



SOCIETY FOR AMERICAN ARCHAEOLOGY

May 18, 2022

Ms. Brenda Mallory, Chairwoman
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Dear Chairwoman Mallory:

The Society for American Archaeology (SAA) appreciates last month's publication of a final rule undoing much of the damage done by the Trump administration to the regulations implementing the National Environmental Policy Act (NEPA). It is our understanding that further revisions to the regulations are forthcoming this year that will address such issues as climate change and environmental justice. The SAA endorses this initiative and believes that the April rules make considerable strides toward ensuring that federally sponsored undertakings advance smoothly, while also ensuring that our nation's irreplaceable natural and cultural heritage is not lost or damaged.

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.

News reports indicate that CEQ will be publishing Phase 2 of NEPA rulemaking later this year. More can be done during this upcoming round to ensure our shared cultural resources are protected. We wish to remind you about two crucial matters that were not resolved in the 2021 rulemaking, and that we strenuously urge be addressed in Phase 2.

In our comments on last year's rulemaking, we pointed out two problems with the Trump NEPA regulations that, in the end, remained unaddressed in April's final rule. First, agencies remain authorized to arbitrarily decide that non-federal actions that meet an undefined "minimal" level of federal involvement are exempt from NEPA requirements under the Threshold Applicability Analysis [§1501.1]. Further, agencies are still allowed to designate certain federal projects as "non-major" [§1507.3] based on an arbitrary percentage level.


Second, the Trump changes that unwisely limited public involvement in the NEPA process are still in effect. As we said last year, *"One of the fundamental goals of NEPA is to incorporate, to the maximum extent practicable, the viewpoints of the public on development projects that use*

public funds and/or lands. This is to ensure that the mistakes of pre-NEPA project and facilities construction are not repeated.”

It is vital that the administration’s rulemaking under Phase 2 addresses these matters. CEQ’s mission is to improve, preserve, and protect America’s public health and environment. We will all benefit from ensuring that the proposed rules that the CEQ intends to publish in Phase 2 repair the damage caused by the 2020 changes and also broaden and deepen the effectiveness of the NEPA regulations overall. The NEPA regulations play a critical role in the preservation of our environment—which includes our shared historic resources in the United States.

Thank you for your time and consideration. We look forward to working with you in the months ahead.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah L. Nichols". The signature is fluid and cursive, with the first name being the most prominent.

Deborah L. Nichols, PhD, RPA
President