



*Conclusion: Lafayette,
Where Are You?
The European Union, Cultural
Heritage, and CRM
in the United States*

Introduction: Starting Over

In accepting my proposal for this book, which at the time we called “The Book of Tracts,” AltaMira Press’s Mitch Allen insisted that I write a concluding chapter that he called “If I Were King.” This chapter, he said, should tell readers how I would organize the U.S. cultural resource management program if I had the authority to do so, based on my thirty-five years of curmudgeonly experience.

Fair enough. It’s easy and fun to criticize, but if I think that the current U.S. CRM system stinks, I should be able to tell people what I think a good system would look like.

But I found the chapter difficult to write, largely because it seemed a fruitless enterprise. I don’t have the authority to change the U.S. system, and those who do have scant interest in reform and even less in my thoughts on the subject.

My writing began to gain traction when I thought about the matter hypothetically—how I might, if the opportunity arose, start afresh with another country. But I soon found that such real-world candidates as Afghanistan present real-world challenges too complex to be addressed without a whole lot of study, and when I tried to hypothesize a CRM system for Atlantis or Middle-Earth, I found myself lapsing into silliness.

Then I stumbled upon the fact—well known, I’m sure, to everyone

but us provincials—that there actually *is* a “new nation” of a sort that’s developing policy and legislation to guide CRM. The European Union (EU) calls it “cultural heritage,” but it comes to the same thing. Maybe the EU could reflect upon our experience in the United States and devise a better way of dealing with cultural resources, whatever one calls them.

The EU? I’m suggesting *Europe* as a place for experimentation with new approaches to cultural resources? Well, yes. Certainly neither the EU’s constituent nations nor their national cultural heritage systems are new; each has its own history, its own institutions, its own beliefs about what cultural heritage is and how it ought to be managed. But the EU *itself* is new, and the very fact that there is such a plethora of national-level heritage programs among its member nations means that the EU cannot adopt an existing model without infuriating or being ignored by those loyal to others. The EU must look afresh at how to manage cultural heritage and the things that affect it. Furthermore, there is so much angst across the continent about what the EU will do to national and regional identities that the Union has even more reason than the United States to be sensitive to cultural differences. I doubt if Indian tribes have anything on Tuscan pasta makers and Bordeaux vintners for fierceness in their attachment to tradition. The EU is certainly going to have to struggle with cultural heritage policy—already is struggling with it—and maybe some suggestions from across the sea would not be entirely unwelcome.

What Should the EU Do?

So, with some trepidation, since nobody (other than Mitch) has asked me and I’ve never been east of Dover, here are some suggestions to the EU.

Recommendation 1: Define “cultural heritage” broadly. UNESCO has already done this on Europe’s behalf, defining “culture” as “all distinctive, spiritual and material intellectual and emotional features which characterize a society or a social group.”¹ That’s a good definition to work with; don’t narrow it. Don’t make the mistake of thinking only about physical things—buildings, sites, objects, monuments and designated historic areas. Physical things have no intrinsic significance. *We assign*

significance to such things, based on our beliefs, our values, our feelings. These intangible “things” are the real cultural heritage; they, and the things that affect them, are what Europe needs to manage. Yes, archeologists, of course one of the things Europeans hold dear is knowledge, including knowledge about the past. Yes, architectural historians, Europeans also cherish their cathedrals and castles, farmsteads and villages. Let’s stipulate all that, but let’s also recognize that there are lots of other things that Europeans—like all other humans—hold dear. Traditions, folkways, dance forms; vistas, sounds, smells; stories, pictures, ways of talking; the experience of mystery; spiritual power; the memory of ancestors. And let’s always remember that the cultural value of physical places is in the end itself a cluster of cognitive constructs.

Recommendation 2: Be very skeptical of the notion that cultural significance is forever. Values *do* change over time. Perhaps people thought that community sheep-shearing was really important five years ago, but now that it’s gone defunct, interest has shifted to community dance contests as a means of maintaining cultural integrity. That’s OK; that’s human; that’s life.

Recommendation 3: Don’t create a formal, official register of valued cultural heritage. Sure, it may be useful to keep track of some of them, to record and map those that hold still, and to whose management such documentation is relevant, but don’t get hung up on listing things or not listing them, or give credence only to things that qualify for a list—whether it’s the EU’s list or the schedule maintained by a member nation. Be concerned about what’s important to people, regardless of whether some official says it meets his or her criteria for registration. And the fact that something isn’t amenable to listing or putting on a map shouldn’t bar it from being considered in planning. If people value lemming watching, then government planners should be careful about doing things that may affect lemming behavior, regardless of whether such behavior can be mapped, or lemmings prevailed upon to be registered. List, if you must, those things in which someone is

willing to invest money or some other valuable commodity in preserving—parks, monuments, that kind of thing—but don’t make the mistake the United States has made with its National Register, using it as the sole and universal tool for representing significance. Listing is useful for some kinds of heritage resources, but for most, it’s pointless, and even where it’s relevant it can be deeply misleading.

Recommendation 4: Don’t base the EU heritage system on the notion of preserving the past, or contemporary culture, unchanged. Whether one likes it or not, even Gibraltar changes with time and weather. Change happens, and a public policy based on the notion that it’s desirable to keep it from happening is doomed to failure and frustration. Change is not bad. It’s not necessarily good, either, it just *is*.

Recommendation 5: But *do* recognize, explicitly and with humility, that in every change there’s both gain and loss. Europeans—including those involved in government and economic development—should agree among themselves that each European’s sense of gain and loss must be respected. Not just each government, or each properly legislated authority, or even each ethnic group, but each individual European. Thus it ought to be policy to try to minimize the sense of loss that each European feels as a result of change—while understanding that this does not mean that change can or should be kept from occurring and that respecting someone’s feelings does not necessarily mean acquiescing in their wishes.

Recommendation 6: Recognizing that change is inevitable and necessary, and that change hurts, establish a system for resolving conflicts over cultural heritage issues. It will come as no surprise to readers of this volume’s other essays that I suggest this system as the core of the EU’s approach to cultural heritage.

Recommendation 7: The conflict resolution system should not focus on resolving issues of “what’s significant,” and it particularly shouldn’t try to resolve such issues through recourse to some high government authority. The national governments of Europe have such systems. God knows, that have developed

over scores of generations, complete with elaborate procedures and substantial bureaucracies. Leave them alone; they're cultural resources in their own right. Focus on resolving conflicts between change and whatever people think is important to them—people in communities as well as in positions of governmental or academic authority. If someone thinks some bit of culture is important—whether that someone is a national cultural ministry or a tiny community somewhere in the Pyrenees—that belief ought to be respected, with the clear understanding that giving respect is not the same as giving the power of veto. Having established that someone values something for cultural reasons, and that some impending change may destroy or diminish that something, the cultural heritage system should focus on resolving that conflict, understanding that “resolution” may mean anything from full preservation of the valued bit of culture to its unmitigated loss, and from going ahead with the proposed change to forgoing it altogether. Usually, of course, resolution will mean something that falls in the midrange between such poles.

Recommendation 8: Recognize the simple, intuitively obvious, but often forgotten principle that—as we colorful ex-colonials say—there's more than one way to skin a cat. There are lots and lots of ways to manage the various aspects of Europe's cultural environment, and to deal with the effects of change. No one way is necessarily better than another. Different strategies make sense in different circumstances, and with different kinds of resources. Let flexibility be the watchword.

Recommendation 9: Make broad-based consultation with all stakeholders the heart of the conflict resolution system. Define “stakeholders” liberally; give everyone a seat at the negotiating table. Mandate the use of informed, principled negotiation² among all concerned parties, leading where possible to written agreements about how impacts will be mitigated or at least managed.

So, the kind of cultural heritage system I'd recommend to the EU, if asked, is one that seeks—through reasoning together by all relevant par-

ties—to manage change in a way that maximizes its benefits to society both in general and in particular groups and settings, while minimizing the destruction of what Europeans—writ large or small—hold dear. And I stress again that what Europeans hold dear isn't just old buildings and sites, streetscapes and neighborhoods and landscapes. It's feelings, beliefs, values, which may or may not involve physical places.

It turns out that the EU has a policy basis for building such a system. Culture—in general, not just buildings and such—is explicitly identified in the Treaty of Maastricht, the EU's organic legislation, and the Union commits itself there to make sure it's considered in planning:

The Community (sic: the EU) shall take cultural aspects into account in its actions under other provisions of the Treaty, in particular in order to respect and promote the diversity of its cultures.³

An important context in which such “taking into account” can occur, of course, is that of environmental impact review. EU policy for such review—both environmental impact assessment (EIA) on individual projects and programs and strategic environmental assessment (SEA) on policies and their implementation—is evolving rapidly. Cultural heritage—including not only “areas or features of historic or cultural importance” but also “cultural identity or associations”—is among the environmental elements upon which impacts are supposed to be analyzed under current procedures.⁴

The EIA/SEA procedures also provide for consultation as an important element of impact assessment and resolution, though (like NEPA in the United States) they tend to emphasize consultation with “authorities.” With luck, democratic rather than authoritarian impulses will drive the evolution of the EU's environmental impact consultation policies toward consulting *everybody*, without giving anybody a veto.

Thus the EU has a legal basis for a broad, flexible, consultation-based program of cultural impact analysis, which I think would be much preferable to current practice, such as it is, in the United States.

The EU's emphasis on SEA—something that U.S. authorities talk about but haven't gone far toward implementing—presents some particularly interesting possibilities. The idea of SEA is to back up and look at environmental effects in the broadest possible contexts—geographic, temporal, and political. In SEA, the primary focus of evaluation is *policy*, rather than

project. Is the tax system likely to drive family fishermen out of business, and is family fishing something that fishing communities or others value? What can be done about it? Do the fishermen or others want to preserve family fishing? Or should we accept its loss and look for ways to record and commemorate it? Is trade policy causing archeological sites to be plowed under to open more land for cultivation or auto works construction? What can be done to adjust the policy or to ratchet up the effectiveness of existing programs for identifying, preserving, and where necessary excavating sites? Cultural SEA will require sophisticated research, and consultation about it won't be easy. It's often difficult for people to anticipate the effects of policy; they become apparent only after they've begun to happen. But SEA holds great promise for avoiding last-minute conflicts and losing fights over the specific impacts of projects on heritage; it deserves a good deal of attention, and it appears that in Europe it may get it.

I imagine that there are strong conservative elements at work in the EU, however, that view "cultural heritage" as a thing of stones and dirt, of buildings and artwork, of landscapes and streetscapes, and that think of such heritage as something to be protected forever through government management. Such tendencies are likely to be strongest among professional cultural heritage managers, just as they are in the United States. The EU's need to assuage the justified fears of its nations and citizens about loss of cultural identity will not be served by maintaining such conservative assumptions and authoritarian institutions, but no doubt many EU politicians assume they ought to leave culture to the "experts." So here's one more recommendation: *don't*. The experts—archaeologists, architectural historians, conservators, administrators of cultural ministries—are the products of their narrow disciplinary training and bureaucratic experience. Use their expertise where it's relevant, but don't kowtow to them, and *don't put them in charge*. Keep your eye on the goal of a fair deal for the diverse cultural values of all Europeans, and make sure the "experts" are supervised by real people.

Conclusion: Back in the USA

OK, let's come back across the sea and apply what I've suggested for the EU to Mitch's original request—that I outline what I think ought to be done with the U.S. CRM system.

It's really pretty simple. I think we should:

- Reduce the status of the National Register; make it a list of those places in whose physical preservation people have invested or are ready to invest.
- Recognize the cultural environment—the world of cultural resources—as a very broad one, in which intangible beliefs, values, and perceptions are the key resources, sometimes but not always expressed in physical places and things. Don't require that such resources—physical or not—be listed or located on the ground, or that they be accorded significance in perpetuity; just provide for them to be respected in planning and policy.
- Require broad consultation with stakeholders about how to manage the cultural environment writ large in the course of land use and program planning and in the context of specific project planning. Do this by effectively combining the strengths of NEPA and Section 106 while discarding their weaknesses. Make sure that consultation includes everyone who has cultural concerns about an area, a program, a resource or resource type, and that the goal of consultation is to reach and memorialize (and then implement) binding agreements. Where agreement cannot be reached, provide for the responsible agency to make a decision after a thorough weighing of the impacts and alternative proposals for their resolution.
- Analyze impacts, and consult, not only about projects and programs with specific geographical scope, but about broad programs and policies too. Use consultation-based SEA to identify and try to resolve culture/development conflicts before they become intractable.

Put these together, and chuck the bureaucratic baggage with which what passes for a U.S. CRM system has burdened itself, and I think one could have a good, responsible, balanced program. Given the choice of betting that such reform will ever take place in the United States and betting that something of the sort might be taken up by the EU, however, I think I'd put my money on the Europeans.

CONCLUSION

Notes

1. UNESCO 1998.
2. See Fisher, Ury, and Patton 1991.
3. European Union 1993: Article 151 point 4.
4. European Commission 1985.



Glossary

ACHP ("Advisory Council"; "Council"): Advisory Council on Historic Preservation. A small, independent U.S. government agency that advises the president and Congress on historic preservation matters and oversees the Section 106 process (see below).

ACRA: American Cultural Resources Association. A trade organization of CRM companies and practitioners (mostly but not entirely archaeologists), whose Internet forum "ACRA-L" is one of the few places where one can find actual CRM issues freely debated.

AIRFA: American Indian Religious Freedom Act. A joint resolution of Congress establishing it as U.S. government policy to protect tribal rights to the free exercise of traditional religions.

CEQ: Council on Environmental Quality. An element of the Executive Office of the President, which is the president's general advisory body on environmental matters and which oversees compliance with NEPA (see below).

CFR: Code of Federal Regulations. Regulations are cited by Title and Part numbers preceding the "CFR" and Part or Section (the number following). Thus the regulations that agencies are supposed to follow in complying with the National Environmental Policy Act are 40 CFR 1500-1508 (Title 40, Sections 1500-1508 of the Code); the regulations followed in complying with section 106 of the National Historic Preservation Act are 36 CFR 800 (Title 36, Part 800 of the Code).