

The SAA 2015 Legislative Agenda  
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SAA has identified 10 major areas in which legislation or regulation may affect archaeology. Seven of these areas involve legislation before Congress or regulation of existing laws by government agencies in the United States. Three focus on challenges to archaeology or archaeologists outside the United States. The focus areas are:

- Protecting the Historic Preservation Framework
- Energy development in the West—getting the “landscape” definition right
- Engaging in local issues
- Proposed amendment to Curation of Federally Owned and Administered Archaeological Collections
- SAA’s position on repatriation legislation, regulation, or litigation
- NSF funding of archaeological research
- Climate change
- International engagement:
  - antiquities trafficking,
  - conflict and war, and
  - development bank cultural heritage compliance

Below, I discuss how we intend to meet each challenge.

### **PROTECTING THE HISTORIC PRESERVATION FRAMEWORK**

To use a sports analogy, 2015 will be all about playing defense. In the United States, our main goal is to protect the historic preservation framework. The shift in Congress to Republican majorities in both the House and the Senate is likely to embolden anti-regulatory and private property advocates to attack the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). While it is possible that some legislators will try to rescind these Acts in their entirety, it is much more likely that attacks will be made on particular parts of these Acts, such as Section 106 of NHPA. Representative Issa (R-CA), for example, has already reintroduced the Military Land and National Defense Act, which we opposed before and will continue to oppose. The Antiquities Act is another law that the Republicans and even some Democrats would like to amend to restrict the President’s ability to declare National Monuments. Again, we have and will continue to oppose amendments that will inhibit the ability to declare National Monuments, particularly those that protect and preserve the archaeological record. Still another tactic to chip away at the historic fabric of the US will be to amend appropriations and authorization bills with riders favored by industry or other constituencies that harm the archaeological record. An example of such a move is the recent Defense Reauthorization Act which included provisions that transfer public land in Arizona to the Resolution Copper Mining Company in exchange for non-federal land elsewhere in Arizona. The land in question contains many archaeological sites and sites sacred to the San Carlos Apache, among others. SAA has long opposed free-standing legislation for the transfer on the grounds that NEPA was to be conducted only on the basis that the land transfer proceed. While legal, this approach violates the spirit of NEPA which is that an environmental review should determine if the transfer is in the best interest of the public in the first place. The land transfer proponents were never able to move this legislation through Congress, but they shrewdly attached it to a popular bill that funds the military. SAA will now need to switch from opposing legislation to doing everything we can to make sure that damage to archaeological and cultural sites is minimized.

Creating effective coalitions is essential

To fight these battles, we need all the help we can get. SAA needs to build coalitions. We need to work closely with our preservation partners at the American Cultural Resources Association, Society for Historical Archaeology, Archaeological Institute of America, American Anthropological Association, National Trust for Historic Preservation, Preservation Action, National Conference of State Historic Preservation Officers, and many more. In the DC area, many of these organizations meet once a month to exchange ideas on upcoming legislation and strategize about tactics. SAA must and will be at the table. SAA also needs to build coalitions with tribes and Native American organizations, including the National Congress of the American Indian, Native American Rights Fund, Survival International, and the National Association of Tribal Historic Preservation Officers. Finally, we need to seek out partners in extractive industries who are receptive to changes in historic preservation regulations that streamline the process without relaxing protections. SAA remains a staunch supporter of the Gas and Preservation Partnership (GAPP). Talk is cheap, however, and thus far industry partners in GAPP have not been willing to help fund the infrastructure needed to incorporate historic preservation into energy exploration and development. In 2015 SAA will take a stronger stand; the energy industry must live up to its social responsibilities.

## **ENERGY DEVELOPMENT IN THE WEST—GETTING THE “LANDSCAPE” DEFINITION RIGHT**

While energy extraction in the Eastern US takes place largely on private land, in the West energy development falls squarely on public land. In the east, there is often no federal nexus to trigger Section 106 for activities related to energy exploration development. The same is not true in the West, however. Here, federal land managing agencies, such as the Bureau of Land Management (BLM) and the Forest Service, are under intense pressure from industry and elected officials to open public lands to all forms of energy development. It is our belief that the public and their elected representatives are not well informed on the impacts caused by these developments. Individual well pads, for example, are tiny in relation to the landscape; a sea of well pads, however, along with associated roads and pipelines mar the cultural landscape often beyond recognition. Similarly, there is a sense that environmentally-friendly solar and wind farms have a benign effect on historic properties. But, of course, if you level the ground in the desert west, there is a good chance that you will remove all evidence of human occupation.

The BLM and the National Park Service are in the process of devising landscape-scale approaches to Section 106 compliance. SAA does not oppose such moves. Indeed, we applaud the agencies for moving beyond project-by-project to programmatic compliance as long as cultural resources are adequately evaluated and treated. However, if “landscape” is simply code for loosening permitting restrictions on public land then we will oppose it. The devil is in the details.

“Landscape” means different things to different people. For the purpose of government affairs, landscape approaches are those that are regional in scope and commonly multijurisdictional in nature. Although some would like to see a landscape approach cover the comprehensive management of natural and cultural resources, we fear that in practice this would result in decisions favoring the former over the latter. Hence, SAA will push agencies to differentiate management of landscapes of natural resources (natural landscapes) from those of cultural resources (cultural landscapes). It is important to bear in mind, that as used here, the term cultural landscape has no resemblance to how many archaeologists use the term in theoretical or methodological debates. For example, archaeologists might define the term “Chacoan landscape” in reference to the behaviors of an ancient people that shared traits that can be identified in the archaeological record of the American Southwest, whereas land managers might use the same terms as parts of regional plans to manage or co-manage specific historic properties that lie on federal, state, tribal, and private lands in the Mancos Shale Play of Northwest New Mexico.

To have any influence with how federal agencies will define and treat cultural landscapes, SAA needs to act fast. We must offer our view of how cultural landscapes can be identified and utilized in resource management before BLM and NPS codify their definitions and procedures. With established policies, we can work with these and other federal agencies to have our ideas incorporated into management practice. Currently, SAA has three task forces working on developing Society policy. The work of these task forces has been and will remain a high priority of the government affairs program in 2015.

### **TIME TO ENGAGE IN LOCAL ISSUES**

The SAA has traditionally shied away from involvement with local issues in the US, focusing instead on national legislation and regulation. The problem with this stance is that most historic preservation issues play out at the local level. While we simply cannot take on every problematic Section 106 undertaking or NAGPRA review, there are situations that go straight to our core values. In these cases, we must take a stand. Last year we joined three Section 106 undertakings as a consulting party and will continue to serve in this role for Amity Pueblo, the Resource Management Plan Amendment for Mancos Shale/Gallup Formation, and the Saddle Butte Pinyon Pipeline. We continue to monitor the political landscape for more cases and we need your help in identifying them. Please be vigilant and send on suggestions for SAA involvement.

### **CURATION OF FEDERALLY OWNED AND ADMINISTERED ARCHAEOLOGICAL COLLECTIONS**

Beyond protecting the US historic preservation framework, SAA has several other major legislative objectives in 2015. SAA will comment on NPS' proposed amendment to 36 C.F.R. 79, *Curation of Federally Owned And Administered Archeological Collections*. If approved, the amendment will allow for the disposition and deaccessioning of particular archeological items determined to be of insufficient archaeological interest. The SAA commends NPS for tackling the very difficult problem posed by the curation crisis in the US. We still have concerns about the rule which we would like to see clarified prior to its acceptance. Of course, should it be approved, SAA will monitor the implementation of the rule.

### **CLARIFICATION OF SAA'S POSITION ON REPATRIATION LEGISLATION, REGULATION, OR LITIGATION**

Another 2015 objective is to clarify SAA's position with relation to future repatriation legislation, regulation, or litigation. At this time, no federal legislation is pending; states, however, are another matter. California, for example, is contemplating changes to its laws and regulations governing repatriation of human remains and archaeological collections. Also in California, legal action on ancient human remains from the La Jolla area continues. Now is an ideal time to get a sense of the membership's attitudes and expectations on repatriation. The SAA repatriation survey being performed this spring will be evaluated by GAC, among other committees.

### **PROTECT NSF FUNDING OF ARCHAEOLOGICAL RESEARCH**

Another major SAA legislative objective in 2015 is to protect the funding of archaeological research at the National Science Foundation (NSF). With solid Republican majorities in Congress, we can anticipate that Representative Lamar Smith (R-TX) will continue his attack on public funding of social science. We would be very surprised if Rep. Smith does not reintroduce some form of the *Frontiers in Innovation, Research, Science, and Technology (FIRST) Act*. In visits to Capitol Hill, we understand that not all Republicans are excited about having to support a bill that would label them as anti-science. Our first goal, then, is to work to ensure that the bill never gets a vote. But even without the bill, Rep. Smith as Chair of the Committee on Science, Space, and Technology, is intent on making it difficult for NSF

grantees. He has requested to examine all emails, letters, memoranda, records, notes, text messages, and peer review comments for about 50 grants, many of which are in archaeology or anthropology. Obviously, such requests have a chilling effect on research. SAA has and will continue to vigorously oppose these unprecedented requests.

To continue with the sports analogy, the best defense is a good offense. We have been told numerous times that it is no use to speak with Rep. Smith; his mind is closed on the matter. But what about other legislators? Archaeology continues to be popular among the American public. SAA needs to capitalize on this popularity. We need to energize the public behind our cause and make sure that they let their elected officials know that they support public funding of archaeology. One initiative that SAA supports is the Making Archaeology Public Project (MAPP). Spearheaded by former SAA president Lynne Sebastian, MAPP is designed to highlight archaeological projects performed under NHPA since the Act was enacted in 1966. SAA also is working with the coalition Preservation50 in their efforts to highlight the workings and success of NHPA.

### **CONFRONTING CLIMATE CHANGE**

The final item on our 2015 US legislative agenda is perhaps our most ambitious. Climate change is upon us and is affecting historic properties now. Yet, we are only beginning to witness the effects on cultural heritage. Sea level rise, increased wild fire intensity, and desertification, to name just a few environmental outcomes, will dramatically impact historic, archaeological, and cultural features. Last year, the Union of Concerned Scientists (UCS) requested SAA participation in a Capitol Hill press conference to increase public awareness of the risks and the challenges we face in making decisions surrounding climate change and the cultural and historic environment. The press conference had the desired effect. UCS' attention then turned to capitalizing on public concern.

A workshop, Strategies for Preserving Cultural Heritage in a Changing Climate, will take place at the Pocantico Conference Center in New York from February 2-4, 2015. Sponsored by UCS in partnership with SAA, the National Trust for Historic Preservation, and the JM Kaplan Fund, the workshop has two goals. The first is to develop recommendations and priorities for policies and actions to respond to impacts of rapid climate change on cultural heritage. The second is to explore the processes of learning about adaptation from cultural heritage and find ways to translate these lessons to help address climate change mitigation and resilience. Thirty key players in the fields of historic preservation, archaeology, and heritage will convene to identify and discuss issues and priorities, and draft an action agenda. SAA is committed to maintaining its leadership role in this area throughout 2015 and beyond.

### **INTERNATIONAL ENGAGEMENT: ANTIQUITIES TRAFFICKING, CONFLICT AND WAR, AND DEVELOPMENT BANK CULTURAL HERITAGE COMPLIANCE**

In the international government affairs arena, SAA anticipates being involved in three topics: antiquities trafficking, conflict and war, and development bank cultural heritage compliance. SAA has long opposed the commercial trade of antiquities and we will continue to do so. We support legislation banning the import of antiquities from Syria as we did for Iraq. SAA routinely supplies expert witnesses to the Cultural Property Advisory Committee. These actions generally come at the request of others, in particular the US State Department's CPAC or a coalition led by the Archaeological Institute of America (AIA) for fighting the trade of antiquities originating in the Mediterranean and the Middle East. SAA also speaks out against auction houses, such as Sotheby's and Christie's, and their practices of selling antiquities. We have worked successfully with US Immigration and Custom Enforcement (ICE) to block illegal import of antiquities to the US. Much of this trade, however, has moved to Paris in response to lax French laws safeguarding antiquities. SAA continues to write letters against the auction of antiquities, particularly those from the Americas. However, we have little leverage and these letters have little effect. Archaeologists and others in the State Department, Homeland Security and the like

nonetheless continue to reach out to SAA on a case-by-case basis. Rather than continue with piecemeal responses, the Society will work with colleagues in the State Department and other relevant Federal and international agencies as well as other professional organizations to map global trends in looting and illegal trafficking of cultural resources and develop a more coordinated approach that anticipates rather than just reacts to events.

The wars in the Middle East and Central Asia have been devastating to cultural heritage. Archaeological sites have been ravaged both by groups usurping the heritage of others by destroying vestiges of the past and by those systematically looting sites for artifacts to sell. We applaud the efforts of those at the American School of Oriental Research (ASOR) to monitor and alert the world to the destruction of archaeological sites in Syria and Iraq as well as the work of the University of Pennsylvania Museum's Penn Cultural Heritage Center, the Smithsonian Institution, and the American Association for the Advancement of Science to create a research community to deal with cultural heritage in conflict. We also appreciate the efforts of the archaeologists in the US Department of Defense (DoD) working to create no-strike lists, train troops in cultural heritage awareness, and bring cultural heritage to the attention of field commanders, war planners, and senior leadership. SAA participates in DoD's Combatant Command Cultural Heritage Action Group (CCHAG). We listen to DoD archaeologists and do our best to provide support to their various activities. Because much of the US military's active service is undertaken with coalitions, the Society will also coordinate with international colleagues working with allied governments on the same issues to ensure comprehensive and consistent advice is provided to all parties.

For the last two years, IGAC has focused squarely on improving development bank cultural heritage regulation and compliance. Last year SAA sponsored the meeting *Improving Standards and Practices in Cultural Heritage Compliance in Latin America* in Lima, Peru. The meeting brought together representatives of the World Bank, the International Finance Corporation (IFC), and the Inter-American Development Bank (IDB) with their counterparts at ministries of culture from several Latin American countries, regulatory agencies, and Latin American academics and contract archaeologists. I presented the results of the Lima meeting at the Multi-Financial Institutes Working Group on Environmental and Social Standards in Washington, DC, at the European Association of Archaeologists annual meeting in Istanbul, and at the annual conference of the ICOMOS International Committee on Archaeological Heritage Management (ICAHM) in Jishou, China.

In 2015, SAA will continue to work with development banks on guidance notes and policies for cultural heritage compliance on bank projects. In February the IDB's Environmental Safeguards Unit is scheduled to finalize bank cultural heritage guidance. SAA will be allowed to review the final guidance before it is to be presented to bank management in March. SAA will be at the March presentation and will continue to work with IDB personnel on implementing it throughout the 2015 and beyond. Also, SAA will soon finalize its comments on revised World Bank policies. We are working with partners such as US ICOMOS and ICAHM to ensure that our comments reinforce each other. SAA will comment on four policies: Environmental and Social Standard 1 (Assessment and Management of Environmental and Social Risks and Impacts), 7 (Indigenous Peoples), 8 (Cultural Heritage), and 10 (Information Disclosure and Stakeholder Engagement). In addition to providing comments we intend to work with the World Bank and other development banks on some of the structural issues identified in Lima.

One of the most pressing problems identified in Lima was the varying capacity for regulating cultural heritage compliance throughout Latin America. SAA's Committee on the Americas will take the lead in determining the current status of cultural heritage programs and regulations in each country in Latin America. SAA will then share this information with the IDB, IFC, and World Bank. The objective is to identify gaps and deficiencies in these programs and develop a plan to fill them. Finally, in 2015, SAA will begin planning for a second meeting between development banks and Latin American archaeologists, which we hope to hold in conjunction with the next Conferencia Intercontinental in 2016.

At the same time, we will work with professional organizations and relevant NGOs and government agencies in Africa and the Asia-Pacific region to complete similar studies. IGAC members have executive roles in the Society of Africanist Archaeologists (SAfA), ICOMOS-ICAHM, the Indo-Pacific Prehistory Association (IPPA) and NGOs such as the Sustainable Preservation Initiative (SPI). SAA also has strengthening ties with the European Association of Archaeologists (EAA). These links provide a solid basis for co-ordinated action with institutions such as the Asian Development Bank and African Development Bank as well as representatives for those regions of the European Bank for Reconstruction and Development, IFC, and World Bank.

In this last connection, the SAA will investigate and, if feasible, register for accreditation to participate in the World Bank's bi-annual Civil Society Forums. This status would strongly advance the Society's international agenda regarding development because it would enable direct input into the development of Bank policy and procedure in collaboration and coordination with other major civil-society players from around the globe. It will be particularly important in this context to work with environmental conservation groups, as in the past it is they who have worked in this forum to protect cultural heritage in the absence of bodies such as the SAA. The global lead agency in this regard is the International Union for the Conservation of Nature (IUCN), with which IGAC members already work in other settings.

#### **SAA'S GOVERNMENT AFFAIRS PROGRAM WILL GROW TO MEET THE CHALLENGES**

The government affairs program at SAA will continue to grow in size and reach in 2015. When necessary, GAC and IGAC will be assisted by task forces to address specific issues. We will continue to engage the membership to identify specific Section 106 undertakings, NAGPRA reviews, state and local initiatives, antiquities sales and auctions, identification of heritage at risk, and other issues that fall under government affairs. The Board of Directors views government affairs as a core program that is an essential part of the Society's mission to advance the present and future of archaeology and cultural heritage.