

WYOMING ASSOCIATION of PROFESSIONAL ARCHAEOLOGISTS

March 13, 2017

Mr. Kyle Wendtland, Administrator
Wyoming Department of Environmental Quality
Land Quality Division
200 W. 17th Street, Suite 10
Cheyenne, WY 82002

Re: Uranium Recovery Program Proposed Rules

Dear Mr. Wendtland,

This letter provides feedback from the Wyoming Association of Professional Archaeologists (WAPA) on the Proposed Rules for the Wyoming Department of Environmental Quality (DEQ), Land Quality Division's (LQD) Uranium Recovery Program. WAPA is a nonprofit organization consisting of over 150 professionals, students, and other members who are committed to maintaining and promoting professional archaeology in the State of Wyoming. The views expressed in this letter are based on WAPA's goals to provide input and promote professional archaeological interests to State, local and Federal agencies.

We have reviewed the Proposed Rules and have one primary concern. Permitting actions by the Nuclear Regulatory Commission (NRC) are subject to the requirements of Section 106 of the National Historic Preservation Act (NHPA). This legislation requires the NRC to consider the effects of their undertakings on historic properties, which are those sites listed on or eligible for the National Register of Historic Places. How the NRC considers these effects is defined in regulations promulgated by the Advisory Council on Historic Preservation (ACHP), found at 36 CFR Part 800. We understand that Wyoming DEQ is assuming those responsibilities, under the Proposed Rules.

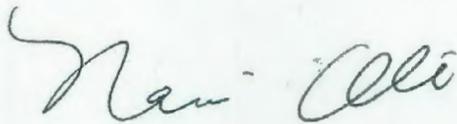
The regulations implementing the NHPA [36 CFR § 800.16(y)] define an undertaking as "*a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.*" We assume that compliance with the NHPA will be incorporated into Wyoming's management of the Uranium Recovery Program under the Proposed Rules, but we are concerned with the lack of clarity on how such incorporation will happen.

The ACHP addressed the issue of State delegated programs and the responsibility of Section 106 compliance in their preamble to the 36 CFR Part 800 revisions, which can be found at <http://www.achp.gov/regspreamble-rev04.pdf>. It reads, in part:

"Nevertheless, it is the opinion of the ACHP that the Federal agency approval and/or funding of such State delegated programs does require Section 106 compliance by the Federal agency, as such programs are "undertakings" receiving Federal approval and/or Federal funding. Accordingly, Federal agencies need to comply with their Section 106 responsibilities regarding such programs before an approval and/or funding decision on them. Agencies that are approaching a renewal or periodic assessment of such programs may want to do this at such time."

We believe that it is incumbent on the Wyoming DEQ to ensure that the implementing rules contain language that addresses the effects that actions taken by the State under this delegation could have on historic properties. Unless this issue is addressed, historic properties, including those of religious and cultural significance to Indian Tribes, run the risk of being destroyed with no consideration. Thank you for your attention to our concerns.

Sincerely,



Naomi Ollie, President
Wyoming Association of Professional Archaeologists

Cc: Milford Wayne Donaldson, Chairman (or John M. Fowler, Executive Director), ACHP
Eric Hein, Executive Director, National Council of State Historic Preservation Officers
Mary Hopkins, Wyoming State Historic Preservation Officer
D. Bambi Kraus, President, National Association of Tribal Historic Preservation Officers
Stephen G. Burns, Chairman, U.S. Nuclear Regulatory Commission
Diane Gifford-Gonzalez, President, Society of American Archaeology
Susan Chandler, Incoming President, Society of American Archaeology
Julia Stubble, President, Alliance for Historic Wyoming

CHAIRMAN Resource

From: Naomi Ollie <NOllie@swca.com>
Sent: Monday, March 13, 2017 6:25 PM
To: jfowler@achp.gov; hein@ncshpo.org; mary.hopkins@wyo.gov; info@nathpo.org; CMRBurns Resource; dianegg@saa.org; susan.chandler.saa@gmail.com; ExecDirector@HistoricWyoming.org
Subject: [External_Sender] Comments on new rules Wyoming DEQ Uranium Recovery Program
Attachments: Uranium WAPA letter_031317_submitted.pdf

On behalf of the Wyoming Association of Professional Archaeologists, I have posted the attached letter via the DEQ comment portal at: <http://lg.wyomingdeq.commentinput.com> regarding our concerns on the new rules for the Uranium Recovery Program. I've cc'd your group here as involved and/or invested parties.

Naomi Ollie
Cultural Resources Lead - Sheridan

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