



ENVIRONMENTAL AFFAIRS DIVISION
Cultural Resources Management Branch
Cemetery Guidelines
1999

The Texas Department of Transportation (TxDOT) shall treat all cemeteries within its ownership and within its proposed ownership in accordance with state law, in a sensitive and respectful manner. The Cultural Resource Management (CRM) section of the Environmental Affairs Division has developed the following guidelines for the division and the districts on issues related to treatment of these properties. It should be noted that if human remains are identified after award of construction for a transportation project, district offices should follow the Emergency Discovery Guidelines of the Environmental Affairs Division and contact CRM as soon as possible. Inquiries regarding specific treatment of a cemetery should be directed to the CRM at (512) 416-2631.

General: In order to ensure sensitive and legal treatment of cemeteries within our rights-of-way, TxDOT shall:

- Avoid impacts to cemeteries where possible.
- Undertake efforts to identify the locations of cemeteries as one type of cultural resource that may be affected by proposed transportation improvements.
- Perform archeological investigations for cemeteries only when proposed transportation activities will impact a known or suspected cemetery, and that cemetery is believed to be over 50 years of age.
- Seek to consult with the cemetery association (if any) and living descendants, and carry out, where possible, their recommendations in the care and treatment of these properties.
- Conform to state laws concerning the maintenance, excavation and removal of cemeteries and human burials.
- Ensure that reburials are made in a cemetery designated by descendants, if known, in a cemetery of the appropriate religion, if known, or in a local cemetery having available space, if no other preference is indicated.
- Erect a monument at the place of reburial indicating the source and date of reburial.
- Not publicly exhibit nor authorize the public exhibit of human remains or photographs of human burials.

Specific: Cemeteries under the jurisdiction of TxDOT generally fall into three categories: (1) those within existing rights-of way where no current or proposed transportation activities will impact the cemeteries; (2) unmarked cemeteries that are believed or suspected to be present in existing or proposed rights of way, but no visible evidence is present at that location; and, (3) those within existing and/or proposed rights-of-way where transportation activities cannot avoid impact to the cemeteries. Treatment of each category of cemetery is outlined below.

Category 1. Cemeteries where no current or proposed activities will impact the cemeteries:

- Cemeteries in this category will be treated in accordance with state statutes governing the care and maintenance of cemeteries.
- Care and maintenance of cemeteries shall include, but not be limited to, periodic mowing, maintenance of existing fences and grave markers, and reasonable efforts to protect the cemetery from vandalism. Grave markers should not be repaired without guidance from the Cemetery Coordinator at the Texas

Historical Commission (512/475-4167).

Category 2. Unmarked cemeteries with no visible evidence.

- At locations suspected to contain unmarked cemeteries, or at areas within or adjacent to existing cemeteries where unmarked graves are suspected, TxDOT shall avoid impacts, where possible.
- Where impacts cannot be avoided, district environmental coordinator will:
 - ◆ Notify county judge, county historical commission, the cemetery association (if any), and any known descendants that archeological field investigations to verify presence/absence will be performed.
 - ◆ Request CRM to perform mechanical archeological investigations to verify presence/absence of graves within the area to be impacted. If no graves are identified, CRM will prepare a report to the regulatory authority recommending that the project may proceed. District will provide a copy of the report to the county judge, county historical commission, the cemetery association (if any), and any known descendants.
 - ◆ If graves are identified, they will be plotted on right of way or project maps, covered with plywood or other appropriate material and covered with soil. District environmental coordinator will work with district personnel to determine if this newly identified cemetery will revert to Category 1 status or will move to Category 3 status and treat appropriately.

Category 3. Cemeteries that cannot be avoided by proposed transportation activities: The district office will determine if there are prudent and feasible alternatives to proposed impacts to the cemetery. If prudent and feasible alternatives are found, the cemetery will be treated under Category 1 (above) unless it is outside our right of way. Cemeteries outside of our rights-of-way will not be the responsibility of TxDOT.

- If no prudent and feasible alternatives are found to avoid the impact, and the cemetery has interments less than 50 years old, the district will work with the cemetery association (if any), the appropriate legal descendant and/or the county court (see Health and Safety Code, Title 8, Subchapter C, Chapter 711.036(a)) to remove the dedication for the cemetery, and to, disinter and reinter the burials in another cemetery

If no prudent and feasible alternative is found to cemeteries where the interments were made over 50 years ago, CRM shall consult with district offices, the THC, Federal Highway Administration and the appropriate legal descendent of the deceased to determine the specific methods for removal of all interments within our right-of-way. The district will work with the cemetery organization (if any), the appropriate legal descendant and/or the county court (see Health and Safety Code, Title 8, Subchapter C, Chapter 711.036(a)) to remove the dedication for the purpose of disinterring and reintering burials in another cemetery.

Removal Procedures:

A. Background Research

- Archival investigations will be undertaken to determine the total number of interments within TxDOT rights-of-way, their names, dates of birth, and dates of death. Responsibility for archival investigations will be identified by CRM and district environmental coordinators on a case by case basis. Efforts will be made to determine if the causes of death were diseases that remain viable despite burial in the ground as well as the number of interments, names of the individuals interred, and the historical facts associated with their lives will be sought from these records and groups. The investigation will also seek to identify living descendants. Archival investigations shall include, at a minimum, research in:
 - ◆ TxDOT right-of-ways and other records
 - ◆ County courthouse deed and tax records, cemetery records, sexton records

- ◆ Public library documents and the County Historical Commission
 - ◆ Texas State Library records, Genealogy Division
 - ◆ Texas Department of Health records (when interments post date 1906 and information at State Library is inadequate)
 - ◆ Save Our Texas Cemeteries, Inc. records
 - ◆ Records/oral information of known descendants
- The district will publish newspaper announcements seeking living relatives. Announcements will be in English and, where appropriate, the language of the descendant community.
 - The district will complete a survey of the cemetery as part of the reference and/or adjoiner information of the parent tract and neighboring tracts and record this data in the residing county plat records.

B. Archeological Removal, General: CRM shall schedule with the district and complete the following:

- ◆ careful removal of extant gravestones and other markers or fences that will be re-erected according to the wishes of the descendants in the new burial place, and under the rules of the new cemetery;
- ◆ mechanical scraping, directed by an archeologist, to identify grave shafts and expose coffin outlines;
- ◆ archeological removal of individual interments, and placement of all bones, clothing remnants, burial goods, coffin hardware, and a sample of the original coffin in new containers. Unless otherwise directed in the scope of work, archeological techniques will only include mapping the burial and its dimensions on a site map, and removal of the contents of the grave with hand tools;
- ◆ placement of a brass plate in the reburial container, identifying the burial by name or number;
- ◆ attachment of an identifying number to the reburial container, keyed to a site map that shows the original location of the burial;
- ◆ transportation of the reburial containers to their new location the day of removal, or their placement in a safe, secure location pending reburial;
- ◆ reburial in a dedicated cemetery, retaining the original burial pattern, if known. Transport and reburial will be directed by a local mortician;
- ◆ completion of standard archeological field notes, journals, a brief report of work performed and photographs documenting the removal of the interments to be placed on file at TxDOT, the County courthouse, and with the records of the new cemetery. If requested by the THC or the descendants, these documents can also be filed at other locations.

C. Archeological Removal, Scientific

- Complete the general archeological removal procedures listed above; and,
 - ◆ *In Small Cemeteries* (with 1-10 interments): physical anthropological studies may be required; ENV will consult with the THC to determine if a research goal can be addressed through such studies. All physical anthropological studies shall conform to the standards and forms published in *Standards for Data Collection from Human Skeletal Remains* (1994). If descendants of the interments are known, the permission of the descendants must be obtained to carry out such studies.
 - ◆ *In Large Cemeteries* (with more than 10 interments): physical anthropological studies may be required; ENV will consult with the THC to determine if a research goal can be addressed through such studies. If descendants of the interments are known, the permission of the appropriate legal descendants must be obtained to carry out such studies. It is expected that all research questions, where identified, will focus on cemeteries as an integral part of the community. These physical anthropological studies will be completed on a predetermined statistical sample of the interments that are removed, and shall conform to the standards and forms published in *Standards for Data Collection from Human Skeletal Remains* (1994). The remaining interments will be removed as outlined in part A above.