

## Isolated Finds/Citizen's Archaeology Permit

Public Lands Archaeology, DHR staff

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The Citizen's Archaeology Permit proposes to revive the Isolated Finds Policy. The Isolated Finds Policy was a program that allowed private artifact collectors to own artifacts removed from Florida's river bottoms contingent upon the collectors sharing information about their finds with the Florida Division of Historical Resources. The purpose of the Isolated Finds Policy was to facilitate communication between amateur and professional archaeologists, but the goal was not achieved because only about one fifth of collectors reported their finds. South Carolina is the only other state to ever enact a similar policy, and many states have specific legal codes to protect cultural resources on sovereign submerged lands. In 2005, after eleven years of the Isolated Finds Policy, the Florida Historical Commission voted unanimously to discontinue the program without a replacement.

### Condoning Theft from State Lands

Florida's navigable waterways and large lakes are such important resources that they can not be owned by any one person; rather, all citizens collectively share the waterways and the resources they hold. To maintain the sovereignty and collective ownership of our state lands, the Florida Statutes prohibit a "finders keepers" mentality within these designated areas. Just as no citizen is allowed to harvest a cypress tree or adopt a turtle from a state-managed wildlife area, cultural artifacts from these lands are protected so that present and future Floridians can all enjoy these shared resources. Unlike trees and wildlife which are renewable, our cultural heritage is nonrenewable. Calculated into an artifact's inherent value is the fact that objects of antiquity are no longer being made. A Florida Rule prohibits removing or negatively affecting property and resources in State Parks:

"No person shall destroy, injure, deface, mar, move, dig, harmfully disturb or remove from any park area, or the waters thereof, any buildings, structures, facilities, historic ruins, equipment, park property, soil, sand, gravel, rocks, stones, minerals, marine plants or animals, artifacts, or other materials" (Rule 62D-2.013, Chapter 258, F.S.).

The state made the decision to prohibit removing an unmodified rock from the river in a State Park, so how can we justify permitting people to take rocks altered by some of the first Floridians from our state lands?

While the Florida Statutes provide that "the division *may* implement a program to administer finds of isolated historic artifacts" (267.115 9, emphasis added), the Statutes use stronger language to directly prohibit the behavior the Isolated Finds Policy proposes (267.061 1(b)):

“It is further declared to be the public policy of the state that all treasure trove, artifacts, and such objects having intrinsic or historical and archaeological value which have been abandoned on state-owned lands or state-owned sovereignty submerged lands shall belong to the state with the title thereto vested in the Division of Historical Resources of the Department of State for the purposes of administration and protection.”

Permitting citizens to take artifacts from our sovereign submerged lands violates the ideals of our State Statutes and requires that the Florida Division of Historic Resources surrender its obligation to “administer state-owned or state controlled historical resources in a spirit of stewardship and trusteeship” (267.061, 1(a), F.S.). If the Citizen’s Archaeology Permit (or any iteration thereof) is enacted, the relationship that exists between the State of Florida and its resources will be fundamentally altered.

### History of Failure

An isolated finds program is an appealing idea, but in practice it not likely to succeed. If reinstated, we anticipate a repeat of its failure in Florida based on the same reason it failed once before and the same reason it is currently failing in South Carolina: most isolated finds go unreported and underreported. The Isolated Finds program has been called an “experiment” by its proponents in Florida (Knight and Munroe ND), and after learning our lesson once the failed experiment should not be repeated. The price of failure is a rapid loss of nonrenewable archaeological resources and irreversible loss of knowledge.

The main tenet of a successful isolated finds program is sharing—professionals sharing the experience of discovery and divers sharing the knowledge of where they have found sites. The difference between the sharing divers must do and the sharing archaeologists must do is significant; professionals sign a deal once and thereafter legally commit to share, but divers must continually act to offer back information as their part of the agreement. By design, the program places a larger and longer-felt burden on the sport divers to uphold their end of the bargain. Unfortunately, this is where the isolated finds program falls short. Honest and responsible hobby divers are outnumbered three to one by citizens who do not follow through and report their finds for the benefit of the archaeological record. The problem of divers not sharing information about their finds is one of the primary reasons professional archaeologists have learned to be wary of isolated finds policies.

Regardless of the strength of the voices from responsible avocational archaeologists, professional archaeologists and state legislators would be naïve to ignore the statistics on river diving reports in both Florida and South Carolina. After 11 years of the isolated finds policy in Florida, Public Lands archaeologist Jim Dunbar conducted a survey to gather information on the policy. State land managers received a postcard asking if they had observed citizens enjoying

the benefits of the isolated finds policy within their managed areas. The postcard requested the land managers respond by reporting when and where they encountered people with artifacts collected legally under the auspices of the isolated finds policy. The data collected from the postcards was then checked against the isolated finds reports. Unfortunately, the survey revealed a startling statistic of 78 percent non-reporting, meaning only 22 percent of citizens who land managers observed collecting artifacts shared the information on their finds.

Statistics on sport diver reporting from South Carolina closely mirror those seen in Florida. Records from the Sport Diver Archaeology Management Program (SDAMP) in South Carolina show that, as of three years ago, 20 percent of divers licensed through SDAMP complied with the quarterly reporting requirements set forth by the program. After diligent work, slightly over 50 percent of SDAMP licensees now comply with the agreement they signed to become licensed, meaning nearly half of the people in the program do not report.

Of the roughly 50 percent of South Carolina sport divers who do report, many of the reports are woefully incomplete. SDAMP is working to get improved location data including coordinates not just a river name. Specific information such as coordinates was difficult to get in the early years of the South Carolina program because collectors were interested in keeping location information to themselves. Not surprisingly, records of context within sites are even worse in SDAMP reports. The SDAMP program allows citizens to legally pillage shipwrecks as long as a map is drawn to piece plot artifacts. Unfortunately, the SDAMP manager has not seen a single sketch map in a SDAMP report.

Another aspect of underreporting is that artifacts collected through the Isolated Finds program are often not “isolated” at all. An “isolated find” is an artifact or two not associated with an “archaeological site.” In the strictest sense, Florida defines an archaeological site as three or more prehistoric artifacts within a 30 meter diameter that are not obviously redeposited. While some artifacts from the surface of Florida’s river bottoms are in fact redeposited, many are not. Florida’s rivers are unlike South Carolina’s and their low energy can preserve original context unparalleled in higher energy rivers in other states. It is irresponsible to ask a non-professional to determine whether an artifact is in its original context or displaced. Furthermore, once an artifact is removed from the river and reported by a sport diver, cultural materials taken from good context look identical to redeposited artifacts, rendering violations undetectable. Even honest sport divers can remove artifacts from sites unknowingly. For example, three divers over the course of a year could collect a single artifact from the same submerged site. Without giving self-identified artifact collectors information Florida chose to exempt from the Sunshine Law, divers would be misinformed about their find being “isolated.” A recent review of isolated finds data by Public Lands Archaeologist Dan Seinfeld revealed that many of the artifacts reported through the program were removed from archaeological sites. South Carolina shows the same

pattern. South Carolina sport divers are permitted to take artifacts from sites as long as they follow the ten artifacts per day bag limit.

Even if 100 percent of divers reported according to the standards of the program, the result would still be systematic destruction of archaeological sites in rivers with nearly no information gain to the discipline. Allowing non-professionals to take artifacts from riverine sites in exchange for a photograph and GPS coordinates amounts to discarding the opportunity to gain knowledge from the site. To draw an analogy with terrestrial sites, the method of data collection is akin to taking a backhoe to an archaeological site on land, passing the soil through a shaker screen, taking a GPS point, and calling the site excavated. Such methods discard context and therefore prohibit any meaningful interpretation of the site.

### Compromising Ethics for Limited Information

Legalizing artifact collecting on river bottoms is not a good solution to the problem of illegal collecting. A common argument in favor of permitting artifact collection from sovereign submerged lands is that collecting is already happening in rivers and will continue to happen regardless of its legality. Under this line of reasoning, allowing individuals to take artifacts from Florida's rivers is an act of negotiation to reduce intimidation so professionals can salvage information from private collectors. This justification for an isolated finds policy is not sound because it assumes that the only way to gather information about collections is by first decriminalizing the people who illegally collect. SDAMP views their law as a "compromise," meaning the program was put in place to rescue information that would be stolen from South Carolina's state lands regardless of policy. Even proponents of Florida Citizen's Archaeology Permit Bob Knight and Don Munroe assess the isolated finds policy as "neither a total success nor a total failure" (Knight and Munroe ND). Neither professionals nor collectors are content with such a compromise, and over time legalizing collections only exacerbates existing problems.

Formal surveys of private collections can and will occur without reinstating the isolated finds policy—just not with any state affiliation. As the program in South Carolina demonstrates, private collectors are less willing to share information with someone who works for the government than from a sympathetic local. In South Carolina the culture of distrust between professionals and hobby divers is still strong enough to prohibit SDAMP from gathering information from some of the divers. As a workaround, a citizen volunteers his help to the program and travels to divers' homes recording collections that have not been otherwise reported. Despite the reluctance of some collectors to allow a professional archaeologist record their artifacts, graduate student projects to document private collections are frequently accomplished without intimidation (e.g. Thulman 2006; Tyler 2008; Woodward 2012).

### Cost of an Isolated Finds Program

If the isolated finds program is reinstated, it will come at a cost: 1) the annual cost to permanently fund at least two full-time employees, and 2) the cost that will compound over generations as future Floridians lose the opportunity to share the finite resources of our public lands. Each of these costs is demonstrated by South Carolina's program.

For a program to reach moderate success in Florida, it will need to be accompanied by funding for two positions, one person to manage the program and a second to travel the state to view collections withheld from reports. The position responsible for recording collections will of course require exceptional traveling privileges, including permission and financial support. The need for a traveling collection recorder is echoed in the proposal for The Citizen's Archaeology Permit (Knight and Munroe ND). The second employee will work full-time to manage the program. South Carolina achieves a success rate of about 50% with one full-time archaeologist managing the licensing, monitoring reporting, and providing education to participants. Duties for the position to manage licensing would include 1) creating an electronic reporting system and implementing a system to track compliance, 2) training state land managers to monitor divers, 3) reviewing reports, 4) notifying people who are not in compliance, 5) educating permit holders about archaeology, and 6) processing Isolated Finds permit requests. Two positions will provide moderate success. Della Scott-Ireton, Director of the Florida Public Archaeology Network office in Pensacola and former manager of the Isolated Finds Policy for the Florida Division of Historic Resources, recommends three or four positions for any future program to be more than moderately successful.

With the re-establishment of a program like SDAMP in Florida, the State should expect a great loss in resources. If we use South Carolina as a model, Florida should expect a nearly full loss of the submerged sites from our rivers within 50 years of reinstating the isolated finds program. South Carolina's program manager Ashley Deming reflected that after the first forty years of the program most of the known sites in the state's waterways are now "picked clean." Rather than a harmonious relationship where sport divers report truly isolated surface finds and professionals gain high quality information, South Carolina has witnessed a systematic and thorough loss of archaeological research potential. Because the Isolated Finds Policy was never codified into law, the Florida Department of State has been granted the opportunity to learn from mistakes made in Florida and South Carolina and block any legislation to reinstate the failed program.

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