



SOCIETY FOR AMERICAN ARCHAEOLOGY

June 22, 2023

U.S. Department of the Interior
Director (630)
Bureau of Land Management
1849 C St. NW, Room 5646
Washington, DC 20240
Attention: RIN 1004–AE92

Dear Ms. Stephanie Miller,

The Society for American Archaeology (SAA) is pleased to provide the following comments on the proposed Bureau of Land Management (BLM) revisions to regulations at 43 C.F.R. § 1610.7-2 on protecting Areas of Critical Environmental Concern (ACECs) and the creation of new regulations on “Ecosystem Resilience” at 43 C.F.R. Part 6100. We support the intent of the rule “to protect intact landscapes, restore degraded habitat, and make wise management decisions based on science and data.” The SAA also strongly concurs with the draft’s clarification that conservation is a “use” within the BLM’s multiple-use framework. Nevertheless, the document needs to more clearly specify and delineate the role of cultural resources and sacred sites protection.

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 more than 5,500 members, the 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. The SAA has members throughout the United States, as well as in many nations around the world.

The following are the SAA’s comments on the proposed rule:

I. Executive Summary: “ACECs are the principal designations for protecting important natural, cultural, and scenic resources, and establish a more comprehensive framework for the BLM to identify, evaluate, and consider special management attention for ACECs in land use planning.”

The SAA strongly supports the recognition of cultural resources and sacred sites as ACECs.

III. Background

F. Related Executive and Secretarial Direction: The proposed rule cites the *Secretary’s Order 3289: Addressing the Impacts of Climate Change on America’s Water, Land, and Other Natural*

and Cultural Resources; Secretary's Order 3403: Joint Secretary's Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters; and Executive Order (EO) 14072, Strengthening the Nation's Forests, Communities, and Local Economies.

Since cultural resources are included in ACECs, we suggest adding to the above list *EO 11593—Protection and Enhancement of the Cultural Environment, EO 13175—Consultation Coordination with Indian Tribal Governments, the American Indian Religious Freedom Act (grants access to tribes to any sacred landscapes), EO 12898—Executive Order on Environmental Justice, and EO 13007—Indian Sacred Sites*, as they also apply. EO 11593, Section 2 requires federal agencies to “(a)...locate, inventory, and nominate to the Secretary of the Interior all sites, buildings, districts, and objects under their [agency] jurisdiction or control that appear to qualify for listing on the National Register of Historic Places.” The SAA believes that including cultural resources in ACECs would help in the identification and nomination of historic properties and strongly suggests doing so. EO 13007 requires federal agencies that manage federal land to “(1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies shall maintain the confidentiality of sacred sites.” The SAA proposes that BLM use ACECs to better manage protected sites sacred to the Native American community, which would have to be done in consultation with tribes.

Section 110 of the National Historic Preservation Act (NHPA), among other things, requires each federal agency to establish a preservation program for the identification, evaluation, and nomination to the National Register and protection of historic properties and use of these properties in carrying out its responsibilities. In addition, Section 110 requires that historic properties under the jurisdiction or control of an agency be managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values, and agency preservation-related activities are to be carried out in consultation with other federal, state, and local agencies; Indian tribes; Native Hawaiian organizations; and the private sector. We believe that including historic properties in ACECs would satisfy Section 110's mandate to manage and maintain historic properties.

Further, if it is within the scope of the proposed rule to mention statutory authorities, the SAA suggests including the NHPA, as well as the Archaeological Resources Protection Act.

V. Procedural Matters-New Information Collection Requirements—National Environmental Policy Act: The BLM intends to apply a Departmental Categorical Exclusion (CX) because it considers that the environmental effects of the Part 6100 regulations “are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.” Yet Section 6102.41—Termination and Suspension of Conservation Leases—addresses those instances under which a lease may be terminated, including “non-compliance with applicable law, regulations, or term and conditions of the lease or failure of the holder to use the lease for the purpose for which it was authorized.” These conditions suggest that failure to comply could have a significant environmental impact. We suggest that the BLM reevaluate the use of CXs for actions under Part 6100, especially with respect to conservation leases, and possibly develop a programmatic


Environmental Assessment to determine whether establishment of the conservation leases could have significant environmental impacts.

Section 1610.7-2: ACEC designations are for public lands where special management is required to “protect important natural, *cultural*, and scenic resources” (emphasis added). However, the emphasis throughout Part 6100—Ecosystem Resilience—is on ecosystems; there is no mention of cultural resources or cultural landscapes. The proposed rule must include cultural resources and sacred sites in this section.

On a larger spectrum, the relationship between Section 1610 and Part 6100 in the proposed rule is unclear. The summary at the beginning of the announcement focuses on ACECs, while the Executive Summary addresses both, which suggests there is a direct relationship. Whereas the focus of 1610 is on ACECs, there is no mention of them in Part 6100. The conflation of both in one public notice suggests that there is such a relationship. This needs to be clarified. Otherwise, the SAA does not understand why the proposed rule includes both, since they seem to address different actions and programs.

We appreciate the opportunity to provide these comments and look forward to working with the BLM in the weeks ahead.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Sandweiss', with a horizontal line underneath.

Daniel H. Sandweiss, PhD, RPA
President