

APPENDIX 9

OCTA ARCHAEOLOGY AND TRAIL MARKING POLICIES

**Prepared by the
Mapping and Marking Committee**

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Archaeology Policy

Following is the archaeology policy as developed by NPO Leslie Fryman, March 2010, from the Archaeology Committee Statement of Purpose; and revised and adopted by the Board of Directors of the Oregon-California Trails Association, Cedar City, Utah, March 26, 2011.

The archaeology program is part of the overall OCTA preservation program. The committee reports to the National Trails Preservation Officer, and serves the following purpose.

1. Serves as a resource concerning antiquities laws. (See Code of Federal Regulations [36 CFR 261.9]; also the Archaeological Resources Protection Act [16 U.S.C. 470cc]).
2. Assists federal and state land managers and private landowners who find traces of emigrant routes or historical sites on their property; support in-depth professional analysis of such sites as appropriate (See specific policy below regarding the use of metal detectors).
3. Assists federal and state land managers and private landowners regarding steps that may be taken regarding national Register nomination, protection, visitation rights, easements, interpretive signs and any archaeological excavation undertaken by professional archaeologists. (See specific policy below regarding installation of interpretive signs on federal lands, and information below regarding federal agency use of volunteers at archaeological excavations).
4. Promotes OCTA preservation goals at all times, particularly as they pertain to the archaeological community and the general public.
5. Keeps the National Preservation Officer apprised of the committee's current activities and those to be considered for board approval.
6. Provide training and education to carry out the intent of the policy.

I. OCTA Policy regarding the Use of Metal Detectors on Historic Trails and Trail-Associated Sites

Without authorization from the public agency, the use of metal detectors and other remote sensing devices to extract buried artifacts from any archaeological resource (including historic trails and associated sites or features) on public land is expressly prohibited under federal laws.¹ Violations of these laws are frequently prosecuted and

1. Code of Federal Regulations [36 CFR 261.9] "The following are prohibited: (g) digging in, excavating, disturbing, injuring, destroying, or in any way damaging any prehistoric, historic, or archaeological resources, structure, site, artifact or property; (h) removing any prehistoric, historic or archaeological resource, structure, site, artifact or property." Also the Archaeological Resources Protection Act, 16 U.S.C. 470cc: "No person may excavate, remove, damage or otherwise alter or deface, or attempt to excavate,

can carry severe civil and/or criminal penalties, regardless of artifact age, type, or source. In addition to federal law enforcement, agencies provide in-house policies regarding the use of metal detectors.²

The use of metal detectors for trail identification and mapping purposes on public lands may be accomplished only by qualified agency staff or their consultants having ARPA permits or other permits to conduct archaeological studies.

The use of remote sensing devices on private land is not subject to federal laws and is not generally subject to local laws (unless human remains are inadvertently discovered by the metal detectorist). However, permission from the land owner is required for access to, or any activities on, private property. Any artifacts collected from private land are the property of the land owner, not the collector, and are protected under state and local laws regarding theft of property.

II. OCTA Policy Regarding the Installation of Interpretive signs on Public and Private Lands

All ground-disturbing activity associated with the installation of interpretive signs on public land is considered a federal undertaking subject to federal environmental review. OCTA will obtain permission to install signs (or relocate existing ones) from the local office of the managing agency, and support any activities necessary to obtain said permission. On private land, OCTA will obtain permission from the land owner before installing signs or accessing private property for any reason.

remove, damage or otherwise alter or deface any archaeological resources located on public lands or Indian lands unless such activity is pursuant to a permit..." Additionally, many states and counties have regional and local laws prohibiting excavation of historic artifacts from sites and resources under their jurisdiction. Code of Federal Regulations [36 CFR 2.1(a)(7) prohibits all use of metal detectors in National Parks and Monuments. Items not specifically covered under heritage preservation law are protected under the United States Criminal Code title 18.

2. BLM Policy (see www.blm.gov/pgdata/etc/medialib/blm/): "Cultural materials on public lands may not be removed, damaged, disturbed, excavated or transferred without BLM permit. Cultural resources include prehistoric and historic artifacts and sites, broken objects and debris more than 100 years old that were used or produced by humans. Protected materials include arrowheads and other stone tools, grinding stones, beads, baskets, pottery, old bottles, horse shoes, metal tools, graves and trash scatters. Historic sites such as cabins, sawmills, graves, trail traces, mining areas, townsites, ranches and railroads are not open to collecting. Metal detector use is allowed on public lands. Modern money may be collected, but coins and artifacts more than 100 years old may not be collected."

USFS Policy (see www.fs.fed.us/r9/cnnf/rec/heritage/metal_detectors.html). Metal detectors may be used on public lands in areas that do not contain or would not reasonably be expected to contain archaeological or historical resources. They must be used, however, for lawful purposes. Any act with a metal detector that violates the proscriptions of the Archaeological Resources Protection Act (ARPA) or any other law is prosecutable. Normally, developed campgrounds, swimming beaches and other developed recreation sites are open to metal detecting unless there are heritage resources present. In such cases, Forest Supervisors are authorized to close these sites by posting notices in such sites. Archaeological remains on federal land, known or unknown, are protected under law.

Oregon-California Trails Association

Trail Marking Policy

1. PURPOSE:

One of the purposes for which OCTA was organized is:

To initiate and coordinate activities relating to the identification, preservation, interpretation and improved accessibility of extant rut segments, trail remains, graves and associated historic trail sites, landmarks, artifacts, and objects along the overland western historic trails, roads, routes, branches, and cutoffs of the Trans-Mississippi region.

The purpose of OCTA's trail marking work is to identify trail resources and to promote their protection. Marking should be done with a consistency of design and materials and in a manner that will not intrude in the setting. The need for quality research and documentation before marking the trail cannot be overemphasized.

This policy is intended to provide guidance to chapters in their trail marking activities. The intent is to provide guidelines while allowing flexibility needed to mark the diverse segments of the historic trails.

2. NATIONAL AND CHAPTER RELATIONSHIP:

OCTA (hereafter "the Association") is incorporated as a non-profit 501(c)(3) corporation in the State of Colorado. The national organization represents the organization in all matters. Chapters are chartered by the national organization and may not enter into agreements on behalf of the Association or the chapter without specific authorization.

The Association authorizes and coordinates activities such as trail marking that are conducted by the chapters. The National Trail Marking and National Graves and Sites Committees provide chapters guidance, assistance and support to include funds for trail and site marking supplies. Individual chapters authorize and schedule trail-marking events, while members and guests provide the necessary workforce for trail marking.

OCTA provides chapters and members with limited insurance coverage while participating in OCTA events. However, individuals who do not make a good faith attempt to conform to the terms of this policy may incur personal liability for markers placed in violation of local, state and federal laws.

3. NATIONAL PARK SERVICE RELATIONSHIP:

The National Park Service (NPS) has established the Long Distance Trails Office in Salt Lake City, Utah to protect and interpret the Oregon, California, Pony Express and Mormon Pioneer Trails as provided for by the National Historic Trails Act. The NPS and OCTA work closely together in this effort. The NPS makes funds available for chapter trail marking activities via Challenge Cost Share Grants. The NPS has established standards for trail mapping and acts as a depository for trail maps and trail mapping reports. See page 50 and appendices N and O of the *Comprehensive Management and Use Plan, California National Historic Trail and Pony Express National Historic Trail* for NPS standards and guidelines.

4. CHAPTER RESPONSIBILITIES:

Individual chapters are encouraged to appoint a person to oversee trail-marking activities. At the chapter's option, the chapter preservation officer or a "trail marking coordinator" may be appointed. The appointee

should be responsible to the chapter president. The chapter board or executive committee should approve all trail marking plans, thereby making it an official chapter event. The complete approval process is described in Section 7D.

Sponsorship by the chapter results in insurance coverage for all participants under the national organization's policy. The personal waiver (Form 1) must be signed by all participants. The completed form will be kept in chapter files.

Chapters are encouraged to develop local publicity for the trail marking event. Press releases should be sent to local newspapers and newspaper personnel should be invited to attend the event. Local organizations such as historical societies should be encouraged to participate.

5. TRAIL MARKERS:

Trail markers may be of several types depending upon the situation, restrictions placed by landowners, both private and public, the topography, and the location of the marker relative to roads or buildings. Markers may simply identify trail ruts or swales, or they may describe a significant trail location or emigrant activity via decals, descriptions or plaques. Approved marker types include:

Carsonite markers: Posts manufactured by Carsonite International, are flexible composite fiberglass. OCTA recommends the CRM3066 in white. The post is 5' 6" long, 3.75" wide and weighs 2.5 pounds. The white color provides excellent visibility in both forest and sage settings and is preferred. The BLM and Forest Service have used the same marker in brown color. Either marker may be used if there is a landowner preference.

Steel rail markers: This marker is typically constructed of surplus railroad rail. A vertical rail, six feet long is topped by welding an 18-inch horizontal rail to the post. In most cases an aluminum or stainless steel plate (2.5" x 12") is riveted or bolted to the webbing on the top rail. The plate is engraved with a diary quote or historic note specific to the marker location. The top horizontal rail is aligned parallel to the trail.

Novalloy pedestal: This marker is manufactured by Nova Color and has been used by OCTA in its Graves and Sites program. This marker has a flat aluminum plate with descriptive text and is used when describing or interpreting significant trail locations. It is painted black with gold lettering for the text.

Other markers: OCTA-sponsored marking activities are encouraged to use one of the three markers identified above. However, when working on projects sponsored by other organizations, they may prefer to use other markers. A number of state tourist committees use a screen-printed embedded fiberglass panel installed vertically on kiosks or on concrete/rock foundations. These markers allow pictures in addition to text.

Concrete markers¹ continue to be installed by BLM along the historic trails on public lands. These markers are usually 4 to 6 inches square and about four feet tall (above the ground). They include re-bar for strength. Each post includes a trail name (or names) formed in the concrete on the side.

OCTA, NPS, Forest Service and the BLM have decals that can be affixed to trail markers. For the four national historic trails, the comprehensive management plan process resulted in a logo design that has been adopted. The NPS has prepared a triangular decal that may be placed on all markers with their approval. The same decals with metal backing may be used on posts or other structures to mark the trail.

¹ The approval requirements for placing concrete posts, or other rigid markers, are the same as for steel rail markers if OCTA is sponsoring the installation.

Chapters should coordinate with the National Trail Marking Committee chair on the design of other trail decals to be placed on steel or Carsonite markers. Trail names shall follow the names given in approved government planning documents such as the *Comprehensive Management and Use Plans*. Orders for posts, plaques and decals are placed through the chair of the National Trail Marking or National Graves and Sites Committees.

6. MARKER SELECTIONS AND DESIGN

The selection of a marker is dependent upon the site and the situation. For extensive marking where long sections of the trail are to be designated, Carsonite markers are most appropriate due to their relatively low cost and ease of placement. These markers may be placed within line-of-sight of each other (although this is not required). In general, “marker clutter” should be avoided. Landowners may also request use of the Carsonite markers because of their flexibility and ease of removal.

Steel rail markers provide permanence not achievable with the Carsonite markers. These markers may anchor a string of Carsonite markers.

The pedestal markers (Novalloy) are used to designate an import site or segment where interpretation is appropriate. The markers are also more permanent than Carsonite posts, but replacement at some point should be envisioned.

All posts, whether wood or metal, shall meet Federal, State and local safety requirements when installed within the roadside clear zone, and shall not present a hazard to motorists, equipment or livestock.

7. AUTHORIZATION FOR PLACING TRAIL MARKERS:

A. Initial Planning and Approval. The first step in the trail marking process is to obtain chapter approval for the project. At this point, a general description of the segment to be marked, the proposed marking approach (type of marker), and required resources (financial and other) should be prepared and submitted to the chapter for approval.² Project leaders who are responsible to the chapter for required documentation should also be identified at this time.

B. Landowner Permissions. Upon chapter approval of the project, the owners of properties on which markers are to be placed must be determined and written permission for placement of the marker must be obtained. Depending upon the situation, “Form 2 - Landowner/Manager Permission and Release” or “Form 3 - Easement for Trail Marking” should be used.

(1.) Permission without an Easement: In most cases the landowner will probably not wish to grant an easement. In this case a simple agreement granting permission to erect, maintain and remove the marker is appropriate. The following procedures should be followed:

(a.) Private landowner/manager. Form 2, Landowner/Manager Permission and Release, is to be completed. One copy is to be given to landowner and the other is to be retained in chapter files. Carsonite markers may be placed with a verbal agreement. The verbal agreement should be documented by the trail marking project leader via a memorandum for the record that is placed in the chapter file.

(b.) Public agencies. The BLM, Forest Service, NPS, State Parks, Fish and Wildlife and other public agencies should be contacted to obtain appropriate permits and

² The form of this approval is left to the chapter although as a minimum it should include the trail marking coordinator, chapter preservation officer (if different) and chapter president. If the expenditure of chapter funds is involved, it should include the chapter board of directors.

permissions. The procedures are dependent upon the agency and in some cases the particular field office involved. A record of who granted permission should be made part of the chapter files.

The project leader is authorized to sign permits on behalf of OCTA once the project has been reviewed and approved by the chapter as described in Section 7A.

(2.) Easement to be Granted. If the landowner is willing to grant an easement and not just permission to place a marker, the Chairman of the National Trail Marking Committee should be contacted before the execution of the easement to help insure that all legal requirements are satisfied. Form 3 presents a sample easement form. Since the laws vary somewhat from state to state, the basic form may need modification or replacement. In addition, the landowner may want to have the basic easement form reviewed by their own attorney

C. Other Permits and Coordination. Coordination with governmental authorities at the city, county, state and federal levels must be completed before signs are installed. Issues include:

(1.) Sign laws and regulations

(2.) Safety considerations, especially for markers other than Carsonite placed near roadways.

Approval shall be obtained from federal, state or county transportation departments for trail markers to be placed near roadways. Most states and counties have adopted the Federal Manual on Uniform Traffic Control Devices. The appropriate traffic control agency must be contacted to insure that trail marker is in compliance with all regulations.

D. Final Chapter Approval. Upon obtaining appropriate permits and permissions, the proposed trail marking should be presented to the chapter for final approval. The minimum information provided shall include:

(1.) The proposed location of each marker (other than Carsonite posts) on a 7.5-minute USGS map or equivalent. The location of Carsonite markers may be approximated, if possible.

(2.) A description of the marker to be used at each site, if other than a Carsonite marker.

(3.) The location of existing markers in the area, if any. This applies to other “permanent” markers such as those placed by the DAR, Ezra Meeker and other trail marking organizations.

(4.) Text to be included on markers.

(a.) Carsonite posts. Approved decals should be used with appropriate permission from the source.

(b.) Steel rail markers. Text on these markers consists of either diary quotes or a short historical description. Diary quotes without further elaboration need not be officially reviewed. However, leaders of the trail marking effort are encouraged to seek review and comments from other knowledgeable persons. The chapter should review all historical descriptions.

(c.) Novalloy pedestals. The chair of the National Graves and Sites Committee must review text on these markers. The chair may request assistance from the OCTA Publications Committee or from other knowledgeable persons. The committee chair will work with the chapter to resolve any content disputes. Names of living members of OCTA may not be placed on markers.

(5.) Copies of all required permits and permissions.

Controversial aspects of the trail marking, if any, should be brought to the attention of the chapter. The chapter shall maintain of file on each trail marking effort to include copies of all required permits and permissions.

8. RECORDING MARKER LOCATIONS:

Forms 4, 5 and 6 provide marker documentation. Form 4 is appropriate for the concrete and steel rail posts and Novalloy markers. These markers require special care to insure they are accurate both in placement and content. Form 5 provides a tabular listing that is more appropriate where a large number of markers are placed such as the Carsonite posts. Form 4 can be used to supplement Form 5 when it is appropriate to record more information.

A photograph may be attached to Form 4. If feasible, the location of the nearest posts to the subject one should also be noted on Form 4.

Upon completion of fieldwork, marker locations should be plotted on a 7.5 minute USGS maps or the computer-based equivalent. The completed package should be sent to the chair of the National Trail Marking Committee. Chapters may consider several trail marking activities along the same trail section as one and submit forms and maps as one package. Chapters may also be required to prepare a detailed report as part of a NPS Challenge Cost Share grant. A copy should also be sent to the Chapter and National Trail Marking Committees.

9. AUTHENTICATION:

The chapter person responsible for trail marking should authenticate the trail and placement of markers following the guidelines in the *Mapping Emigrant Trails (MET) Guide*. The basis for the accuracy and validity of the location of a trail marker shall be stated on Form 6. The entries include:

- a. Diary or journal quote. The date of the supporting entry or entries shall be given, along with the name of the emigrant or person keeping the same, and the page(s) at which the information may be found, if published.
- b. Other written source. Complete details should be stated and the reasons for the use of the same.
- c. Visible remnant. The remnant should be noted, described, and classified, and the length, width and depth of the remnant should be measured and recorded. The direction of a trail remnant should be determined by compass reading and recorded.
- d. Personal Information. If a person furnishes the information, the basis for the same should be recorded in detail and attested to by the person on Form 6. For example, a person may state that years ago, prior to cultivation, the trail could be seen clearly running thus and so at a certain location. But since then, the ground has been cultivated and the trace or evidence has disappeared.
- e. Other physical evidence. Nearby other sites, graves, or remnants should be noted on Form 4, as a means of further verifying the correctness of the post placement.

10. SUMMARY

Form 1 (Personal Waiver) is required for all trail-marking activities. The application of the other forms is as follows:

<u>OCTA Form</u>	<u>Carsonite Post</u>	<u>Concrete or Steel Rail Marker</u>	<u>Novalloy Pedestal</u>
2 Owner Release	Desired	Required*	Required*
3 Owner Easement	Optional	Optional	Optional
4 Single Marker	Optional	Required	Required
5 Multiple Markers	Required	No	No
6 Authentication	Optional	Required	Required

* Superseded if easement is granted

Adopted by the Board of Directors March 9, 2002

David J. Welch

Preservation Officer

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Form 1 - Personal Waiver

The undersigned agrees that neither the Oregon-California Trails Association (OCTA), its directors, officers, employees, and agents, nor, to the extent legally permissible, any private or public (state or federal or instrumentality of either), landowner or tenant licensee in possession of any land on or over which any tour, field trip, or outing takes place, or through which it travels, in connection with or as part of any meeting or convention of OCTA, shall have any responsibility or liability, in whole or in part for any loss, damage, injury to person or property, delays and delayed departure or arrival, missed carrier connection, cancellations. Changes in schedules, program, or itinerary, or mechanical defect or failures, or for any negligent act or omission of any nature whatsoever which results from, or arises out of, or occurs at or during any activities, programs, tours, field trips, or outing there at, or part thereof, or any accommodations, transportation, food, or other services or facilities furnished or supplies there at, or any additional expenses occasioned thereby, or any liability sustained or incurred as a result of any of the foregoing. All persons registering at or attending any such meeting or convention shall be bound by the foregoing and deemed to have consented to the same by such registration or attendance.

Signed : _____	Date: _____

Form 2 - Landowner/Manager Permission and Release

I hereby grant the Oregon-California Trails Association (OCTA), a non-profit corporation, with headquarters in Independence, Missouri, and its members permission to enter onto my property to conduct a survey of the _____ (name of trail) and place a historical marker or markers on my/our property to mark the route of the Trail or a related site.

Property location and legal description is: _____

Any marker will remain the property of the Oregon-California Trails Association, and will in no manner transfer any possession, title, or easement to the real estate or property on which it is placed. Also, OCTA agrees that upon receipt of the landowner's oral or written request, the marker will be removed or relocated, as per the request.

In the event it is necessary or advisable to repair, replace, or update a marker, OCTA and its members shall have the authority to do so, and will advise the property owner prior to entering the property.

Property Owner: By _____ Title: _____

Date: _____ Address: _____

Phone Number: _____

Oregon-California Trails Association: By _____ Title: _____

Date: _____ Address: _____

Phone Number: _____

FORM 3 - EASEMENT FOR TRAIL MARKING POSTS

SAMPLE FORM

The undersigned hereby grants to the Oregon-California Trails Association, a non-profit corporation, and its members, agents and representatives, successors and assigns, (herein individually and collectively referred to as "OCTA"), the right in perpetuity to enter upon the property described below to install, maintain, and replace, as necessary, a post or posts to mark the route or site of a pioneer or emigrant trail at the location or locations indicated on the drawing or map attached hereto, marked "Exhibit ____", and by this reference made a part of this document.

For this purpose also the undersigned further agrees to preserve and maintain undisturbed whatever remnants or evidence of such trail(s) still in exist on the said property, as also described below and on the said Exhibit ____.

The legal description of the subject property is:

The trail remnants or evidence still in existence are:

The rights granted by this document shall be binding upon the parties hereto, and their heirs, personal representatives, successors and assigns.

Dated this ____ day of _____, 20__.

Name: _____

Address: _____

City/State/Zip: _____

Telephone No. _____

Name: _____

Address: _____

City/State/Zip: _____

Telephone No. _____

State of _____ County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__,

by _____ Notary Public

Form 4 - Trail Marker Documentation

(Required for concrete posts, steel posts and Novalloy pedestal markers)

1. Trail marker number: _____
2. Location (GPS): _____

3. Legal description: _____

4. Trail name: _____
5. Date of marker installation: _____
6. Access route to marker: _____

7. Other information: _____
8. Authentication (MET): _____

9. Description of photographs taken: _____

10. Nearest markers: _____

11. Forms completed: [] yes [] no; why? _____

12. Date information sent to National Trail Marking Committee Chair: _____
13. Marker located on USGS 7.5 minute quad: _____
14. Project Leader _____

FORM 5 - TRAIL MARKER LOCATIONS

Trail _____ **Date** _____

Marker No.	Latitude	Longitude	UTM E	UTM N	Elevation	Form 4?
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 Notes/Description: _____

Marker No.	Latitude	Longitude	UTM E	UTM N	Elevation	Form 4?
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 Notes/Description: _____

Marker No.	Latitude	Longitude	UTM E	UTM N	Elevation	Form 4?
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 Notes/Description: _____

Marker No.	Latitude	Longitude	UTM E	UTM N	Elevation	Form 4?
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 Notes/Description: _____

Marker No.	Latitude	Longitude	UTM E	UTM N	Elevation	Form 4?
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 Notes/Description: _____

Marker No.	Latitude	Longitude	UTM E	UTM N	Elevation	Form 4?
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 Notes/Description: _____

Marker No.	Latitude	Longitude	UTM E	UTM N	Elevation	Form 4?
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 Notes/Description: _____

Marker No.	Latitude	Longitude	UTM E	UTM N	Elevation	Form 4?
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 Notes/Description: _____

FORM 6 - CERTIFICATION OF TRAIL REMNANT LOCATION

(Required for concrete posts, steel posts and Novalloy pedestal markers)

Authentication for Installation of OCTA Marker No. _____

Comments: _____

Certification: The undersigned hereby certifies that the foregoing is accurate and correct and based upon knowledge and information known to the same, this ____ day of _____, 20__.

Name: _____

Address: _____

City/State/Zip: _____

Telephone No. _____

Name: _____

Address: _____

City/State/Zip: _____

Telephone No. _____