



February 27, 2020

RADM Samuel J. Cox USN (Ret.)
Director, Naval History and Heritage Command
805 Kidder Breese St, SE
Washington Navy Yard
Washington, D.C. 20374

Re: Cultural Heritage Concerns Regarding the Revival of the Navy Trade and Exchange Program

Dear Director Rear Admiral Cox,

The Society for Historical Archaeology (SHA) has become aware of plans to revive the Navy Trade and Exchange Program especially pertinent to museum exchanges. The memo detailing a complete revision of the museum exchanges policy was released on April 11, 2019 as SECNAV INSTRUCTION 5755.2B. While this policy does not explicitly reference archaeological sites, or the National Historic Preservation Act, the SHA believes implementation of this policy has significant potential to adversely impact the nation's historic resources and military heritage sites. We write to ask for certain limitations regarding how various elements of this policy are defined and will be implemented, and to ask the Naval History and Heritage Command and the Department of the Navy to ensure that historic preservation professionals inside the Navy and across the country be adequately consulted in this important matter.

The SHA is the world's leading scholarly society devoted to the archaeology and material culture of the modern world (A.D. 1400-present). Our members include cultural resource management professionals, academic archaeologists and anthropologists, and other subject-matter experts with an interest in historic preservation. The Advisory Council on Underwater Archaeology (ACUA) is affiliated with the Society for Historical Archaeology and has already expressed concerns about the extent of this planned policy change. Members of our organization participate in our national preservation program as curators and conservators of important historical and archaeological collections, as terrestrial and underwater archaeologists, as cultural resource managers for federal agencies, and in many other capacities.

The SHA has the following major concerns about the policy as it is currently defined:

- Discussion regarding the policy shift in the public sphere mainly emphasizes how this policy might result in substantial salvage operations on military wrecks that meet the definition of archaeological sites;
- The terms in the policy, such as condemned/obsolete combat materiel, are not extensively defined and might be applied towards components within underwater archaeological sites associated with wrecked military craft;
- There is no information in the policy regarding whether salvage operations would be considered for craft associated with the death of American servicemembers;
- There is no information in the policy regarding how the Trade and Exchange program would intersect with the Navy's obligations under the National Historic Preservation Act or how it would be coordinated with State Historic Preservation Offices whose jurisdictions include many of these wrecks;
- There is no discussion in the policy regarding how the adverse effects of salvage on military wrecks constituting historical or archaeological sites would be assessed; and
- The policy design would require the assessment of monetary value of any items or services traded, which if applied to archaeological sites constitutes violations of professional ethical obligations.

We respectfully ask that that the Trade and Exchange policy, if implemented, be revised to limit and further define important terms in the policy, and to create clear steps to preserve archaeological information and follow common professional ethics in the archaeological community.

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The Trade and Exchange Policy Should Not Make Exchanges of Archaeological Sites or Materials

SECNAV INSTRUCTION 5755.2B defines how objects related to the historic interpretation of Navy and Marine Corps history, including “books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat materiel,” can be traded and or exchanged for other items of historical importance, or for certain services, programs, supplies, facilities, equipment, or systems. Explicitly included here are salvage

services. The SHA is aware that according to public records¹ of the meeting, organizations and companies associated with commercial salvage are hopeful that this change in policy will result in accelerating salvage of military aircraft by commercial operations in exchange for assistance provided to the Navy in recovering rare types of submerged craft for the Navy historical archives. This development appears to rest on the definition of “obsolete combat materiel” to include items and objects such as sunken military craft and vessels. However, such vessels are also archaeological sites, and this policy therefore requires a much greater examination and definition of what “obsolete combat materiel” means, whether an item underground or under water still constitutes “obsolete combat materiel” and how the program proposes to ensure the Trade and Exchange program follows best practices of archaeological heritage management.

Sunken military craft can and should be considered to be archaeological sites and are characterized as archaeological sites by the Department of the Navy. The NHHU Underwater Archaeology Branch Methods and Guidelines for Conducting Underwater Archaeological Fieldwork states that “It is Department of the Navy policy to preserve, protect, and manage underwater archaeological resources in a way that promotes the purposes of scientific research, heritage interpretation, and public education. Such resources include shipwrecks, aircraft crash sites, and submerged land sites, among others.” The management of these sites is defined by the Sunken Military Craft Act, which places responsibility for the stewardship of the Navy’s collection of over 17,000 ship and aircraft wrecks under the Naval History and Heritage Command Underwater Archaeology Branch. This is the appropriate approach to heritage stewardship, given that the use of archaeological methods and approaches on submerged military craft lost for any length of time will likely recover more information about the crash event and the wreck than will commercial salvage. The Defense POW/MIA Accounting Agency commonly uses archaeological and anthropological methods for recovering the bodies of American servicemembers lost overseas, including on aircraft crash sites. Aviation archaeology and shipwreck archaeology are recognized sub-disciplines within the archaeological community, and specialize in the identification and scientific recovery of historical information from wrecks of ships and aircraft. There are numerous examples of national and international sunken craft recognized as archaeological sites, including the RMS Titanic

¹ See e.g. Navy Trade and Exchange Program Public Meeting Minutes. National Naval Aviation Museum. April 12, 2019. <https://www.navalaviationmuseum.org/news/navy-trade-and-exchange-program-public-meeting-minutes/>; Naval Aviation Museum hopes to save WWII history by trading old aircraft and parts. Pensacola News Journal. March 21, 2019. <https://www.pnj.com/story/news/military/2019/03/21/pensacolas-naval-aviation-museum-hopes-revive-trade-and-exchange/3155718002/>; Naval History & Heritage Command Revives Trade & Exchange Policy. Warbird Digest. April 25, 2019. <http://warbirdsnews.com/aviation-museum-news/naval-history-heritage-command-revives-trade-exchange-policy.html>

and the Maid of Harlech, the remains of a U.S. P-38 Lightning fighter that crashed on the Welsh coast in 1942 and has been listed as a scheduled monument.

Given that submerged military craft and wreck sites are archaeological sites, SECNAV INSTRUCTION 5755.2B should directly address this possibility and provide guidance regarding whether archaeological site salvage rights or ownership would be considered an item available for exchange and how adverse effects to historic resources could be avoided, minimized, and mitigated if so. Furthermore, the Navy should consider how the Trade and Exchange program should be coordinated with State Historic Preservation Offices where sites and objects reside under their jurisdiction, with the Navy Federal Preservation Officers, and with the Naval History and Heritage Command Underwater Archaeology Branch. The SHA strongly opposes inclusion of archaeological materials, particularly those still in situ underwater or underground, as an object of an exchange.

Trades, Exchanges or Salvage on Archaeological Sites Would Raise Complex Ethical Challenges for the Navy

If trade, sale, or salvage is anticipated on sunken military craft in the implementation of this program, one serious ethical consideration is that some of these crafts represent the final resting places of American servicemembers, and should be considered war graves. There is no information in this policy addressing whether craft associated with fatal incidents would be considered for salvage, trade, or exchange.

Furthermore, professional archaeological ethics forbid and discourage questions of sale, appraisal, and trade of materials recovered archaeologically. The SHA Ethical Code includes Ethics Principle 6, which states that “Historical archaeologists shall not sell, buy, trade, or barter items from archaeological contexts. Historical archaeologists shall avoid assigning commercial value to historic artifacts except in circumstances where valuation is required for the purposes of appraisal and insurance or when valuation is used to discourage site vandalism.”² The Society for American Archaeology Principles of Archaeological Ethics, passed in 1996, states that “The Society for American Archaeology has long recognized that the buying and selling of objects out of archaeological context is contributing to the destruction of the archaeological record on the American continents and around the world...Whenever possible [archaeologists] should discourage, and should themselves avoid, activities that enhance the commercial value of archaeological objects, especially

² SHA Ethics Principles. <https://sha.org/about-us/ethics-statement/>

objects that are not curated in public institutions, or readily available for scientific study, public interpretation, and display.”³

The way the Trade and Exchange program is designed, any trade or exchange contemplated by the Navy requires the trade to be of monetary benefit to the Navy, i.e. the trade cannot exchange something owned by the Navy for something of lower value. If salvage rights or salvage services are envisioned as an object of a trade, and that salvage is occurring on sunken crafts that constitute archaeological sites, this program encourages the financial appraisal, trade, or sale of archaeological remains in a manner prohibited by professional ethical standards. This concern is especially significant when the participant in a contemplated trade or exchange is a private individual or commercial enterprise, as opposed to a public institution or museum. Even when museums are involved with the transfer and trade, the Navy should be aware that if its Trade and Exchange policy permits the salvage of aircraft or ship parts, that this will likely result in the commercialization of archaeological materials and a cumulative pressure towards salvage and impacts to archaeological sites. It is clear that commercial salvage operators were a significant number of the participants in the public meeting about this program, and that aircraft acquisition through salvage was an item under discussion.⁴

As a heritage advocacy organization representing thousands of archaeologists and heritage management professionals, the SHA strongly opposes any Federal agency encouraging the commercialization, sale, or trade of archaeological materials, especially into private hands.

If Salvage is Conducted by or Allowed by the Navy, it Should Follow Requirements of Section 106 of the National Historic Preservation Act and the Sunken Military Crafts Act

If the Navy chooses to conduct salvage on archaeological sites, notwithstanding the problems of archaeological ethics that arise when assigning monetary value to archaeological materials, it must still contend with the fact that the Navy providing salvage permission on sunken military crafts comprises a Federal undertaking, and must be accompanied by consultation under Section 106 of the National Historic Preservation Act.

³ SAA Principles on Archaeological Ethics. 1996. <https://www.saa.org/career-practice/ethics-in-professional-archaeology>

⁴ Navy Trade and Exchange Program Public Meeting Minutes. National Naval Aviation Museum. April 12, 2019. <https://www.navalaviationmuseum.org/news/navy-trade-and-exchange-program-public-meeting-minutes/>

This process should also engage with the State Historic Preservation Office associated with the location of the sunken craft, the Naval History and Heritage Command Underwater Archaeology Branch, and the Navy Federal Preservation Officer. The Advisory Council on Historic Preservation should be invited to consult on individual actions, and on this overarching policy before it is finalized. If the Trade and Exchange program is used to allow salvage on archaeological sites, then the adverse effects of the salvage must be mitigated through a process that considers the input of affected stakeholders and the public, and should be preceded by data recovery meeting the requirements of the NHHC Underwater Archaeology Branch Methods and Guidelines for Conducting Underwater Archaeological Fieldwork.⁵ Consultation with interested stakeholders must be conducted prior to issuing permits, and applicants for such a permit should meet the Secretary of Interior standards for underwater archaeological investigations and those of the Underwater Archaeology Branch.

If salvage is envisioned on archaeological sites, these activities should follow procedures already set by the Sunken Military Crafts Act. The Sunken Military Craft Act (SMCA) was passed by Congress in 2004 and lays out the ownership of craft that were lost in the act of carrying out military operations or were owned by a military at the time they sank. It protects the ownership rights of the U.S. military in sites associated with the loss of military boats, warships, aircraft, space craft, and contents located in the debris field associated with these events. The act also underlines the rights of the branches of U.S. government to permit and authorize archaeological or other destructive work on these sites. Sunken military craft are defined in the SMCA to include sunken warships, naval auxiliaries, military aircraft, and military spacecraft that were owned or operated by a military when they sank in U.S. or foreign waters, regardless of whether it was a craft operated by the U.S. military or a foreign military (H.R. 4200 Sec 1408 3(B)). The NHHC already has policies and procedures for evaluating projects for archaeological study and assessing the adequacy of archaeological methods conducted on sunken military crafts. Under the SMCA, Section 1403 provides the Secretary with the power to issue a permit authorizing an effort “that disturbs, removes, or injures any sunken military craft” for archaeological, historical, or educational purposes. Section 1403 clearly states that the issuance of such permits must be consistent with other provisions of Federal law and must involve “consultation with the head of each Federal agency having authority under Federal law with respect to activities directed at sunken military craft or the locations of such craft.”

⁵ <https://www.history.navy.mil/research/underwater-archaeology/sites-and-projects/Guidelines.html>



The SHA is greatly concerned about the prospect of salvage of Navy materials that constitute archaeological sites, but at a minimum any contemplated salvage activities should be preceded by permit and archaeological mitigation processes that maintain the historic preservation standards of the Navy and include input from affected stakeholders.

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The SHA includes a variety of curators and museum professionals, and we understand that the broader aim of the Trade and Exchange program is to provide an orderly way for the Navy to deaccession a broad array of obsolete or excess material in exchange for items and services that improve the Navy's historic interpretations and education programs. This is in theory a useful policy, and professionals in museum collections management understand that deaccessioning is an important part of managing a collection.

However, the details of how such policies are designed, implemented, and reviewed are critical. Currently public reporting suggests that this policy revival is mainly focused on allowing recovery of aircraft remnants that constitute archaeological sites. Given a lack of clarity regarding what this policy should be applied to, SECNAV INSTRUCTION 5755.2B should be revised and restricted to ensure that the Trade and Exchange Program will protect the long-term cultural heritage interests of the American public.

Sincerely,

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Barbara Heath, PhD
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