A Teacher’s Activity Guide for Fourth Through Seventh Grades* contains 28 lesson plans that incorporate math, science, history, and general critical thinking skills into archaeology-based scenarios. Its advantage over other specialized programs is that it incorporates a comprehensive array of academic subjects. *Intrigue of the Past* lesson plans incorporate science, social studies, math, and English skills that children would be learning anyway, even without Project Archaeology’s involvement.

The *Project Archaeology: Investigating Shelter* series contains lessons that examine various kinds of historic or prehistoric housing in a particular geographic or
cultural area. *Investigating a Pawnee Earth Lodge, Investigating a Plains Tipi*, and *Investigating a Ute Rock Shelter* are some of the regional components of this series.

Relying heavily on the revised 2001 version of Bloom’s Taxonomy of learning objectives (Krathwohl 2001), the *Investigating* modules are activities that involve props, photographs, and historical documents. Project Archaeology stresses education that fosters “important understandings… that we want students to ‘get inside of’ and retain after they’ve forgotten many of the details” (Wiggins and McTighe 1998:10). As such, Project Archaeology eschews pedantic approaches in favor of experiential learning.

Moe et al (in press) sought to quantify the success of Project Archaeology’s *Investigating* series, focusing on 127 underserved minority children in Washington, D.C., Kansas City, Missouri, and San Diego, California. While this research is focused on areas clearly outside the scope of my own, there is ample reason to assume that its lessons are applicable to the Four Corners states as well.

The demographic group that Moe et al targeted is of particular interest, considering the corpus of scholarly articles and monographs supporting the notion that minority students perform more poorly on tests than their white counterparts (Cummins 1986; Nora and Cabrera 1996). Moreover, African Americans’ history in the U.S. has traditionally been poorly documented, and until recently has not been a significant part of grade school history classes.

*Investigating a Slave Cabin* begins by introducing students to Gregory Jefferson, a descendant of captive Africans from Thomas Jefferson’s plantation, Monticello. This is followed by an analysis of historical photographs and documents, including Jefferson’s
slave holdings from 1774 and from 1805. While viewing these lists, students are asked to infer what life may have been like for slaves, and how their circumstances may have changed in the intervening years between 1774 and 1805.

In the next phase, students are given small-scale drawings of artifacts and a site map. They are told where to put them on the map, which contains an overlaid grid system, and are asked to make further inferences to what life may have been like, based solely on artifact placement. They may also be asked, as were grade school teachers at a November 2012 Project Archaeology workshop, to remove some artifacts from the map after placing them on it, in order to show what is lost when a site is disturbed.

The results of this activity showed promise. Prior to it, 47 percent of students said they did not know what would be the proper way to behave at archaeological sites (figure 4). After the activity, that figure dropped to 12 percent (figure 5). While Moe et al caution that these figures are not generalizable (in press:9), my anecdotal experience teaching Project Archaeology supports these findings.

Figure 4. *Investigating a Slave Cabin* survey, pre-lesson.
Project Archaeology faces challenges, however. The organization operates largely by word of mouth and has at present no comprehensive advertising campaign. Additionally, Project Archaeology’s efforts to market its teaching materials face competition from much larger – and better-funded – entities, such as textbook companies. According to Jeanne Moe, “competition for teachers' time is fierce, and we have very little money set aside for marketing” (Jeanne Moe, Mark Sanders, June 29, 2012).

Crow Canyon Archaeological Center

Crow Canyon Archaeological Center’s mission is to “advance knowledge of the human experience through archaeological research, education programs, and collaboration with American Indians.” The nonprofit organization’s beginnings go back to 1974, when a Denver school teacher began an experiential learning program in Cortez, Colorado. Following a merger with the Northwestern University-run Center for American
Archaeology in 1983, Denver energy developer Ray Duncan provided funding to create the organization as it is today (Crow Canyon Archaeological Center 2013a).

Crow Canyon’s remote location is noteworthy. It is located 150 miles from the nearest Interstate highway and 250 miles from the nearest metropolitan area (Albuquerque). As a “destination” vacation, Crow Canyon and its surrounding environs (e.g. Mesa Verde National Park) attracts visitors already interested in or committed to archaeological preservation. It is not designed for casual drop-ins.

Unlike Project Archaeology, Crow Canyon is designed to allow students to directly engage with the material past. Archaeology here is not an abstract idea to visitors; it is quite literally all around them. Indian Camp Ranch is less than a mile away; Canyons of the Ancients is six miles north. Students from grades four through 12 participate in one- to five-day archaeology programs that involve both simulated excavation and actual fieldwork (at Indian Camp Ranch), plus classroom activities and lab work. Admirable as these activities are, though, enrollment has dropped from approximately 4,000 in 1997 (Heath 1997:67) to 2,064 in 2011. Still, the latter figure represents one-fourth of Cortez’s population of 8,482 (Cortez Chamber of Commerce).

Kindergarten through 12th grade educators also participate in a three-week summer institute funded by the National Endowment for the Humanities. Participants receive a $2,700 stipend to attend this workshop and, like the students, are housed on Crow Canyon’s 140-acre campus.

Crow Canyon also actively engages with the Native American community. The organization noted $83,201 earmarked for its American Indian Initiatives program in
2009; by 2011, that figure had increased by 20 percent to $103,765. This program “facilitates collaboration with American Indians” in designing its research projects, educational programs and travel programs (Crow Canyon Archaeological Center 2013b). Its Native American Advisory Group includes members of the Ute Mountain Ute Tribe, numerous New Mexico Puebloan groups (e.g. Ohkay Owingeh, Cochiti, Jemez, Santa Ana, Zia, Taos, and Zuni), and a descendant of Alaska’s Alutiiq cultural group.

According to Crow Canyon’s IRS Forms 990, the organization’s net assets totaled $16,279,940 in 2011, $17,314,680 in 2010, and $15,406,285 in 2009 – a gain of 11 percent between 2009 and 2010, and a loss of six percent ($1,034,740) from 2010 to 2011. Much of this was from loss on investment income, totaling $679,085.

Other significant line items in Forms 990 include the following: a 47 percent drop in grant funding earmarked for student financial aid between 2010 and 2011; an increase of “more than 20 ancient sites” excavated in 2010 to “more than 30 ancient sites” excavated in 2011; and an itemized list in 2010’s tax forms that detail Crow Canyon’s biggest contributors ($190,016 from the Colorado Historical Society [now History Colorado], $277,854 from the National Endowment for the Humanities, and $300,000 from the National Philanthropic Trust). These figures indicate that while student aid has dropped, Crow Canyon is aggressively investing itself in grant writing and more intensive excavations.

Synopsis

A cliché among archaeologists is that the same thing that makes people want to enter the profession is what also makes people become looters. The joy of discovery, the
interest in history, the romance of treasure hunting – these attractions apply easily to both us and them.

Education plays a prominent role in this divide. As the Project Archaeology *Investigating a Slave Cabin* example illustrates, children who formerly would not know how to conduct themselves at an archaeological site become vastly more conscientious after learning the importance of preservation. Subjectively speaking, this may be the best argument for educating children rather than adults; our attitudes are less malleable after we have grown up.

Diane McBride, Contractor for Education and Stewardship with the BLM, says, “It's very difficult to overcome generations of that thought process [of the social acceptability of looting]. It's just something out there like chopping wood. We need to try and get buy-in from the local kids” (Diane McBride, Mark Sanders, June 13, 2012).

The emphasis on involving local children has also been a persistent challenge for Crow Canyon. Organization President Deborah Gangloff admits, “There are more kids here from the rest of the country than we have locally. We kind of struggle to get the local kids here, even though we provide funding scholarships for them” (Deborah Gangloff, Mark Sanders, June 13, 2012).

Other challenges facing Crow Canyon are matters of simple geography (being nowhere near a sizeable airport, city, or Interstate highway), its financial instability from one year to the next (seeing a $1,034,740 revenue decrease in its most recent fiscal year), and the related expense of bringing children there. According to Crow Canyon’s most recent Annual Report, one-quarter of students received funding (551 out of 2,064). Tuition costs for its summer camps run between $1,400 and $4,625 (“Summer Camps,”
Crow Canyon Archaeological Center, accessed February 5, 2013, http://crowcanyon.org/archaeology_adventures/summer_camps.asp), which is cost-
prohibitive for many children interested in attending the organization’s summer field
school.

For those who do attend, however, the dynamic, hands-on experience is
unmatched among other preservation organizations researched for my thesis. Crow
Canyon’s Native American initiatives deserve special mention, as does its considerable
research component. In 2011, Crow Canyon staff members published six peer-reviewed
journal articles and gave 50 lectures. Crow Canyon researchers are highly regarded in the
field of Southwestern archaeology, and are typically in close proximity to the students (as
well as Crow Canyon’s state-of-the-art laboratory).

The organization’s flexible programming, ranging from day trips to three weeks-
long stays, is commendable and noteworthy. Various scheduling options give students
different levels of involvement. Crow Canyon offers daylong tours to local sites
(including Mesa Verde National Park), starting at $35 for children.

By contrast, Project Archaeology neither conducts educational tours nor does it
charge money for children to enroll. Lesson plans are free to school teachers as well. In
fact, teachers who attend either daylong workshops (such as one that I co-taught in
November 2012) or the Project Archaeology Leadership Academy receive stipends and
travel reimbursements for attending. This is helped by the relatively stable financial
inflow that comes from the BLM.
Project Archaeology’s challenges include better integration with and input from descendant groups, local community members, and archaeologists. While the inclusion of Native Americans and African American slave descendants in lesson plans is commendable, the lack of direct commentary from them is worth addressing. Lessons that involve locals whose history is being described in Project Archaeology activities would be more powerful than the lesson plans alone. This is one of the key contrasts between Crow Canyon and Project Archaeology: while Crow Canyon invites visitors from far away to learn about local culture, Project Archaeology goes directly to the students to teach them about the historical local culture.

In addition to descendant community involvement, more input from archaeologists would be helpful. Of the ten attendees at the 2012 Project Archaeology Leadership Academy, only two of us (the assistant state archaeologist from Idaho and myself) were trained archaeologists. Perhaps by supplementing Project Archaeology’s lesson plans with participation from actual field archaeologists would help students internalize and enjoy Project Archaeology more.

Archaeologists are not required to participate in such activities, and this has been a persistent problem for the organization. Project Archaeology is represented at the Society for American Archaeology’s annual conference each year in order to recruit archaeologists as educators. So far, the outreach campaign has not been as successful as Moe would like.
Privatization

Private ownership of land is central to our national identity. Evidence of this resonates throughout U.S. history, from the Homestead Act of 1862 to the anti-communist sentiments of the 1950s. The American Dream of success through hard work is directly tied to private land ownership and free-market capitalism (Ryan et al 1999).

This spirit of private ownership has direct impact on cultural resources. The federal government owns most of the acreage in the Four Corners, and laws such as ARPA and the National Stolen Property Act (NSPA) protect sites on public lands. However, only one law protects archaeological sites on private lands – NAGPRA, which includes provisions for protecting Native American graves, grave goods, and “objects of cultural patrimony.” Enforcing this law is difficult at best, since law enforcement has no oversight of private lands without probable cause. Those who find Native American graves on their land are left to their own consciences to decide who to call upon discovery. Even then, I suspect many individuals would not know whether to contact a museum, a university, law enforcement, or others.

Laws protecting individuals’ land rights in the United States are considered sacred and are not likely to change. Additionally, the Constitution prevents the federal government from taking private lands without just compensation, regardless of what Indian sites they contain. Without national patrimony laws such as those in Europe, in which the government claims ownership of cultural property, artifacts on private land remain unprotected. Crow Canyon Archaeological Center Research and Education Chair Mark Varien says that “the number of sites and the level of destruction on private land
would totally dwarf the destruction of sites on public land” (Mark Varien, Mark Sanders, June 13, 2012).

Private ownership can also work in favor of stewardship. Most famously, rancher Waldo Wilcox of Emery County, Utah, restricted access completely from his ranch at Range Creek, until he sold the land to the State of Utah in 2001. Many “untouched” Fremont sites have since been documented and many more remain undiscovered. Wilcox, despite his professed lack of formal expertise in archaeology (National Geographic Adventure Magazine 2013), is nevertheless a model of preservation.

The following two examples serve as other, more intensive models of protecting archaeological sites through private land ownership.

*Indian Camp Ranch*

In 1989, California real estate developer Archie Hanson, wearied from what he calls restrictive and “disastrous” zoning laws in his home state, purchased 1,200 acres two miles northwest of Cortez, Colorado. The son of a renowned land baron (his father, A.E. Hanson, designed the Los Angeles suburbs of Hidden Hills and Palos Verdes Estates), Hanson intended to subdivide his new purchase into 30 building lots. He was unaware he had purchased the largest known Basketmaker III community in the central Mesa Verde region.

He commissioned Woods Canyon Archaeological Consultants to conduct a survey on the subdivision, which he named Indian Camp Ranch. Archaeologists documented 210 individual sites including many that contained burials (Curry 2006:64). Hanson says, “I had no idea this stuff was here. I was all of the sudden handed a hot
potato of responsibility. We've spent over $1 million so far on archaeology, trying to protect it” (Archie Hanson, Mark Sanders, June 14, 2013).

Hanson’s idea of protection is unmatched by any other private developer. The bylaws of the Indian Camp Ranch’s Homeowner’s Association’s (HOA) state the following:

No owner may build his house or any permanent structure on top a known site with the exception of a structure expressly designed to protect the site by covering it from the elements…. No homesite or road shall be constructed over a known site and all grading of any kind shall first be approved by an archaeologist who shall certify that no site is destroyed by the proposed grading.

The covenant specifies that residents are allowed to have a professional archaeologist excavate on their land and that any artifacts recovered belong to the homeowner until death (at which time artifacts are moved to Indian Camp Ranch’s on-site storage facility that Hanson had built). However, the document explicitly states that selling artifacts to collectors is prohibited, since “ethical research cannot allow a pothunting profit and still be an acceptable archaeological endeavor” (1993:5). Under the bylaws, there are steep fines for violating these rules.

Indian Camp Ranch addresses unmarked burials by contracting with Crow Canyon Archaeological Center to remove and repatriate them.

The 30 parcels at Indian Camp Ranch have sold briskly, despite the relatively depressed economy of southwest Colorado (Figure 3) and the steep price of the lots. Parcels measure at least 35 acres each, and homeowners have included former Boulder, Colorado, mayor Robert Greenlee and Denver philanthropist Sue Anschutz. Currently, house lots for sale in Indian Camp Ranch cost between $149,000 and $305,000. Finished
homes are priced between $249,000 and $890,000 (Yahoo!-Zillow Real Estate Network 2013). Without exception, every house and lot are owned by people not native to Montezuma County, according to Indian Camp Ranch Homeowner’s Association President Hal Shepherd (Hal Shepherd, Mark Sanders, June 14, 2012). He adds that residents are retirees and wealthy individuals whose properties at Indian Camp Ranch are used as vacation homes.

Hanson notes his plan to protect sites while allowing excavations was controversial at first. “Everyone’s looking for a chink in our armor,” he says (Archie Hanson, Mark Sanders, June 14, 2013). He has taken the unusual step to hire a mason to reconstruct walls using stones from “Hanson Pueblo” according to what they may have looked like a millennium ago (Curry 2006:66). Contrasted with archaeologists’ practice of reburying sites upon completing excavations, it is easy to imagine how Hanson might rankle professional cultural resource managers. Upon my visit to Indian Camp Ranch on June 14, 2012, Hanson pointed out tunnels dug through his site that he allows schoolchildren to explore. Nearby sat a remarkably intact, fully excavated kiva.

Hanson believes his preservation efforts are more effective than those of archaeologists. His approach focuses on archaeologists conducting sound research while he publicizes his investment. A week prior to my visit, the television program Time Team America visited Indian Camp Ranch. Hanson claims that by publicizing the richness of preserved sites on his land he is also enriching himself: the television networks would not otherwise be promoting Indian Camp Ranch, and he would not receive the free advertising. Noting the phenomenon of looters paying landowners for digging rights, or
purchasing acreage outright for the explicit purpose of looting, Hanson says, “don’t you think that if you protect it, you’re a hell of a lot better off than digging it up?” Put simply: Hanson believes that good stewardship of intact sites makes the media notice. By the media noticing, Indian Camp Ranch gains legitimacy in the public eye. By being seen as legitimate, Hanson believes homeowners in his subdivision are less likely to despoil their land. Archaeologists who do not stress the importance of their work to the public, meanwhile, have only themselves to blame for the public’s unawareness and apathy towards them.

Woods Canyon Archaeological Consultants president Jerry Fetterman supports Hanson’s work. He admonishes the accepted CRM practice (Chapter 2) of submitting technical reports to government, but not translating their findings for the public. CRM reports use arcane language suited only for academic audiences, he believes, and are not made widely available. Fetterman says professional archaeologists are “taking something as inherently interesting as human nature and producing sleep aids” (Curry 2006:66).

Other archaeologists and organizations have echoed Fetterman’s sentiments. Crow Canyon President Deborah Gangloff and Research and Education Chair Mark Varien speak glowingly about Hanson’s project (Deborah Gangloff and Mark Varien, Mark Sanders, June 13, 2012). Archaeology Southwest President William Doelle expresses some concern over the “very strong commercial air about it,” but adds that Indian Camp Ranch’s preservation mission is working well in practice (William Doelle, Mark Sanders, September 17, 2012). Archaeological Conservancy President Mark Michel also expresses his support for Hanson (Mark Michel, Mark Sanders, June 20, 2012). On
May 28, 2012, the development was included on the National Register of Historic Places (Crow Canyon Archaeological Center 2013[2012]).

**The Archaeological Conservancy**

In 1979, Albuquerque attorney and preservation activist Mark Michel saw ARPA, a bill he helped craft, become federal law. With its passage, government-owned lands received vastly stronger protections than they previously had under the Antiquities Act. However, these protections did nothing to stem looting on private property; if anything, he says, the law’s passage increased artifact theft on nonfederal lands (Michel 1991:283).

At that time, Michel was also employed by the Nature Conservancy of New Mexico. The Nature Conservancy is a nonprofit organization whose mission is to “conserve the lands and waters on which all life depends” (The Nature Conservancy 2013). Part of its operations include purchasing private land in order to establish conservation easements, which protect natural habitats while providing tax credits and cash for the seller.

Michel left the Nature Conservancy to establish the Archaeological Conservancy in 1980. He modeled it after his former employer. As of February 16, 2013, the Archaeological Conservancy’s website listed the organization’s mission statement as being “the only national non-profit organization dedicated to acquiring and preserving the best of our nation's remaining archaeological sites.” Michel says he created the organization because the Nature Conservancy did not specifically include archaeology in its mission. He approached then-Nature Conservancy President Pat Noonan, who assisted him in setting up the new organization (Mark Michel, Mark Sanders, June 20, 2012).
Michel and his staff, supported by grants from the Ford Foundation, the Rockefeller Brothers Fund, and the federal Historic Preservation Fund (Bryant 2006:72), called SHPOs and archaeology professors to ask what the twenty or so most endangered sites in their states were. Soon after, the Archaeological Conservancy purchased its first (and to date, most famous) project: Hopewell Mounds in southern Ohio. This site was threatened with commercial and residential development, including nearby suburbs that were creeping towards the mounds. The Conservancy bought the land from an engineer and his mother for 60 percent of fair market value, while the rest of the balance was offered in tax deductions.

Since then, the Archaeological Conservancy has either purchased or been gifted nearly 500 sites. Michel writes that sites tend to be small and “relatively inexpensive to purchase,” and often there is little residential value to the land (i.e. sites may be located in undesirable or unbuildable areas). Michel says that the Conservancy now purchases half their land outright, regardless of the tax credits the sellers may receive (Mark Michel, Mark Sanders, June 20, 2012).

After the purchase or gift, the Conservancy designs a 100-year management plan (Michel 1991:286). Volunteers patrol the sites and Conservancy staff erects fences as needed. If sites are located within existing residential subdivisions, Michel says, the organization collaborates with the developers to protect sites from construction and looting. If anyone is caught looting a Conservancy site, Michel says, the pothunters are immediately reported to law enforcement.
The Archaeological Conservancy is funded through its members (whose dues are $25 per person annually), individual contributions, and corporate and foundation donations. Additionally, money from a permanent endowment fund supplement fundraising. The organization also raises money from individuals locally to fund specific projects. In emergency situations, the Conservancy borrows from a revolving fund it maintains (The Archaeological Conservancy 2013).

According to the Archaeological Conservancy’s most recent Form 990, its net assets grew from $29,892,969 in fiscal year (FY) 2010 to $34,441,267 in FY2011. The bulk of this increase came from cash, in-kind gifts (totaling $3,363,850, likely in the form of real estate donations), and grants from foundations. During the most recent fiscal year, the organization acquired 26 endangered archaeological sites, with 42 more in various stages of acquisition.

An undisclosed number of these parcels came in the form of donations from private companies. In instances where a site was threatened with demolition and a firm sought to dispose of it (either due to public pressure or because of the National Historic Preservation Act’s compliance provisions), it might donate the land to the Conservancy.

The Conservancy’s Form 990 also specifies the organization distributed approximately 30,000 copies of its magazine, *American Archaeology*, for which it received $37,891. It hosted or conducted public lectures in Albuquerque and Santa Fe, New Mexico; Cleveland, Ohio; Washington, District of Columbia; and Phoenix, Arizona. The Conservancy led nine archaeology-focused trips in the United States and
Mesoamerica. For his leadership, Conservancy President Mark Michel received a salary of $144,551 (Archaeological Conservancy Form 990, Fiscal Year 2011).

The Conservancy is in good financial health and appears to be growing steadily. In addition to the archaeological site tours, the organization also opens its preserves to professional archaeologists for research, as well as Native Americans who want to conduct ceremonies at the sites.

The latter point is one admitted weakness of the privatization model. The notion of a Native American archaeological site belonging to a private entity and not its descendant group is indeed a political dilemma. Michel, recalling an Onondaga site he wanted to acquire, recalls opposition to the land purchase. His response was: the Onondaga were welcome to purchase the parcel themselves. But if they could not, the Conservancy would, and would act as proper stewards to the site.

Synopsis

Done well, privatization is the best means of protecting archaeological sites. Done poorly, it is the worst. The word “control” was repeated in multiple interviews and articles consulted in the course of this research. Having absolute control over land is indeed a powerful tool for conservation, since the landowner is ultimately responsible for it. However, if that owner cares nothing for preserving a site on his or her land, there are no laws that will protect the artifacts and features associated with it.

Privatization in the case of the Archaeological Conservancy has innumerable benefits. Landowners can sell less valuable parcels that contain sites that the Conservancy wants. The prospect of having an organization buy land that has no water,
no electricity, and no other kind of infrastructure or exploitable resource must be attractive to some.

The weaknesses of Indian Camp Ranch and the Archaeological Conservancy can be summarized in the following ways:

*Dilemmas over ownership of the past.* Native American interests are not addressed in Indian Camp Ranch’s bylaws, nor were they mentioned in conversations with Archie Hanson or Hal Shepherd. Unlike federal projects that nominally include Native American consultation, Indian Camp Ranch is not required to involve indigenous peoples at all.

Likewise, the Archaeological Conservancy has no mandate to consult with Native Americans. There is no indication that there is meaningful and ongoing consultation with indigenous groups, either. There is nothing in the Archaeological Conservancy’s literature beyond a brief mention in the organization’s 2011 Annual Report (in which it restated the option for Native Americans to visit sites).

This raises the issue of perceived versus legal ownership. By purchasing an archaeological site, even for the most honorable of purposes, entities such as the Archaeological Conservancy and Indian Camp Ranch reinforce (or may be perceived to reinforce) colonialist notions of whites taking over Indian land. And, unlike NAGPRA, there is no codified system of consultation between these organizations and Native American groups. This is an easily politicized issue that Crow Canyon has chosen to address through intensive buy-in from Native Americans, via its American Indian Scholarship Program, the Pueblo Farming Project, and the American Indian Student
Education Project. Neither the Archaeological Conservancy nor Indian Camp Ranch have similar initiatives that involve Native Americans.

*The costs involved.* In the case of Indian Camp Ranch, artifacts excavated must be stored somewhere, and there is currently no plan to do so. All artifacts reside in boxes at Archie Hanson’s home property. The cost of properly storing artifacts is prohibitive, especially considering the presumed amount of material that comes from excavating a pueblo.

Regarding the Archaeological Conservancy, the costs of managing sites in perpetuity are potentially prohibitive. The organization uses much volunteer labor to monitor sites. However, volunteers quit, and the prospect of paying for site management is daunting. The 100-year management plans established when new sites are acquired are difficult as well, economically, since any number of natural or human-caused events could damage sites that require much capital to rehabilitate.

The specific weaknesses of Indian Camp Ranch are summarized as follows:

*The need for strong leadership.* Indian Camp Ranch is the vision of one individual. When I spoke with Archie Hanson in 2012, he was 86 years old. Though more animated and charismatic than most individuals a quarter of his age, he is nevertheless an elderly man. When he dies, it is unknown how the project will endure. Without a similarly strong leader to replace Hanson, it is doubtful that Indian Camp Ranch can survive in its current state.

*The difficulties of replication elsewhere.* Hanson speaks much about Indian Camp Ranch serving as a model for other subdivisions elsewhere, while neglecting one obvious
fact: he lives in North America’s highest concentration of intact Native American sites.

Canyons of the Ancients National Monument is located approximately one mile from
Indian Camp Ranch’s property line; Mesa Verde National Park is less than 20 miles
away. The prospect of replicating this model in coastal Florida or southeast Texas is
doubtful, as is finding wealthy individuals interested in buying properties there.

Community Archaeology

Crow Canyon Archaeological Center’s founding excepted, the best example of
collaborative archaeology in the Four Corners may be the Clinton-era declaration of
Canyons of the Ancients National Monument on June 9, 2000 (Squillace 2006).
Compared to the emotional and highly politicized creation of Grand Staircase-Escalante
National Monument in 1996, Canyons of the Ancients received far less backlash from
both locals and politicians. The reason for this is, whereas the federal government was
harshly criticized for its lack of local input regarding Grand Staircase-Escalante, the
BLM engaged with local residents over a long, intensive planning period in advance of
Canyons of the Ancients’ establishment.

Retired Canyons of the Ancients manager LouAnn Jacobson recalls, “Grand
Staircase-Escalante was just done and it caught everybody cold. Shock and awe. The later
monuments typically went through some sort of public vetting process beforehand”
(LouAnn Jacobson, Mark Sanders, June 12, 2012). Soliciting public input is not a
panacea, however. Jacobson adds that while she believes the public meetings were
essential, some of them became so contentious that she had to be escorted by police from
Cortez’s conference center, due to threats against her personally.
At the same time the 22 so-called “Clinton monuments” became a reality, scholars were becoming increasingly engaged with collaborative archaeology (Silliman and Ferguson 2010; Little 2007:9; Wilcox 2010:178). NAGPRA had a profound effect on archaeologists’ practice, since the federal government was now mandating collaboration between Indians, archaeologists, federal agencies, and museum personnel (Zimmerman 2008). Of course, NAGPRA’s passage did not repair relationships damaged by a century’s worth of colonialist archaeology. Collaboration was and is difficult and complicated, no matter the circumstances (Colwell-Chanthaphonh and Greenwald 2011; Watkins 2008).

Community archaeology is done with an increased awareness of and reliance on nonindigenous public input, Native American and other descendant community concerns, and a greater commitment to addressing governmental and private industry interests. This incorporation of many voices has been termed “multivocality” in the archaeological community. Multivocal, community-engaged approaches to archaeology are therefore unlike the other models I address in this thesis. Community archaeology emphasizes widespread participation in the research process from non-archaeologists, as opposed to enforcement (which advocates a punitive, top-down approach that may not include input from tribal members), privatization (which allows for limited excavations with the express consent of private landowners, but without the consent of descendant groups), and education (which emphasizes learning over active participation, but does not necessarily involve direct communication with various descendant groups).
Certain words and phrases used in this chapter deserve clarification. My interpretation of multivocality is derived from Carol McDavid’s (2002) definition of the term. Multivocality is a process by which various stakeholders’ opinions are regarded equally. Historically, archaeologists’ views and opinions have been the only ones that have been seen in both popular and scholarly literature. Multivocality addresses that by incorporating multiple and sometimes contradictory views.

“Community archaeology” is a term borrowed from Sonja Atalay’s Community Archaeology (2012). Both indigenous archaeology programs and site stewardship programs, described below, fall under the broad heading of community archaeology.

My definition of indigenous archaeology is taken from George Nicholas:

Indigenous archaeology is an expression of archaeological theory and practice in which the discipline intersects with Indigenous values, knowledge, practices, ethics, and sensibilities, and through collaborative and community originated or - directed projects, and related critical perspectives. [Nicholas 2008:1660]

Navajo Nation Archaeology Department/Zuni Cultural Resource Enterprise

The Zuni Archaeological Conservation Team, later known as the Zuni Archaeological Program, and now called the Zuni Cultural Resources Enterprise (ZCRE), was founded in 1975. Then-Zuni Governor Robert Lewis did not feel that the Bureau of Indian Affairs was addressing Zuni cultural concerns adequately, so he began what would later be known as the first Indian-run CRM firm (Kurt Dongoske, Mark Sanders, June 18, 2013).
In its current incarnation, ZCRE employs Zuni archaeologists as well as Tribal Historic Preservation Officer (THPO) Kurt Dongoske, who serves the same function as the State Historic Preservation Officer (Chapter 6). ZCRE has operated as an in-house cultural resources management firm for Zuni Pueblo since 2002, fulfilling Section 106 requirements (King 2008:181; Kurt Dongoske, Mark Sanders, June 18, 2012). It is both a way to employ local Indians in a perpetually underemployed region (McKinley County, New Mexico’s median household income is $21,877). It is also a way for the Zuni to assert control over their own cultural patrimony without the multi-governmental, multi-agency consultation required by NAGPRA.

On June 18, 2012, I joined Dongoske and his crew at an in-progress excavation northwest of the pueblo. This was the proposed site of a new airport, and, because of Federal Aviation Administration funds involved, Section 106 compliance was required. The ZCRE crew, all men estimated to be in their 30s and 40s, were excavating a square kiva at a Pueblo III (AD 1150 to 1350) site, and, at approximately seven feet below the ground surface, were nearing the kiva’s floor. Dongoske says that the crew has located human remains as well, and that because of tribal taboos related to burials, Zuni elders opposed the runway project. As of June 2012, work continued despite the elders’ objections, since the pueblo’s former tribal governor signed documents approving the plan.

Kenny Bowekaty is a Zuni archaeologist who was first introduced to CRM, like many Native American fieldworkers, by a non-Indian anthropologist (in this case, Stanford University Professor John Rick). Bowekaty’s employment is symbolic of the
second wave of Indian archaeologists who first collaborated with non-indigenous professionals. Native-run CRM firms began as collaborative enterprises in the 1970s and 1980s (Zimmerman 2008:94). Without knowing how to do federal compliance work, Native American archaeologists relied on non-Native American academics until, in numerous cases, their own programs were established.

Bowekaty is familiar with the elders’ concerns regarding human burials, and has excavated a number of them himself. He justifies his practice of exhuming bodies of tribal members’ ancestors this way:

We have this process to purify ourselves…. I was told that all you have to do is talk to them while you’re doing it. Maybe in your heart, or maybe out loud. Make sure you keep telling them there’s a spiritual connection between yourself and the inhabitants who occupy the remains you’re digging in…. When we’re done here excavating, then we do a purification ceremony. [Kenny Bowekaty, Mark Sanders, June 18, 2012]

Unlike at Zuni Pueblo, the neighboring Navajo Nation makes no exceptions for tribal members excavating human remains. Such responsibilities are left to non-Navajos, such as Supervisory Archaeologist Ron Maldonado (who himself is not Navajo) or Bureau of Indian Affairs archaeologists (Ron Maldonado, Mark Sanders, June 16, 2012).

The Navajo Nation Archaeology Department (NNAD), headquartered in Window Rock, Arizona (with satellite offices throughout the Navajo Nation) performs all aspects of CRM on the largest Indian reservation in the United States (Klesert 1992:18). It was founded in 1977 and employs both Navajo and non-Navajo archaeologists.

It is also involved in numerous collaborations. One example is its work with BHP Billiton, an Australian mining company whose revenue from July to December of 2012
topped $32 billion (BHP Billiton Group 2013). BHP currently owns Navajo Mine, a massive 2,040 coal-fired power plant that also employs 400 Navajos.

BHP completed an expansion of the Navajo Mine in 2012. NNAD conducted the archaeology work, and in the process discovered archaeological features associated with the Long Walk – the 1864 forced migration of thousands of Navajos to northwestern New Mexico. Though the company was not required to do so, BHP has paid to have a popular summary of the project written for children. It explains aspects of the Navajo creation story, the connections between Ancestral Puebloans and the Navajo, and the Long Walk.

Another noteworthy collaboration involved Tucson Electric Power (TEP). In 2011, TEP was removing trees and underbrush that were encroaching on its power lines, when NNAD archaeologists began to discover Navajo structures. Archaeologists found, in a straight-line succession, a small hogan, larger hogans with corrals, hogans with metal-cut logs, and finally structures that were made with automated machinery. Maldonado says, “You could see the transition of architectural history across the ridge top.” After explaining to TEP officials the importance of these structures, the company, along with the Navajo Nation, the New Mexico State Lands Office, the Bureau of Indian Affairs, and the BLM, signed a Memorandum of Understanding that required extra monitoring on site, with crews removing more vegetation than was originally deemed necessary. As a result, more than 70 acres of archaeological site-rich Navajo land was preserved (Eamick 2013).

The BHP/TEP/NNAD collaboration is an example of good stewardship between two historically opposed groups – developers and Native Americans. Maldonado says, “I
think most archaeologists perceive these corporations as evil entities… I think by giving them good PR, it's saying these people are doing the right thing.”

Navajo archaeologist Davina Two Bears has written about another successful collaboration that deserves mention: a joint project with Northern Arizona University whose purpose is “do something about the lack of credentialed Navajo anthropologists” (Two Bears 2000:17). This program, founded in 1988, was not the focus of my research. However, the paucity of scholarly articles on the NNAD-NAU project indicates a need for more examination of this and similar tribal-academic collaborations.

Kurt Dongoske echoes Two Bear’s sentiment. He views the process of Zuni archaeologists excavating their ancestors’ remains as a symbol of reclaiming cultural sovereignty. For decades, archaeologists cavalierly removed and trucked away the tribe’s patrimonial objects without concern for the locals. Dongoske says, “Archaeologists do not have an entitlement to the archaeological record. And their interpretation of the archaeological record often is different from a Native American perspective” (Kurt Dongoske, Mark Sanders, June 18, 2012). Non-indigenous archaeologists, though well-trained in identifying artifacts, have historically been less adept at identifying sacred sites (also referred to as “intangible heritage” or “traditional cultural properties”) (Mills and Ferguson 1998; King 2008:94). By putting the responsibility of identifying and mitigating negative impacts to these cultural sites (both archaeological and intangible), these two groups’ rights to self-determination are being addressed.

*San Juan Mountains Association/Passport in Time*
Site stewards are the underutilized ambassadors of historic preservation. These are amateur archaeologists who share an interest in the material past, but for whatever reasons decided not to work in the field professionally. Programs vary widely both between and within states, though they typically operate under the auspices of state or federal governments.

The San Juan Mountains Association (SJMA) was founded in 1988. Its mission is to “promote responsible care of natural and cultural resources through education and hands-on involvement that inspires respect and reverence for our lands” (San Juan Mountains Association 2013). Its Cultural Site Stewards program began in 2001 and ended in October 2012, due to budgetary restrictions. Because the site stewards program was active at the time of my research, it will be referred to in the present tense hereafter. The organization was formerly funded through the BLM’s Challenge Cost Share program (Diane McBride, Mark Sanders, March 1, 2013). A new nonprofit that performs that SJMA’s same functions, called the Southwest Colorado Canyons Alliance, will begin working within Canyons of the Ancients National Monument this year.

Over the past decade the state-funded organization functioned as caretaker for approximately 70 sites within the monument, while employing approximately 200 volunteers – a figure that would surely be higher if there were only more positions available. McBride says, “When the program started, an ad was put into the paper…[saying] that there was going to be a site stewardship program. They had so many people show up that they could not get enough sites to them quick enough.” She adds that SJMA would administer more sites, but cannot due to budget restrictions.
Volunteers begin by taking baseline photographs of a site from multiple vantage points. Those points are noted on a map showing an overview of the site. Volunteers also measure gaps between walls and distances between archaeological features. They return to those individual sites bimonthly to observe and photograph any evident damage. If a site has been damaged through natural means (e.g. from wind damage), volunteers re-photograph the site from their previous vantage points. If vandalism was involved, volunteers are instructed not to enter the site at all, and to contact McBride immediately.

In 2011, SJMA counted among its ranks 47 site stewards.

Passport in Time (PIT) was founded in 1988 by National Forest Service archaeologist Gordon Peters. He began overseeing University of Minnesota-Duluth field schools, while enlisting the help of volunteers. Eventually the volunteers began showing more interest in the field school than the students. Peters then helped establish the field school as a formalized program within the Forest Service.

Today PIT oversees more than 30,000 volunteers at 117 national forests in 36 states. Would-be volunteers apply for however many projects they like across the country, and, after project leaders select their crews, they are offered a position.

Allowing volunteers to excavate, monitor, or repair sites benefits both the public and the Forest Service. For the former, it allows people to actively work on sites for free, as opposed to Crow Canyon Archaeological Center (which requires payment for the opportunity to excavate alongside professional archaeologists) or SJMA, which does not allow for any physical contact with archaeological features. For the latter, it assists the Forest Service in fulfilling its Section 106 obligations, including those to consult the
103 public (36 CFR PART 800; King 2008:69). PIT volunteers also assist Forest Service archaeologists in site assessment and shovel testing. PIT Program Director Matt Dawson surmises that over 60 percent of PIT projects are done as part of Section 106 compliance.

Archaeology Southwest

William Doelle founded Archaeology Southwest in 1982 (then known as the Center for Desert Archaeology), having conducted nonprofit CRM fieldwork in southern Arizona for years prior. It currently counts nine members on its Board of Directors, with an advisory board that includes prominent Southwestern archaeologists William Lipe and Don Fowler. According to Archaeology Southwest’s Forms 990 and Annual Reports for years 2001 through 2011, the organization’s total revenue has remained steady (at approximately $1 million per annum), while its net assets have increased steadily over a ten year period, from $3,221,411 in 2001 to $5,569,795 in 2011. The bulk of its income comes from grants (35 percent) and individual donations (26 percent). The organization appears to be on solid financial footing.

Archaeology Southwest operates on a principal of what Doelle terms “preservation archaeology.” The concept includes three components: low impact archaeological investigations, public outreach and education, and the ownership and management of conservation easements and private lands (Doelle 2012:1; William Doelle, Mark Sanders, September 17, 2012).

The breadth of Archaeology Southwest’s work is stunning. Its public outreach program includes a quarterly publication, Archaeology Southwest Magazine, an online magazine called Southwest Archaeology Today, a series of informal talks in Phoenix and
Tucson called the Archaeology Café, a more formal Tea and Archaeology lecture series for donors, volunteer opportunities, and traveling museum exhibits.

Archaeology Southwest owns five archaeological sites outright and protects eight more sites through easements. These sites are located throughout New Mexico and Arizona.

Its low impact research includes noninvasive archaeological field methods including LIDAR, electrical resistivity, and ground penetrating radar. Archaeology Southwest also heavily favors the use of extant artifact collections for graduate students’ and its own research, which further protects sites. Lastly, the organization works closely with Native Americans on its San Pedro Ethnohistory Project, a means of obtaining site information without putting a shovel into the ground.

Denver Museum of Nature and Science archaeologist Chip Colwell-Chanthaphonh was previously a research fellow at Archaeology Southwest. He says,

Their philosophy, which is a good one, is if you're only preserving places, putting up walls around them or burying them so they'll be saved, you're not demonstrating to the community and the public at large what the real value of these places is. In other words, we're not just saving places for some abstract goal of preserving them, we're preserving them so that they can be studied and understood, and can inform our sense of place and our sense of history [Chip Colwell-Chanthaphonh, Mark Sanders, February 10, 2012].

The San Pedro Valley study exemplifies how Archaeology Southwest’s preservation ethic can be classified as multivocal. The valley is approximately 50 miles long, running roughly north-south through southeastern Arizona near the Mexican border. Humans have occupied the valley continuously for 13,000 years. By 2002, archaeologists had excavated many sites within the valley, yet the indigenous people who had
connections to the area were not represented. Colwell-Chanthaphonh began doing ethnohistorical research at San Pedro Valley in 2002, interviewing Apache, Hopi, Tohono O’odham, and Zuni tribal members (Colwell-Chanthaphonh and Ferguson 2006a).

Representatives from each tribe described how they understood and interpreted the massive civilization collapse that occurred in the years just before Spanish explorers arrived. Colwell-Chanthaphonh conducted “place-based” interviews with tribal members at archaeological sites in the valley. This was an effort to better understand the oral traditions that had been passed down, and what specific places and objects on the landscape mean in these groups’ cosmology.

*History Is in the Land: Multivocal Tribal Traditions in Arizona’s San Pedro Valley* (Colwell-Chanthaphonh and Ferguson 2006b) is the book that resulted from this study. It did not combine or refute any of the indigenous histories or recollections by tribal elders; each was presented without interpretation. Jeffery Hantman of University of Virginia, in a review that appeared in *American Anthropologist*, called *History Is in the Land* “a model for a new kind of archaeological writing” (2009:205). Robert McGhee of the Canadian Museum of Civilization considers the book “one of the most sophisticated and rewarding examples of collaboration between archaeologists and Indigenous historians” (2008:591).

**Synopsis**

While multivocal and public archaeology approaches are tied in ways listed in the introduction to this section, the individual organizations and entities researched show divergent priorities. The Zuni Cultural Resources Enterprise is an example of indigenous
archaeology taking a political stand. Though admirable, it is potentially problematic for a number of reasons.

ZCRE’s calls for equality in cultural resource management has not received widespread acceptance by all federal agencies. The evidence is anecdotal (Zimmerman 2008:100), but examples of agencies shirking their obligations to tribal consultation (or what Zimmerman terms “notification”) abound. Often, “they consult with the tribe after they've already decided what they're going to do” (Kurt Dongoske, Mark Sanders, June 18, 2012). It undermines the spirit of the Clinton-era Executive Order 13175, which requires “regular and meaningful consultation and collaboration with tribal officials.” Bolstering Dongoske’s claim is a 2009 memorandum in which President Barack Obama writes, “History has shown that failure to include the voices of tribal officials in formulating policy affecting their communities has all too often led to undesirable and, at times, devastating and tragic results” (Office of the Press Secretary 2013[2009]).

Another complication of ZCRE’s philosophy is its decision to perform all CRM in-house. This could present problems if it is presented with a project too complicated to take on its own, such as a large-scale pipeline survey. Kurt Dongoske says, “For us, I don't want to talk to a contract company. They can't do anything for the tribe.” Dongoske’s reluctance towards private contractors is well-founded; non-indigenous CRM firms are businesses that, while mandated (through the lead agencies) to consult with stakeholder groups, have a poor history of doing so (Stapp and Burney 2002:131). That said, the outright dismissal of outside CRM firms in favor of ZCRE-only projects is

However, the fact alone that ZCRE has operated for more than 30 years is testimony to its vigor and its necessity. Colwell-Chanthaphonh et al write,

“While Indigenous peoples have long served as laborers at archaeological sites, for more than a century they have been excluded from participating in the full choice of research activities” (2010:230).

Perhaps the fact that federal agencies and non-indigenous CRM firms have historically ignored Indian concerns is only a matter of attitudinal and bureaucratic wheels turning slowly. In time, agencies will begin to consider Indian concerns as carefully as they are required to by law.

Regardless of whether or when that happens, the tribes are not waiting. Native American involvement in professional archaeology continues to grow. According to the National Park Service’s website, the number of Tribal Historic Preservation Officers in 1996 was 12; as of 2012, that number had grown to 140, and it “continues to grow at an accelerated pace” (National Park Service 2013b).

The Navajo Nation Archaeology Department confronts equally daunting pressures as it, too, strives for legitimacy among archaeologists, agencies, and its own people. Ron Maldonado says,

(The Navajo Nation Archaeology Department) promotes in-house archaeology, but unfortunately a lot of them quit archaeology due to family pressure. You're dealing with human remains, and there's a lot of pressure not to bring that home. It’s an issue, being married to a Navajo myself. My wife's not happy I do this. But she understands it's my career. [Ron Maldonado, Mark Sanders, June 16, 2012]
NNAD’s collaboration with a multibillion-dollar mining company is another area of potential concern. BHP Billiton, as well as the mine itself, does not enjoy unanimous approval from either Navajos or environmentalists (Bitsoi 2013). Compared to non-indigenous CRM firms, which are buffered from public scrutiny by the federal agencies that are the primary consultants with industries, the NNAD risks political fallout coming from its involvement with BHP. Granted, its main collaboration with BHP has been the production of a children’s book. However, the NNAD would be well served to present itself as primarily concerned with Navajo interests, lest it risk appearing as the PR wing of a multinational mining firm.

PIT and SJMA operate on what National Park Service archaeologist Barbara Bundy calls “multi-site and single-site” models (2005:192). Under the single-site model used by SJMA, volunteers essentially adopt an individual site – “their site,” within the national monument – and manage it indefinitely. PIT’s multi-site model, however, allows for volunteers to move between different parks in different states, making the experience more touristic than SJMA. It is also, as Bundy points out, more appropriate than the single-site model regarding remote sites. SJMA volunteers are likely less inclined to traverse difficult terrain to reach hard-to-reach sites; PIT projects, however, with their emphasis on active excavations, is more appropriately geared towards these kinds of archaeological sites.

The benefits of both of organizations are debatable. SJMA volunteers see less of the country than PIT site stewards do. However, SJMA stewards also maintain a closer connection with sites they live near, and revisit for years. Those Canyons of the Ancients
sites are available to visit year-round, in perpetuity, whereas PIT projects have a finite life span. Once the fieldwork is completed, those excavation units are backfilled and are not visited again.

Both PIT and SJMA garner positive publicity. Site steward programs, like avocational groups, train volunteers to be “ambassadors” for preservation (David Dove, Mark Sanders, June 14, 2012; Chip Colwell-Chanthaphonh, Mark Sanders, February 10, 2012). Yet in the field, this happens on only a sporadic basis. “If they're out at their sites once a year – and the maximum seems to be once every couple months, that's not a big presence” (Rebecca Schwendler, Mark Sanders, January 23, 2012). There is also the aforementioned problem, specific to SJMA, of gaining widespread acceptance in the local community.

Matt Dawson sees the positive publicity PIT generates in far broader terms. He says it is a way of reforming hostile attitudes that individuals have against the federal government. PIT could work especially well in the Four Corners, where resentment towards the government runs high. Referring to the 2009 raids, Winston Hurst says, “When people feel like they're being propagandized they'll feel like they're up against the wall and they'll fight back. It should all be about quiet, relaxed dialogue, and treating people like they're intelligent” (Winston Hurst, Mark Sanders, December 8, 2012). Encouraging public interaction through participation like site stewardship may be the only way to accomplish this. This will take time, though, and a long-term commitment from archaeologists and the federal government.
The photographs of smiling volunteers and the occasional news stories about
PIT’s efforts indeed make for good PR, but as with SJMA, there is little indication that
the message is getting across in a widespread and effective manner. In Table 2, I have
included a list of preservation organizations’ websites and the relative number of “hits”
they receive, in order to comparatively gauge their reach.

Despite these challenges – the lack of widespread knowledge about these
programs, the lack of “buy-in” from locals in the Four Corners, and the paucity of direct
interactions between site stewards and the larger public, the programs are in great
demand. Site stewards programs deserve greater funding and better, more expansive
organization (Matt Dawson is, after all, the sole program director for PIT).

Such collaborations are not only desirable, but I believe necessary for the
discipline to grow, and for the public to care more about what we do as archaeologists.
Kentucky Archaeological Survey staff archaeologist M. Jay Stottman writes passionately
on archaeologists’ obligation to engage the public:

“There is much more at stake than our research objectives. There are politics,
economics, and a community context in which we work that we cannot ignore. We really
should view ourselves as partners in a much larger web of community” (2010:6).

Archaeology Southwest’s work throughout the Southwest is a model that could be
adopted throughout the country. And it should be – the three components of preservation
archaeology (low impact investigations, public outreach, and ownership of private land
and conservation easements) work in every sociocultural and geographic environment.

Even in areas where there are few, if any, Native Americans, projects like the San
Pedro Ethnohistory Project can be replicated. In 2010-2011 I conducted CRM fieldwork
near an urban housing project in central New Orleans, and was reminded of it while reading Chip Colwell-Chanthaphonh’s writings on the San Pedro study. In the course of this fieldwork, none of the local residents were actively consulted. Consequently, an important piece of that neighborhood’s history was lost.

By contrast, the incorporation of tribal members’ stories at San Pedro, taken at the site, is invaluable to understanding the cultural, geographical, and spiritual aspects of the valley, while addressing and hopefully neutralizing suspicions of archaeological colonialism.

Theoretical Frameworks and this Research

Materiality theory, postcolonialism, and pragmatism informed my field research and are applicable to the four preservation models discussed in this chapter. These theoretical frameworks, outlined in Chapter 3, also influenced my understanding and assessment of public attitudes toward archaeological site preservation.

Materiality explains why the nonindigenous public is fascinated with the material past, and how pothunting is perceived by different stakeholders. Archaeology is often portrayed in popular media as an adventure-laden enterprise whose main objective is to seek and recover treasure. The public can hardly be criticized for this; the object-based (as opposed to story-based) ethos that runs throughout archaeology’s own history does little to refute that romantic image. The commercial art market also supports this object-based narrative through its marketing of obscure, rare artifacts (such as the Hopi masks described in Chapter 3) to the wealthy public. Appadurai’s writings on authenticity and
singularity increasing objects’ economic value are important to consider when assessing public attitudes towards archaeology and the need to preserve artifacts.

In the Southwest, the connection between nonindigenous people and Native American is not quite as removed from daily life as it is in the rest of the U.S., likely because so many Native Americans live in this part of the country. In southeastern Utah, Native American artifacts arguably help define the societal structure. Santa Fe, New Mexico, where I once lived, is a town whose identity is attached to the trade in Native American antiquities. Similarly, Blanding, Utah, the longtime home of the U.S.’s most notorious pothunter (Earl Shumway) and the focus of two large-scale federal raids, is inextricably connected to the large number of Ancestral Puebloan sites that surround the town. The curio shops, the kivas that sit in Blanding ranchers’ backyards, and the long history of pothunting in Blanding, further define the place as a go-to destination for Indian relics. As Alison J. Clarke says, “material culture, its acquisition and appropriation, is integral to the construction and negotiation of social worlds and identities” (1998:73; see also Lekson 1997:101; Gulliford 2000:19, 47; Jones 1986).

The 1986 and 2009 raids could be considered an attack on a town whose identity was formed by the material culture that federal agents confiscated. Material theory is applicable here because of the varying attitudes towards Native Americans and their cultural patrimony. Some of the men and women implicated in those ARPA violations may have only been interested in the money that could be made from trafficking artifacts; in other words, respect for indigenous culture made no difference to their attitudes. Other suspects had less nefarious intentions, wanting just to own pieces of the past and show
them off as souvenirs. In the case of those men and women, there was a mental disconnect between owning sacred objects that were communally owned by a tribe and respecting the tribe itself.

For example, James Redd, the local doctor who was friends with Native Americans in Blanding, ostensibly respected Indians while also stockpiling their sacred objects. The same can be said for the Wetherill brothers, who were friends of Ute Indians but who were also pothunters looking to profit from tours of Indian holy sites. Finally, Forrest Fenn, the catalyst for my own interest in preservation studies, is both an aficionado of Pueblo Indian culture and an unapologetic pothunter. These are some examples of individuals who did not consider owning looted artifacts as an act of disrespect towards indigenous peoples.

Materiality theory also suggests possible motivations of the three types of archaeological site looters described in the Enforcement section of this chapter. Each of these categories – casual looters, part-time looters, and commercial looters – have various reasons for their actions. Casual looters such as hobbyist metal detectorists, and bottle collectors may not even consider what they are doing as looting; I doubt most would. Cultural material in such cases is regarded as a novelty or as part of a harmless hobby. In cases of part-time and commercial looting (in which looters are completely aware of the illegality of their actions), the connection with material is based more on economics than on a casual fascination with the past.

In the section titled Education, I write of Project Archaeology’s emphasis on stories rather than objects. In one Project Archaeology lesson plan, students are asked to
bring an object from home that relates to their past. Students then tell why they chose that particular object, and discuss what that object says about them and their past. Though the exercise is one that necessarily involves material culture, its goal is to show archaeology as a field based in inquiry and observation, rather than one based on decontextualized trinkets.

Yorston et al.’s (1987) four principles of pragmatism relate particularly well to Project Archaeology’s and Crow Canyon Archaeological Center’s initiatives. Specifically these include the importance of being humanistic; accepting that archaeology is a constantly evolving discipline with no final answers to how people lived in the past (Potter and Chabot 1997:46); acknowledging that the scientific method’s usefulness should not limit interpretation (this principal is especially important to the development of indigenous archaeology programs described below); and using theory only insomuch as it has direct application (e.g. those promoted in *Understanding by Design* [2005]).

Crow Canyon’s strengths relate to its pragmatist, interpretive approach to education as well as its adoption of postcolonialist practice. The organization’s indigenous archaeology program is testimony to the latter theoretical framework, as is its policy of offering Crow Canyon archaeologists’ research reports to the public (these are easily accessed at crowcanyon.org). One of postcolonialist archaeology’s hallmarks is the democratization of and easy access to information.

Materiality theory is applicable to discussions of the privatization of archaeological sites. Both the Archaeological Conservancy and Indian Camp Ranch promote good stewardship through the acquisition of archaeological sites. The concept of
“owning” an archaeological site is a paternalistic, Eurocentric idea that ultimately undermines the preservation work that these organizations do. In the cases of both organizations, nonnative individuals are purchasing land containing sacred items that are foreign to their own culture. Though in the case of the Archaeological Conservancy, Native Americans themselves are allowed to hold ceremonies at Conservancy sites, the very notion of asking permission to visit ancestral places is at the very least discomforting.

Indian Camp Ranch also operates on a materiality model, though rather than buying sites (as the Conservancy does), it sells them. I view Archie Hanson’s efforts as a benign form of Indian trading. Yet, unlike the curio shops that sell Indian artifacts throughout the Four Corners, Hanson is selling the land itself that contains those artifacts. Potential homebuyers are told that they can own a part of Native American history, even though that land was never willingly given to them (or the U.S., for that matter) by indigenous people themselves. Ultimately, under the privatization model, the focus is on cultural material rather than the wants and needs of the Native Americans whose ancestors made them.

Accordingly, the privatization of archaeological sites is arguably a colonialist enterprise, despite the good intentions behind it. Postcolonialist theory, which emphasizes recuperative mechanisms for sharing power between Euro-American archaeologists and Native Americans, is important to consider in discussions of legal ownership (which the Conservancy and Indian Camp Ranch have) and spiritual ownership (which the tribes have). Pragmatist theory is also applicable to privatization because the end goal of
pragmatism is the best outcome for all involved. Questions of who the privatization model actually serves may be answered through the pragmatist framework. 

In contrast to privatization, community-based archaeological programs focus more on relationships than on relics. Site stewardship programs emphasize their participants’ connection to sites they adopt; Diane McBride speaks glowingly about volunteers’ sense of community with each other and the deep affection they have for the particular sites they monitor. The Zuni Cultural Resources Enterprise and the Navajo Nation Archaeology Department also focus more on relationships than simply on the traditional CRM practices of analysis and report generation. Indigenous CRM firms eschew traditional Western-based scientific thought in favor of indigenous research as described by Tuwihai Smith. Materiality theory is important here, when contrasting indigenous CRM with nonindigenous CRM work. The former was founded as a reaction to colonialist archaeology, while the latter originated as an economic, science-based enterprise. ZCRE and NNAD are not well suited to pragmatist archaeology, though, as they are by nature exclusionary organizations. This is not in the spirit of pragmatism’s inclination towards egalitarianism. Other aspects of pragmatism are applicable here, though – particularly the theoretical framework’s de-emphasis on universal truths.

Finally, Archaeology Southwest’s San Pedro Ethnohistory Project is an example of postcolonialist archaeology that benefits heavily from pragmatist theory. This is evidenced by the “50/50” approach to knowledge sharing between native and nonnative archaeologists, and the acceptance that various truths can coexist and actually enhance the research.
Chapter 6: Conclusion and Recommendations

Threats to archaeological sites on public land are severe yet poorly understood. Without robust and targeted preservation efforts, scientists lose important data that tells us how people lived in the past. The public impact is multiscalar. Individuals lose important physical and emotional connections with their heritage, while larger groups lose an important piece of their identity every time an artifact is stolen.

Following is an assessment of each of the four models of archaeological site preservation. This is done through a subjective evaluation of each approach, via six questions (titled “measures of success”), and a revisit to the three research questions referenced in the beginning of my thesis. I chose to organize this chapter this way for two reasons. The six measures of success were developed in order to put the strengths and weaknesses of each preservation entity into tabular form, and because they are more specific than the research questions.

The three research questions are revisited both because they were the first questions I asked each interview subject, and because I have developed my own answers to them during the past months of writing and researching. In this chapter, I attempt to answer these research questions justifiably and defensibly.
Measures of Success

Because the number of archaeological sites on public lands is unknown and fluid, it is impossible to quantifiably gauge both the long-term effects of looting material culture and the best means of combating it. Denver Museum of Nature and Science Curator of Anthropology Chip Colwell-Chanthaphonh has suggested various measures of success which, while subjective, assist in comparing the four models of archaeological site preservation discussed in my thesis. Professor Bonnie Clark has assisted in devising these measures, which are illustrated in Table 1.
Table 1. Measures of success.

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</tr>
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<td>YES</td>
</tr>
<tr>
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<td>MAYBE</td>
<td>NO</td>
<td>NO</td>
<td>MAYBE</td>
</tr>
<tr>
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<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>MAYBE</td>
</tr>
<tr>
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<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>San Juan Mountains Association/Passport in Time</td>
<td>NO</td>
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<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>Archaeology Southwest</td>
<td>YES</td>
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The question *Is it Proactive or Reactive?* was chosen because every preservation entity discussed in my thesis falls roughly into one of these categories. Proactive site protection measures – that which keep artifacts and features in as close to their original context as possible – are preferable to reactive measures that address site protection only after a site has been damaged.
The question *Is it Viable in Perpetuity?* was chosen because preservation organizations are most effective when they operate over an extended time period. The financial health of an organization is worth considering here, as better funded organizations are healthier than those that are poorly funded.

The question *Does it Engage With the Public?* was chosen because public outreach is essential for the health of any preservation effort. As was discussed in the case of the Clinton-era national monuments designations and the 2009 Blanding investigations, to ignore the needs of local shareholders is to harm relations with them. If archaeology is to earn the respect of the public, it must consider the needs of them.

The question *Does it Reach a Broad Audience?* was chosen because large-scale, robust preservation efforts are more effective than small-scale initiatives. This is not to diminish the importance of small preservation organizations; I work for a preservation nonprofit with only three employees. Rather, this question is meant to establish which of the preservation initiatives potentially informs the most people of the importance of site protection.

Finally, the question *Does it Promote Research?* addresses the needs of the archaeological community. The protection of sites should not exclude archaeologists from conducting their work, though research (particularly excavations) should be done with respect for the descendants of those who made the objects archaeologists are studying. The most successful preservation efforts benefit archaeologists, descendant communities, and the broader public.
Is it Proactive or Reactive?

Law enforcement is a reactive measure with residual effects that can be considered proactive. Under United States law, Section 241 of Title 18 does not require an overt act to occur in the conspiracy of a crime, though I am unaware of suspected pothunters who have been charged solely under the conspiracy statute. In the review of case laws listed in Appendix A, there are no legal precedents for Archaeological Resources Protection Act (ARPA) prosecution on the basis of premeditated (but unconsummated) crimes. In practice, ARPA violations are prosecuted after the crimes have occurred.

ARPA enforcement is proactive, if only in the court of public opinion. The news coverage that followed the 2009 raids in Blanding, which brought archaeological crimes into the spotlight, illustrate this. Blanding is a cautionary tale to pothunters (William Doelle, Mark Sanders, September 17, 2012). The proliferation of media coverage in the wake of that incident surely awakened many non-archaeologists to the seriousness of this crime. Still, while publicity may dissuade would-be looters, it does not work to successfully prosecute them.

ARPA’s mens rea requirement (16 U.S.C.S. § 470ee(d)) compels prosecutors to prove that the defendant knew what they were doing was a crime. More specifically, the offender must know that what they stole has archaeological value. In U.S. v. Lynch, in which an Alaska man discovered a human skull while hunting for deer, the defendant successfully appealed his case under the mens rea statute. Prosecutors could not prove
Ian Lynch was aware that the skull had monetary value (Appendix A; Forsyth and Tarler 2006:130-134).

Whereas law enforcement is the most reactive of the four models, educational measures are the most proactive. In multiple interviews, particularly with BLM Anasazi Heritage Center/Canyons of the Ancients National Monument manager Marietta Eaton and Navajo Nation archaeologist Ron Maldonado, subjects stressed the importance of reaching children through education. The preservation-oriented values instilled at a young age will likely serve children later in their lives, as misperceptions or ignorance are replaced with an ethic of stewardship. The positive outcome is twofold: through education, children develop an appreciation of and respect for both tangible and intangible cultural heritage, while the archaeological record benefits through lower incidences of site damage and looting. Project Archaeology’s study of minority students in urban schools (detailed in Chapter 5) is testimony to this.

Protecting archaeological sites through private ownership is another proactive measure. The Archaeological Conservancy has a reputation for preserving sites that have been untouched since their creation. By doing so, the Conservancy is doing, on a smaller and more dispersed scale, what Utah rancher Waldo Wilcox has done. Wilcox is the Utah rancher whose land contains countless well-preserved Fremont sites, and who eagerly guarded them from interlopers of any kind – including, until 2004, archaeologists. This sort of proactive protection is testimony to the power of restricting access to land before the looters arrive.
Archie Hanson’s Indian Camp Ranch is a more experimental variation on proactive site protection through privatization, and it is gaining wider acceptance in the archaeological community (Curry 2006:66). Hanson argues that, by homeowners investing both financially and emotionally in their sites (which he encourages homeowners to name after themselves, e.g. Hanson Pueblo), they will be more engaged with the history of their property. The fact that homeowners live within a few hundred feet of “their” site also makes them de facto site stewards.

Community archaeology, in the case of public-oriented site stewardship programs, is reactive. Site stewards are unable to prevent damage to archaeological sites; they are volunteers with no legal authority. Their benefit to the community is arguably proactive. Through their ambassadorship for preservation, they may make pothunters think differently, yet in practice, these individuals are responsible only for recording site damage after it has occurred.

The other examples of community archaeology programs – indigenous archaeology initiatives and Archaeology Southwest – are both proactive and reactive. The damage caused by decades of Western, science-oriented archaeological research led in part to the backlash of Indian rights movements in the 1960s and 1970s, which is directly attributable to the creation of Native American-led archaeology programs. This is why they are reactive. However, they are proactive in the sense that Native Americans are no longer allowing outsiders to tell their stories for them. In light of the fact that the Zuni Cultural Resources Enterprise was founded over 35 years ago, the notion of indigenous peoples controlling their own resources is still looked upon by the public, as Ramos and
Duganne (2000) suggest, as being progressive. Looking towards the future of archaeological research as a discipline, such projects as Archaeology Southwest’s San Pedro Ethnohistory Project may be viewed in retrospect as proactive – as seminal efforts towards creating a new ethical paradigm in archaeology (Colwell-Chanthaphonh et al 2010).

Is it Viable in Perpetuity?

The federal government enforces the law on public lands. According to land management agencies’ annual reports, the amount of money allotted to them overall declined over the past three years, with reduced budgets of 3.6 percent for the Bureau of Land Management, 1 percent for the National Park Service, 6 percent for the U.S. Fish and Wildlife Service, and 5.5 percent for the U.S. Forest Service (Figure 6). According to the BLM’s annual report, its budget proposal reflects funding constraints imposed by the federal deficit, despite the fact that it is “one of a handful of agencies that generates more revenue than it spends” (The BLM’s Proposed Fiscal Year 2013 Budget). The NPS’s 2013 budget request includes a $677,000 decrease in funding for cultural resources stewardship and a $505,000 decrease in law enforcement, a fact that is likely to stretch the agency’s already strained resources even thinner. Finally, financial statements for Passport in Time are not itemized in the U.S. Forest Service’s annual budget, so it is unknown whether the program is well-funded. Anecdotally, according to PIT Program Director Matt Dawson, it is not.
Overall budget trends among land management agencies may not be an indication of their ability to protect sites on public lands. I believe the two are related, however. Moreover, the difficult economic climate over the past five years has contributed to greater threats to archaeological sites on public lands, both on state and federal levels (Weintraub 2011). As noted in Chapter 5, looters are more active in depressed economies, while concurrently, a decrease in federal parks funding entails a decrease in hiring parks personnel, greater demands on existing personnel, and less funding for important initiatives such as ARPA enforcement, PIT, and Project Archaeology.

Funding for educational programs has been mixed. According to Project Archaeology’s annual reports, its budget has been slowly shrinking, with federal grants
funding dropping from $85,145 in 2007 to $35,278 in 2010. This is reflective of an overall national trend towards shrinking budgets for federal land management agencies and their attendant grant programs, through which Project Archaeology and Passport in Time receive nearly all of their funding.

Crow Canyon Archaeological Center is faring comparatively better than federal agencies. According to its Forms 990, the nonprofit’s budget increased by 12.38 percent between 2009 and 2010, but then decreased by 6 percent the following year. It is still a net gain for the organization, and, judging by the organization’s aggressive marketing and public outreach campaigns, it will continue to grow.

The Archaeological Conservancy, according to nonprofit attorney Hugh Jones, is “model of good governance” (Hugh Jones, Mark Sanders, January 25, 2013). The bulk of its revenue comes from its 23,000 members, plus additional contributions from individuals, corporations, and foundations. The Conservancy’s reliance on membership dues ensures the organization’s current and future stability. According to University of Denver Professor Ted Zerwin, revenue gained from membership dues is the most stable form of nonprofit income, more so than corporate or federal funding (2009:100).

Indian Camp Ranch’s financial success has been modest. According to Smithsonian magazine editor Andrew Curry, lots that were originally worth $120,000 in 1989 are worth $250,000 today. However, when adjusted for inflation, $120,000 in 2013 dollars amounts to $224,676 (Bureau of Labor Statistics 2013). This is just an 11 percent increase over the span of 24 years.
The San Juan Mountains Association’s annual allocation for its site stewards program decreased by 10 percent between 2010 and 2011. According to the organization’s Form 990, 2011’s program was run on a budget of only $95,021, which supported the work of 15 volunteer site stewards. According to Diane McBride, Contractor for Education and Stewardship at Canyons of the Ancients National Monument, the “pitifully small” amount of money available to the site stewards forced administrators to sever ties with the SJMA in October of 2012, and they are currently planning to launch a new nonprofit organization of their own. The financial viability of this site stewards program, under SJMA anyway, is by now a moot question.

Financial information was not available for either of the native-run preservation entities, the Navajo Nation Archaeology Department and the Zuni Cultural Resources Enterprise. Because these CRM firms are run independently of any federal agency and are not nonprofit organizations, the tribes have no obligation to provide budgetary information to the public (including scholars).

Finally, Archaeology Southwest has been growing steadily over its lifetime. It is a prominent employer of archaeologists and maintains a robust donor base.

Does it Engage With the Public?

Federal land managers in the Southwest have long been maligned by local communities. This is due partly to rural people’s ambivalence towards the federal government, and also because there are considerable questions of whether the Bureau of Land Management particularly can manage its own resources (Daly and Middaugh 2006:225). There are also the still-fresh memories of the 2009 Blanding raids that have
direct impact on the public’s willingness to work with the BLM (Childs 2010:93). Despite efforts to improve that dialogue, deep-seated mistrust persists (Winston Hurst, Mark Sanders, December 8, 2012).

Various outreach efforts among the four main federal land management agencies seek to improve those relations and engage with the public. The National Park Service is celebrating its 100th anniversary in 2016, for which it began planning in 2011. Publications, most notably A Call to Action (http://www.nps.gov/calltoaction/) reinforce the NPS’s mission of public engagement and preservation. The BLM does not have the same public outreach priorities as the NPS, and, in my opinion, suffers for it. Its mission, as mandated by the Federal Land Policy and Management Act of 1976, is to manage public land resources for industrial, grazing, timber harvesting, and recreation. There are, to my knowledge, no efforts on the agency’s part to engage the public to the same extent that the NPS or the United States Forest Service (USFS) do.

The Forest Service’s outreach is done through Passport in Time and HistoriCorps, another volunteer program that engages the public by employing them to do historic preservation projects on public lands. This is focused solely on historic, rather than prehistoric, resources. According to Matt K. Dawson, the organization is underutilized. He recalls attending a session at the Society for American Archaeology’s annual meeting in 2012. Dawson explains,

One of the things the Forest Service says is, “the public hates us…. We need to find a way to reach out there to the public and everything.” I’m sitting in the back saying, “you know, you guys pay a good chunk of money every year for this PIT program.” [Matt Dawson, Mark Sanders, June 20, 2013]
Notably, the program is mentioned only twice in the USFS’s 479-page budget report for 2013, and even then only briefly.

Crow Canyon Archaeological Center has a robust outreach campaign that is described in detail on its website, crowcanyon.org. The organization’s reach does not extend beyond the Four Corners though. While it may be well known among fans of southwestern archaeology, its national presence is minimal. Project Archaeology engages with the public through its educational programs, though it is hampered by declines in funding via the BLM’s Challenge Cost Share grants program. Project Archaeology has not received these funds in recent years, which have historically accounted for the bulk of its funding (Jeanne Moe, Mark Sanders, February 25, 2013). Project Archaeology master teachers (of which I am one) were told in March of 2013 that the cost of educational materials was increasing due to funding restrictions. Despite this, Project Archaeology’s public engagement is done largely by word of mouth. This is helped by the organization’s broad-based campaign to involve school teachers and archaeologists nationwide.

The Archaeological Conservancy engages with the public, though this is done primarily through its publication, American Archaeology. Its priority is to preserve sites through acquisition and conservation easements; public engagement is secondary. Indian Camp Ranch does not engage with the public at all, since its function is primarily as a homeowner’s association, and secondarily as a preservation outfit. While in a purely technical sense, Indian Camp Ranch engages with the public through its sale of archaeological site-rich properties. Yet this public is a very small subset of wealthy individuals.
SJMA is by its very nature a publicly engaged enterprise, as the organization’s survival is based on its ability to involve the public in archaeological site management. This is likewise the case with Archaeology Southwest, whose programs (e.g. the San Pedro Ethnohistory Project, its Archaeology Café series, and its *Southwest Archaeology Today* publication) all require the public’s involvement. By contrast, Native American-run CRM firms are not engaged with the public beyond tribal lands, though what they represent – multivocal approaches to heritage management – have broad application that could extend to the nonindigenous public sphere.

*Does it Reach a Broad Audience?*

Part of the difficulty of assessing these models is the matter of scale. While some programs do excellent work within their immediate geographic area (e.g. Archaeology Southwest), others are broad-based national entities with national ambitions (e.g. Passports in Time). In addition to geographic considerations are many other factors, including funding, the length of time each organization/entity has been active, and size of staff and volunteers.

Federal initiatives including both outreach and law enforcement are nationwide efforts, though the BLM and USFS are focused primarily on the western U.S. According to the NPS’s website, total visitation to National Parks in 2011 (the most recent year data was available) was 278,939,216. This may include multiple visits to the same park, or the same individuals visiting multiple parks. This figure is significant, especially compared to the visitation numbers of other popular vacation destinations. For example, Walt Disney Attractions (which includes all Disney-themed parks) counted 121,400,000
visitors in 2011. This is less than half of the number of individuals visiting national parks (Themed Entertainment Association 2013[2012]). While all federal land management agencies researched for my thesis are suffering financially, they nevertheless enjoy the broadest name recognition, highest visitation rates, and the longest histories of all the various preservation entities addressed.

Project Archaeology, as noted in the previous section, engages with the public on a national scale. However, it only sparsely covers the geographic area where it is implemented. Even in a comparatively robust state program such as the one in Colorado, there are only four state coordinators.

The Archaeological Conservancy’s reach is also national, and it fares better than Project Archaeology. Its magazine, American Archaeology, reaches the organization’s 23,000 members, and its web presence is considerable. Alexa, a company that provides commercial website analysis for the public, ranks sites according to visits and other websites that provides links to them. A list of preservation organizations’ websites can be found in Table 2, along with comparative data from the top 10 archaeology sites on the World Wide Web.
Table 2. Website rankings according to Alexa.com. Note: the lower the Alexa Traffic Rank number, the more page views the site receives. The higher the Sites Linking In number, the more visible the website is on other sites.

### Comparison of web traffic to sites related to this thesis

<table>
<thead>
<tr>
<th>ORGANIZATION</th>
<th>WEBSITE</th>
<th>ALEXA TRAFFIC RANK</th>
<th>SITES LINKING IN</th>
</tr>
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<tbody>
<tr>
<td>National Park Service</td>
<td>nps.gov</td>
<td>4,818</td>
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<td>Bureau of Land Management</td>
<td>blm.gov</td>
<td>46,738</td>
<td>9,997</td>
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<td>Archaeology Southwest</td>
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<td>2,479,844</td>
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<tr>
<td>Archaeological Conservancy</td>
<td>archaeologicalconservancy.org</td>
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<td>11</td>
</tr>
<tr>
<td>Crow Canyon Archaeological Center</td>
<td>crowcanyon.org</td>
<td>3,151,678</td>
<td>315</td>
</tr>
<tr>
<td>Passport in Time</td>
<td>portintime.com</td>
<td>6,108,763</td>
<td>182</td>
</tr>
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<td>Project Archaeology</td>
<td>projectarchaeology.org</td>
<td>17,894,620</td>
<td>33</td>
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<tr>
<td>San Juan Mountains Association</td>
<td>sjma.org</td>
<td>no data</td>
<td>60</td>
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<tr>
<td>American Archaeology Magazine*</td>
<td>americanarchaeology.org</td>
<td>no data</td>
<td>160</td>
</tr>
<tr>
<td>Zuni Cultural Resource Enterprise</td>
<td>zuniculturalresourceenterprise.com</td>
<td>no data</td>
<td>no data</td>
</tr>
<tr>
<td>Navajo Nation Archaeological Department</td>
<td>nnad.navajo-nsn.gov/</td>
<td>no data</td>
<td>no data</td>
</tr>
</tbody>
</table>

### Comparison of top archaeology-related websites worldwide

<table>
<thead>
<tr>
<th>ORGANIZATION</th>
<th>WEBSITE</th>
<th>ALEXA TRAFFIC RANK</th>
<th>SITES LINKING IN</th>
</tr>
</thead>
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<tr>
<td>National Trust</td>
<td>nationaltrust.org.uk</td>
<td>33,179</td>
<td>14,099</td>
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<tr>
<td>UNESCO</td>
<td>unesco.org</td>
<td>8,203</td>
<td>49,575</td>
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<td>English Heritage</td>
<td>english-heritage.org.uk</td>
<td>55,960</td>
<td>8,612</td>
</tr>
<tr>
<td>Perseus Project</td>
<td>perseus.tufts.edu</td>
<td>15,915</td>
<td>22,208</td>
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<td>Graham Hancock</td>
<td>grahamhancock.com</td>
<td>99,509</td>
<td>1,177</td>
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<tr>
<td>World Mysteries</td>
<td>world-mysteries.com</td>
<td>84,629</td>
<td>2,520</td>
</tr>
<tr>
<td>Archaeology Magazine</td>
<td>archaeology.org</td>
<td>100,046</td>
<td>3,830</td>
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<td>About.com: Archaeology</td>
<td>archaeology.about.com</td>
<td>82</td>
<td>237,515</td>
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<tr>
<td>Colonial Williamsburg</td>
<td>history.org</td>
<td>129,211</td>
<td>4,186</td>
</tr>
<tr>
<td>The Megalithic Portal and Megalithic Map</td>
<td>megalithic.co.uk</td>
<td>247,472</td>
<td>1,133</td>
</tr>
</tbody>
</table>

Source: www.alexa.com

* American Archaeology Magazine is owned by the Archaeological Conservancy.
Crow Canyon Archaeological Center and Archaeology Southwest are, as their names imply, focused specifically on the Southwest. As such, they are largely local in nature. Of these, Crow Canyon has arguably the broadest reach, as its educational programs seek to bring in students from across the country. Its focus on Native Americans – mentioned specifically in the organization’s mission statement – is a sign of its outreach priorities. Archaeology Southwest’s programs reach a more regional audience. While its web presence is considerable, according to Google Trends, which tallies web searches on Google.com, the majority of those web searches come from Archaeology Southwest’s home state of Arizona.

The other preservation entities discussed in my thesis are very local, and as such, their outreach is minimal to the point of being exclusionary or nonexistent. Of these, the San Juan Mountains Association’s site stewards program has the broadest reach. It ostensibly appeals to the public, but by virtue of its mission, its reach is restrained. Indian Camp Ranch’s reach is limited to wealthy homeowners who buy property in the subdivision, Crow Canyon archaeological field schools on homeowners’ properties, and the occasional news stories written about Archie Hanson’s experimental development.

Finally, the two Native American-run initiatives, the Zuni Cultural Resources Enterprise and the Navajo Nation Archaeology Department, have very limited outreach priorities. The Navajo Nation has collaborated in the past with Northern Arizona University students on joint archaeology projects, but this involves only a handful of students. Zuni Pueblo’s archaeology program does not engage with the public whatsoever, as it is a wholly native-run enterprise. The most important audiences that
native-run CRM programs reach are the tribes themselves. With other organizations discussed in my thesis (save for the possible exceptions of Archaeology Southwest and Crow Canyon) focused on the public-at-large, Native American programs are focused on their own people. This is both valuable and commendable.

*Does it Promote Research?*

Law enforcement on public lands is a punitive endeavor that does not directly promote scientific research. It may do so indirectly, since a protected site is a researchable site, but in essence that is a hypothetical scenario.

Educational approaches to archaeological site preservation may or may not promote research, depending on the entity involved. Project Archaeology’s mission is to “foster understanding of past and present cultures; improve social studies, science, and literacy education; and enhance citizenship education to help preserve our archaeological legacy” (“Strategic Plan,” last modified March 28, 2013, http://projectarchaeology.org/about/strategic-plan). This is not research in the scholarly sense, however. Project Archaeology’s focus on children largely excludes it from having a research priority. However, the classroom environment, in which Project Archaeology operates, benefits researchers who are interested in gauging the effects of preservation education on grade-level students.

By contrast, Crow Canyon Archaeological Center’s educational initiatives directly benefit its research component. Part of Crow Canyon’s attractiveness is that students and volunteers work alongside trained archaeologists, whose excavations lead to published works on the history of Ancestral Puebloans. The same can be said for
Archaeology Southwest. Both of these organizations maintain a careful and impressive balance between Native American priorities, public outreach, and peer-reviewed research. A cursory glance at each organizations’ advisors supports the latter notion; all of Archaeology Southwest’s board members are university professors, including Don Fowler and William Lipe, who have been cited repeatedly throughout my thesis. Lipe is also one of many trustees for Crow Canyon, an organization whose research on 20 sites is publicly available on its website.

Privatization-oriented organizations such as the Archaeological Conservancy and Indian Camp Ranch excel at promoting research, though efforts to publicize their findings are considerably limited. In interviews, Conservancy president Mark Michel is quick to note that archaeological sites the organization owns are routinely made available to both Native American groups and professional archaeologists. Public tours are not part of its mission, though this is compensated by the Archaeological Conservancy’s quarterly publication, *American Archaeology*. Likewise, Indian Camp Ranch has archaeological research written into its bylaws; dozens of professional reports have resulted from excavations at the subdivision, largely from Crow Canyon archaeologists.

Passport in Time is tangentially research-oriented. Its volunteers, like Crow Canyon’s, assist professional archaeologists on some (but not all) of its excavations. Native-run cultural resource management firms do not conduct research for its own sake *per se*, as their function is to mitigate damage on reservation lands caused by land-altering industrial or commercial development. However, as with non-native CRM firms, ZCRE and NNAD archaeologists must write professional reports documenting project
findings. In this sense, these firms promote their own research. Lastly, the San Juan Mountains Association’s site stewards program does not promote research at all, since its goal is solely to monitor archaeological sites for damage.

Table 1 synthesizes the success of each model. Each score is reflective of the findings described in this chapter. These rankings are also informed by background research, interview responses, and answers to my three main research questions, which are detailed below.

Answers to Research Questions

The research questions listed below guided my research throughout this project. These were often the first questions asked during interviews.

*Does archaeological site preservation matter to the public?*

As noted in Chapter 5, the problem with defining “the public” is that it is subjective, exclusionary, and unwieldy (Little and Zimmerman 2010:132; McManamon 1991). Defining the public to the point of assessing meaningful data about it poses inherent difficulties; by saying what the public is, we are also saying what it is not. Invariably, some segments of the population will be left out.

Assuming that the public is, for the sake of my thesis, United States citizens, the answer to this research question is a qualified yes. In their 1999 study, Ramos and Duganne found that, of 1,016 survey respondents, only 3 percent showed no interest in learning about archaeology (2000:18). 90 percent of survey respondents said that archaeology should be taught at the grade school level, and a majority of those polled “feel that archaeology is important in today’s society” (2000:23).
The public cares about the protection of our national heritage, even in cases of structures that predate the United States itself. As a culture, we believe strongly in the importance of preserving national icons such as the Statue of Liberty and the Liberty Bell, as much as we do Mesa Verde and Chaco Canyon – all of which are administered by the NPS.

However, the level of and reasons for caring about these places vary widely. For example, a cursory review of recent news articles citing the Archaeological Resources Protection Act echo Robert Kuhn’s 2002 article on the public’s perception of archaeology, as it is portrayed in the media. One of Kuhn’s theses was that the public’s interest in and approval of archaeological research is heavily affected by how the field is presented. When excavations and discoveries are the focus of coverage, the public reacts positively. But in cases about regulatory processes, such as ARPA enforcement, public sentiment reverses course (Kuhn 2002:201). Despite the overwhelmingly positive views Americans have towards protecting material culture, disconnects exist between that sentiment and the more negative perceptions of Native Americans, governmental authority, and what constitutes cultural heritage itself. According to the most recent SAA survey of public attitudes, there is “both a misconception and a lack of clear knowledge of what the study of archaeology encompasses” (Ramos and Duganne 2000:31).

Materiality theory is relevant to this discussion. I believe the “misconception” that Ramos and Duganne write about is due to Americans’ focus on the artifacts that archaeologists uncover, rather than the stories archaeologists are interested in learning. The archaeology-as-treasure-hunting trope is relevant here. As a profession, we have for
decades emphasized “finds” over any other aspect of archaeology. In the media, this receives the most attention, and effectively shifts the conversation from equally relevant aspects of archaeology (e.g. regulatory compliance; obligations to descendant communities) to that of basic consumerism. Much work needs to be done in order to correct the belief that archaeology’s goal is to find “cool stuff.”

Archaeologists nevertheless enjoy an overwhelmingly positive perception by people (Ramos and Duganne 2000; Kuhn 2002). Native Americans, comparatively, do not, despite the fact that it is most often their cultures that archaeologists deal with (Kurt Dongoske, Mark Sanders, June 18, 2012; Colwell-Chanthaphonh et al 2010:232). I suspect that much of the public does not associate modern-day Native Americans with their material past, nor do they consider the notion of Native Americans’ rights to control that past (Goldstein and Kintigh 1990:589; Pokotylo and Guppy 1999:412). The trope of the “vanishing Indian” (who is presumably no longer around to tell his story) has been reinforced in popular culture by books like James Fennimore Cooper’s *Last of the Mohicans*, early archaeologists’ writings on salvage ethnography, and the popular perception that archaeologists know how to handle material culture better than Native Americans themselves (Wilcox 2010:183).

Finally, the public perception of what constitutes an archaeological site complicates our view of what people care about. While archaeologists may view unique early 20th century structures or a bison kill site with the same reverence as they would Mesa Verde, the public obviously views these differently. Likewise, many non-archaeologists would also draw sharp ethical lines between antique bottle collecting and
pothunting. Yet bottle scatters are historic archaeological sites, and the theft of such objects is just as prosecutable under ARPA as it would be if pothunters disinterred an elite burial.

In summary, the public (though problematically defined) supports archaeological preservation. However, factors such as media portrayals of Native Americans, the persistent (and flawed) beliefs in “disappearing Indians,” and the widespread misconceptions of what archaeology is, complicates this picture.

How can stakeholders’ attitudes towards archaeology and site preservation be improved?

Since the rise of post-processualism in the 1980s, archaeology has been slowly transforming into a discipline that is more inclusive and humanistic than it ever had been previously (Thomas 2008:59). More needs to be done, though, to encourage balance between scientifically defensible work and the many publics that archaeology serves. Public attitudes towards archaeology and preservation can be improved through three central means: by quantifying the extent of threats to archaeological sites, which would better inform the public and the government of this problem; by better understanding the public’s opinion (e.g. via an updated Ramos and Duganne study that incorporates more robust data), which would lead archaeologists and land management agencies to improve their outreach programs; and by further involving local stakeholders through partnerships. Following are explanations of these three recommendations.

Assessing threats to sites through viable documentation. National Park Service Special Agent Todd Swain writes, “Lack of staff and the inability to visit archaeological
sites because of other duties contribute to limited discovery of looting, and, inevitably, limited discovery leads to limited documentation of the looting problem.” (2011:3). Swain convincingly argues that by understanding the scope of the looting problem, federal site managers have a better chance of obtaining funding from the federal government, and hopefully, better staffing. Yet there is a catch-22 here: those site damage statistics are difficult to obtain without staffing that would come, presumably, from more federal funding.

Compounding this is the inherent difficulty of obtaining quantitative data on archaeological site damage. For example, at New Mexico’s Gila National Forest (home to the Mimbres culture), only 8 to 10 percent of looting incidents are reported. The reason for this is that USFS staff only report to the Secretary of the Interior major incidents in which a suspect is identified. Often, suspects are not apprehended at all, and even when they are, often charges are pled down to lesser offenses (thus removing the “major” nature of the crime). The National Stolen Property Act and theft of government property statutes are also sometimes used in antiquities theft cases, most likely because prosecutions under ARPA are notoriously difficult. Non-ARPA artifact thefts also do not figure into the Secretary of the Interior statistics. Unquestionably, current available data on site damage is rife with underestimates.

Another problem with assessment is archaeological sites’ very nature: often, archaeologists are unaware of subsurface features, and even when they are discovered, counting them is problematic. The very definition of an archaeological site differs from state to state. In Montana, the State Historic Preservation Office defines a site as five or
more nondiagnostic prehistoric artifacts within 50 meters of each other. Wyoming defines a site as 15 or more prehistoric artifacts within a 30 meter area.

Finally, counting sites (and the damage caused to them) is a moving target. A site is eligible for inclusion in the National Register of Historic Places if it is more than 50 years old. This means that every year on public lands, more historic structures (including 1960s suburban homes) fall under legal protection. The number of sites within federal lands changes annually.

I believe that most Americans are disinclined to entertain such esoteric arguments over the indeterminate number of archaeological sites and the threats thereto. As any observer of political campaigns knows, we are a culture that thrives on sound bites and emotional appeals. We like simplicity, especially when confronted with subjects of which we have only a dim understanding. As difficult and nuanced as making the argument for site threats may be, though, archaeologists must make better efforts to better document and assess site damage and threats. Viable, concise documentation will help encourage people to care.

Understanding public opinion in the digital age. To my knowledge there are only three peer-reviewed studies of how the public perceives archaeology. Most prominent among these is the Ramos and Duganne survey of 1,016 American adults. This study is now 14 years old. An update of this survey, incorporating data on how the public interacts with archaeology online, would serve the discipline well. According to the Pew Internet and American Life Project, internet usage among American adults since that time has grown from 36 percent to 80 percent (as of December 2012). A comprehensive
overview of online trends showing how and why people are engaging with archaeology and historic preservation online would benefit professionals working in these fields. It would also provide these professionals with valuable data from which to determine the best course of outreach in the future.

**Involving local stakeholders.** Blanding mayor Toni Turk says, “If you really want to fix the problem, you need to stop assaulting the community and start collaborating with the community” (Toni Turk, Mark Sanders, August 3, 2012). By ignoring the needs and wants of local citizens, archaeologists and federal land management agencies have no right to complain about the public’s apathy towards them. This is not easily accomplished, but it is necessary. Moreover, a long-term commitment is preferable to a single town hall meeting or open house. To engage well with local stakeholders, is to do so in perpetuity. This is both expensive and complicated, as it demands the conscientious long-term development of relationships between individuals. This is untenable when the BLM, or for that matter, archaeologists, make short-term friendships with community members and then leave. The importance of keeping the same heritage managers in the same area for extended periods cannot be overestimated.

It is incumbent upon archaeologists to take an active role in improving the public’s – especially the local public’s – attitudes towards archaeology. It is also mandated by law. According to 36 CFR Part 800.2[c][1][i], “The State historic preservation officer (SHPO) reflects the interests of the State and its citizens in the preservation of their cultural heritage.” The law is even more explicit regarding the importance of public involvement; it says in part that agencies will
…seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the Federal involvement to the undertaking.

Furthermore, the Society for American Archaeology (SAA), a 7,000-member-plus organization dedicated to the archaeology of the Americas, states in its Principles of Archaeological Ethics that responsible archaeological research “requires an acknowledgment of public accountability and a commitment to make every reasonable effort, in good faith, to consult actively with affected group(s), with the goal of establishing a working relationship that can be beneficial to all parties involved” (Society for American Archaeology 2013).

Watkins et al interprets this principle as an admonishment of academics, writing, “We no longer operate within a vacuum or ivory tower, producing reports only for other archaeologists… the products of our research belong to the public” (1995:33).

This mandate can be met in a number of ways. For example, the benefits of heritage tourism to the state and local economy are well documented. As of September of 2005, out-of-state tourists visiting cultural sites added an estimated $2 billion to Arizona’s economy, while in-state visitors added another $6 million (Arizona Humanities Council 2005:6). In 2008 alone, Colorado added $244 million to its coffers through heritage tourism (History Colorado 2013). The same Colorado report suggests that preservation enhances community identity and increases property values. According to U.S. Department of the Interior statistics, 559,712 visitors came to Mesa Verde National Park in 2010, adding $41.3 million to the local economy, and supporting 575 jobs.

In addition to the economic benefits of heritage tourism to local communities is the potential for cultural revitalization. Rick Knecht, director of the Museum of the
Aleutians, writes of a cultural tourism project on Kodiak Island, Alaska, in which archaeological projects involving local Afognak people has helped improve community relations between archaeologists and natives, while the local museum where artifacts are held has also become a repository for traditional crafts. Knecht writes, “Large portions of the long-eroded cultural landscape of the Kodiak Archipelago have been restored” (2000:152). Historically, many of these local-based heritage tourism efforts have been made outside of the Southwest, if not the U.S. entirely (Cunliffe 2003; Wurster 2003; Wendrich 2003), though the benefits of such local-centric tourism are slowly being realized here (Moore 2006:16). All of these efforts, regardless of the geographic or cultural areas dealt with, involve local residents as storytellers, crewmembers, craftspeople, guides, or some combination thereof.

*What is the most effective approach towards archaeological site preservation?*

This research question proved to be the most difficult of the three to answer. Every expert interviewed for my thesis answered this question with some variant of the phrase, “we need to do a bit of everything.” In 34 interviews I conducted between January 2012 and March 2013, the prevailing sentiment among interview subjects was that some law enforcement, some private acquisition of lands, some educational measures, and some Community archaeology programs are needed. The degree to which each is done depends on individual circumstances. I agree with this sentiment, yet, in Table 1, I attempt to clarify which approach is the most worthwhile and enduring. My conclusions noted below and in the table should not be confused with those of the
interviewees. These determinations are informed by others’ opinions, but are wholly my own.

Law enforcement is expensive and difficult – *mens rea* must be proven and prosecutions are difficult due to a number of factors. However, it is necessary to catch and punish those for whom education has no effect. The resulting publicity from ARPA arrests, assuming such incidents generate coverage, is also an effective (if immeasurable) deterrent to illicit activity.

Privatization is effective in some cases. The Archaeological Conservancy frequently buys or is given land in housing subdivisions and farms that might otherwise be damaged through grazing or construction activities. That said, purchasing land is expensive and management of it is difficult. The Conservancy claims to own or have conservation easements on 430 properties. Even with site stewards assigned to every one of those parcels, there is still the possibility of site damage through looting or development. Rebecca Schwendler, former Public Lands Advocate for the National Trust for Historic Preservation, applauds the Conservancy’s conservation easements program, but adds that just because a preservation-minded landowner protects his or her sites, the next person they sell or bequest it to may not share their priorities. Thus, the security of those sites could be jeopardized over time (Rebecca Schwendler, Mark Sanders, January 23, 2012). The lack of adequate protection (via site stewards) is a related concern for the Archaeological Conservancy. No matter how well protected these 430 sites are, there are still too few protective measures of them in place.
Indian Camp Ranch’s difficulties echo Schwendler’s point. There are fines associated with homeowners looting their sites, but this by no means guarantees sites’ safety. What’s more, it is easy to imagine a homeowner’s increased (and perhaps nefarious) interest in a site once the kivas, pithouses, and associated artifacts within it, are revealed.

Founder Archie Hanson insists that he is training residents like Hal Shepherd to continue his project after he dies, but after discussing Indian Camp Ranch with local residents and heritage experts alike, it is hard to separate the “world’s first archaeology subdivision” from its charismatic leader. Hanson is Indian Camp Ranch. After he is gone, there will be valid questions of how well the project will operate. In terms of engaging with the public and having broad appeal, as described earlier in this chapter, Indian Camp Ranch is also limited.

Despite the successes of other models, my research suggests educational initiatives are the best means of archaeological site preservation. This conclusion is based on interviews, research, and personal experience as both a guest instructor at Denver area grade schools and as a participant at Project Archaeology’s leadership academy. Of the 34 individuals I interviewed, 16 of them extolled the virtues of archaeological education for children. In these discussions, the reasons given for why childhood education is important ranged from the protection of archaeological resources (since children who grow up with a stewardship ethic are less likely to tamper with sites), to respect for history and other cultures, to a better understanding of what archaeologists actually do for a living. These all bode well for the future of the discipline, as well as for cultural
understanding. My own experience speaking to 4th, 5th, and 6th grade classes supports these assertions.

Though programs like Project Archaeology require a long-term investment for unknown outcomes – it takes years to determine whether lessons learned in childhood are retained through adulthood – the benefits may indeed be profound. The corpus of literature hailing childhood education’s benefits testifies to the notion that values instilled at a young age have long-lasting impacts. Also, the relative costs, especially when compared to the cost of prosecuting pothunters or purchasing archaeological sites, are small. More funding for programs like Project Archaeology is needed. Crow Canyon’s education initiatives have limited reach, though it is easy to imagine the organization’s model being copied nationwide, even in urban environments. The added bonus to Crow Canyon is that it involves both Native Americans and non-native students, leading to a cross-cultural dialogue that children may not experience otherwise. It also reinforces the ideals of multivocality and progressive archaeology.

Site stewards programs benefit adults through their advocacy of what Marietta Eaton calls “ambassadorship.” The involvement of local stakeholders may encourage dialogue with others while enhancing the community of avocational archaeologists. The problem of site stewardship programs is that there are no commonly agreed-upon standards for how to operate them, nor is there a national coalition of them. They are mostly local or state-level entities (e.g. SJMA, or the Florida Public Archaeology Network). Perhaps these programs could be improved through greater collaboration with each other. It is easy to imagine volunteers traveling from one state to another, where
they could quickly and conveniently become involved in different site stewardship programs. Funding is also a perennial concern. In both examples of stewardship entities I reviewed, administrators said that there were more volunteers available than there were sites for them to manage. Money was the only thing restricting them from expanding their programs.

Finally, more native-run archaeology programs are needed. Such CRM firms protect sites on tribal lands while enhancing the community’s pride in and knowledge of its own cultural history. It also reinforces tribal sovereignty and social cohesion. Ideally, the phenomenon of locals excavating and researching their own material culture could be applied to non-native groups as well. Numerous examples of this exist, such as Bonnie Clark’s work at Amache (or Granada Relocation Center) and Carol McDavid’s work in Brazoria, Texas. These are models of collaborative, Community archaeology.

However, it is potentially politically volatile. In McDavid’s case, the very nature of the work involving descendants of both slaves and slave owners was rife with still-painful memories of the South’s recent past. In the case of Amache, it took years to gain the local community’s support for the collaborative archaeology work being done there (Shikes 2013[2001]). Regarding Native Americans, the challenges include the Native American Graves Protection and Repatriation Act (NAGPRA), inter- and intra-tribal disputes, and internal wrangling among archaeologists over how best to present the past.

Such encouragement of local involvement is necessary, though, both for the preservation of archaeological sites and for archaeology to remain relevant as a humanistic endeavor. In his seminal article “A Conservation Model for Archaeology,”
William D. Lipe writes, “If we who are most concerned about this problem do not take the lead, we certainly cannot expect less immediately involved segments of the society to do so…. Certainly to continue in our present course is an ultimate impracticality” (1974:215).

What this Research Demonstrates

The public’s involvement in preservation is not only good practice, but a necessity. Through my research interviewing archaeologists and educators, my involvement with public outreach, and a thorough reading of background literature, it has become my opinion that engagement with non-archaeologists is needed to develop deeper appreciation for the past and for protecting sites from pothunting and associated damage. This is best accomplished through programs such as Project Archaeology, Crow Canyon Archaeological Center, and Archaeology Southwest.

These three organizations embody the spirit of pragmatic archaeology. As Carol McDavid writes, “pragmatists share an anti-essentialist, anti-foundationalist and pluralist view towards truth” (2002:305). By advocating a truth-as-created approach to archaeological inquiry, these organizations are reorganizing the power structure of varied stakeholder groups (e.g. the public, archaeologists, and Native Americans). Consequently, through pragmatist archaeology, it is possible to circumvent the popular view of archaeology as a top-down enterprise in which archaeologists alone understand the material past.

Another aspect of pragmatism that is stressed through these three organizations is the importance of applying archaeological site preservation principles beyond the
classroom. Pragmatism holds that theory without application is ineffective as a mode of thought. As Preucel and Mrozowski write, “when the field becomes mired in unproductive debate […] radical action is necessary” (2010:30). This “radical action” is accomplished through the creation of a generation of preservation advocates via education, and, through efforts like the San Pedro Ethnohistory Project, archaeological research that is both scientifically and ethically sound.

How this Research Contributes to the Field

My thesis has practical implications for saving archaeological sites, reforming emic and etic views of anthropology as a discipline, and perhaps even for strengthening community identity. This study, while building on multidisciplinary efforts and studies of the past century, is atypical in comparison to other writings on heritage studies. The project examines four preservation models and attempts to understand and distill the key functionalities of each. This study has, I hope, real and positive potential for changing attitudes about the contested past.
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Appendix

Appendix A. Landmark cases related to antiquities theft. 

This list was suggested by National Park Service Special Agent Todd Swain (Todd Swain, Mark Sanders, July 29, 2010). This list is supplemented by cases described in Fetterman (2012).

1993

U.S. v. Gerber

999 F.2d 1112

Arthur Joseph Gerber pleaded guilty to a misdemeanor ARPA violation and was sentenced to one year in prison. He appealed, saying ARPA was inapplicable, because he said artifacts were stolen from private land in Indiana. This was first ARPA prosecution that did not focus on looting artifacts from public lands. The site in question was a Hopewell village that in 1985 was sold to General Electric because of the poor quality of the land; farmers were unable to till the soil. A highway was planned there in 1988. Bill Way, a contractor working on the highway project, was a looter. Upon discovery of a cache of artifacts, Way bulldozed the site and then contacted Gerber, who ran "relic shows." Gerber paid $6,000 for Way's artifacts and then visited the site himself. He was ejected by GE security guards and arrested. Gerber acknowledges he was trespassing but appealed ARPA anyway. Gerber was prosecuted under section (c), which forbids digging without a permit and trafficking across state lines. Gerber said legislative history shows Congress was only concerned with public land. The court, however, was not persuaded. Amateur archaeologists said the ruling would infringe on their rights to excavate private lands. The court responded by saying that if Congress was only interested in Indian/federal lands, they wouldn't have instituted such huge fines.

169
Frederick Schultz was convicted of conspiring to smuggle looted Egyptian artifacts. He had been buying them from a looter, Jonathan Tokeley-Parry, who smuggled 2,000 artifacts during the 1990s by disguising them as cheap souvenirs. Schultz was prosecuted under the National Stolen Property Act. The case had gallery owners and archaeologists at odds, and caused a wave of research into provenance. The Art Dealers Association of America and Christies sided with Schultz. The American Anthropological Association and the International Council on Monuments and Sites opposed Schultz. Tokeley-Parry argued at his trial that antiquities are best cared for by museums and dealers, and that the artifact trade is more akin to a cultural exchange. Archaeologists argue that less-stringent enforcement only encourages looting. Schultz argued that he did not know the artifacts had been stolen.

Operation Indian Rocks
2001-2005

In 2001, at Death Valley National Park, a ranger noticed two men collecting artifacts. When they attempted to leave, the ranger stopped them and found stolen metates hidden under a floor mat. The damage was estimated at $4353 – a combination of the cost of restoration and repair, plus commercial value. Defendants David Peeler and
Frank Embrey said they had extensive collections. Search warrants resulted. Three additional defendants emerged, Bobbie and Deanne Wilkie of Nevada, and Kevin Peterson. Ultimately 11,100+ artifacts emerged and were seized, including artifacts from foreign countries. Most of the defendants had met while doing construction. Bobbie Wilkie went collecting 40-45 weekends per year. The Operation Indian Rocks task force that resulted was a multi-agency effort. The prosecutions were huge, including one 37-month prison sentence for Wilkie. In addition, another case emerged involving ATV Adventures, Inc., a company that specialized in show-and-tell (and -take) tours. This led to one felony ARPA count, fines, restitution, probation and a 30-day suspension of the company's special use permit, costing them $67,000 in lost revenue.

2006
U.S. v. Ligon
440 F.3d 1182

Defendants John Ligon and Carroll Mizell (aka Cal Smith) were convicted of felony theft of government property. They had stolen several petroglyphs from USFS land northwest of Reno. Two of the petroglyphs were in Ligon’s front yard, and another in his vehicle. Ligon said he was protecting the petroglyphs from being destroyed by impending construction projects. They were charged with ARPA and theft of government property. They were found innocent of ARPA. Before trial, USFS contacted a Mark Bahti, a Tucson gallery owner, to do a commercial value assessment (which is required for ARPA prosecutions). Bahti did the assessment, but prosecutors did not introduce his
report or any other evidence of market value at trial. This was essential for obtaining a conviction and the federal government lost the case because of it. The law says that, in the absence of legitimate commercial value, the black market value is usable in court. However, federal prosecutors did not introduce any sort of value assessment in court, black market or otherwise. The ruling was reversed and Ligon and Mizell were released.

1997
U.S. v. Corrow
119 F.3d 796

Richard Nelson Corrow contacted Fannie Winnie, widow of Ray Winnie, a Navajo religious singer who died in 1991. Ray Winnie was the keeper of Navajo masks that were used in ceremonies. Corrow told Winnie’s widow that he wanted to buy the masks and give them to a Navajo chanter in Utah. Winnie agreed to the sale. Corrow then attempted to sell the masks to a gallery in Santa Fe (East West Trading Company) in 1994. However, the buyer was actually an undercover agent. Corrow’s attorneys complained that NAGPRA, which was used in Corrow’s prosecution, was too vague, since the law requires items to be communally owned and it was unclear – even with expert witnesses – whether they were. Court dismissed this defense. The court said that Corrow exploited the varying views on ownership and that he should have known better, especially because he himself was an expert on Navajo traditions.
In 1997, Ian Lynch found skull on an island in southeastern Alaska. The USFS heard about this. Federal agents interviewed him; he admitted to finding the skull. Lynch was indicted for felony ARPA. However, the federal government did not prove that Lynch knew that the skull was protected under federal law. Prosecutors did not prove that Lynch had knowingly violated ARPA. Also the court rejected the federal government’s attempt to characterize this as a “public welfare” case. The court determined that public welfare cases typically involve more serious offenses, e.g. arson, assault, etc. Lynch’s conviction was vacated.