



SOCIETY FOR AMERICAN ARCHAEOLOGY

September 2, 2015

Mr. John Kalish
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RE: Comments from the Society for American Archaeology (SAA) Task Force on the Cultural Resources Programmatic Agreement (PA) for the Bureau of Land Management (BLM) Desert Renewable Energy Conservation Plan (DRECP)

Dear Mr. Kalish,

The SAA Task Force on the cultural resources PA for the DRECP appreciates the opportunity to be a consulting party on this effort. As you know, the SAA Task Force has been following the development of the PA and recently attended the Consulting Party meeting in Palm Springs on August 27, 2015. Prior to this meeting, the BLM distributed the most recent revision to the PA, dated August 7, 2015. This letter includes comments by the SAA Task Force on the August 7, 2015 PA.

SAA is an international organization that, since its founding in 1934, has been dedicated to the research about and interpretation and protection of the archaeological heritage of the Americas. With more than 7,000 members, SAA represents professional archaeologists in colleges and universities, museums, government agencies, and the private sector. SAA has members in all 50 states as well as many other nations around the world.

SAA's primary goal as a consulting party is to issue general policy statements to help guide the BLM in development of the DRECP and the cultural resources PA. SAA has established Principles of Archaeological Ethics that can be found on the SAA website, here:

<http://www.saa.org/AbouttheSociety/PrinciplesofArchaeologicalEthics/tabid/203/Default.aspx>.

There are eight categories of the SAA's principles of archaeological ethics: 1. Stewardship, 2. Accountability, 3. Commercialization, 4. Public Education and Outreach, 5. Intellectual Property, 6. Public Reporting and Publication, 7. Records and Preservation, and 8. Training and Resources. These principles should be upheld by all archaeologists and used by all those affected

by archaeological practice, including during the development and implementation of complex governing programs such as the DRECP. It is the SAA's position that these principles be integrated into the DRECP for the development of cultural resources treatment protocols, from initial inventories to significance evaluations, mitigation, research, and preservation. We encourage the BLM to review these principles when considering input from all consulting parties in order to identify areas of conflict or potential conflict within the PA.

Stewardship: The archaeological record is comprised primarily of non-renewable resources. Cultural resources regulations, such as Section 106 of the NHPA are intended to guide the treatment of the archaeological record such that the irreplaceable values are preserved, whether in situ or through curation and documentation. The stewardship principle holds as a core value the availability of information gained from the archaeological record to all people. The SAA task force sees the DRECP partly as a cultural resources stewardship plan that attempts to balance the development of public lands with the stewardship of cultural resources.

Accountability: The SAA views archaeological research as a process that requires public accountability at all levels. Governing programs such as the DRECP must ensure that broader policy goals do not reduce the exposure of public accountability to only those stakeholders that were initially active in consultation. Rather, the agency must enact a plan that mobilizes qualified archaeological representatives to oversee program implementation (i.e., third party review).

Public Education and Outreach: Given that the DRECP is managing cultural resources on federally administered public lands, education of the public about archaeological resources on those lands is important to improve preservation, protection, and interpretation. The DRECP should mandate concerted efforts of public education and outreach from any development within its boundaries both at the programmatic and project levels.

Public Reporting and Publication: This principal is related to stewardship, accountability, and public education. The DRECP must require that all cultural resources studies completed within its boundaries must adhere to the professional standard of making information about these studies available in accessible form, and these studies must be permanently curated. Accessibility of information on cultural resources investigations is critical for the preservation of the archaeological record, especially if archaeological sites were impacted in any way during the investigation. This principle is directly related to the principle of Records and Preservation.

Training and Resources: The DRECP should require that any archaeological investigation be undertaken by archaeologists with local expertise and that meet the professional qualifications and standards. Archaeological investigations are often destructive and their proper treatment is crucial for preservation of the archaeological record.

GENERAL COMMENTS

1. Cultural resources practitioner representation: The DRECP PA identifies stakeholders that include various government agencies and Native American tribes, but non-government cultural resources practitioners (i.e., scientific community, ethnographers, historians, etc.) are not represented in the initial phases of project-specific undertakings, or other activities that may have an effect on cultural resources (not limited to historic properties as identified in Section 106 of the National Historic Preservation Act (NHPA)). While cultural resources specialists at government agencies are assumed to represent the interests of cultural resources practitioners, their roles are largely regulatory in nature and, over the last few decades have grown to exist distinct from practitioners. The volume of cultural resources work completed across the United States in recent years has generated large amounts of data and spawned the development of complex academic specialties, no one individual can appropriately represent. While the SAA appreciates consulting party status, true participation by the SAA is practically only found in Section II.H., Public Involvement, which is also inadequately defined. As a result, issues that violate the core of the SAA's principles of archaeological ethics are becoming common, such as the wholesale repatriation of archaeological collections to Native American tribes, or implementation of archaeological methods that do not meet minimum standards for archaeological preservation. While the SAA understands the role of negotiation with tribes in the Section 106 process, the community of cultural resources practitioners should be considered as stakeholders at the same level of Native American tribes, especially when considering the treatment and disposition of archaeological materials.

Recommendation: The lack of representation of cultural resources practitioners in the PA can be alleviated by the appointment of a permanent SAA liaison. The liaison role can be filled by a pool of appropriate practitioners depending on the nature of undertakings covered under the PA. The role of the liaison would be to provide quality assurance and diverse academic perspective at the earliest levels of an activity that could have an effect on cultural resources, rather than review of documents after activities have been completed (i.e., inventories, excavations, special studies). The Liaison should also be included in Section VI.A.2, as a part of the committee of consulting parties assembled to analyze cultural resources sensitivity, and in Section VI.C.2-3 regarding establishment of the allocation of compensatory mitigation fees. The SAA is able to provide the BLM with a specific description of the role of the SAA Liaison role, should it become necessary.

2. Peer Review: The peer review process identified in Section VI.B continues to relegate third party accountability to after a project-specific cultural resources investigation has been initiated. Additionally, the third party reviewer is primarily selected by the renewable energy project applicant. While the SAA sees value in the approach taken in this section of the PA, it should be modified to allow for peer review of proposed

methods, recognizing the variability in skillsets and regional knowledge of an applicant's cultural resources contractor. The SAA believes that moving peer review ahead of any approvals of study methods would constitute a more sincere effort to ensure that resources are appropriately treated and considered.

Recommendation: The peer review process should be modified to state that the third party reviewer will participate in the earliest planning phases of all cultural resources proposed methods and work, and remain in place for the duration of the project to review both minor and major project deliverables, as necessary.

3. Objectives: Section III.B.5 of the PA defines the main objective of the PA as limited to identification of historic properties. This objective is too narrow in scope and more appropriate as one component of the objectives for a project-specific PA.

Recommendation: This section should be revised to broaden the goals of the PA such that it is consistent with the intent of the PA which is to ensure conservation of cultural resources. The objective needs to be broad enough so that the intent of the NHPA is upheld, rather than appearing to minimally satisfy Section 106 responsibilities.

Overall, the SAA appreciates the opportunity to consult on the development of the DRECP PA, and hopes to continue to stay involved throughout its implementation. We recognize the BLM's efforts thus far in the drafting and revision of the PA. Indeed, the latest version of the PA resolved many concerns regarding the role of peer review. However, the SAA strongly believes that the community of cultural resources practitioners is not well-represented in the PA and we hope that our recommendations are earnestly considered in the next revision.

Sincerely,



Micah J. Hale, Ph.D., RPA

SAA Task Force on the DRECP Cultural Resources Programmatic Agreement

CC: SAA DRECP Task Force members: Mark Allen, Helen Wells, Chris Doolittle

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