



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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January 14, 2010

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Dear John,

Thank you for your email of December 29, 2009, in which you express your ongoing interest in EPA's efforts to improve compliance with the National Historic Preservation Act (NHPA), and where you pose several questions related to these efforts. The purpose of this letter is to briefly respond to your questions.

With respect to the question you raise in your email regarding EPA developing an internal policy on Section 106 compliance, the Director of Region IX's Superfund Division issued a policy memorandum, the one you refer to in your email, that outlines steps the program will take to improve efforts to protect cultural and historical resources that may be affected during Superfund cleanups. See "Compliance with the Substantive Requirements of the National Historic Preservation Act during Superfund Cleanups" ("Memorandum"), dated January 29, 2009, from Keith A. Takata, Director, Superfund Division, to Superfund Division Staff. Specifically, this Memorandum provides that the Superfund program will (1) provide periodic training to staff on the NHPA requirements; (2) develop a stronger relationship with the Office of Historic Preservation to help facilitate the Section 106 consultation process; and (3) evaluate the feasibility of tapping into historic resource experts that may be available at other federal agencies to assist EPA staff. In your email you ask about efforts EPA has made to improve compliance with the requirements under Section 106 of the NHPA, including those discussed in the Memorandum.

With respect to providing training, the Region conducted a region-wide NHPA training session in December 2007. This training was provided by EPA Headquarters Office of Federal Activities (OFA), NEPA Compliance Division, as part of an ongoing Agency-wide training effort and included presentations by the California State Historic Preservation Officer (SHPO) and a Tribal Historic Preservation Officer (THPO) from a California tribe. We just concluded NHPA training on January 12 and 13, 2010, which was provided by the California Office of Historic Preservation (OHP). The goal of this training was to provide regional staff with another opportunity to learn about the NHPA Section 106 requirements and process, this time directly from the OHP. EPA Region 9 Superfund management strongly encouraged all staff to attend this training. As noted above, the Superfund Division's goal is to try and ensure that NHPA training is available periodically for new employees and as a refresher for existing staff.

With respect to improving communication with OHP, great progress has been made over the past year. In addition to participating in EPA sponsored training as well as providing the training discussed above, OHP graciously hosted a meeting for EPA personnel at its offices last March. The purpose of the meeting was for Superfund managers and staff to get to know OHP managers and staff, and for the two agencies to discuss mutual expectations and practical steps to improve project compliance with NHPA. One recent example of good coordination on removal projects is the very successful work between EPA, OHP, and California State Parks at mine waste site cleanups at state parks over the past couple of years, especially the Bodie SHP hazardous waste cleanup operation.

Additionally, Superfund managers met with Michael Newland of SCA in January 2008, also to discuss EPA's efforts to help ensure that cultural and historical resources are appropriately considered during clean-up activities.

As you note, the Memorandum references EPA efforts to access historical resource expertise at other federal agencies. The Region explored and continues to explore ways to leverage or otherwise access other agencies' expertise. EPA is currently working on developing interagency agreements with both the US Army Corps of Engineers and California State Parks to provide EPA with access to experienced archaeologists and historic property specialists to assist the Region on cleanup projects.

While having a full-time regional archaeologist or historic properties specialist would be preferred, the Region does have a NHPA point of contact to advise staff and who also refers projects to our national Office of Federal Activities for project assistance on Section 106 compliance. (OFA has a full-time Historic Preservation Specialist and an Archaeologist on staff who meet the DOI standards for professional qualification. Our regional POC has a university degree in Anthropology and is a former THPO for a California tribe.) Also, we recently hired a Remedial Project Manager in Superfund with experience in Section 106 compliance at the federal level and she will be the designated point of contact (POC) in Superfund to coordinate Division NHPA activities. I will continue to work with the new Division POC on NHPA activities as well.

Finally, the Region continues to make good faith efforts to help ensure that we are complying with the Section 106 process. I hope this information helps to answer your questions and concerns. Feel free to call or email me if you have additional questions or would like clarification on anything I've mentioned in this letter.

John Kennedy



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