

October 28, 2002



US Commission on Ocean Policy  
1120 20<sup>th</sup> St., NW  
Suite 200 North  
Washington, DC 20036

Honorable Committee Members:

We are writing in response to a call for public comment by the Commission concerning the development of a national policy on the management and protection of underwater cultural heritage. As practicing underwater archaeologists each with more than 25 years of experience, we are delighted that underwater cultural heritage is being viewed as a resource that merits proactive stewardship. While shipwrecks have become the most controversial sites, underwater cultural heritage includes much more. It also embodies the physical evidence of past cultures preserved in inundated cities and harbors, human remains and offerings in sinkholes and bogs, agricultural and industrial sites, and submerged ancient land sites. All of these provide a tangible and unique link to our past that, once destroyed, can never be replaced.

We are well aware that the formulation of a national policy requires addressing a range of issues. Among others, these include ownership, study, preservation, recreation, and public education and access. Many, if not most, of these considerations are quickly lost, however, when the cultural resource is a shipwreck that may contain items of potential commercial value. Whatever their type or artifacts they contain, these resources are part of our shared past, nationally and globally. Their protection and wise use have become international concerns as witnessed by the International Committee on Monuments or Sites (ICOMOS) Charter and the adoption of UNESCO Convention on the Protection of Underwater Cultural Heritage. This international convention seeks to extend existing protections, which many nations including the United States already have in place for cultural heritage sites on land, to underwater cultural heritage.

Existing United States legislation for sites on land are clearly designed to protect and preserve these resources for the benefit of humankind. Unfortunately, sites underwater do not receive the same level of protection. Their jurisdictional control as well as their management varies widely from state to state. Some states do not permit treasure salvage, others allow it and are awarded a share of the profits. As has been well demonstrated by the fiasco of the *Whydah* in Massachusetts and other projects where profit was the primary motive and treasure salvors were in control of the site, the state was eventually forced to step in. In the case of *Whydah*, the people of Massachusetts paid twice. Once when the treasure salvors abandoned the site in such a manner that it retained little scientific potential. Second, when they were forced to undo the damage caused by the salvors and take responsibility for its conservation and curation.

*Ships of Discovery*

Unfortunately, this is not an isolated example. The *DeBraak* in Delaware, also under the control of treasure salvors, had a similar outcome. As an international leader in protection of cultural heritage, the United States can and should do more than to allow this situation to continue.

The Commission is in a unique position to forge a new and much needed path toward the protection of underwater cultural heritage. Therefore, we ask that you consider the following more specific recommendations:

1) A uniform national policy that embodies the basic provisions of preservation for the benefit of humanity, as found in the UNESCO Convention, and research guidelines for sites that guarantee scientific study, as codified in the annex rules of that document. The latter will ensure that underwater cultural heritage is preserved and studied by responsible, knowledgeable individuals and/or institutions.

2) Strengthening the Abandoned Shipwreck Act to remove problematic language that has resulted in treasure salvage and control of state-managed shipwrecks.

3) Drafting and supporting new legislation that prohibits the treatment of underwater cultural heritage sites and objects as items to be exploited for their alleged commercial value.

4) Placing the responsibility for management of underwater cultural heritage beyond three miles under the umbrella of the National Park Service. That agency has nearly a century of experience in the management and protection of natural and cultural heritage sites. Its experience and expertise is unequalled by any other Federal or state agency.

5) Although the U.S. is not presently a member of UNESCO and did not support the final wording of the Convention because of concerns regarding the treatment of State owned ships, we also urge that the Commission recommend working towards full implementation of the Convention's provisions within the United States.

We understand that the Commission will only be making recommendations at this juncture. However, we also urge that the Commission recommend including recognized, credentialed underwater archaeologists as either full members or scientific advisors to any future committee charged with drafting a national policy or legislation on underwater cultural heritage.

Our underwater cultural heritage and its study and enjoyment for science, tourism, recreation, and education offers unparalleled opportunities to enrich our lives and those of generations to come. Each nation bears the responsibility to protect and preserve its past and the past of those whose paths led them to these shores. Every day that passes without protection diminishes that past and so diminishes us all. It is our hope that the US Commission on Ocean Policy will be willing to take the long view that is required of those charged with preserving natural and cultural heritage for the future. We have appended a short reference list for further reading and background that you might find useful in your endeavors. Thank you for your consideration of our comments and for your efforts in this important task.

Respectfully,

Donald H. Keith, Ph.D.  
President

Toni L. Carrell, Ph.D.

Enclosure: For further reading

**For further reading:**

*Encyclopedia of Underwater and Maritime Archaeology*. British Museum Press, 1997. James P. Delgado, editor.

"The World's Worst Investment: The Economics of Treasure Hunting with Real Life Comparisons." Peter Throckmorton. In *Underwater Archaeology Proceedings from the Society for Historical Archaeology Conference*, pg 6-10. Society for Historical Archaeology, 1990.

*Background Materials on the Protection of the Underwater Cultural Heritage*. Two Volumes. UNESCO and Nautical Archaeology Society, 1999 and 2000.

"Mutate, Migrate, Adapt or Die." Toni L. Carrell. In *Common Ground*, Fall/Winter, pg 73-75. National Park Service, 1996.

"Going, Going, Gone!" Donald H. Keith. In *Background Materials on the Protection of the Underwater Cultural Heritage, Volume II*, pg 265-278. UNESCO and Nautical Archaeology Society, 2000.

Other sources of information can be found at the Advisory Council on Underwater Archaeology website: [www.ACUAOnline.org](http://www.ACUAOnline.org) under Read More About It.