

*Studies in Archeology and Ethnography* #2  
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## Chapter 1: Introduction

Public archeology in the United States received a long-sought and hard won legislative boost for antiquities protection in 1906. On June 8, 1906, a federal law, an Act for the Preservation of American Antiquities (16 U. S. C. 431-433) was signed into law by President Theodore Roosevelt after several arduous decades of dedicated attention to the issue. Better known as the Antiquities Act, its enactment responded to a growing concern over the issues of looting and vandalism of American archeological resources. Proponents of the Act's passage intended to provide appropriate mechanisms to halt the plundering of antiquities and destruction of archeological sites, which was pronounced in the southwestern United States. Additionally, supporters envisioned a statute to shelter irreplaceable archeological deposits, ancient architectural ruins, and natural resources from destruction or pillage by homesteaders, curious tourists, and pothunters increasingly known to frequent the American West (Lee 1970/2001; Rothman 1989: 12; Thompson 2000a).

The Antiquities Act initiated a federal system and infrastructure to protect American antiquities on public land, regulate public archeological activities, and punish malefactors known to have disturbed ancient sites and ruins. By declaring antiquities, scientific objects, and places as public sources of education, scientific information, and/or commemorative value, the Antiquities Act established fundamental policies for the treatment of cultural resources that influenced archeology and historic preservation throughout the twentieth century (McManamon 1996, 2001). The law empowered the President to establish protected reserves of public land, referred to as national monuments, by simple proclamation without congressional action. Additionally, it regulated all excavations, investigations, or removals of objects of antiquity from public land. Potential investigators were required to apply for and be issued a permit that validated their studies. Supporters hoped the passage of antiquities protection legislation would provide a mechanism through which the Federal government could prosecute and punish those who violated the Act's provisions.

This study explores two aspects of the Antiquities Act's impact on public archeology between the Act's passage and 1935. The first is a consideration of the many administrative developments within the Department of the Interior required to implement the Act. During this twenty-eight year period, the Department of the Interior developed a permit system for the review and issuance of applications; the National Park Service was created; new functions, such as the Department Archeologist, were established; and other challenges that arose were addressed. Secondly, this survey explores some of the projects undertaken by the earliest Antiquities Act permit recipients, and discusses some of the troubles that plagued field and federal archeologists throughout the initial third of the twentieth century.

The research and analysis here reflects the contents of only one archival collection, albeit a large one, of Antiquities Act permits records from the period 1907-1935. The permit data reviewed for this project and discussed in the text that follows are derived from an archival holding of Department of the Interior documents now housed at the National Archives Records Administration II (NARA II), located in College Park, Maryland. The collection consisted of 338 permits issued by the Department of the Interior between 1907 and 1935 as well as copious amounts of associated correspondence. The data documented and discussed in this report provide a presentation of the initial scientific archeological and palaeontological excavation projects approved by the Department of the Interior with hopes of enhancing knowledge of ancient America. Records of additional Antiquities Act permits issued by the Department of the Interior during these years may be located in other facilities. Other collections and depositories may contain additional permits that could result in further findings. Several permits, for instance, are mentioned in the different editions of the *Annual Report of the Department of the Interior*, but I was unable to locate the permit records in the archives. Similarly, departmental queries and documents within this collection also shed light upon several permits I had no success in finding or documenting while conducting my research at the archives with the primary source data.

## **Why There is an Antiquities Act**

National Park Service historian Ronald Lee wrote a detailed, informative, and interesting history of the Antiquities Act (Lee 1970/2001; see also Thompson 2000a). Historian Hal Rothman has published a detailed history of the implementation of the statute, in particular, the National Monuments section (Rothman 1989). Readers are referred to these sources for more information than can be provided in this brief historical summary section.

As the last quarter of the nineteenth century began, the American Southwest accumulated increasing numbers of settlers, as well as adventurous or curious visitors. Some sought collections of antiquities valued strictly for private or financial gain (Fowler 2000:92-219; Hinsley 1991, 1996; Ise 1961:144). The resultant looting, vandalism, and increased homesteading escalated the destruction and removal of American antiquities from public land (Bandelier 1890-92; Baum 1904; Hewett 1906; Nusbaum in Ise 1961:145). As early as 1891, an extensive collection of archeological material was exported from Mesa Verde to Sweden, the result of excavations conducted by Gustav Nordenskiöld (1893; see also Lee 1970/2001; Wegner 1980; Lister 1991). Substantial local protests were raised when the removal of the excavated artifacts became known. Yet, despite legal challenge, the export proceeded.

Fifteen years later, the continued threat to America's past resulted in an extensive national campaign to protect the valuable traces of the ancient past that remained undisturbed. At the same time adventurers and early archeologists in the Southwest were digging up archeological remains, public fascination with native people and the rapidly closing American western frontier was growing (Cronin 1994; Hinsley 1991; Lister and Lister 1981; Runte 1987). This public appeal attracted additional attention to American antiquities, highlighting the looting problem, but also increasing the commercial value of genuine antiquities. In an attempt to combat its national perceptions of inferiority felt in comparison to ancient European cities, castles, and other cultural marvels, "the agelessness of monumental scenery instead of the past accomplishments of Western Civilization was to become the visible symbol of the new [American] nation (Runte 1987: 12)." The natural environment of the United States, as well as archeological and cultural vestiges throughout the Western landscape, became tied to a wave of American nationalism.

The natural and cultural resources, the "jewels" of America, gained an appreciation that surpassed monetary value and natural resource extraction. Areas and sites, such as Casa Grande, Mesa Verde, and Yellowstone began to be cherished by more Americans for the valuable natural, cultural, scenic, and scientific contributions they offered the nation (Cronin 1994:612; McManamon 2000). Private citizens and civic organizations, increasingly alarmed and informed by reports of the removal of American antiquities organized to combat the problems caused by archeological looting, site vandalism, and modern development. The Anthropological Society of Washington, The American Anthropological Association, the Archaeological Institute of America, and others provided steady and eventually successful support for political and legislative action to protect American archeological sites (Lee 1970/2001; Thompson 2000b).

Following many unsuccessful attempts, interested parties were able to secure the enactment of "An act for the preservation of American Antiquities", on June 8, 1906. By 1906, passage of antiquities legislation had been building for twenty-four years. As early as 1889, George Hoar from Massachusetts entered a petition before the Senate seeking special status for areas in the Southwest in order to protect and preserve the natural and cultural resources being discovered. Hoar's measure failed, as would many others (see Lee 1970/2001; Rothman 1989; Thompson 2000a, b). Ultimate success in the early summer of 1906 was hard won; only the steady perseverance of concerned parties gave the United States its first general protective statute for any kind of American cultural resource or historic property. In addition to providing a foundation for regulating public archeological investigations and protecting archeological sites, the Antiquities Act established key principles from which future historic preservation policies and statutes would be derived (McManamon 1996).

## **Chapter 2: Implementing the Antiquities Act**

Passage of the Antiquities Act had three particular impacts of lasting importance for American archeology, historic preservation, and natural resource conservation. First, it was now possible for the President to unilaterally set aside federal land for preservation as a national monument. This authority provided for swifter, more expedient protective action than through the congressional process required for the establishment of national parks. Second, potential archeological investigators were required to secure a permit from the land managing officials, the Secretaries of Agriculture, Interior or War, to conduct any type of archeological or paleontological research on federally owned or controlled land. Third, individuals who removed, disturbed, or destroyed antiquities on federal land without obtaining an Antiquities Act permit were subject to punishment by fine and/or imprisonment.

Permit requirements included an obligation to provide proper long-term care for collections in a public facility. As the preservation and presentation of cultural artifacts and scenic wonders for the visiting public were gaining importance both with archeologists and the American people, the remaining vestiges of the past were to be used to benefit the country as a whole, not merely wealthy collectors. The threat of penalties, including jail imprisonment and a \$500 fine, were anticipated to be a deterrent to non-scientific excavation of antiquities on federal land holdings.

### **Developing a Permit System**

Administrative records associated with the Antiquities Act permits reflect the permit application process. Individual researchers, normally an associated member of a nationally recognized public institution, were required to submit a permit application to the appropriate federal land managing department, Agriculture, Interior, or War. The required information for permit application is described in the Act's rules and regulations (43 CFR 3). According to a Departmental letter from 1909, permits were required for "examinations, excavations, and gathering taking place on public lands, Indian reservations, National Monuments within public lands and Indian lands, National Parks, etc. . ." (Pierce 1909).

All applicants were required to provide the name of trained field workers' formal affiliation with a public institution, and a location where the collection would be properly housed, studied, and eventually publicly displayed. Additionally, a specific description of the research site was to be plotted on a sketch map, and a realistic scope of work for the field season(s) was to be suggested for all projects. The first permit issued under these procedures was to Edgar Lee Hewett, on behalf of the Archaeological Institute of America in 1907. [Figure 1](#) shows Hewett's application seeking the initial Antiquities Act permit. Section 3 of the Antiquities Act (16 U. S. C. 431-433) expressed the need for a process to monitor and regulate archeological investigations and artifact collection on public lands, stating:

That permits for the examination of ruins, the excavation of archeological sites, and the gathering of objects of antiquity upon the lands under the respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture and War to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering subject to such rules and regulations as they may prescribe: Provided, that the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects, and that the gathering shall be made for permanent preservation in public museums.

The idea for a permit system gained momentum in years prior to the statute's passage. The Rev. Henry Mason Baum, one of the most active lobbyists for antiquities protection at the turn of the century, clearly mentions the idea for federally issued permits as early as 1904. In *Records of the Past*, a journal dedicated to reporting the preservation of antiquities worldwide, Baum declared:

Of course, we should welcome the scientific men of foreign countries to investigate our prehistoric monuments and ruins and permit them to retain some of the archaeological treasures recovered, *but it should be done under government permits and supervision* [emphasis added], and a record should be left of their work and whatever they are permitted to take back with them (Baum 1904: 100).

In March, the same year, the federal permit concept was introduced, in draft form, into the Congressional consideration as bill H. R. 13349, by Representative W. A. Rodenberg from Illinois (Lee 1970/2001: 44). Several additional drafts and bills were considered later, until the Act, with its permit provision, passed in 1906.

The permit applications examined in this study were submitted to the Secretary of the Interior's office. These applications were reviewed at the Secretary's office and then submitted for collaborative approval to the Secretary of the Smithsonian Institution. Some of the permits were also submitted by the Secretary's Office to the General Land Office (GLO), a branch of the Department of the Interior established in 1912 to "superintend, execute and perform all such acts and things touching or respecting the public land of the United States." Additional responsibilities of the GLO included disposing of public land and overseeing the withdrawal from availability for homesteading land of cultural significance as a step towards prior to formal preservation (Lee 1970/2001; Townsend 1999).

In most cases, if adequate information was provided in the initial application by a recognized expert and public institution, the application was approved. A permit issued by the Secretary, upon recommendation by the Smithsonian Institution, and other relevant Department bureaus and offices resulted. If requests to excavate did not interfere with the work of other research institutions, project approvals materialized via a departmentally issued letter that reiterated the information provided

by the applicant. The permit represented a contractual agreement between the federal government and the permittee that all rules and regulations of the Antiquities Act would be upheld.

Uniform rules and regulations were developed quickly by the Secretaries of Agriculture, Interior, and War to implement the Antiquities Act. On December 28, 1906, just six months after the law was issued, the three Secretaries issued the regulations, which immediately took effect. The regulations outlined specific conduct and procedures required of Antiquities Act permit recipients. All applicants were provided a copy of the conditions regulating examinations on federal land and were expected to abide strictly by them. The regulations (43 CFR 3.1-3.17) were relatively short and described responsibilities and requirements. The main points are summarized below:

- The Department of the Interior had jurisdiction over all federal land holdings, excluding the forest reserves held by the Secretary of Agriculture and military reservations controlled under the jurisdiction of the Secretary of War. Jurisdiction included ruins, archeological sites, historic and prehistoric monuments and structures, objects of antiquity, historic landmarks and other objects of historic and scientific interest.
- No permits for removal of ancient monuments or structures will be granted if in situ preservation is an option for the structure.
- Permits for the examination, excavation or gathering of antiquities will be granted to reputable museums, universities, colleges, or other recognized scientific or educational institutions or their duly qualified agents.
- Exclusive permits for excavation will not be granted for areas larger than can be explored systematically and fully within a reasonable amount of time estimated in the permit application.
- All applications must include an outline of proposed work, the name of the institution, the date to begin field work, expected length of excavation, persons involved in the excavation, character of the work, and the public museum where the objects excavated, examined, or gathered will be deposited.
- No permit will be issued for more than a three-year period, although extensions of original permitted activity are possible if renewal is approved.
- Failure to begin work within six months of permit issuance, or insufficient progress with the work undertaken will result in the permit that was issued to be declared void by the Secretary without any order or proceeding.
- All applications are referred to the Smithsonian Institution for recommendation.
- All permits are to be in writing, referred to the Smithsonian Institution and the appropriate field officer in charge of the land. Recipients are to receive a copy of the rules and regulations with their permit.
- All permit recipients are required to submit two copies of a report at the close of each field season, one to the Smithsonian and one to the Department of the Interior. Reports are to include a catalog of collections and photographs and indicate any material available for exchange.
- At the close of a field project, permit recipients are to restore the site to the specifications of the appropriate field officer in charge.
- Permits may be terminated at the discretion of the Department.
- Field officers shall occasionally report to the Department on the existence of archeological ruins, monuments, objects of antiquity, historic, or scientific interest found on public land.
- Authorities of various Departments may apprehend or arrest individuals who illegally obtain objects or damage ruins and monuments located on federal land.
- Illegally obtained collections from federal land may be seized wherever found at any time by persons authorized by the Secretary of the Interior and deposited in a national depository or otherwise.
- All collections made under Antiquities Act permits are to be stored in public museums, accessible to the public. Museums or collections facilities that close will transfer their material to a national facility at the United States National Museum.

### **The National Park Service and Early Federal Archeology**

Because the number of permit applicants was quite small in the years immediately following the Act's passage, the existing modest Department of the Interior administrative staff shouldered the new responsibilities of reviewing applications, coordinating with the Smithsonian Institution, and issuing permits. Similarly, the numbers of new national monuments grew only gradually and initially were managed within the existing administrative framework. Within ten years of the passage of the Act, however, the amount of activity had increased substantially. The Department was responsible not only for supervising permit-related regulation, but also monitoring, protecting, and regulating activities in more than twenty national monuments and sixteen newly-created national parks (Cameron 1922; Lee 1970/2001; Rothman 1989; Interior 1912:697).

The increased responsibilities included also additional national parks created during this decade by statute (Albright and Cahn 1985).

Walter L. Fisher, then Secretary of the Interior, presided over a conference of park superintendents in Yellowstone National Park in 1911 to address the growing inadequacies of the fatigued administrative structure plaguing the Department (Albright and Cahn 1985:7; Cameron 1922). The Department of the Interior annual report described the state of the administrative problem as follows:

The consensus of opinion . . . at the conference was that development of the national reservations should proceed along more liberal lines than has heretofore obtained, and that the supervision of the various parks should be centralized in a bureau especially charged with such work . . . presently supervision in many instances is necessarily limited, and considerable difficulty has been experienced in protecting monuments from vandalism, unauthorized exploration, and spoliation (Interior 1912:61).

A proposal for a coordinated system to manage the rapidly expanding national parks and monuments was presented by the Taft Administration to Congress. A similar presentation was made to the attendees of the American Civic Association's annual meeting in 1911 in an attempt to garner additional support for the cause (Albright and Cahn 1985:8). National parks, as expressed by Frederick Law Olmsted, a prominent advocate for creating a national park system, were to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of future generations, a sentiment ultimately incorporated into the law that established the National Park Service. The proposed restructuring would increase supervision of vast amounts of often isolated land and sought to reduce the continued assault of vandals and looters on sites and ruins located on public land.

Despite President Taft's pleas recommending the establishment of a bureau of national parks, a bill proposed to Congress in 1911 failed to become a law (Interior 1915). Subsequently, bills to establish a Bureau of National Parks were introduced in both the House and the Senate from 1912 through 1915. All the bills died in the committees despite assistance and support from Representatives William Kent and John E. Raker from California, and Senators Reed Smoot from Utah and Edward T. Taylor from Colorado (Albright and Cahn 1985: 35; Albright and Schenck 1999; Ise 1961; Lee 1970/2001).

Success in the campaign to create a formally recognized, systematic administrative federal bureau finally came on August 25, 1916, when an Act to establish a National Park Service was signed by President Woodrow Wilson. Years of continuous lobbying and political persuasion led by Stephen Mather, with important assistance and support from Horace Albright, Frederick Law Olmstead, and other advocates, including many volunteers working for the American Civic Association and the General Federation of Women's Clubs, resulted in the passage of a successful bill. Preservationists were armed now with an improved administrative system for the management of national parks and monuments.

However, limitations on funding continued to impede progress in national park and monument protection, especially for the relatively small and isolated national monuments with archeological sites (Rothman 1989: 93). Appropriations for the sustained operation of the newly authorized system of parks still needed to be approved by Congress. Without adequate funding, the newly authorized service was paralyzed; no staff could be hired and no progress made. Stephen Mather, who was named as the first Director of the Park Service, and his deputy Horace M. Albright continued to press for adequate funding. Generous appropriations for the newly established service initially were dismissed. "It was felt the bureau should first prove its worth to the country and start with a moderate personnel" (Mather 1923: 3).

As a result of continued efforts, "supplemental appropriations" in 1917 provided the bureau with \$19,500 to employ a director, an assistant, a chief clerk, and several other employees to administer the managerial tasks regarding the national parks and monuments (Mather 1923: 3). Unfortunately, the funding coincided with the declaration of war on Germany. Many potential new park service employees volunteered or were drafted into the military. Despite Mather and Albright's eagerness to proceed (Albright and Cahn 1985: 57-58), establishing an effective administrative structure and expanding responsibilities to address the needs of the vast protected lands were again delayed.

Although there was scant opportunity to hire new staff, Horace Albright wasted no time in beginning his assessment of the parks and monuments. In the fall of 1917, he traveled to Utah to inspect a federally protected national monument, previously unseen by park service officials. Mukuntuweap, a site at the core of what would eventually become Zion National Park, was just one monument in a system that Albright referred to as the "forgotten orphans of the service." The Antiquities Act made it

possible to set aside these diverse tracts of natural and historical wonders, yet each monument received an annual allocation of only \$120, plus a dollar a month for a custodial salary (Albright and Schneck 1999; Rothman 1989).

Despite Antiquities Act protections secured more than a decade earlier, efforts to protect antiquities and prosecute those who violated the Act's provisions had not improved by the mid-1920s. A small administrative structure and limited field personnel did their best to monitor federal property throughout the United States, but ten monuments, including Yucca House and Hovenweep, had no appointed custodian (Cammerer 1924). Vast tracts of federal land holdings also had little or no staff to ensure illicit archeological looting was not on-going (Albright and Cahn 1985). Under these circumstances, the monuments languished on the western landscape.

### **Creating the Departmental Archeologist Position**

The difficulties created by limited funds appropriation and the outbreak of World War I had stifled the newly formed National Park Service's ability to address the pervasive problems of archeological looting and vandalism and to deal effectively with the tourism influx on public land. However, the National Park Service personnel were trying more attentively to correct the lack of archeological site protection. As early as 1918, Neil Judd and Horace Albright discussed the possibility of creating an archeological division of the National Park Service to concentrate on the continuation of scientific research and the restoration of deteriorating ruins (Albright and Schenck 1999: 279). At the time, Judd, who was employed by the Smithsonian Institution, was working to restore Betatakin within Navajo National Monument (Brew 1978). Once again, a lack of funding made the hiring of an archeologist by the Park Service impossible at the time.

However, within a few years of the initial discussion proposing an archeological division of the National Park Service, a persuasive advocate for archeological site preservation and protection was hired as Superintendent of Mesa Verde National Park. Jesse L. Nusbaum, an archeologist with ample experience and a first hand knowledge of archeological sites throughout the Southwest and Central America, became the first archeologist employed by the Department of the Interior. He was entrusted with the task of managing the first national park established for its archeological and historic significance. Nusbaum was an early employee of Edgar Hewett and a friend and colleague of Alfred Kidder, Sylvanius Morely, and other early American archaeologists (R. Nusbaum 1980). Since Nusbaum and his prior work were well-known, he served as an effective liaison between the government and other professional archeologists working in the field to enforce existing American antiquities protection and advance archeological interpretation.

One such attempt to increase attention and activity to fight archeological looting within the Department of the Interior materialized in the 1920s. The President of the American Anthropological Association (AAA), Walter Hough, organized a committee comprised of himself, as well as established archeologists A. V. Kidder and Neil Judd, to investigate the problem of archeological looting. Their findings, transmitted to the Secretary of the Interior by letter, concluded:

The difficulty lies in the fact that no government official seems to have been authorized to enforce the Antiquities Act of 1906. . . . In other words, the department's under whose authority the law places all ruins on the public domain seems unwilling, or unable to assume the responsibility of enforcing the law (Judd 1924a:429).

Neil Judd, then Curator of American Archeology at the United States National Museum, wrote three letters to the Secretary of the Interior in the spring of 1924 to pursue these concerns (Judd 1924b, 1924c, 1924d). He and the committee members reminded the Department of the unchecked looting of archeological sites and unauthorized excavations being carried out in direct violation of the Antiquities Act. Violations most commonly were carried out "within the Indian Reservations in New Mexico and Arizona and on adjacent public lands, including those in southern Utah and southwestern Colorado" (Judd 1924a). The AAA committee strongly recommended use of the sanctions in the Antiquities Act to encourage enforcement. Four recommendations were made to the Department:

- Indian superintendents should be granted permission to confiscate illegally excavated material and forward them to approved depositories;
- All traders in antiquities cease immediately or face revocation of their trading permits;
- Copies of the Antiquities Act should be posted in visible places on federal land;
- Field officers should be authorized to confiscate looted antiquities and monitor federal land for Antiquities Act violators (Judd 1924c).

The Department of the Interior responded to several of the AAA committee recommendations less than a year later. Judd's ideas for improvements in enforcement were shared with the Office of Indian Affairs (Burke 1924a), which in turn forwarded

the concerns to park and monument superintendents and their administrative staff (Burke 1924b). Late in 1924, multiple copies of the Antiquities Act were sent to the parks and monuments for posting (Wickham 1924). "Superintendents or others in administrative charge" were reminded of their authority to confiscate looted artifacts from traders and alert individuals trafficking antiquities that their trade permits on Indian reservations could be revoked if traders were caught excavating for cultural material on public land (Burke 1924b). Park superintendents began to post signs on federal land bearing the following text in 1925 (Interior 1925:93):

WARNING.—THIS ANCIENT RUIN IS LOCATED ON PUBLIC LAND. IT BELONGS TO YOU—HELP  
PROTECT IT.

All persons are warned that it is unlawful to remove any object from, excavate on, damage, destroy, or remove any portion of, an ancient ruin located on lands owned and controlled by the Government of the United States, except under permit issued in accordance with the act of Congress approved June 8, 1906 (34 Stat. 225); that any person violating the law may be arrested by an officer of the United States and may be fined not more than \$500 or imprisoned for more than 90 days, or may suffer both fine and imprisonment, in the discretion of the court. Help preserve for the future the records of the past.

After many years of inaction, direct steps were taken by the Department to inform the public of the Act's existence and intent and to increase efforts by field personnel to reduce violations of the Antiquities Act.

Another important breakthrough occurred in 1927. The final provision of the AAA committee's recommendations of 1924, the designation of a field officer "to compel observation" on federal land and "confiscate all antiquities illegally attained" (Judd 1924b) was realized. Department of the Interior Order No. 229 named Jesse L. Nusbaum as "Archeologist for the Department" on July 9, 1927 ([Figure 2a](#)).

The Annual Report of the Secretary of the Interior for 1928 provides a brief description of Nusbaum's new responsibilities:

Mr. Jesse L. Nusbaum, who is also superintendent of the Mesa Verde National Park, renders advisory service to all branches of the department, as well a scientific and educational institutions contemplating archeological investigations upon the public domain under jurisdiction of the department. This official is also engaged in developing methods for the better protection of the many archeological sites located mainly throughout the Southwest; the prevention of unlawful excavation on these sites, the orderly conduct of work authorized by department permits, and proper publication of the scientific information derived therefrom (Interior 1928: 216).

In 1929, Department Order No. 393 affirmed Nusbaum's designation ([Figure 2b](#)). The text of the order summoned the authority of his new position regarding permits:

All requests for permission to explore prehistoric ruins on the public domain, in the national parks, and on Indian reservations, are, under existing orders, referred to him for report. The request should be routed through the Office of the Secretary, and no permission will be given to any scientific or other party to carry on investigations or remove prehistoric relics without the consent of the Secretary and in accordance with interdepartmental regulations on the subject.

Nusbaum's appointment as Departmental Archeologist was an administrative development adopted to secure additional protection for archeological and other scientific resources on federal and Indian land in the Southwest. As a field officer, Nusbaum communicated the pressing need to monitor public lands more closely and to report all violations of the Antiquities Act to him or to National Park Service personnel. For the first time, park superintendents and field archeologists had an advocate and advisor for archaeological protection and to guarantee fieldwork was carried out in an orderly and professional manner. After decades without direct professional attention given to the Antiquities Act permits, the Department now had an employee to process a growing number of incoming permits and ensure proper scientific fieldwork ([McManamon and Browning 1999](#)).

Nusbaum's position title "Departmental Archeologist" changed to "Consulting Archeologist" when he took a leave of absence in 1930 from his post at Mesa Verde to direct the newly- opened Rockefeller-sponsored Laboratory of Anthropology in Santa

Fe. He remained active in both his position at the Laboratory of Anthropology and the National Park Service throughout this early period of his appointment as Consulting Archeologist. Nusbaum promoted archeological protection and increased public outreach with interpretive programs and displays featuring archeological specimens (Nusbaum 1930). For example, the museum buildings at Mesa Verde National Park were designed and constructed under Nusbaum's supervision to house, display, and interpret "newly excavated material of prime importance" (National Park Service 1930: 20). Public exhibits for interpretation at parks, including archeological material, were viewed by the National Park Service as "museum exhibits that have exceeded our most sanguine expectations. . .the beginning toward museum exhibits that have promise and will be valuable and popular exhibits for the National Government when completed" (National Park Service 1923:20).

Among the most helpful products for understanding Nusbaum's activities and goals following his appointment are the Annual Reports he prepared for the Secretary of the Interior (Nusbaum 1929, 1930, 1931). Their content was similar to the general Annual Report of the Secretary of the Interior, but Nusbaum's specifically addressed archeological issues. The Department from 1929-1931 published copies of the reports. A fourth report, dated 1932, appears never to have been published by the Department, although a draft copy of Nusbaum's findings for 1932 was found at the NARA II facility with the permit documentation. Each of the four Annual Reports discusses Nusbaum's tasks and responsibilities and describes authorized on-going permit excavations. In each, the problems of looting, vandalism, and increased visitation are discussed and remedies for problems advocated. The reports are an excellent tool to monitor federal progress with its Antiquities Act responsibilities. Although they are only able to provide a small window into federal archeology's past, Nusbaum's reports provide valuable insights into the conditions confronting archeologists concerned about archeological protection during the first third of the twentieth century.

### Developments in the 1930s

Despite administrative gains and modest personnel increases, the inadequacies of Antiquities Act enforcement continued to plague the archeological community in the 1930s. Jesse Nusbaum made several requests in his Annual Reports for help in administering and overseeing the Department of the Interior's archeological field responsibilities: "One lone field representative. . .can not protect an area that extends over the major portion of the Southwestern states. Help is needed" (Nusbaum 1929:v). In addition to the enormity of the land to be managed, the number of permit applications was increasing steadily ([Table 1](#)).

**Table 1. Number of Antiquities Act permit applications received by the Department of the Interior 1906-1935**

| 1900-1909                                     |                   | 1910-1919  |                   |
|---|-------------------|------------|-------------------|
| YEAR  | # OF APPLICATIONS | YEAR       | # OF APPLICATIONS |
| 1900  | n/a               | 1910       | 2                 |
| 1901  | n/a               | 1911       | 1                 |
| 1902  | n/a               | 1912       | 1                 |
| 1903  | n/a               | 1913       | 7                 |
| 1904  | n/a               | 1914       | 4                 |
| 1905  | n/a               | 1915       | 13                |
| 1906  | 0                 | 1916       | 13                |
| 1907  | 4                 | 1917       | 11                |
| 1908  | 7                 | 1918       | 4                 |
| 1909  | 7                 | 1919       | 10                |
| subTOTAL:                                     | 18                | subTOTAL:  | 66                |
| 1920-1929                                     |                   | 1930-1935  |                   |
| 1920  | 13                | 1930       | 25                |
| 1921  | 8                 | 1931       | 32                |
| 1922  | 4                 | 1932       | 25                |
| 1923  | 14                | 1933       | 25                |
| 1924  | 8                 | 1934       | 21                |
| 1925  | 8                 | 1935       | 23                |
| 1926  | 9                 | 1936-1939  | No Data           |
| 1927  | 15                |            |                   |
| 1928  | 13                |            |                   |
| 1929  | 11                |            |                   |
| subTOTAL:                                     | 103               | subTOTAL:  | 151               |
| <b>TOTAL NUMBER OF APPLICATIONS RECEIVED:</b> |                   | <b>338</b> |                   |



By the 1930s, the number of permits applied for and issued were nearly double the number dealt with annually during the 1920s. The quantity of permit requests was too large and permit application inconsistency was exacerbating an already difficult situation. Nusbaum reported:

Many applicants for permits normally supply but a brief and often indefinite outline of the work contemplated under the permit, in a few cases so much so that the purpose and aim of the project could be construed by this office as an attempt to simply legalize sporadic excavations without definite aim other than securing material and without apparent consideration of the coordinated effort of other institutions (Nusbaum 1930:8).

In a coordinated effort to adopt a standardized form for Antiquities Act permits application, as well as to discuss the Antiquities Act's continued ineffective enforcement, an interdepartmental meeting was held in Washington, D. C. Nusbaum met with representatives from the Smithsonian Institution, the National Park Service, the General Land Office, Indian Office, the Departments of Agriculture, Interior, and War, and a few private institutions in April, 1932. In two sessions, April 13 and April 19, held at the Smithsonian Institution, attendees were able to adopt a standard application form to systematize Antiquities Act permit requests, as well as compile a list of recommended procedures proposed for greater Antiquities Act protection on federal land (Abbot 1932).

Greater regulation and standardization of archeological procedures in the field through the Antiquities Act permitting procedures was one means of increasing professional responsibility and ensuring the adoption of scientific excavation procedures by all applicants. Participants in the conference at the Smithsonian Institution agreed:

- Prehistoric remains found in the United States are of such great value and importance that any and all means to "conserve" and "safeguard" those located on federal land should be pursued;
- The "fullest practical enforcement" consistent with the Antiquities Act and its regulations should be a priority;
- Excavations should be for scientific aims, not for "self-gratification or profit";
- All excavations authorized by each Department overseeing federal land should be in full compliance with the specific rules and regulations of the Antiquities Act, as passed in 1906;
- The Antiquities Act is an adequate piece of legislation, if properly enforced.

There appears to have been no discussion about artifacts and materials excavated from historic period sites during this 1932 meeting. No changes in the Antiquities Act regulations resulted from this meeting held at the Smithsonian, though two amendments were proposed which would have:

- Permitted the arrest of persons found on land of the United States and in possession of archeological material for which they could not establish ownership or right of possession, and the seizure and impounding of such material pending final determination of its origin and legal ownership;
- Prohibited the interstate shipment of archeological material except under permit issued by an authorized Federal or State officer. The present acts of that tenor in Arizona and New Mexico would be strengthened and made more effective by such an amendment (Abbot 1932).

The amendments do not appear to have been pursued, and no changes to the regulations were made. Action was taken to more explicitly state the requirements expected by the Departments, as compliance with them was a major concern of conference participants. The responsible Secretaries eventually agreed on a standardized application form to be used by all permit applicants. The three page standardized form began to appear for approval at the Secretary of the Interior's office by 1935 (Keur 1935b). See [Figure 3](#) for a copy of a completed application using the 1935 detailed form.

During the early 1930s, an average of twenty-five permit applications were received (see [Table 1](#)) and initial field reports flooded into the Department with unprecedented frequency. Permitted excavators, now aware of repercussions for non-compliance, increasingly observed requirements they largely had ignored for many years.

#### *Added Requirements for Studies on Indian Lands*

The process of granting permits to individuals seeking to excavate ancient sites on Indian land occasionally was controversial. The Antiquities Act itself required permits for examinations, excavations, and gatherings taking place on all lands "owned or controlled by the government of the United States" (Pierce 1909). It did not require tribal approval of permits for investigations on reservation lands. However, the office of the Commissioner of Indian Affairs examined permit applications for those proposing archeological activity on an Indian reservation or tribal land. For instance, Alfred Kroeber and the American Museum of Natural History applied for a permit in 1916 to study the Zuni on their reservation. During

administrative review of the permit, Dr. Charles Walcott of the Smithsonian Institution recommended that the Commissioner of Indian Affairs and the Superintendent of the Zuni Indian School be consulted:

Desired permission to conduct anthropological investigations on the Zuni Reservation, so far as they do not involve the excavation of ruins or the gathering of objects of antiquity is one which should be passed on by the Commissioner of Indian Affairs as involving the question of administration only (Walcott 1917).

Consideration of the impact of scientific investigations on Native American groups was a condition of the approval of this permit in February 1916. The permit stated "permission of the Indian agent and of the Indians themselves should be secured" prior to any anthropological research.

Another permit issued the same year to the American Museum of Natural History carried a similar provision for consultation. The permit issued by the Department of the Interior recommended the applicant "should be instructed to confer and cooperate with Superintendent Ellis of the Blackfeet Reservation and make no excavations that will interfere with the rights of the Blackfeet Indians or any work of the United States government" (Sells 1916).

Despite an apparent lack of documented incidents during the previous two decades, occasional entanglements over Antiquities Act permits in the 1930s required Departmental intervention. Increased tourism and the proliferation of isolated Indian trading posts and recreational accommodations on federal land had elevated knowledge of and demand for archeological materials. The market for American antiquities continued to grow and tensions between scientists and pothunters were escalating as well (*U. S. Daily* 1931). Some encounters raised tensions between American Indians residing in the Southwest and investigators in search of additional scientific information from the past.

In 1934, a recently buried, historic Native American skeleton and the associated funerary objects were excavated by investigators working under federal permit. The conduct of the scientists raised serious concerns. Carl H. Skinner of the Phoenix Indian School alerted the Department of the Interior of his concern about the conduct of scientists operating under an Antiquities Act permit on tribal land (Nusbaum 1935a). The Superintendent and related tribal members met with representatives from the Office of Indian Affairs to negotiate a compromise. Tribal members received the human remains and the funerary objects were kept by the excavation team from the University of Arizona (Collier 1934).

In order to prevent future conflicts of this sort, the Department devised a solution intended to respect both the Native American graves and the scientific interests of Antiquities Act permit recipients. An initial proposal protected graves younger than 200 years from exhumation and study. Several archeologists, including Julian Steward and Jesse Nusbaum, objected to the two hundred year limitation. Archeological investigations were expanding to federal land outside of the Southwest and the possibilities of new data and research were growing in the consciousness of the archeological community, such that an exclusion would have prohibited the study of some time periods. For example, prohibiting the excavation of graves postdating 1700 on federal land eliminated the possibility of excavating sites pertaining to the contact period on the Great Plains and elsewhere (Nusbaum 1935b, 1935c).

Six months later, on August 7, 1935, Oscar Chapman, Assistant Secretary of the Department of the Interior, agreed to an Antiquities Act permit modification restricting excavation on Indian reservations and land to "qualified archeologists" only. Any work done in present and former burial grounds "abandoned for less than a century" required permission of the governing Indian Tribal Council and registering of any activity with a BIA Superintendent or those in administrative charge of the designated area (Chapman 1935b). A new rule limited the activities of archeologists who were known to have disturbed recent burial sites while conducting archeological studies or making museum collections.

#### *Other Changes*

Additional requirements and conditions were added to the permit approval procedures as new issues and problems demanded immediate attention. Initially, the Antiquities Act permit text established a procedure and informed applicants of the legal parameters of the agreed upon contract. Each permit issued carried the same general message for almost two decades:

Pursuant, therefore, to the act of June 8, 1906 (34 Stat. 225) and to interdepartmental regulations (copy herewith) adopted and approved under said act, dated December 28, 1906, the [Institution] is hereby granted permission to prosecute archaeological research within the territory mentioned. The report required by the regulations should be submitted at the end of the season to the Secretary of the Smithsonian Institution, and a copy thereof forwarded to this department for information and record (Interior 1915).

A variety of conditions were inserted in permits on an as-need basis throughout the years, but by 1931 another paragraph became necessary for all permit recipients requesting to study ruins and sites located on Indian reservations and tribal land. The Office of Indian Affairs issued Order No. 7. It was approved by Department of the Interior Assistant Secretary, John H. Edwards, and required the insertion of a new paragraph into all letters of introduction to persons working on tribal land. The new paragraph read:

The holder of this permit, and those operating there under shall hold the Department of the Interior, its bureaus and employees, blameless for any and all events, acts, deeds, or mishaps arising while on the reservation, regardless of whether they arise in the performance of such study or research or not. The government assumes no legal or other responsibility in such matters. Such protection will be afforded as is consistent with the Superintendent and other employees (Edwards and Scattingwood 1931).

The Department was clearly distancing itself from the liability and safety issues manifesting themselves within the business of managing the federal lands of the United States.

### **Chapter 3: Exploring the Implementation of the Act**

#### **The Applicants**

The many different individuals, organizations, and institutions involved in the development and success of the Antiquities Act are listed in the appendices of this report. Hundreds of applications were approved in the years following the initial application and permit issued to the Archaeological Institute of America and Edgar L. Hewett in 1907 ([Figure 1](#)). [Appendix A](#) provides an alphabetical listing of all institutions and individuals from whom the Department of the Interior received Antiquities Act permit applications for excavation on public lands, as well as the years in which permit applications were received, and the quantity of work requested by each institution throughout the period. Appendix A can be checked to identify active institutions and determine the extent to which various establishments became involved in the collection and protection movement. [Appendix B](#) lists specific individuals who either excavated archaeological material from public land under Department Antiquities Act permits or those who were affiliated with a museum or university department and sought permission on their employees behalf. Appendices A and B should be consulted to answer specific questions about individual Antiquities Act applicants and permit-requesting organizations.

#### *Problematic Applications*

More than 300 applications for permits to conduct investigations were received by the Department for evaluation and review between 1907 and 1935 ([Table 1](#)). Only eleven permit denials were documented during this period. Over half of these denials (6) occurred in the earliest years, between 1907-1910.

Denials most commonly were due to an applicant's inability to demonstrate the investigation and resulting collection would benefit the American people. Of the six permit applications denied within five years of the Antiquities Act's passage, four were denied for this reason. Section 3.3 of the rules and regulations (43 CFR 3.3) requires all investigators to demonstrate a verifiable public use of the material obtained while from excavations on federal lands. Charles Auld, Charles Baker, John Uri Lord and J. H. Nauwerth were applicants unable to demonstrate an ultimate public use of the objects. While their intent may have been noble, they established no firm connections to approved public institutions where the excavated material and records would be cared for and interpreted for the public. Unsuccessful applicants received a rejection letter with a copy of the rules and regulations. Applicants who were turned down also had the option of reapplying for permission in the future.

Between 1907 and 1912, a desire for specimens of petrified wood from Arizona resulted in a flood of both qualified and unqualified applicants requesting Antiquities Act permits. A. B. Bibbons of the Department of Geology, the Women's College of Baltimore (later Goucher College), the State National Bank of Illinois, and four other individual collectors wrote the Department requesting permission to obtain samples. All of the unaffiliated, individual applicants were denied permits. However, the Department and the United States National Museum did allow a previously collected sample of petrified wood to be sent to the only educational establishment requesting a sample: the Women's College of Baltimore.

Applicants were rejected later for more varied reasons. The lack of affiliation with a public educational institution remained a problem, but new circumstances also arose. The Department expanded the reasons for declining to issue a permit to include:

- Requests made for land not managed by the Department of the Interior (University of Utah-1923);
- Overly ambitious projects monopolizing huge tracts of federal land (University of Colorado-1927);

- Overcrowded areas with too many excavators requesting the same area or site to study (Eastern California Museum Association-1930; Princeton University-1932).

Even during these early years of implementing the Antiquities Act, when the Department of the Interior had an overextended staff and fledgling administrative structure in place, ensuring the prohibition of illegal excavations on federal land was a serious concern. Jesse Nusbaum and others actively worked to prevent private collectors from illegally capitalizing on the antiquities trade from public land. Closely monitoring the Antiquities Act permit applicants enabled the Department to consistently grant permits only to those applicants who submitted realistic fieldwork proposals and who demonstrated an interest in educating the American people.

#### *Institutions, Museums, and Universities*

The earliest permits generally were granted to the large, firmly established East Coast universities and museums. Individuals from establishments such as the American Museum of Natural History and the Museum of the American Indian in New York City, the United States National Museum in Washington DC, the Carnegie Institute of Washington, and the Peabody Museum at Harvard University had worked for passage of the Antiquities Act for decades prior to its passage (Lee 1970/2001). They began building archeological collections prior to the Antiquities Act and continued to collect and display additional artifacts from the American Southwest in their exhibits and collections. From the permit files examined for this study, these five scientific giants were granted over one hundred permits for investigations in ten states between 1907-1935 (only 13 states total were represented by the permits in this collection). Their work accounted for slightly less than one third of all the permits issued for this entire period.

The great number of permits granted was the result of large museums and institutions having the resources and staff to send several teams of excavating crews out each year. They also were able to commit to the care of excavated material and records and to the public interpretation of the results of the investigations. Often, parties would be seeking to continue excavations begun at known sites, while simultaneously scouting out unspoiled new areas for future investigations. In 1916, for example, three Antiquities Act permits were granted to the American Museum of Natural History. Barnum Brown was conducting paleontological work on the Blackfeet Reservation in South Dakota (Brown 1917). Earl Morris explored Pueblo Bonito at Chaco Canyon. A. L. Kroeber surveyed abandoned sites on the Zuni Reservation in an attempt to develop a chronological sequence for the sites he studied. The collections derived from these investigations, some which were initial efforts and others continuations of past studies, were added to the assortment of artifacts systematically growing in the American Museum of Natural History in New York City for several decades. These multi-project capabilities were matched by many of the museum's East Coast peers.

Archeologists made famous by their work with large establishments and pioneering interpretations or methods in this period shared terrain with numerous, less prominent institutions and individuals. Less powerful but very active preservation societies such as The Ohio State Archaeological and Historical Society and the Allen County (Ohio) Historical Society were permitted to build collections of southwestern paleontological antiquities through their own early investigations in the 1910s. Smaller college and university departments like the University of Vermont and Georgia Normal College also desired the coveted petrified wood samples sought in the 1910s and received permits for their collection.

As western establishments, such as the Laboratory of Anthropology (Santa Fe), Gila Pueblo Archaeological Foundation, and the Southwest Museum (Los Angeles), materialized on the western landscape, they too joined the excavation and discovery efforts. New western university departments undertook Antiquities Act investigations and used the excavated artifacts to establish study and display collections. By 1919, western universities were rapidly expanding and establishing departments of anthropology. Antiquities Act permit applications were received and granted to state universities in Boulder, Colorado, Tucson, Arizona, Lincoln, Nebraska, and Salt Lake City, Utah. These universities and others worked to define their anthropological vision through federally permitted independent research and were able to study collections of newly acquired antiquities in university laboratories and display artifacts in public museum exhibitions (MacCurdy 1919:48-49).

#### *Women in Federal Archeology*

The archeology of the early twentieth century was largely a male enterprise, although the spouses of famous archeologists often actively participated or contributed to their husbands' research. Women like Ann Axtell Morris, Mary Russell Colton, and Rosemary Nusbaum contributed to or supplemented their husband's fieldwork between the wars (Babcock and Parezo 1988; Eliot 1995; R. Nusbaum 1980), but only a few women applied to receive permits to conduct their own directed research projects. Less than ten Antiquities Act permits were issued to female applicants by the Department of the Interior between 1907 and 1935. Female pioneers who were approved for permits during the Department of Interior's early

involvement with antiquities excavations included Frederica de Laguna, Katharine Bartlett, Winifred Gladwin, Florence Hawley Ellis, Louise Parcher, and Dorothy Keur.

Frederica de Laguna was the first woman to be granted an Antiquities Act permit from the Department of the Interior. Twenty-four years after the Antiquities Act passed, in July 1930, de Laguna received her first permit to conduct extensive field reconnaissance “in the Seward peninsula of Alaska, in the vicinity of the coast” (Interior 1930). On behalf of the University of Pennsylvania, Frederica de Laguna returned to Alaska four more times between 1930 and 1935 under Department of Interior permits. She was able to use her research to complete her doctoral thesis on Upper Paleolithic and Eskimo art. In 1933, she received the first Ph.D. in archeology granted to a woman by the Anthropology Department of Columbia University; her thesis may be the earliest completed by a female archeologist in the United States (Levine 1994:12).

De Laguna's excavation notes and reports that were deposited in the NARA II facility, along with her permit data, show she maintained precise collections data and drafted maps of discovered sites and areas surveyed. Her exploits in Prince William Sound and Cook Inlet, Alaska (de Laguna 1934, 1936, 1956; McClellan 1988) allowed de Laguna the opportunity to collaborate with a male colleague and fellow Antiquities Act permit recipient, Kaj Birket-Smith, a representative from the Danish National Museum. The pair had initially planned a joint expedition, but Birket-Smith's ill health forced him to stay behind while de Laguna began initial fieldwork. Later they co-authored several articles on their combined work in Arctic archeology (Birket-Smith and de Laguna 1938).

Florence Hawley, an instructor at the University of Arizona, joined de Laguna in the Antiquities Act permit application process in 1931. Able to combine her field excavation knowledge with statistical and scientific specialization, Hawley ensured herself a place within American archeology. While teaching in Arizona, Florence Hawley directed a major excavation on an undeveloped portion of the Fort Apache Indian Reservation under an Antiquities Act permit (Interior 1931). She had previous experience working on National Park Service land, having excavated and performed collections work at Chetro Ketl in Chaco Canyon beginning in the 1929 (Babcock and Parezo 1988:124-129; Claassen 1994:13-14) that led to her Ph.D. in 1934. Hawley then used material from a site within the boundaries of one of the first declared national monuments to conduct pioneer dendrochronological analysis (Levine 1994:14). A specimen of architectural timber collected from Chetro Ketl at Chaco Canyon was dated by Hawley in 1931 (Douglass 1934:197). She also was able to collaborate with an established male colleague working for the Carnegie Institution of Washington. While studying at the University of Arizona under A. E. Douglass, Hawley's tree ring dates aided in the construction of a meaningful chronology of tree ring dates back to about A. D. 200 (Douglass 1934:197).

Dorothy Keur (Babcock and Parezo 1988:142-145; Levine 1994:15-16) was the last female archeologist to apply for Departmental permission to conduct an archeological investigation of ruins a public land during this period. However, her 1935 permit application file compiled by the Department of the Interior does not contain a copy of the actual permit allowing Keur permission to conduct her archeological investigation in Alcove Canyon, located near the Round Rock Trading Post, Arizona (Keur 1935a). She and her husband, a Dutch biologist, proposed to take extensive photographs of the area and collect surface material to help them plan for a future investigation. Work was to be completed for and the collection deposited at the Bronx Branch of Hunter College, New York City (Keur 1935b).

Despite the fact she had submitted two copies of the recently adopted standardized application form (see [Figure 2a](#)), specific information as to whether the project ever received approval (although there is a permit issued to her non-archeologist husband, John) was not evident. What is clear from Dorothy Keur's application file is that its approval was recommended by the Smithsonian Institution (Abbot 1935) and also by the Departmental Consulting Archeologist, Jesse Nusbaum, in early June 1935 (Nusbaum 1935d). The Keurs planned to travel to the Laboratory of Anthropology in late May 1935 and asked that approval, if granted, be sent to them in the Southwest, care of Nusbaum. Whether or not this particular project was launched, Dorothy Keur later completed extensive archeological work in the late 1930s and early 1940s at Big Bead Mesa, northeast of Santa Fe, New Mexico (Keur 1941). Big Bead Mesa is now protected by the Bureau of Land Management (James 1988).

The research efforts of these pioneering women reflect the growing intellectual independence of American women in the early twentieth century. Previously, women became involved with archeology through philanthropic efforts, provided support for legislation through existing professional clubs and organizations, and assisted their spouses in the field and laboratory. However, the Antiquities Act permits allowed female archeologists the opportunity to explore the cultural and architectural wonders of America. The permits issued to female applicants in the 1930s reveal a diversity of interests and various

accomplishments. De Laguna conducted the majority of her work in Alaska outside the typical southwestern perimeters, while Hawley combined necessary field skills with then uncommon statistical mastery and specialized scientific analysis. Their work and other attempts made in the 1930s established a place for women in archeological research and represent the pioneer roles played by women directly involved in the Department of the Interior's archeology program.

#### *Applicants from Abroad*

In addition to the applications received from throughout the United States, several applications were received from foreign countries. The rich cultural and natural resources of the American southwest attracted worldwide attention through exhibitions, such as the Columbian Historical Exposition held in Madrid in 1892, and applicants applied from Russia, France, Germany, Denmark, Canada and Sweden.

Foreign excavators were not new on the public lands of the United States. In 1891, one of the first foreign excavators to visit southwestern archeological sites, Gustav Nordenskiöld, arrived in Mancos, Colorado, and proceeded to excavate sites such as Painted Kiva House and Long House at Mesa Verde (Bauer 1991; Lee 1970/2001; Nordenskiöld 1893; Wegner 1980). Although this Swedish excavator conducted his work with exemplary professionalism for his time (Fowler 2000:189-192; Howard and Hamilton [n.d.]; McNitt 1966; Nordenskiöld 1893), the export of ancient American artifacts to foreign soil upset a great many Americans and spurred efforts for antiquities protection (Elliott 1995; Lee 1970/2001; Wegner 1980).

Shortly after the Antiquities Act passed, the Department of the Interior began to receive permit applications from foreign individuals and organizations. Perhaps the protection provided by the Act made archeologists and Department of the Interior employees less apprehensive of foreign requests. In June 1908, the first Antiquities Act permit was issued to a foreign applicant from Russia. Vladimir Jochelson, a representative of the Imperial Geographical Society of Russia and former Siberian leader for Franz Boas' Jessup North Pacific Expedition in 1898 (Dzeniskevich and Pavlinskia 1988), proceeded to the Aleutian Islands to conduct archeological field work and socio-cultural anthropological studies for his country. The collection, if one was made, was to be housed in the Academy of Sciences, St. Petersburg, Russia (Interior 1908a).

Archeological materials were not the only southwestern items drawing attention. Along with the domestic craze for petrified wood in the 1910s, representatives from two foreign institutions requested Departmental permission to have samples shipped overseas. Both W. Theile (University of Strassburg) and Alfred LaCroix (Museum of Natural History, Paris) visited the area surrounding the Petrified Forest and collected samples of petrified wood. However, both gentlemen were unable to transport the specimens without securing the requisite Antiquities Act permit. Through overseas correspondence, both samples were shipped under the conditions the specimen weighed less than five hundred pounds and were collected from outside the Petrified Forest's boundaries (Interior 1913a, 1913b).

Additional permits issued to overseas applicants were either to survey, study, or excavate in Alaska or to conduct paleontological research and collection within the boundaries of Indian reservations in South Dakota, Nebraska, and Wyoming. As with the female applicants, foreign interests were diverse. The studies by the Danish National Museum, the University of Upsala, and the Royal Ontario Museum of Paleontology resulted in a greater worldwide appreciation of the natural and cultural wonders of the American West and the vastness of a distant and not well explored Alaska.

#### **Field Activity and Responsibilities**

The 1910s through 1930s represent an era when some of American archeology's earliest and most famous projects were launched at Mesa Verde, Pecos and Chaco Canyon. Archeological research conducted on federal lands at the beginning of the twentieth century continues to benefit and educate the American people in several ways. The carefully excavated artifacts from these field projects are useful to modern researchers. The American public benefits by the expansion of their knowledge of archeology through both permanent and changing museum displays and exhibitions. Architectural repair work from the early twentieth century has provided generations of national park and monument visitors with an opportunity to view structures that otherwise might have been destroyed (e.g., Fewkes 1909, 1911; Matero 1999). Today they inform both visitors and experts about ancient and modern repair work on historic masonry structures. Excavations reports and photos from classic studies open an exciting window into popular field techniques and the cultural landscape as it appeared almost a century ago.

#### *The Projects*

Antiquities Act permits granted during the period of 1907-35 encompassed a wide range of archeological activities. Archeological projects ranged from major excavations over multiple years at sites such as Aztec Ruin (Morris 1926) and Chetro Kettle at Chaco Canyon (Hewett 1920) to simpler requests by the American Scenic and Preservation Society in 1907 to

photograph ancient ruins on federally owned and controlled land (Interior 1907). Requests to survey new land containing unspoiled ruins and to collect surface artifacts on public land were common. More specific requests asked permission to dig small test pits into refuse heaps and trash dumps located at Pueblo Bonito (Nelson 1926). One such limited testing project, requested by the Peabody Museum at Harvard University, resulted in excavated test trenches and an archeological survey at Antelope Mesa on the Hopi Indian Reservation in north central Arizona. This was the first year of the Awatovi Expedition, in preparation for more extensive work. Investigators hoped additional studies would shed light on the cultural sequence of the people who had occupied the area and show "the diffusion and interrelation of culture groups during this period" (Scott 1935).

Although some of the earliest archeological excavations involved ruins reconstruction (Fewkes 1909), the need for repair and stabilization of crumbling ruins at increasingly popular national parks and monuments became more urgent. It was often reported to the Department that "apparently well preserved and unusually interesting ruins have been excavated and then abandoned without any measures taken to prevent their subsequent destruction by the elements" (Sherman 1932). Projects specifically seeking to restore crumbling structures on federal land were issued by the Department of the Interior, but all applicants were instructed to take any measures possible to uphold the existing structural integrity of the ruins surrounding their project areas.

By the 1930s, the National Park Service began ruins stabilization activities and programs that still exist today. Workmen, including many Native Americans and public works laborers, began projects to strengthen and preserve existing walls at Park Service sites such as Pueblo Bonito and Chetro Ketl. National Park Service projects concentrated on stabilizing and reinforcing existing walls with modern materials, not on attempts to completely rebuild the structures (Lister and Lister 1981:119). At the same time as the repair projects were becoming more commonplace, Dorothy Keur's husband, John, was granted a permit to document the architectural achievements at Chaco Canyon. Simultaneously, the Department of the Interior had approved projects that both documented the archeological ruins found within the national monuments prior to their total destruction and concentrated upon the stabilization and salvage of existing ruins.

Archeological projects and investigations of ancient Native American remains were not the only undertakings requiring the approval of the Department of the Interior. The Antiquities Act also included the protection of "other objects of historic and scientific interest that are situated upon the lands owned or controlled by the government of the United States." Within a year of the Department of the Interior's issuance of its initial permit to Edgar L. Hewett, representing the Archeological Institute of America, paleontologists sought their own "antiquities" in the form of dinosaur bones and petrified wood samples. Several institutions including Brown University, Los Angeles Museum of History, Science, and Art, the Kansas Academy of Science, and the University of Michigan focused their efforts and resources on areas rumored to contain magnificent specimens of enormous ancient reptiles.

On November 9, 1908, W. J. Holland, Director of the Carnegie Museum in Pittsburgh was granted permission from the Department (upon consultation with the Commissioner of Indian Affairs) to search for and excavate paleontological remains found on the Uintah Indian Reservation (Interior 1908b). Local Utah residents assisted the Carnegie team and led them to a quarry containing the fossilized remains of prehistoric reptiles (Holland 1912).

Almost ten years later, a crew from the Carnegie Museum returned in 1917 to the site now lying within the boundaries of the recently declared Dinosaur National Monument (Rothman 1989). Earl Douglas and an excavation crew received a permit to excavate in Uintah county for a period of six years. At the end of the 1922 field season, the Carnegie Museum had spent a large sum and had gathered an impressive collection of dinosaur specimens. The Carnegie Museum decided to cease work at Dinosaur National Monument but agreed to protect the exposed remains of a sauropodous dinosaur, *Diplodocus*, until a replacement excavation team was located. The following year, the Smithsonian Institution resumed excavations at the site under the direction of C. W. Gilmore, Curator of Vertebrate Paleontology at the United States National Museum.

Additional excavators of dinosaur remains explored sites such as Catlow cave in Oregon and loci such as the Blackfoot Reservation in Wyoming. Permits issued under the Antiquities Act enabled the Royal Ontario Museum of Palaeontology (Toronto, Canada) to explore Wyoming, Nebraska, and South Dakota in 1929. The American Museum of Natural History returned to Arizona in the late 1920s, and C. C. O'Hara of the South Dakota School of Mines launched additional projects on the Pine Ridge and Rosebud Reservations. In all during this period, 64 permits were issued for paleontological fieldwork on United States public lands.

### *Site Location*

Institutions and individuals excavating sites under Department of the Interior permits often concentrated their studies in specific regions at sites that are now well-known to American archeologists and tourists. The most frequently investigated regions included the southwestern Four Corners states, along the West Coast, and eventually northward into Alaska.

Applicants for permits hailed from throughout the United States and from overseas nations, but the permit files examined for this study contained no requests to excavate further east than South Dakota. Throughout the 1907-35 period, Department of the Interior Antiquities Act permit applicants requested permits to study in Alaska, Arizona, California, Colorado, Montana, Nebraska, New Mexico, Oregon, South Dakota, Texas, Utah, and Wyoming.

Oregon and Wyoming attracted only paleontologists and fossil collectors. Arizona and New Mexico were the most desirable settings for Antiquities Act permits in the early decades of the twentieth century. Of a total of 338 permits granted for this twenty-eight year period, over half of the excavations, surveys, reconnaissance and ruins stabilization took place in these two states.

Neil Judd's work (Judd 1925, 1954, 1964) at Pueblo Bonito from 1921 to 1927, A. V. Kidder's exploration of Pecos from 1915 through 1929 with an interruption for World War I (Kidder 1920, 1923, 1926), and Earl Douglas' work in Dinosaur National Monument from 1917 to 1922 required as many as five renewals of the original permit before these projects were completed. However, most investigators submitted modest applications for work in the remaining states. Sites in Utah and Colorado appealed equally to both archeologists and paleontologists who had learned of archeological sites and dinosaur bones at national monuments such as Dinosaur, Yucca House, and Hovenweep. Through the 1910s and 1920s eastern institutions continued to pursue their archeological investigations in New Mexico and Arizona while newer western establishments protected their own interests and local ancient history.

### *Fluctuations in Field Activity*

Excavations approved through the Department of the Interior permit process generally increased steadily from 1907 into the 1930s. The Department of the Interior issued the first permit to Edgar L. Hewett, affiliated with the Archaeological Institute of America, on August 6, 1907, just weeks following the initial application ([Figure 1](#)). In addition to two permits issued to Hewett and the Archaeological Institute of America, the American Scenic and Preservation Society and an individual named Charles H. Auld submitted applications in 1907 Auld's application was denied. The number of permit applications and approvals continued to rise. Nine were issued in 1908, and nine more applications were received in 1909. Application activity as documented by the Department of the Interior collection held at the archives at NARA II inexplicably dropped off in the early 1910s, but numbers began to climb again by mid-decade. A record number of sixteen permits issued by the Department of the Interior was reached in 1916.

World War I interrupted the increase in the number of permit applications. Although permit applications continued to be filed throughout 1917, a few applicants expressed the possibility that their work might be delayed due to war commitments. Jesse Nusbaum, future Superintendent of Mesa Verde National Monument and Department Archeologist, was one such applicant. In 1917, he planned to accompany members of the Heye Foundation of the Museum of the American Indian to Canyon de Chelly (Interior 1917b) for a major excavation at the site. However, a letter report submitted to the Department of the Interior explained, "because of circumstances incident to the war, which made it impossible for the Museum of the American Indian, Heye Foundation, to enlist the services of Mr. Jesse L. Nusbaum owing to the need of holding himself in readiness for military duty" the permit went unused (Interior 1917c). Permits granted by the Department of the Interior plummeted in 1918 to one of the lowest levels of the three decade period. Only four projects were launched by the American Museum of Natural History, Carnegie Institution of Washington, the Bureau of American Ethnology, and the Museum of the American Indian. Large institutions continued their excavations despite the complications that world events had imposed upon smaller establishments in the country.

The number of excavation applications quickly increased after the war. Throughout the 1920s, Antiquities Act applications and permits once again began a gradual and fluctuating rise to the highs of the mid-1910s. Large ruins repair projects and the growth of western academic and museum institutions renewed an interest World War I had interrupted. The National Geographic Society emerged as a major East Coast sponsor, conducting multi-year excavations in the southwest. The University of Arizona (Byron Cummings) expanded work on the Navajo Reservation and the School of American Research (Edgar L. Hewett) increased its investigations at Chaco Canyon.

The 1930s represented a period of constant growth and expansion with the issuance of Antiquities Act permits. For the first time since the Antiquities Act passage, there was an administrative structure to handle permit applications more efficiently.



As described above, the Department of Interior could look to Jesse Nusbaum who began in 1927 to serve as the Department Archeologist. In this role he provided direct professional review of permit applications as well as periodic inspections of field investigations (McManamon and Browning 1999).

The fluctuations in activity that were common in the early years of the Antiquities Act permit process are apparent in [Table 1](#). The inconsistent trends of the 1910s eventually gave way to regular and continued growth of an increasingly professional American archeology. Department Archeologist Nusbaum found himself busy monitoring the permit activity spread throughout an increasingly large area of the country in the late 1920s and early 1930s. Permit activity for the Department in the late 1920s surpassed all previous years. On the eve of a new era characterized by public works archeology projects and overshadowed by economic hardship, the annual permit application numbers peaked at 32 in 1931.

#### *Reporting on Excavations*

Proponents of the Antiquities Act and the permit system did not limit their efforts to the protection and preservation of archeological sites *in situ* and the curation of artifacts and records in public museums. They also wished to ensure professionalism and technical competence in the conduct of investigators. All federally approved researchers were obligated by the conditions of their Antiquities Act permits:

at the close of each season's field work...[to] report in duplicate to the Smithsonian Institution, in such form as its secretary may prescribe, and shall report in duplicate a catalogue of the collections and the photographs made during the season, indicating therein such material, if any, as may be available for exchange (43 CFR 3.10).

The purpose underlying the rules and regulations of Section 3.10 was the creation of a lasting written record of materials collected from public land and the scientific analyses and methods used by American excavators. Without the careful excavation and documentation required in the regulation, the artifacts collected under permit would have differed little from those more haphazardly removed by casual collectors, looters, and vandals. However, in the 1920s, Department Archeologist Jesse Nusbaum found many permittees had not filed reports with the Department in the early years of the Antiquities Act implementation. Some had published findings in scholarly journals, but failed to identify with any clarity what collections resulted from the projects, what photos of the work were taken, and exactly what actions were taken at the site.

The failure to file reports and subsequently publish articles upon completion of a field project was clearly a problem (Nusbaum 1929, 1930, 1931). Perhaps the permit process had been growing too rapidly and had become too great a burden for the clerks to effectively enforce the requirement of excavation reports. The assignment of an archeologist in the Department to renew permit applications, conduct field checks on investigators, and monitor site protection efforts boosted the federal government's ability to monitor the administrative aspects of the Antiquities Act permit process. A significant increase in the number of reports filed coincided with the assignment of Nusbaum to this new function. The administrative record of permit activity documents that letters were sent out to individuals in charge of projects and their institutions, universities, and museums if draft reports were not received with a few weeks of field season completion. More often, the applicant would request a renewal for the original permit without having first submitted a report from the previous season. Approval of any renewal request was delayed until either the Department of the Interior received a report or a letter of explanation as to why a report was not filed.

Jesse Nusbaum played a vital role in improving adherence to the rules and regulations (McManamon and Browning 1999). Nusbaum required that excavators document their findings and in the process promoted professionalism. In the annual reports prepared by Nusbaum, the topic of report submission to the Department and the Secretary of the Smithsonian Institution received attention each year. Researchers and the Department of the Interior administration were in more direct and professional contact, which allowed greater supervision of Antiquities Act projects during the 1930s.

An administrative insistence upon compliance with 43 CFR 3.10 resulted in a Department of the Interior record of associated reports and documentation of early archeological activity on the public domain. Style and content of the reports varied greatly depending on the individual researcher preparing the document. Many are mere letter reports stating problems that delayed or prevented work. Others provide specific details of the excavations, site locations, and artifacts recovered complete with photographs and collection inventories. Applicants from larger and well-known universities and museums published additional follow-up articles in popular and professional journals, such as *Art and Archeology*, *American Anthropologist*, and *Science*, as well as the *Bureau of American Ethnology Reports and Bulletins*.

Department of the Interior records at the NARA II facility contain 116 reports resulting from archeological activity on public land. A report was produced for roughly one out of three permits issued (see [Appendix C](#) for a list of available reports from this period). More than 70 percent of the reports on file with the Department were submitted after Nusbaum was appointed as Department Archeologist. Prior to 1927, the Department appears to have had much less effective results mandating the responsible, professional behavior of publication and dissemination of knowledge in the developing field of archeology.

The original site excavation reports produced as a result of the Antiquities Act provide primary information sources often not included in published articles. The specifics of individual projects that began scientific archaeological excavation at world-renowned sites such as Mesa Verde's Spruce Tree House (Fewkes 1909), Canyon de Chelly's White House Ruin (Morris 1926), and many others were recorded in careful detail. Site reports and associated publications available from the period allow present day researchers not only access to the past, but also a window to the techniques, methods, and theories adopted by researchers working more than fifty years ago.

### **Trouble in the Field**

Conflicts between individual researchers and the continued plundering of archeological resources provided new, as well as recurrent challenges in implementing the Antiquities Act. Professional academic and museum competition over newly discovered sites sometimes increased tensions between scientific investigators and encouraged looters to pillage sites before the proper excavation of cultural artifacts. Federal officials were aware of these problems and monitored them, but addressed the problems with only mixed success.

#### *Regionalism and Depositories*

Western residents and archeologists had long been protective of the antiquities and natural wonders dotting the regional landscape. Archeologists, such as Edgar Hewett and Byron Cummings, left opportunities in the east behind and established western centers of archeological research, collection, and display. The large scale collection and transfer of southwestern antiquities to distant museum and universities in New York, Massachusetts, and Washington, D.C. angered some residents of the western states. Heated disagreements developed over the proper geographic depository of artifacts. Contention between east and west motivated a counter-movement among westerners to compete with the wealthy East Coast philanthropic collectors (see Fowler 1999; Hinsley 1986, 1996; Patterson 1995).

Hewett was an effective and influential advocate for the passage of the Antiquities Act. Even as the final, ultimately successful legislative push for passage of the Act was underway (Thompson 2000b), he began to lobby for the formation of a research institution in the Southwest that "for some decades had provided a good hunting grounds for northeastern archeologists and ethnologists" (Hinsley 1986:219). In 1907, Hewett was appointed the Director of the School of American Archaeology of the Archeological Institute of America (Walter 1947). As director, Hewett worked with many younger archeologists who shared his opinions about maintaining a link between the environment in which the artifacts were found and where they ought to be on display. One of the individuals to rally on behalf of western institutions with Hewett in these years immediately following the Antiquities Act's passage was Byron Cummings. Cummings was at this time Dean of the Faculty of Arts and Sciences at the University of Utah (Willey 1988).

In August 1909, while Cummings was working under a federally approved Antiquities Act permit along part of the San Juan drainage (in northern Arizona and southern Utah), officials of the Smithsonian Institution interrupted his field investigation. Cummings' party was instructed to leave the area because all materials in this pristine, undisturbed site were reserved for the Smithsonian collections in Washington, D.C. (Cummings 1909a). W. B. Douglass, U. S. Examiner of Surveys for the General Land Office (GLO), opposed the permits issued to the University of Utah. Apparently, Douglass' goal was to keep all artifacts from the newly established Navajo National Monument in the hands of the national government at the Smithsonian (Jett 1992; Rothman 1993).

In a letter of protest to First Assistant Secretary of the Interior, Frank Pierce, Cummings expressed his frustration with the situation:

[the] Smithsonian already has the best material from Arizona, New Mexico, and Utah stored away in its cellars in such quantities that half of it can never be put on exhibition or made available for study. . . . Why should not the West and western institutions have the benefit of at least part of these things that belong to this own region? The West should not always be a mere feeder for the rest of the country (Cummings 1909a).

Cummings' frustration reflected other regional concerns which led to concerted efforts to establish museums at western universities to share the artifacts with the local citizenry as well as attract potential students (Cummings 1909b). Upon application, the University of Utah museum was authorized in October, 1909 to become an official depository of artifacts for the collections made by Hewett and Cummings in the previous seasons and those yet to come. A western institution had achieved permission to maintain an archeological collection, to proceed towards displaying antiquities, and tell the story of the ancient people of the Southwest in a native environment. Despite previous entanglements, Cummings maintained a perspective that encouraged cooperation and civility between eastern and western researchers (Cummings 1909c) since any newly discovered information was of benefit to all. Ultimately, both parties united in an arrangement motivated by pragmatism and diplomacy (Jett 1992:15; Rothman 1993) and the existing Antiquities Act permits were not cancelled.

In the meantime, Hewett was busy between conducting his field research through the newly designated AIA School of American Archaeology and searching for a suitably permanent location for the transient research institution. The school had been seeking a permanent location for almost two years (Forrest 1965:146; Sheftel 1979) when Alice Fletcher offered assistance. Fletcher had a long association with the region as an associate of the Peabody Museum at Harvard, a government consultant on American Indian affairs, and a long time advocate for antiquities preservation in the Southwest (Claassen 1994; Rossiter 1982). Several other important friends and colleagues from surrounding states supported the idea of a permanent home for the research institution and site of a field museum (Chauvenet 1983). The location ultimately chosen was Santa Fe, New Mexico (Fowler 1999; Hinsley 1986; Walter 1947).

In 1909, efforts to establish the Museum of New Mexico in the "Palace of the Governors" building in Santa Fe were rewarded. The School of American Archeology and the Territorial Historical Society found a home for research and preservation of archeological and ethnological collections in a three hundred-year-old structure built by order of the Spanish Crown (Chauvenet 1983:77; Forrest 1965:146; Hinsley 1986:221; Sheftel 1979). In one year, the west had secured the establishment of two major depositories to store, study, and display the artifacts their excavations were uncovering. Hewett had accomplished his goal of taking "advantage of local enthusiasm, regional pride, important individuals egos and the untrained ardent talent" (Hinsley 1986:219) to establish a major western archeological center.

Newly formed western establishments continued to emerge throughout the 1910s and into the 1930s. They launched large-scale research projects of sizeable scientific importance to equal their eastern counterparts. By 1915, Byron Cummings had relocated to the University of Arizona where he both headed the Department of Anthropology and the Arizona State Museum and continued his fieldwork on the Navajo Indian Reservation. Harold Colton and his wife began building a collection for the Museum of Northern Arizona in the late 1920s. Beginning in 1926, Harold S. Gladwin and Winifred Jones MacCurdy (later to become Mrs. Winifred Gladwin in 1933) began a five year project to restore ruins at Gila Pueblo, Arizona (Haury 1985; Rohn 1973).

Following Hewett's lead to keep regionally significant cultural and archeological material in local repositories accessible to western residents, new institutions considerably decreased the removal and shipment of antiquities to distant locations. Increasingly, archeological collections made throughout the West remained in community, state, and regional museums for the appreciation and education of the local people. These collections also enticed increasing numbers of tourists to visit western sites and not just go to East Coast museum displays and exhibitions.

#### *Ceaseless Vandalism*

The destruction and looting of antiquities for sale and trade on the expanding antiquities market continued despite increased numbers of official and professional field researchers, more federal employees in agencies such as the National Park Service, and greater contact between museum and university archeologists and Department personnel. The federal legal protection afforded by the Antiquities Act was not enforced effectively. For more than two decades after 1906, there is no evidence that a single individual was been prosecuted for violating the provisions of the Antiquities Act. In early investigations, collections were confiscated, but remained in the custody of the individual western residents who illegally removed them until final arrangements for transfer to federal agencies could be made (Frazier 1932a, 1932b).

G. G. Frazier, a field agent for the GLO, filed a memo in 1932 explaining his work investigating "ruin trespasses" and the seizure of illegally obtained objects of antiquities from federal land. Frazier's work suggested a different approach that might be taken by the Department of the Interior with regard to violations of the Antiquities Act. Violations appear to have been forwarded to Frazier beginning in the 1930s. By 1932, nine Antiquities Act violations had reached Frazier's desk for investigation. He reported on each case individually and the results of cases in Wayne County, Utah and TuWeep Valley, Arizona were found in the NARA II permit files (Frazier 1932a, 1932b).

Two distinct opinions regarding the Antiquities Act violations were developing on the West and East Coasts. Assistant Geologist Frazier argued that factors including religion, commercialism, excavations on private lands, and bitterness over the shipping of western treasures to non-local museums impeded present and future enforcement of the Antiquities Act (Frazier 1932c).

To address the problem of bitterness and foster the support of local communities in the protection of antiquities, Julian Steward at the University of Utah and Jesse Nusbaum as the Department Consulting Archeologist and Director of the Laboratory of Anthropology agreed upon a solution that was submitted to the Department. Steward suggested materials seized during these illegal excavations be placed in "branch museums."

Holdings of the principal collections should be notified that their specimens are subject to seizure unless they are willing to cooperate in such a way as to preserve the specimens for the best scientific and educational purposes (Steward 1933).

Artifacts would continue to be available in branch museums for the enjoyment of local residents while being curated to ensure their preservation for the future. Both men agreed that institutions in the Southwest, if approved by the Department, would be preferable and more useful for determining prehistoric data regarding the area concerned. Education about the value of archeology through museum displays and continued postings of the Antiquities Act on federal lands were considered means of curbing the escalating violations.

The Secretary of the Smithsonian Institution had another opinion. In a letter dated April 14, 1933, Secretary Abbot expressed serious doubts concerning the effectiveness of the proposed branch museums to the Secretary of the Interior. Rather than establishing field museums in small towns with only several hundred residents, Abbot proposed a seizure of the collections and shipment of them either to the Laboratory of Anthropology or the United States National Museum, unless firm plans to construct the proposed local museums already existed (Abbot 1933). In Abbot's opinion, the problem of antiquities looting and trafficking would be most easily halted through the confiscation of all illegally obtained specimens.

The Department's position on the matter of seizure and transfer to the United States National Museum and the confiscation of materials and their investigation and display in the Southwest was described in a memo and letter written in April and May 1933 respectively. Jesse Nusbaum was authorized under Section 16 of the rules and regulations of the Antiquities Act to take possession of the materials illegally excavated from federal land of the Department of the Interior (Chapman 1933). Materials would be studied and displayed at the Laboratory of Anthropology in Santa Fe. The Department hoped that confiscation would bring about a speedy reduction in illegal activity. Additionally, future violations of the Antiquities Act could now be reported to Archie D. Ryan, Special Agent in Charge in Salt Lake City, Utah. Cases of violation could then be presented to the United States Attorney for prosecution, if enough evidence could be secured to proceed (Glavis 1933). Despite the fact that agents from the GLO of the Department of the Interior were now investigating cases of looting and vandalism on federal land, no violations were reviewed by the U. S. Attorney during the first thirty years of the twentieth century. In fact, the prosecution of Antiquities Act violations continued to be extremely rare for more than sixty years after the Act passed (McGimsey 1976).

#### **Chapter 4: Summary and Conclusions**

The Antiquities Act and the accompanying permit process played a vital role in advancing responsible archeological excavations and expanding government attention to site protection and ruins stabilization. The Department of the Interior assumed a new preservation role with passage of the act, although there was little or no administrative structure in place to address the challenges that came with the role. As a result, administrative developments to reconcile the new responsibilities were reactive and haphazard. Despite these problems, the Department instituted incremental procedures in an attempt to enforce the first federal statute protecting antiquities on public land.

A systematic approval mechanism for the permit applications was created by federal regulations within a year of the law's enactment. The National Park Service was organized after 1916 to manage protected parks and monuments from vandalism, illegal excavation, and other forms of destruction. The archeologist Jesse Nusbaum was employed by the National Park Service as Superintendent of Mesa Verde National Park beginning in 1921. In 1927, Nusbaum received the additional assignment as Archeologist for the Department of the Interior to handle the increasing Antiquities Act permit applications, monitor permit holders, and investigate other archeological problems (McManamon and Browning 1999). By the mid 1930s, the number of permits had grown to more than 30 annually and federal archeological interests were increasingly expanding

beyond the Southwest into Alaska and onto the Great Plains. The looting problem was not solved, despite complaints to Department officials and the more attention to the problem.

The Antiquities Act permit was closely associated with pioneers in American archeology, including Hewett, Cummings, Fewkes, Morris, de Laguna, Judd, Kidder, and other university faculty members, international universities, and museums. By the 1930s, a few female applicants completed their own research among the sites of the Southwest and Alaska. Between 1907-35, applicants representing more than 50 institutions, organizations, museums, and universities were granted more than 300 permits for archeological and palaeontological study throughout the western United States.

The Antiquities Act permit procedures were the first attempt to regulate public interest in the ancient American past. The procedure enforced a policy focused on protection, preservation, and public interpretation. Access to Department of the Interior archival documents indicates that small museums and civic organizations were able to collect antiquities alongside individuals representing famous museums from throughout the world, provided they followed the increasingly professional requirements of careful excavation, formal reporting, and public interpretation. Virtually unknown applicants made their contribution to proper Antiquities Act research and conducted work that launched early American archeological careers.

The Antiquities Act permit process played an important role in the growth and spread of proper excavation methods, scientific study, public display, and interpretation of the remains of the past unearthed on federally protected land. The commonality among all the applicants who received Antiquities Act permits was that they had convinced the Department of the Interior of their commitment to scientifically collect, preserve, and share collections and information with the American people derived from their excavations. Expanding public education and increasing understanding of ancient relics of past cultures remained one of the most important obligations of the archeologists to the public.

Despite generally ineffective protection due to inadequate field law enforcement, the Antiquities Act established essential public policies (McManmon 1996, 2001). Antiquities Act archives, in particular the rich permit information enables present day researchers to journey back to the Southwest when archeology was a young discipline and federal involvement with archeology was in its infancy. The permits provide an opportunity to rediscover the earliest federal excavations. These artifacts inform us about ruins stabilization techniques and materials of the past and aid us in rediscovering excavated collections. As the Department of the Interior continues to document the impact of the passage of the Antiquities Act, the information, reports, and correspondence arising from excavations both memorable and forgotten may be used to answer the lingering questions of the past and address problems of the present.

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