

Archeology Committee

February 1, 2022



TEXAS HISTORICAL COMMISSION

AGENDA ARCHEOLOGY COMMITTEE

Hilton Austin
Room 400 / 402
500 E. 4th Street
Austin, TX 78701
February 1, 2022
1:00 p.m.

This meeting of the Archeology Committee has been properly posted with the Secretary of State's Office according to the provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code. The members may discuss and/or take action on any of the items listed in the agenda.

1. **Call to Order** – *Chairman Bruseth*
 - A. Committee Introductions
 - B. Establish a Quorum
 - C. Recognize and/or excuse absences
2. **Approval of Minutes** – *Bruseth*
Archeology Committee Meeting (October 28, 2021)
3. **Discussion of proposed adoption of amendments to Title 13, Part 2, Chapter 26, Practice and Procedure, of the Texas Administrative Code Subchapter C, Archeology**, sections 26.14, & 26.16, related to the submission of archeology permit applications and reports with changes as published in the November 19, 2021 issue of the *Texas Register* (46 TexReg 7854-7857) – *Jones*
4. **The Battle of the Medina Project** – *Jones*
5. **Division Director's Report** - *Jones*
 - A. Update on Archeology Division Programs and staff
 1. Marine Archeology Program Update - *Borgens*
 2. Archeology Division Interns & Volunteers - *Jones*
 3. Texas Archeology Month Update – *Moore*
 4. Curatorial Facilities Certification Program Update – *Jones*
 - B. Upcoming activities/events – *Jones*
6. **Adjournment** – *Bruseth*

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Esther Brickley at (512) 463-5768 at least four (4) business days prior to the meeting so that appropriate arrangements can be made.

ITEM # 1

TEXAS HISTORICAL COMMISSION

Archeology Committee
Members

10/29/2021

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ITEM # 2

TEXAS HISTORICAL COMMISSION

ARCHEOLOGY COMMITTEE MEETING #106

Minutes

Double Tree Hotel
Bluebonnet Room
303 W 15th Street
Austin, TX 78701
October 28, 2021
9:00 A.M.

Note: For the full text of action items, please contact the Texas Historical Commission at P.O. Box 12276, Austin TX 78711 or call 512.463-1858

1. Call to Order

Chairman Jim Bruseth opened the Archeology Committee (AC) meeting on October 28, 2021, at 09:02 A.M. Bruseth announced that the members would discuss and act on any of the items listed on the agenda. He welcomed everyone to the Archeology Committee meeting and called the roll.

Members Present

James Bruseth
Pete Peterson
Tom Perini
Donna Bahorich

Members Absent

Earl Broussard

Bruseth announced that Earl Broussard was absent, that a quorum was established, and that the meeting was opened.

Bruseth made the motion to excuse the absence of Broussard.

Pete Peterson moved.

Tom Perini seconded.

Bruseth called for a vote, heard no opposition, and the motion passed unanimously.

2. Approval of Minutes

Bruseth called for the approval of the AC minutes for July 26, 2021.

Peterson moved for approval.

Perini seconded.

Bruseth heard no changes, called for the vote, and the motion passed unanimously.

3. Amendments to sections 26.14 & 26.16, Title 13, Part 2, Chapter 26, Practice and Procedure, of the Texas Administrative Code, proposed for first publication and public comments in the *Texas Register*

Bruseth called on Archeology Division (AD) director Brad Jones to present Item #3.

Jones welcomed the commissioners and presented the potential changes to Chapter 26.14 & 26.16 of the Texas Administrative Code. He prefaced that the justifications to the changes came from the adoption of ETRAC (Electronic THC Review and Compliance) and the new online Archeological permit portal. Jones explained that the programs changed how AD communicated with permit applicants and principal investigators.

Jones detailed that the change to Chapter 26.14 dealt with the mailing of hard copy permits to signatories of the permit application, noting that ETRAC automatically sent digital copies to all permit stakeholders. He proposed that the words “hard copy” and “mailed” would be removed from the chapter and permit requirements.

Jones continued with the changes to Chapter 26.16 dealing with permit completion requirements. Since electronic submission through ETRAC eliminated the need for a transmittal letter and the submission of a hardcopy draft report was no longer necessary, language specifying this was recommended to be removed. He noted that due to the pandemic staff were already allowing electronic review of draft reports through ETRAC and that digital submissions facilitated easy data transfers for both review staff and contractors.

Jones further proposed the removal of the requirements to submit a report on CD and the need for contractors to mail redacted report copies to eleven libraries across the state. He assured the committee that the THC would continue to maintain printed copies of all permitted reports and that copies were made available to the Texas State Libraries and Archives Commission (TSLAC) and through the ATLAS. Jones also noted that the partnership between the THC and Stephen F. Austin State University (SFASU) made redacted archeological reports available on the internet through the Index of Texas Archeology.

Bruseth clarified that Jones’s overview for the Archeology Committee was for information purposes only and that the AAB would vote on the first publication of the changes on October 29, 2021.

Jones answered that this was correct.

Chairman Nau wanted to know if anyone would be excluded from accessing the information?

Jones responded that AD worked with archeological contractors and certified facilities to understand what their experiences had been with the reports. He informed that contractors often received their reports with a “return to sender” notice from facilities and that the facilities had reported not accessioning reports. Jones explained that the most common report research and distribution from the public came through direct request to the THC.

Chairman Nau worried about stakeholders who did not have internet access.

Bruseth asked if contractors primarily submitted their data on CDs?

Jones answered yes and that the THC retained hard copies for public use.

Bruseth stated that most contractors had digital capability.

Donna Bahorich asked if these changes would go before public comment?

Jones answered that the changes would go out to public comment.

Bahorich stated that this would provide the public with ample time to provide opposition to the changes.

Bruseth and Jones agreed.

Bruseth asked for further comments.

Pete Peterson was concerned with the potential loss of digital data.

Jones reiterated that report hard copies were housed at TSLAC and that the THC retained their own report copies.

Bruseth asked if it was true that certain facilities and libraries rejected the archeological reports?

Jones answered yes but that digital copies could be shared with any approved facility or library.

Bahorich asked if the reports were housed on a remote network.

Jones answered that the reports were kept on the THC's network.

Bruseth asked for further comments and heard none.

4. Consider approval of Curatorial Facility Certification for the Witte Museum, Bexar County

Jones reported that the Witte approached the THC in 2020 for a request to join the Curatorial Facility Certification Program (CFCP). He informed the committee that the Witte currently held no collections from the state and that most of their collections were private. Jones noted that the Witte did have a State Antiquities Landmark (SAL) on their property and an interest to share the history of South Texas. As a result, the Witte was seeking to become a repository for state held-in-trust collections.

Jones discussed the inspection of the Witte's facilities in September and that they met or exceeded the initial criteria to become a certified repository. He shared that the museum had also addressed his comments and applied his requested changes to their collections management policy. Jones stated that the Witte met the THC's facility requirements, that the museum's curation program was excellent, and that he was excited to have them join the CFCP.

Jones asked for questions from the committee members.

Bruseth read the motion to recommend approval of the Witte as a CFCP facility.

Peterson moved to approve the motion.

Bahorich seconded.

Bruseth asked for further comments, heard none, and committee approved the motion unanimously.

5. Division Director's Report

Jones shared that AD was doing well and that his team remained busy. He announced that AD hired Emily McCuisition as the reviewer for Harvey, Irma, and Maria projects. Jones shared that McCuisition was an archeologist with a master's degree from Texas State University with experience from the National Park Service, cultural resource management firms across Texas, and currently served as editor for Texas Beyond History.

Jones briefed the committee on the 1554 and *LaBelle* collections housed at the Corpus Christi Museum of Science and History (CCMSH). He explained that the THC remained concerned with the long-term safety of both collections due to their location on the coast and that he was working with museum and THC staff to move the collections inland from Corpus Christi. Jones assured the committee members that the collections were currently safely housed in the museum and under tight security.

Jones mentioned that his recent trip to CCMSH also resulted in a preliminary collections conservation assessment and that the artifacts were stable and in good shape. He collaborated with Jennifer McCollough the CCMSH's collections manager and Justin Parkoff a trained conservator from Texas A&M University and the Director of the Maritime Museum in Rockport.

Bruseth asked when the collections would be coming to Austin.

Jones answered that they would be moved to Austin as soon as he could find a place to safely store them. He shared that he was working to find immediate options and that the Archeology Lab and the THC's Center for Artifact Research (CFAR) were potential locations.

Nau asked for the rough square footage that the collections would occupy? He asked for Jones to circulate this information to the committee.

Jones said that he could provide the information after the meeting.

Jones reiterated that he was seeking a new home for the collections, but that he was comfortable with the current state of the collections.

Jones called on Rebecca Shelton the coordinator for the Texas Archeological Steward Network (TASN) and the regional archeologist for North Texas to present on the TASN.

Shelton reported that TASN had a successful and active year. She shared that the group met for their annual meeting online on August 7, 2021, and that the meeting yielded great presentations. One presentation focused on the collaboration with master naturalists in the Hill Country and the other on the creation of outreach material for school children.

Shelton also noted that the stewards hosted an event at the Texas Archeological Society's (TAS) annual field school. She celebrated the membership of ten long term members, announced that orientation was underway for new members, and revealed projects in Harris and Jasper counties. Shelton announced that new steward Bryant Celestine from the Alabama Coushatta Tribe of Texas was working with Marie Archambeault to develop a Tribal Stewards Program.

Shelton welcomed four new history stewards to the network and shared that they launched an archival research project.

Shelton communicated that TASN would attend a national meeting of archeological stewards in early November. She revealed the launch of a digital newsletter that would present reports and activities for the network. Shelton shared that the network was looking forward to next year's annual meeting in-person that it would take place at Washington on the Brazos.

Bruseth asked how many stewards were members of TASN?

Shelton answered that the group totaled 133 members.

Bruseth explained that these individuals were avocational and professional archeologists that expand the THC's staff effort across the state.

Shelton shared that the groups work equaled that of ten full-time employees.

Bruseth how the program compared to other states?

Shelton explained that Texas had one of the largest programs in the United States. She believed that Nevada had several hundred stewards for public lands, but the TASN was unique because the stewards interacted with private landowners and provided the THC with direct assistance and public outreach.

Bruseth stated that some of the stewards held private land and that they served as the direct line of communication between the THC and the individual private landowners. Bruseth believed that TASN was not thanked enough and that they provided great outreach across the state. He believed that the THC should underscore the importance that the TASN held for Texas.

Shelton said that the group was very humble and that she was impressed with the amount of contribution the stewards provided to the protection and recording of archeological sites in Texas.

Bruseth thanked Shelton.

Jones provided an update on Texas Archeological Month (TAM). He shared a calendar that highlighted over 60 events across Texas and photos from TAM events that were attended by staff members Jeff Durst, Rebecca Shelton, and Jenny McWilliams.

Jones spoke of the Texas Archeological Society's (TAS) meeting where Emily Dylla and Rebecca Shelton hosted a symposium on Women in Texas Archeology. He spoke highly of the presentation and mentioned that it was part of a larger project that highlighted the role of women in Texas archeology.

Jones concluded with information on an upcoming specialized training hosted by the United States Army Corps of Engineers (USACE) for reviewers on November 2, 2021.

Bruseth thanked Jones.

6. Adjournment

Bruseth asked for a motion to adjourn.

Peterson moved.

Bahorich seconded.

Bruseth adjourned the meeting.

ITEM # 3

TITLE 13 CULTURAL RESOURCES
PART II TEXAS HISTORICAL COMMISSION
CHAPTER 26 PRACTICE AND PROCEDURE
SUBCHAPTER C ARCHEOLOGY
Rule §§ 26.14 and 26.16

ADOPTION PREAMBLE

The Texas Historical Commission (Commission) adopts amendments to Title 13 of the Texas Administrative Code, Part 2, Chapter 26, Subchapter C, Sections 26.14 and 26.16 relating to updates to requirements for the submission of Antiquities Code permit applications and draft and final reports for archeological projects conducted under the Antiquities Code of Texas. The amendments are adopted with changes to the text as published in the November 19, 2021 issue of the *Texas Register* (46 TexReg 7854-7857).

The proposed amendment to §26.14 for Issuance and Restriction of Archeological Permits removes the term “hard copy” and replaces “mailed” with “sent”. In the past year THC has brought online an electronic archeological permit application system that allows for submission of all required documents as electronic files, and issues all associated correspondence to the applicant, landowners, and sponsors (signatories) as electronic files, with hard copies sent on request. Existing language in the §26.14 specifies that the permit will be sent via “mail” as a “hard copy”. The proposed change will bring the language in the rules back in line with current practice.

The proposed amendments to §26.16 for Reports Relating to Archeological Permits address wording in the rules that is no longer consonant with existing practice since the adoption of an online project review portal eTRAC and the availability of other mechanisms to make reports available to the public. The first proposed change is the deletion of “and transmittal letter” from the report submission requirement. The THC’s eTRAC system provides the public an online portal to submit reports directly to THC staff for review, obviating the requirement for a transmittal letter. Proposed changes to language regarding the submission of draft reports has been edited to remove “printed” and language regarding binding of a printed draft report, as these are now submitted as electronic files through eTRAC. The next proposed changes simplify the submission requirements for final reports to require that the only printed copies be submitted to THC and Texas State Library and Archive Commission. This proposed change deletes the requirement that redacted copies be sent to a list of eleven libraries and repositories. THC has adopted both an online system for providing full reports to contractors via the restricted Texas Archeological Sites Atlas and has an agreement with Stephen F. Austin University to provide redacted copies of reports to the public online via the Index of Texas Archaeology. Finally, the requirement to submit tagged PDF versions of complete and redacted reports to the THC remains but is updated to remove requirements that these be submitted on CDs or DVDs, as these may be more efficiently submitted via the eTRAC portal or email.

PUBLIC COMMENT AND RESPONSE

Three comments from Dr. Fred McGhee, Dr. Steve Swanson, and Marybeth Tomka were received regarding the amendments to Rules 26.14 and 26.16. All three supported the proposed amendments, with only Marybeth Tomka raising concerns related to the limited number of digital and hard copies of the final report that are now required under Section 26.16(A)(3). The comment recommended increasing the number of hard copies and digital copies and storing

these at additional locations such as the Texas Archeological Research Laboratory (hard copies) and tDAR (digital copies). In response to the comment, the wording was changed to increase the number of hard copy final report submissions to the THC from one to two, to ensure that an additional hard copy of the report is available should the original be lost or the digital file corrupted. In addition, hard copies of the report are also curated at the designated certified curatorial repository as a component of the curation requirements for Antiquities Code permits, creating an additional backup. Finally, the Commission is declining to make any changes to the number of digital copies, as THC maintains multiple digital copies of files to ensure that there are multiple backups on and off site. Separate digital copies of redacted versions are also already maintained by the Index of Texas Archaeology for free, whereas the proposed use of tDAR would require expenditure of funds on the part of the Commission or the principal investigator.

These amendments are adopted under the authority of Texas Government Code § 442.005(b), which designates the Commission as the agency responsible for the administration of the Antiquities Code of Texas, and Texas Natural Resources Code §191.052, which states that the Commission may promulgate rules and require contract or permit conditions to effect the purposes of that chapter.

The Commission hereby certifies that the section as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

TITLE 13 CULTURAL RESOURCES
PART 2 TEXAS HISTORICAL COMMISSION
CHAPTER 26 PRACTICE AND PROCEDURE
SUBCHAPTER C ARCHEOLOGY
RULE §26.14 Issuance and Restrictions of Archeological Permits

(a) Issuance of permit. The commission shall review the permit application submitted pursuant to §26.13 of this title (relating to Application for Archeological Permits) and may issue the permit, issue the permit with special conditions, request additional information for review, request a revised scope of work or research design, or deny the permit application.

(1) Review by commission staff. Within 30 days of the receipt of a permit application, staff shall notify the applicant in writing that the permit application is complete and accepted for filing or that the permit application is incomplete and specify the additional information required for review. The commission will also issue or deny the permit within 30 days. Investigations may commence upon receipt of notification of the assignment of a permit number, and a copy of the permit will be sent to all signatories to the permit application.

(2) Review by the Antiquities Advisory Board. The executive director may choose to submit the permit application to the Antiquities Advisory Board for its consideration. Permits that are denied by commission staff may be appealed by the applicant to the Antiquities Advisory Board. The board shall review such applications at its next scheduled meeting, provided it shall have a minimum of 15 days to prepare for such review. Recommendations of the board shall be taken to the next scheduled meeting of the commission by the chair of the board or by one of the other commissioners who serve on the board for action thereon.

(3) The deadlines in this section may be extended for good cause. In the event a deadline is extended, the commission shall provide notice of the extension and the good cause to the applicant in writing. The applicant may complain directly to the executive director if the staff exceeds the established period for processing permits and may request a timely resolution of any dispute arising from the delay.

(4) Failure to respond. If no response has been made by the commission within 30 days of receipt of any permit application, the permit shall be considered to be granted.

(b) Review by controlling entities. It is the responsibility of the permit applicant to obtain all necessary permissions and signatures prior to submitting an archeological permit application.

(c) Special requirements. When a permit is issued, it will contain all special requirements governing that particular investigation; it must be signed by the director of the Archeology Division of the commission, or his or her designated representative.

(d) Permit period. No permit will be issued for less than one year nor more than ten years, but a permit may be issued for any length of time as deemed necessary by the commission in consultation with the principal investigator.

(e) Transferal of permits. No permit issued by the commission will be assigned by the permittee in whole or in part to any other institution, museum, corporation, organization, or individual without acknowledgement of the original permittee and the consent of the commission. If the investigative firm cannot obtain acknowledgement of the transfer from the original permit holder, documentation of the firm's efforts must be submitted together with the transfer application form.

(f) State site survey forms. TexSite electronic forms for all sites recorded as a result of activities undertaken through an Antiquities Permit will be completed and submitted to the Texas Archeological Research Laboratory at the University of Texas in Austin, upon the completion of field work.

(g) Permit expiration date. The expiration date shall be specified in each permit and is the date by which all terms and conditions must be completed for that permit. It is the responsibility of the permittee, sponsor, investigative firm, and principal investigator to meet any and all permit submission terms and conditions prior to the expiration date listed on the permit.

(1) Expiration date notification. Principal investigators will be notified 60 days in advance of permit expiration date.

(2) Expiration date extension. A principal investigator must complete and submit a First Extension Application Form to the commission if he or she desires an extension of the final due date for the completion of an Antiquities Permit that was issued to him or her. The Archeology Division (AD) of the commission will review the submitted Permit Extension Form, determine whether an extension is warranted and extend the permit expiration date once for no less than one year and no more than ten years as deemed appropriate. In addition, and upon review and recommendations by the Antiquities Advisory Board, the commission may by a majority vote of its members, approve or disapprove an additional extension of the expiration date of an Antiquities Permit beyond the single extension that the AD staff of the commission is authorized to issue under subsection (c) of this section and this paragraph, provided that the following conditions are met:

(A) the principal investigator (PI), and/or the investigative firm listed under an Antiquities Permit must complete and submit a Second Extension Application Form to the commission, and give an oral presentation before the Antiquities Advisory Board justifying why a second permit expiration-date extension is warranted; and

(B) the justification for the second extension must show that the extension is needed due to circumstances beyond the control of the PI. Examples include, but are not limited to: funding problems, death of the PI, and artifact curation problems.

(h) Expiration responsibilities. Investigative firms must ensure that a principal investigator is assigned to a permit at all times, regardless of whether the permit is active or has expired. Both the principal investigator and investigative firm should ensure that a new principal investigator is assigned to the permit if, for any reason, the original principal investigator must leave the project. The assignment of a new principal investigator must be approved by the commission.

(i) Permit amendments. Proposed changes in the terms and conditions of the permit must be approved by the commission.

(j) Permit cancellation. The commission may cancel an Antiquities Permit if one or more of the following events occur:

(1) death or withdrawal of the principal investigator without a new principal investigator being named and approved by the commission;

(2) cancellation of the project by the sponsor or permittee prior to the completion of the archeological field investigations;

(3) violation of §26.18 of this title (relating to Compliance with Rules for Archeological Permits); and/or

(4) destruction of the permit area or associated cultural resources due to natural causes, prior to the substantive completion of the field investigations being performed under the permit.

(k) Permit censuring. The commission may censure a principal investigator and/or investigative firm under the following conditions:

(1) if it is found that two or more permit application offenses have occurred in one calendar year. Permit censuring will render a principal investigator and investigative firm ineligible for issuance of another permit for six months after a finding by the board that two or more permit application offenses have occurred in a one-year period; or

(2) if an investigative firm does not assign a new principal investigator to a permitted investigation within one month of the departure from the firm by the principal investigator assigned to the permit. Permit censuring will render the investigative firm ineligible for issuance of another permit until a new principal investigator is assigned to the applicable permits.

TITLE 13 CULTURAL RESOURCES
PART 2 TEXAS HISTORICAL COMMISSION
CHAPTER 26 PRACTICE AND PROCEDURE
SUBCHAPTER C ARCHEOLOGY
RULE §26.16 Reports Relating to Archeological Permits

(a) With the exception of alternative mitigation and rock art preservation permits, a report must be submitted to the commission describing the results of each permitted investigation. The report should meet the Council of Texas Archeologists (CTA) Guidelines for Cultural Resources Management Full or Short Reports, and must be submitted to the commission meeting the following requirements.

(1) The report must contain:

(A) a title page that includes: the name of the investigation project, the name of the principal investigator and investigative firm, the county or counties in which the investigations were performed, the Antiquities Permit number, and the date of publication;

(B) an abstract containing project field dates, project acreage, descriptions of the findings, a list of the sites recorded (with trinomials) and a clarification concerning which artifacts were curated and where they are or will be curated;

(C) specific recommendations of which sites merit official designation as landmarks; which sites appear to be eligible for inclusion in the National Register of Historic Places; and which sites will be adversely affected by the proposed project;

(D) map(s) with accurate plottings of the project area and archeological sites.

(2) One copy of the draft permit report and associated project area shapefiles must be submitted to the commission for review prior to the production of the final report. The draft report should contain all of the basic content elements required for the final report. The final report must also contain any revisions in the draft that are required in writing by the commission.

(3) Upon completion of a permitted project, and at no charge to the commission, the permittee, sponsor, or principal investigator shall furnish the commission and the Texas State Library and Archives Commission, State Publications Depository Program (hereinafter, TSLAC) with ~~one~~ printed copies ~~each~~ of the final report. The commission's copies shall be ~~one~~ unbound copy and one bound copy containing at least one map with the plotted location of any and all sites recorded, and two versions of the final report in a tagged PDF format one including the plotted location of any and all sites recorded and the other with the site location data redacted. The TSLAC copy shall be bound and should not contain the plotted location of sites.

(4) A completed Abstracts in Texas Contract Archeology Summary Form must also be submitted with the final report. An electronic copy of the abstract and the completed abstract form must also be forwarded to the commission and, when appropriate, a Curation Form must also be submitted with the final report.

(5) A completed Abstracts in Texas Contract Archeology Summary Form must also be submitted with the final report. An electronic copy of the abstract and the completed abstract form must also be forwarded to the commission and, when appropriate, a Curation Form must also be submitted with the final report.

(b) When Antiquities Permit investigations result in negative findings, the report and curation standards shall meet the CTA Guidelines for Cultural Resources Management Short Reports, and Curation Standards and Procedures, and production must follow the same standards as set forth in subsection (a)(3) and (5) of this section.

(c) For reports related to alternative mitigation and rock art preservation permits any requirements will be stated in the permit conditions.

ITEM # 4

ITEM # 5

ITEM # 6