



THE ASSOCIATION OF PROFESSIONAL ARCHAEOLOGISTS

P.O. Box 493 Port Hope, Ontario, L1A 3Z4

2006-01 Spring Edition

PRESIDENT'S MESSAGE

Welcome back APA! Some of you might think that we were gone but we were simply short one Newsletter Editor for two years, a position now ably filled by Jacquie Fisher. The past year has been busy for APA, primarily working on issues associated with the draft Standards and Guidelines for archaeologists in Ontario. Andrew Murray and Heather Henderson worked diligently at the guidelines meetings and were eventually recognized as formal representatives of APA in that process. Andrew and Heather have now stepped down from the APA Board but have generously volunteered to serve on the Membership Committee so that our turn-around times for applications can be substantially shortened. Our membership Director is now Penny Young, known to many of you from her position at the Ministry of Transportation and before that at the Ministry of Culture. We are very pleased to have her help with this important job. Also new to the Executive are Scarlett Janusas, our new Vice-President, and Peter Timmins, our new Secretary. Scarlett and Peter have already brought much new energy to the workings of APA and we look forward to their continued involvement. Finally, returning to the Executive are Donna Morrison and Bill Ross, both APA Directors of long-standing and experience. Bill is our only northern Ontario Director and capably represents the interests of this region. I am also very pleased to welcome Dr. Gary Warrick back to the APA Executive as our new Grievance Co-ordinator. Gary has taken time from his busy schedule as Acting Dean of the Brantford Campus of Wilfrid Laurier University to be active in APA.

After five years with no change in membership fees, APA decided it must raise fees as of March 01, 2006 to \$60 a year for professional voting members. These fees are still quite low for a professional organization and leave us with overall funding which is not really adequate to provide the services which members need. Not only are all of the current executive volunteers of their valuable time, but they contribute their own travel, phone and other expenses at no cost to APA. They deserve your thanks! On May 17, 2006, key executive members of the APA, including myself as President, will have met with staff of the Ministry of Culture, including Rita Scagnetti, Director of Heritage Operations, to discuss funding possibilities for APA. In order to provide enhanced services, such as operating a Consulting List for Ontario Archaeologists on our Web Page, APA must have secure funding.

In the coming two years, I would like to see a return to a level of service once provided by APA, including an annual symposium (like the APA session organized for Ontario Archaeology for the CAA meetings this year), at least two newsletters a year, some progress on the APA journal (which suffered neglect for lack of contributed articles), instruction and training sessions in areas from artifact identification to GPS proficiency, and so on. At our General Meeting at the CAA sessions we will have invited members to give us their thoughts on the future role of APA. If you have ideas, please give us a call or send us an e-mail or letter. Have a good and rewarding field season!

Lawrence Jackson
APA President

BOARD OF DIRECTORS

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ANNOUNCEMENTS

CAA Conference

The Canadian Archaeological Association (CAA) will be holding their 39th Annual Meeting in Toronto, Ontario, from May 24th to 27th, 2006. The venue is at the University of Toronto, and is being held at 89 Chestnut Street. For more information please see the following web pages:

www.canadianarchaeology.com &
www.89chestnut.com

APA General Meeting

A General meeting of the Ontario Association of Professional Archaeologists (APA) will be held on Saturday, May 27th at 12 noon in conjunction with the annual meetings of the Canadian Archaeological Association. The meeting will be held at 89 Chestnut, Toronto, a University of Toronto conference centre and residence.

The meeting will feature an Open Forum on the future of the APA, an update on the New Standards and Guidelines for Ontario Consulting Archaeologists, and an update on the online Archaeological Consultant List.

The meeting will be preceded by an APA sponsored CAA session, "Contributions to Ontario Archaeology", with presentations by Dana Poulton and Christine Dodd, Michael

Henry, Andre Polsky, David Slattery, Andrew Murray, Peter Timmins, Holly Martelle, Dena Doroszenko and Sean Fraser, and Paul Racher. The session begins at 8:40 am and will be followed immediately by the general meeting. Lunch will be provided for APA members. Please plan to join us for what promises to be a very informative day!

For additional information contact:

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The APA is compiling an Ontario Consultant's List for the Ontario Archaeological community. Please see our web page (new address):

www.apaontario.ca

The Provincial Government of Newfoundland has a very informative web page pertaining to archaeology that our members should find interesting.

www.tcr.gov.nl.ca/tcr/pao/

GOVERNMENT (MCL) ISSUES

The following was a letter sent to Jane Holland, at the Ministry of Culture, policy department, and later sent to Rita Scagnetti.

January 23, 2005
Dear Ms. Holland,

As you are aware there are two current issues that need addressing in Ontario Archaeology pertaining to the Cultural Resource Management sector: **1) Licensing** and **2) The Standards & Guidelines for Consultant Archaeologists**

(Archaeological Fieldwork).

I have a number of concerns for both of these issues. I understand the complexity of these issues and do not intend simply to point out the deficiencies, but provide some solutions as well. I will outline my concerns for each of these areas:

1) Licensing

a) Lack of professionalism and how the licensing issue was essentially shelved, because of the forwarding of the draft of the new Standards & Guidelines. I feel that we need to address the problems with the licensing and then move onto the Standards & Guidelines.

b) There has been poor communication between the Ministry and the Consultants archaeologists for licensing. We were asked to agree to the draft document back in the late winter/early spring of 2003, without seeing the final version of this document. We have not heard anything concerning licensing since April of 2003, and still do not have a paper license. In order to prove that we are licensed by the Province of Ontario, we have to write to Michael Johnson and request a letter indicating that we are. Are we in contravention of the Heritage Act by not having the physical license?

c) The licensing issue is stale and it is unclear as to what we have agreed to and what we have not. It is so far back that I have really lost track of the issues. Where do we stand on the 75/25% time split of licensed archaeologist having to be on site? The last that I had heard through unofficial channels was that the licensed archaeologist had to be present 100% of the time. I complied with this and found it entirely untenable when I was on an urban, downtown site with no close washroom facilities and would have to wait for break or lunch to leave site, or tell the crew to stop working. I expressed my views on this regulation, as did other archaeologists, but did not receive a reply from the Ministry. I again heard through unofficial channels that it really was not intended to mean 100% of the

time, but something close. However, if it is going to be listed as a regulation, then I will take it as it such. The lack of transparency and communication again is a problem. I would like to see another draft copy to consult, so that I know what is expected, and have some input as to the feasibility of some of the regulations.

I would like to suggest that it may be to everyone's advantage not to limit the license holder to being on site physically 100 or even 75% of the time. The technology of cell phones allows almost constant contact. With my field directors who *are* licensed, they still will phone me and ask questions when something comes up that they feel requires a third opinion. So while I'm not physically on site, I am available. It may be efficacious to include a phrase about availability. The Ministry of Transportation has in their sub-consultant clause that should only one person be conducting work in the field that they are required to have a cell phone with them. Would this be a solution?

d) There is an apparent client-patron relationship occurring between the Ministry and Consultant archaeologists instead of an equal partnership. We as consultants are being held accountable for following the regulations and yet the Ministry is not providing full disclosure of the rules. We are currently half in the old system for licensing and half in the new. Which one is it? We have a three year license, and yet there is the same year end deadline for reports. The only difference is that we do not have to re-apply for the license, of which we do not have a copy.

This brings up a point that has been contentious over the years with a number of Consultants – the time frame for the handing in of reports. I was told that it is not up to the Ministry to delve into the working of a consultant's business, and the year time frame to hand in reports was adequate. It was up to the consultant to hire enough staff, budget enough monies in order to get analysis completed and the report in, within the year. Stages 1 to 3 have not been a problem

with handing in reports, but when I have had a number of Stage 4 projects, I have found that to conduct the field work, do the analyses and write the reports all within the year time frame is not feasible. It becomes even more problematic when the Stage 4 work is far more than originally expected (which occurs due to the unpredictability of archaeology) or if a client refuses to pay. Both instances have occurred to me in the past three years, and I spend far too much time trying to play catch up. This part of the licensing issue should be reviewed critically. I would suggest a different time line for all Stage 4 reports, and suggest a two year deadline, as it is usually during the following winter (non-field season) when reports are written.

e) Some clarification is needed concerning the rules concerning when a license is valid. While we have agreed to the 3 year license, there is a concern of what happens when you have outstanding reports. According to the rules, CIF's (PIFs) will not be processed after the physical year end deadline. That is understandable. However, I have also heard of CIFs not being processed before December 31st, since the Ministry staff were anticipating outstanding reports after the year end deadline for that Consultant. Therefore, when does the staff not issue CIFs, and how far back in anticipation will this become a concern? If one applies to do a Stage 4 excavation of an Iroquoian village at the end of October, will this be denied since there may be a chance that due to weather, acts of gods, labour strikes *et cetera* that you will not finish the field work before Dec 31st? I would suggest that if a CIF is sent to the Ministry before the December 31st deadline, then it should be duly processed since the license is still valid.

f) The application forms are very confusing, far too cumbersome, and clarification is desperately needed. It was only by word of mouth that I knew that the Field Director category was in existence and that it was to come under Research. There again is a lack of transparency and communication. I would suggest that this section be reviewed by both the Ministry staff and stakeholders to work on a tenable format. I had to wonder at a student who

was applying to conduct Stage 2 survey who had to list all of his Stage 4 experience and his license application was returned to him. The avocational archaeologists have also been concerned about the licensing categories and the amount of follow-up paperwork. Organizations such as the Ontario Archaeological Society and individuals have long been advocating the usefulness of avocationalists and their contributions to the archaeological record. However, I can see if this process is made too complicated and cumbersome, people will stop actually reporting their findings.

g) Is there a commitment by the Ministry not only to ensure that there will be enough staff to oversee these new procedures, but also to provide back-up for the staff? I feel that there currently is not enough staff to deal with these very important concerns. I know of one applicant who spent months in the application. What is the status of the new Underwater and Licensing position? I understand that it has not been filled due to the level of pay offered for this position. Could this position be separated into two?

h) This point is related to both items "f" and "g". There are inconsistencies in the application process. Is there enough staff to regulate the applicants to ensure that those people who are applying for research (and not field director) are actually conducting research and not consulting? Is the Ministry actually enforcing their licensing regime?

2) Standards and Guidelines

This is a large document and it would also require a long response which I think would be better stated in another letter. I would like to point out at this time that I think the document is prescriptive and does not hold Consultants as professionals. I am concerned that if this document is adopted, that the Provincial Standards and Guidelines will not mesh with the up-coming Federal Historic Initiatives Standards

and Guidelines. The underlying philosophies are such that it would be difficult for the Provincial ones to complement the Federal and *vice versa*. Was the Federal document considered when drafting the Provincial Standards and Guidelines?

Again, there is an issue of communication. I received the document (62 pages) by courier and while I knew it was coming, some colleagues had received it on Friday, July 30th), but I did not receive it until Tuesday, August 3rd 2004. The meeting was held on the Thursday, August 5th. This is less than two days in which to review the document and provide comment. I was reading it on the way down to the meeting. This does not foster a general level of trust. Will the comments I provide really be taken into account, if there is this lack of consideration?

How much say does Policy have versus the people actually doing the work, and the TAG committee? While the work and commitment by the committee is commendable, I am concerned that what they hand in will be taken by Policy and re-written until the meaning is either lost or transformed?

I would like to address, briefly, the following:

a) There is far too much detail. This becomes a “cookie cutter” or recipe book for how to conduct archaeology in Ontario. If this document is designed to rein in renegade archaeologists, or try to provide a level playing field, then it will fail. There will always be a small number of people, who no matter what the profession or job, will operate outside of the rules. Tightening the rules, or providing detailed lists will do nothing to the renegades. I already follow a lot of the new guidelines, but there are some that are going to cause problems (financial and not methodological) for myself and my clients. The renegades will continue to ignore them.

b) I would like to have the under-pinning methodology explained in some instances. Why are standard criteria such as distances to water and others factors replaced with a figure of 400 metres?

This is under shovel testing at 5 metre intervals in section 4.2 (pg 25)? Upon what archaeological literature is this number based? Essentially, the 400 metre figure would rule out most of Ontario for conducting any survey at a 10 metre interval, and all shovel tests would have to be conducted at 5 metres.

c) The whole consultation process has been problematic. Communication is poor, and the overall time line for the implementation for this is now untenable. There does not appear to be enough time for a full consultation. When will organizations be asked to provide comment? The lack of consultation by First Nations is appalling. Stakeholders, other than the Archaeological Consultants have not been given due consideration. The development industry, avocational, professional and other organizations have not been officially or formally asked for their input.

d) What is the process for the finalization and implementation of this document? Have we been informed of the rest of this process? I saw the time frame for the projected completion, but this was obviously not attainable. What is a realistic one?

Sincerely,

Jacqueline Fisher
(President, FAC)

cc: Rita Scagnetti, Director MCL;
cc: APA board - Andrew Murray, Heather Henderson, Laurie Jackson, Donna Morrison, Bill Ross, Penny Young

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January 27, 2006

Dear Heritage Friends:

I am pleased to provide you with the enclosed bulletin that outlines regulations that have been made to implement the amended Ontario Heritage Act. These regulations mark a major step forward for heritage conservation in Ontario.



The Legislature passed amendments to strengthen the Ontario Heritage Act last April. These were the first substantive improvements to our heritage legislation in 30 years. After consulting with heritage stakeholders across the province on the regulatory framework of the act, we are now making the regulations required to fully implement the improved Ontario Heritage Act.

- The first regulation sets out clear and consistent criteria for the municipal designation of heritage properties
- The second regulation prescribes criteria for designating properties that have a cultural heritage value or interest of provincial significance
- The third regulation provides special protection to two marine archaeological sites that are unique from a symbolic and historical perspective
- The fourth regulation governs licensing to conduct archaeological fieldwork in Ontario.

Please refer to the enclosed bulletin for more details about these regulations. For more information about the amended Ontario Heritage Act, please go to www.culture.gov.on.ca.

Sincerely

Madeleine Meilleur

January 2006

Regulation Under the Ontario Heritage Act

The amendments to the Ontario Heritage Act provide new municipal and provincial powers to identify and protect cultural heritage sites and heritage conservation districts, marine heritage sites and archaeological resources. The new regulations will provide municipalities, the province and other stakeholders with additional tools to implement the Act.

The four new regulations, developed with stakeholder input, came into effect January 25, 2006. To see the entire regulations outlined below, go to www.e-laws.gov.on.ca

Regulation O.Reg.9/06 Criteria for Determining Cultural Heritage Value or Interest

This regulation prescribes criteria for determining a property's cultural heritage value or interest for the purposes of subsection 29(1) of the Ontario Heritage Act. This subsection enables municipal councils to designate a property within the municipality to be of cultural heritage value or interest if the property meets the prescribed criteria.

The purpose of this regulation is to provide an objective base for the determination and evaluation of resources of cultural heritage value. The prescribed criteria will ensure the effective, comprehensive and consistent determination of cultural heritage value or interest by Ontario municipalities in the exercise of their powers to designate real property.

Criteria for determining cultural heritage value or interest are part of an evaluation process that will be used to determine the significance of a property. The prescribed criteria are essentially a test against which properties can be judged: the stronger the characteristics of the property compared to the standard, the greater the property's cultural heritage value. The criteria relate to such matters as historical association, design, physical attributes, and context.

To guide and inform property owners on applying the

criteria, the Ministry of Culture is producing a publication entitled Heritage Property Evaluation. The guide will provide municipalities, municipal heritage committees, heritage organizations, property owners and other heritage stakeholders with an evaluation process that sets out specific steps for identifying candidate properties and assessing their significance using the criteria prescribed by the regulation. The guide will be available at the end of February at www.culture.gov.on.ca

Regulation O.Reg. 10/06 Criteria for Determining Cultural Heritage Value or Interest of Provincial Significance

This regulation prescribes criteria for determining a property's cultural heritage value or interest of Provincial significance for the purposes of Subsection 34.5(1) of the Ontario Heritage Act. The regulation enables the Minister of Culture, after consultation with the Ontario Heritage Trust, to designate a property of heritage value or interest - of Provincial significance - within a municipality or in unorganized territory.

Criteria for determining cultural heritage value or interest are part of an evaluation process by which the Provincial significance of a property will be established. The criteria provide a consistent standard across the Province for municipalities and property owners whose properties may be considered provincially significant. These criteria address cultural heritage values such as historical associations, physical characteristics such as design/construction, information potential and context.

Although consistent with the municipal criteria, these criteria convey the special nature of Provincial significance.

Regulation O.Reg. 11/06 Marine Archaeological Site Protection

This regulation gives the Province the power to protect its most significant marine archaeological sites by prescribing selected sites in regulation and prohibiting access to them without a site-specific licence. Two sites are to be listed: The Edmond Fitzgerald in Lake Superior; and, the USS Hamilton and USS Scourge, prescribed as one site, in Lake Ontario.

The Edmond Fitzgerald is unique in that its heritage value lies in its symbolic and folklore connections to a community; high public interest; and the presence of

human remains.

The USS Hamilton and USS Scourge are selected for their rarity, integrity, historic value, value to a community and the presence of human remains. They are both War of 1812-era schooners that are intact examples of early 19th century merchant vessel/warship hybrids that are extremely rare in the Great Lakes.

Ontario's program for the protection of marine archaeological sites is consistent with practice in most other jurisdictions. However, this regulation, which limits access without site-specific licences to prescribed sites, makes the province a leader in the protection of special marine archaeological resources.

Regulation O.Reg. 8/06 Archaeology Licences

The Ontario Heritage Act protects the province's archaeological resources by requiring anyone conducting archaeological fieldwork to be licensed.

This regulation sets out, for the first time, the requirements for licence applications and renewals for archaeological fieldwork at sites other than marine archaeological sites. It prescribes eligibility criteria; classes of a licence; terms, conditions and limitations of a licence or class of licence, including the type of archaeological fieldwork that may be carried out.

This regulation is intended to bring clarity and certainty to the process for licensing archaeological fieldwork under the act. The licensing system created by this regulation has been developed and tested in extensive consultation with the archaeology sector. It provides a streamlined and transparent process for applicants and decision-makers alike.

MEMBER FEEDBACK

The APA newsletter is open to letters, ideas, articles from our members concerning. Please contact the newsletter editor. jacque.fisher@sympatico.ca