

## Kimberly Marousek

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**From:** Rob Mann [rmann1@lsu.edu]  
**Sent:** Thursday, November 05, 2009 12:14 PM  
**To:** Steve Romano; Kimberly Marousek  
**Cc:** Sara E. Sims  
**Subject:** archaeology

To Whom It May Concern,

I am writing on behalf of Mrs. Sara Sims in regards to the archaeological resources on her property and surrounding properties, known in the archaeological community as the Sims Site (16SC2). There are essentially two relevant state and federal laws pertaining to archaeological resources and I have pasted in some links that you might find useful.

[http://www.crt.state.la.us/archaeology/legislation/Chapter\\_10.htm](http://www.crt.state.la.us/archaeology/legislation/Chapter_10.htm)

<http://www.achp.gov/citizensguide.html>

The first one is from the LA Division of Archaeology web site. Chapter 10 is Louisiana's Unmarked Human Burial Act, which would apply to any "prehistoric" human remains at the Sims Site (the historic graves on and adjacent to the mound are protected by other laws as well). Under this law it is a crime for anyone, including the property owner, to disturb human remains. The second link is to the Advisory Council on Historic Preservation's (ACHP)"Citizen's Guide to Section 106 Review" and it is an overview of the Federal regulations concerning "historic properties" (including archaeological sites). These regulations apply to any undertaking that uses Federal monies or requires a Federal permit.

Here is how the ACHP defines Section 106 of the National Historic Preservation Act:

"Section 106 of NHPA requires each Federal agency to identify and assess the effects of its actions on historic resources. The responsible Federal agency must consult with appropriate State and local officials, Indian tribes, applicants for Federal assistance, and members of the public and consider their views and concerns about historic preservation issues when making final project decisions.

Effects are most often resolved by mutual agreement, usually among the affected State's State Historic Preservation Officer or the Tribal Historic Preservation Officer, the Federal agency, and any other involved parties. ACHP may participate in controversial or precedent-setting situations.

Section 106 applies when two thresholds are met: there is a Federal or federally licensed action, including grants, licenses, and permits, and that action has the potential to affect properties listed in or eligible for listing in the National Register of Historic Places.

Under Section 106's implementing regulations, "Protection of Historic Properties" (36 CFR Part 800), ACHP is tasked with overseeing the Section 106 review process; working with Federal agencies on programmatic solutions for integrating their missions and historic preservation needs; being the primary Federal policy advisor to the President and Congress; and providing training, guidance, and public information to make the Section 106 review process operate efficiently and with full opportunity for citizen involvement."

In a nutshell, what this means is that before any Federally funded or Federally permitted action that might adversely impact cultural resources can take place those resources must be evaluated by a professional archaeologist to determine if they are eligible for inclusion in the National Register of Historic Places (NRHP). In all likelihood the Sims Site would be declared eligible for the NRHP. One thing to keep in mind is that Section 106 is not designed to stop any development project, a developer can always choose to "mitigate" any adverse affects to a historic property. What this usually means is that a team of professional archaeologists is hired to excavate an agreed upon percentage of that portion of an NRHP eligible or NRHP potentially eligible site that will be adversely impacted.

As for building a private residence on the site, a private property owner can do as they please so long as they do not encounter human remains in the course of the construction (I am assuming here that there is no Federal involvement in the construction, e.g., Corp of Engineers permits, HUD funds, etc.). If human remains are encountered and not reported to State authorities (first the Parish Sheriff and Coroner, who determine if it is crime scene and then to the Division of Archaeology) that would be a violation of the Louisiana Unmarked Human Burials Act. In your case the most likely areas to encounter human remains are in the mounds (even the small remnant of the mound across from the cemetery mound). To date no human remains have been recovered from the midden (i.e., trash deposition resulting from habitation of the site) portions of the site. This does not mean that they are not present, only that the limited excavations so far conducted at the site have not encountered human burials off the mounds.

It is important to point out here that as archaeologists we do not consider the Sims site to be a "burial site." It is an archaeological site that contains several types of cultural resources; habitation areas, middens, mounds, burials, etc. Thus, some parts of the site (e.g., the mounds) are more sensitive than others and professionally I would urge you to consider avoiding these areas during construction.

Aside from the legal aspects there is the question of damage to the site due to any type of construction regardless of whether burials are encountered. The LSU Regional Archaeology Program can work with private property owners to come up with ways to preserve and protect archaeological resources on their property. If damage to the site is inevitable, the RAP may even be able to undertake limited excavations in order to recover valuable information from the site before it is destroyed.

I hope these comments and resources are helpful. If you need further clarification of any of these laws and regulations please feel to contact me at anytime.

Sincerely Yours,  
Rob Mann

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