



SOCIETY FOR AMERICAN ARCHAEOLOGY

December 4, 2020

President-elect Joe Biden
Vice President-elect Kamala Harris
Office of Presidential Transition
1401 Constitution Ave, NW
Washington, DC 20230
c/o Kevin Washburn

RE: Improving preservation of cultural heritage in the new administration

Dear President-Elect Biden and Vice President-Elect Harris,

The Society for American Archaeology (SAA) congratulates you on your election to the Presidency and Vice Presidency. We look forward to working with your administration in the years ahead to better protect our irreplaceable cultural heritage resources.

Our material culture, which includes archaeological sites and other objects and places of cultural heritage, is an invaluable asset to tell the full story of the people who have called America home over the millennia. Those archaeological sites, knowledge, and heritage are at risk because of decisions made by the Trump administration. The SAA submitted detailed concerns at each turn, but to facilitate the transition process, we offer a summary of actions and remedies.

The SAA is an international organization that, since its founding in 1934, has been dedicated to research about and interpretation and protection of the archaeological heritage of the Americas. With nearly 7,000 members, SAA represents professional and avocational archaeologists, archaeology students in colleges and universities, and archaeologists working at Tribal agencies, museums, government agencies, and the private sector. SAA has members throughout the U.S., as well as in many nations around the world.

Through its vast land ownership, its statutes concerning historic preservation, and its monetary support of cultural resources programs at the national, state, tribal, and local levels, the federal government plays a leading role in the protection of the Nation's heritage assets. Unfortunately, the previous administration greatly undermined the government's ability to carry out its responsibilities in this field. We call your attention to this matter because your administration can take immediate steps to reverse the damage, and because it is critical that, in cases where addressing the shortcomings of the prior Administration's choices cannot be redressed overnight, the processes of remediation must be started as soon as possible.

The following is not an exhaustive list, but a summary of the most pressing areas of concern that we have identified:

1. Reduction of the Bears Ears and Grand Staircase-Escalante National Monuments—the Trump administration’s shrinking of these National Monuments was illegal, and not supported by any authority granted to the Executive Branch under the Antiquities Act. While it will take some months to restore the Monuments to their original boundaries, this can be accomplished without a great deal of effort.
2. Bureau of Land Management HQ relocation—we do not object *per se* to the concept of locating some BLM headquarters personnel in the western states, where most BLM-controlled land and their archaeological resources are located. The Trump administration’s action, however, was ham-fisted and caused staff attrition, loss of institutional memory, and serious erosion in the BLM cultural resources office’s ability to both direct its mission, interact with other federal cultural resources offices, and respond to congressional inquiries. This could be addressed by fully staffing the office, and relocating some personnel back to Washington.
3. Bureau of Land Management energy extraction leases around Chaco Canyon and Chimney Rock National Parks—the Chaco Culture National Historic Park and Chimney Rock National Monument contain some of the most extensive material remains of ancient Native American civilizations in the U.S., and are places of great cultural and spiritual importance to present-day Tribes. Chaco Canyon is also a UNESCO World Heritage Site (see below). Yet the Trump administration made a policy of holding oil and gas lease sales in close proximity to the boundaries of those areas, threatening the integrity of the parks and the resources they hold. This occurred in spite of the fact that an ethnographic study, commissioned by the BLM itself, to identify cultural heritage resources in the area had not been completed. Widespread opposition forced the Department of Interior to suspend to the lease auctions near Chaco. The SAA urges your administration to ban any and all energy extraction activities within 10 miles of the borders of Chaco and Chimney Rock.
4. Proposed rules—there are several proposed rules pending either at the department level or at the Office of Information and Regulatory Affairs that your administration could stop, provided they are not published before the inauguration. These include:
 - a. Changes to the regulations governing the nomination of historic properties to the National Register of Historic Places;
 - b. Changes that would relax the rules governing oil and gas leasing on USFS land;
 - c. Changes to the Army Corps of Engineers’ existing Nationwide Permits, as well as several proposed new Nationwide Permits;
 - d. Changes to the methods used by the Department of Transportation to comply with the new National Environmental Policy Act (NEPA) regulations.
5. President Trump issued numerous Executive Orders (EO) during his term in office, but in recent months four have been signed that contain provisions whose implementation could make it difficult to effectively carry out heritage protections under the National Historic Preservation Act (NHPA). It is our understanding that these Trump EOs could be modified or rescinded by an Executive Order of your own:

- a. #13924 regulatory relief—this EO was issued partly in response to the economic damage from the pandemic. The NHPA’s Section 106 review process plays a key role in the construction and rehabilitation of the nation’s infrastructure. Contrary to some views, the reviews do not delay project completions. In fact, they enhance them by ensuring that any impacts to historic or cultural resources will be dealt with ahead of time rather than after a project has been implemented. Suspending compliance with important statutes such as the NHPA, as this Executive Order promotes, would inhibit economic recovery, but have far-reaching impacts on our heritage.
 - b. #13927 accelerating infrastructure project delivery—this EO directs agencies to use emergency authorities they have under law and regulation to waive compliance with environmental and cultural resources protections as a means of creating jobs and economic growth during the pandemic. It is unclear whether existing emergency authorities can be invoked to respond to an economic slowdown, and the EO does not give an end date for the return to the normal course of business. Agencies could use this EO to apply emergency procedures inappropriately and indefinitely.
 - c. #13953 critical minerals mining—the SAA understands the need for the nation to have better and more reliable access to critical minerals, as well as the ability to process them into the products that our advanced economy requires. It is possible to address these problems while still ensuring—through the NHPA and NEPA—that our cultural and natural resources are conserved for future generations. These goals are not mutually exclusive. We are concerned agencies could interpret this EO as a license to limit, or even disregard, the processes established under the NHPA and NEPA that ensure that economic expansion is done in collaboration with the need to preserve our resources.
 - d. #13957 creating Schedule F in the excepted service—the new “Schedule F” category of excepted service positions. Implementation of Schedule F could result in replacing all career civil service positions “of a confidential, policy-determining, policymaking, or policy-advocating character” with political appointees. Merit-based hiring for these sensitive positions would cease. Further, the new category jobs would be exempted from due process for adverse action removal. Potentially, the result would be people in these positions would make decisions based on whether those decisions would affect their continued employment. In our opinion, this is nothing more than an attempt to politicize multiple levels of the federal bureaucracy.
6. Published rules (that will have to be altered or rescinded by further rulemaking):
- a. Waters of the U.S. (ACOE)—we understand that finding the correct balance between federal, and state, or local oversight of the waterways of the nation is complicated and controversial. Nevertheless, the SAA believes that the current regulations expose too many of the river and streambeds of the country, along with the myriad archaeological sites they contain, to less protection than that afforded by the ACOE’s Appendix C regulations.
 - b. NEPA (CEQ)—the SAA strongly believes that this new rule, published in August, is misguided, and will not only fail to protect our environmental and cultural resources, but will also fail to accelerate project completions. The new

regulations are deeply flawed, and will reduce the amount of avoidance, minimization, mitigation, and remediation work needed to ensure sound environmental and cultural resources stewardship. The effort was designed to limit the applicability of NEPA and the scope of its reviews from the public and professional sector. The only option is full revocation of the changes, and the restoration of the pre-Trump rule. This also applies to the USFS' recently-approved NEPA compliance rule.

7. Other Trump decisions that require both executive and legislative action:
 - a. Border wall—the SAA does not have a position on the construction of the border wall itself. We do, however, strenuously object to the patchwork compliance with NEPA and NHPA review and mitigation processes by the federal agencies that are in charge of this project. While some effective preservation work has been done in certain sections of the border area, in other locations there has been little to no resources conservation planning. The REAL ID Act of 2005 waived agency compliance with NEPA, NHPA, and other statutes in the building of the wall. At the very least, the new administration should work with Congress to repeal this dangerous provision.
 - b. United National Educational, Scientific, and Cultural Organization—while it is true that UNESCO remains, and will likely remain, a subject of controversy, nonetheless the mission of UNESCO is far larger than the somewhat narrow areas that draw the most dispute. Its work in international cultural heritage preservation, with its World Heritage Sites (WHS) program, is critical. There are 24 WHS in the U.S., including Chaco Canyon (NM), Cahokia Mounds (IL), and Monticello (VA). The absence of the U.S. from the organization impedes our efforts to protect global heritage sites, and does nothing to resolve the problems that prompted our withdrawal in the first place. Re-joining UNESCO will require a determined effort by your administration, as well as a significant appropriation of funds by Congress to begin to pay down the U.S. member dues that are currently in arrears.

The SAA greatly appreciates your time and your leadership in protecting cultural heritage sites and knowledge. Collectively, these changes will reassert the federal government's role in cultural resources preservation. It is crucial that this effort begin as quickly as possible to prevent irreversible destruction. Please have your staff contact me at (405) 308-6464 or joe.watkins.saa@gmail.com with any questions you might have.

Sincerely,



Joe E. Watkins, Ph.D., RPA
President