

Just Passing Through— Private Sector Developers on the Reservation

Polly McW. Quick

How do developers' goals articulate with traditional and religious concerns of reservation residents, and with the goals of archaeologists and federal and state regulatory agencies? Some suggestions from the developer's perspective are offered that may contribute to effective management of archaeological resources and protection of sacred places.

This paper represents a shift in perspective for this author, who has worked in universities as a teacher and researcher of anthropology and archaeology, and in the public sector as a consultant to agencies. In these contexts, I have participated in many efforts at translation and mediation in situations where Indian people and archaeologists, or Indian people and governmental agencies, have tried to understand one another and resolve conflicts in values and procedures. The use of anthropology in such situations has been to present relevant aspects of the ethnography of each group to the other, to permit clearer recognition of value differences, and to provide access for each group to the workings of the decision-making processes of the other.

Recently, I have begun working in the private sector, as a consultant to industry, trying to facilitate the permitting and construction of projects by carrying out the activities needed for compliance with the various laws and regulations that apply to archaeological and cultural resources.

In one particular case, my company has been assisting Enron Pipeline Group to get permission to expand the capacity of the Transwestern Pipeline that presently crosses the Navajo Reservation and traditional lands of Zuni, Laguna, Acoma, and some Colorado River and California tribes. Using this case, this paper presents some ethnographic information about the perspective of such a company to add to the perspectives from archaeologists and native Americans that are offered in other reports.

This case exemplifies the situation of a pipeline company, or a power company interested in building a transmission line, or a communications group that wants to bury a fiber-optic telephone cable. These are industries that most often run long, interstate projects that are many years in planning and construction phases, many millions of dollars in cost, and often don't provide direct services to the people whose land they cross.

Enron's proposed expansion, for example, will carry natural gas at very high pressure from Texas to California. The gas there will be purchased by oil companies, burned to generate steam, and pumped into the ground to push oil up. People on the Navajo reservation may eventually buy petro-

leum products derived from that oil, but the connection is very indirect.

In this case and others like it, the industry is not coming to Indian people whose lands are crossed with a promise of services, nor is it coming to archaeologists whose data banks are being crossed with any promise of services.

These industries must comply with an ever growing set of regulations—not just about archaeological and cultural resources but about all kinds of natural resources, about health and safety, about pay scales for workers, and so on. Their main goal is to get their projects implemented. From their perspective, regulatory compliance is simply part of the process of implementation.

Industries need to operate in a cost-effective way; they need to construct and operate efficiently and appropriately. To do this with consideration to the concerns of archaeologists and Indians, they need to understand these concerns and the regulations that protect them.

Industries would also like to promote some understanding on the other side. They reason that if archaeologists, Indian people, and cultural resource regulators better understood the concerns of industry and the constraints under which they work, more effective procedures and guidelines might be a result.

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Certainly, not all of the issues under discussion apply to industry. In general, the concerns about repatriation and reburial do not. These result from a conflict between the values of scientists and Indian people, and they apply mainly to material already taken from the ground.

Insofar as the dispute is reflected in particular procedures about how human remains are to be handled in the future, industry is affected. They know nowadays that human remains are a sensitive issue, that mitigation at sites where burials are found may be more complicated than at other sites. What this means for them is that more time and money must be figured into a project schedule in situations where cemeteries may be encountered. This, of course, is translating Indians' religious values and archaeologists' scientific values into schedule and budget considerations for

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Excavation of the Cortez CO₂ pipeline project sites.

industry. The orientation of the pipeline industry toward project implementation and its consequent concern for schedule and budget determine the primary perspective from which that industry (and others like it) view the situation when Indians, archaeologists, and agency regulators are trying to protect their concerns.

From that perspective, whatever the requirements and procedures are and whatever religious or academic values are imbedded in them, industry can accept them, as long as they can be translated into costs and scheduling considerations. If procedures and requirements are applied uniformly to all applicants, there will be no complaints, or, if there are, industry has the ultimate recourse to changing the legislation. However, the issue here is not change; rather, it is to make the existing requirements workable. If industry knows the time constraints imposed by requirements, if the procedures are well-defined, they can plan for them, but they need adequate information up front to do their planning.

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Industry's interest in advance planning has several implications. One, illustrated by Roger Anyon's discussion, is that advance planning can eliminate delays at the con-

struction stage, and that the resources of concern and religious values of concern can be given proper consideration. Another is that the various regulators—tribes, states, federal agencies, local authorities—must be able to give industry good estimates, well in advance, about time and money needs for the regulatory process.

It is not enough to tell an industry that it should anticipate Indian concerns about burial places or a sacred mountain. Instead, it must be informed as to how those concerns can be identified, by whom, and what the options will be for taking care of them.

In cases where specific scopes and times cannot be defined well in advance, phased investigations might be suggested. For example, perhaps there should be an initial search to identify potential project stoppers (such as a sacred mountain that cannot be crossed) and then a later, more intensive, ethnographic survey once a project has been licensed and the basic route identified. This is routine now with phased archaeological investigations (class I and class III inventories in Bureau of Land Management terms). Industry and cultural resource regulators are familiar and comfortable with that approach.

This paper suggests a similar approach for ethnography, while recognizing the need to explore how that should be approached in a phased way, and the need to consider whether the approach should be different on lands of different tribes. For

example, in trying to anticipate problems for Enron and Transwestern, this author advised them that sacred places might be an issue in their pipeline expansion across the Navajo reservation. Even though they are paralleling an existing line, it was put in at a time when cultural resource protective legislation was not in effect, so no inventory of sacred places was done. The tribe, too, suggested some meetings with local chapters early in the planning process to notify people of the planned project and to ask about concerns.

At those early meetings, no concerns about sacred lands were voiced. Tony Klesert of the Navajo nation's cultural resources management section had informed this author that there would, of course, have to be a detailed ethnographic study, preferably done by the tribe's own people, further down the line.

Did it make sense for that first set of meetings to be held? Could the negative results be taken as some assurance that no major religious issue will surface in the future? Would a similar approach have been appropriate at Zuni? Industry is willing to follow our good advice in cases like this, but we need to decide what is good advice.

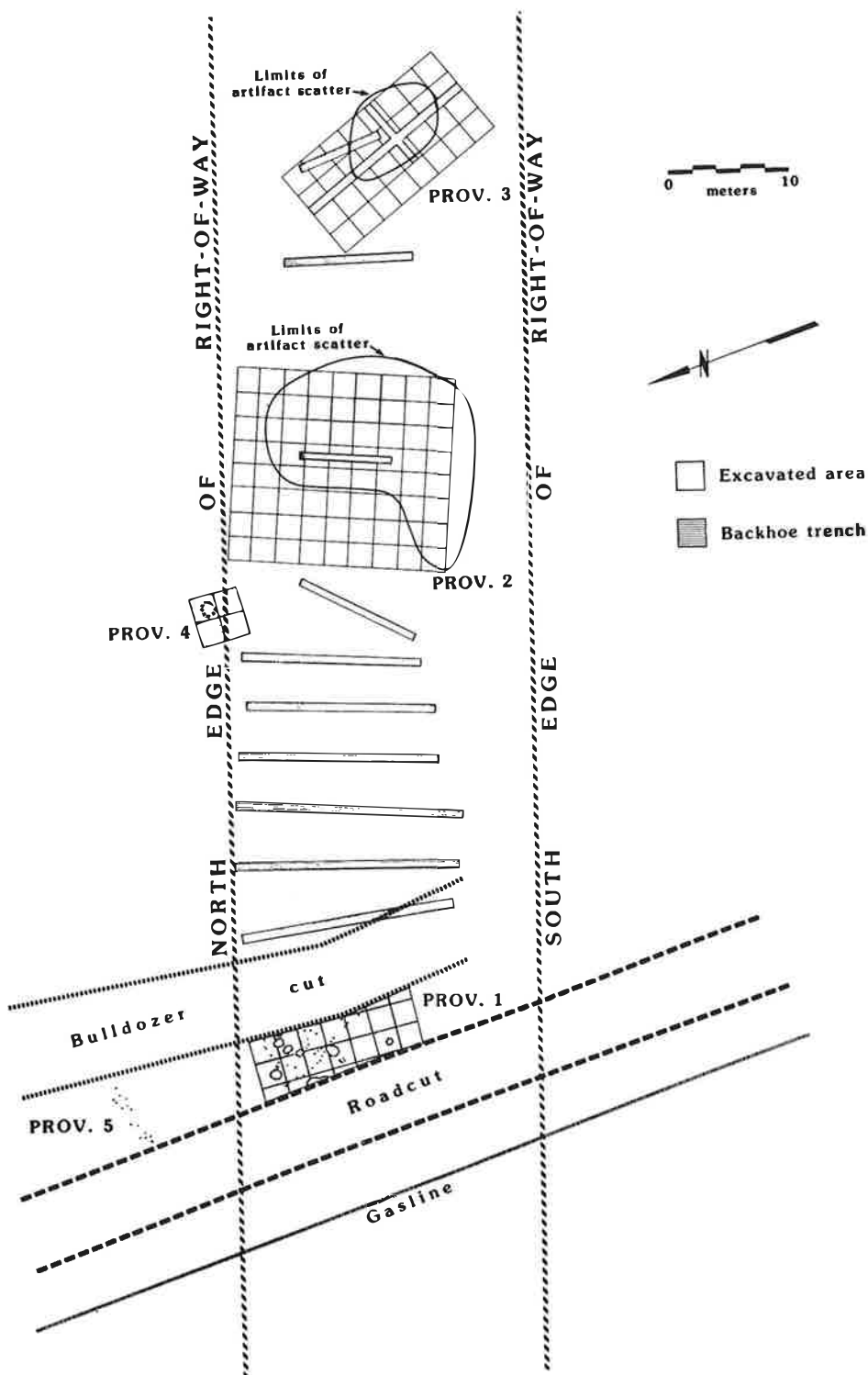
Note that if industry does agree to the advice, and does carry out all the phased investigations and consultations as required, on scheduled, it remains a two-party or three-party situation. The agency or the tribe, or both, must come through with their reviews and their determinations of significance, National Register eligibility, or religious importance, and on schedule as well. In this way, the process can move smoothly on from inventory, to reroutes if necessary, to mitigation where required, and on to construction.

In this same vein, industry is interested in ensuring that the mundane details of

- how things must be done
- who signs off
- how the work plan is developed (by whom, when, with what review . . .)

all get worked out efficiently and effectively. Industries are willing to comply with requirements, but it is not their responsibility to wait while a new set of procedures is developed for each new case.

One of the issues discussed here has been the establishment of tribal cultural resources programs through which tribes may take the role of the SHPO in the historic



Excavation map of the project sites.

preservation process. Several comments about the issue stressed industry's concern over the problems this would present in terms of inconsistency. One can understand, from a perspective where budget and schedule are paramount, how problematic inconsistency could be. Yet, as was also

pointed out, industry can and does live with inconsistency. Harder to live with (that is, harder to plan for in budget and schedule) is uncertainty. If tribal programs are considered appropriate by the tribes and regulators, industry will not oppose their establishment. However, from the point of view

of industry, they need the specific requirements of each tribe's program laid out as soon as possible.

This commentary is intended to be a statement from industry's perspective of a willingness to do what is needed and required to protect and preserve archaeological and cultural resources. It comes accompanied by a statement about paramount industry values regarding planning, schedules, and budgets. It emphasizes the need of industry to know the specifics of the cultural resource compliance process for each project under consideration, including every set of regulations and procedures that may be put forth by different tribes or

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agencies. If these needs are met, appropriate decisions can be made when a project is first considered, and realistic budgets and schedules can be prepared in subsequent stages of planning and implementation. Any way that Indians, archaeologists, and regulators can integrate their concerns with those industry goals will assist all sectors involved, for there will be fewer inappropriate projects to be stopped late in the game, and the scopes and schedules for cultural resources work will be known and agreed upon in the early planning stages of each project. (IRWA)

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