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Kenny Gayman
Wash. Cty
Isaac Walton League

Isaac Walton League of America
Shawnee Chapter of Washington County
Ken Gayman - President

I am the Chair Person of the Historic and Esthetic program for the Shawnee Chapter of Washington County and the Harry Enstrom Chapter of Greene County

I am also a member of the State of Pennsylvania Archaeology Society, member of the Men-Yough Chapter 3 Archaeology and History Club attached to California University and a member of Archaeological Conservancy from the state of New Mexico.

Propose changes to the Pennsylvania Oil and Gas Regulations.

All drillers make predrill available data to the public along with the placement of well pads, compressor stations and where the pipe lines are going to be placed. Known as chapter 78 of Pennsylvania Code Act 13, The oil and gas law passed in 2012. There are no provisions in the oil and gas act to protect any Archaeological and

Historical sites. The drilling companies should hire a certified Archaeologist to do surveying before any well pads, compressor stations, impoundment ponds, pipe lines and roads leading to well pads to determine that they are not destroying any archaeology site and historical sites.

There are several laws in place protecting all Archaeological and Historical sites. There are Federal laws, state laws, The National Historical Code section 106 of the law, grave protection act, Freedom of religion act, Burial protection act, House Bill 506 passed by the U.S. congress protecting archaeological sites in New Mexico and the Pennsylvania Constitution Article 1 section 27 protection of these sites for this generation and generation to come.

I recommend a provision be adopted in the oil and gas act to protect these site for myself and all the people in Pennsylvania. (Refer to section 78.51 and 78.52.) All well pads, compressor stations, impoundment ponds, pipe lines and roads leading to well pads be a minimum of 500 feet near sites

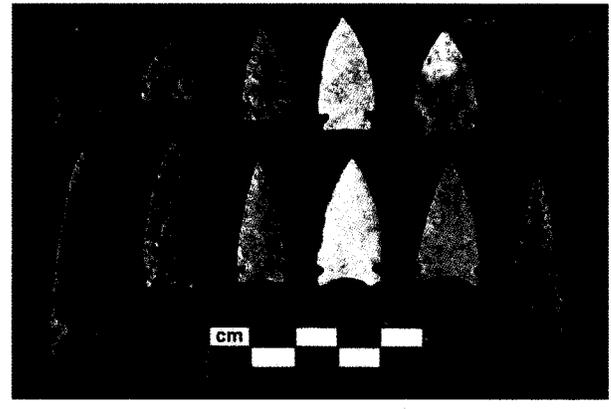
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Kenneth G. Hayman

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PENNSYLVANIA CONSTITUTION

"The Constitution devotes the domain to union, to justice, to defense, to welfare, and to liberty."

- William Henry Seward, speech, March 1850

The Pennsylvania Constitution is the foundation of our state government—the well from which liberty and justice spring forth. Our first Constitution was adopted in 1776 and was a framework for the U.S. Constitution, which did not take effect until 1789.

The articles and amendments of the Pennsylvania Constitution compose the fundamental law of the Commonwealth. It ensures basic rights to our citizens, outlines the structure of our government, and provides the rules by which our representatives are elected and how they conduct the business of the state.

While this section of the book focuses on the Pennsylvania Constitution, the answers to many of the questions in other sections come directly from this important document. For additional information, it is suggested that the reader refer to the Constitution as a supplement to this guide to Pennsylvania government. A copy of the Pennsylvania Constitution may be obtained from your state legislator.

DECLARATION OF RIGHTS

13. WHAT ARE THE RIGHTS SET FORTH IN THE DECLARATION OF RIGHTS OF THE PENNSYLVANIA CONSTITUTION?

The Declaration of Rights of the Pennsylvania Constitution predates and was a model for the Bill of Rights of the United States Constitution. It is primarily a list of "don'ts" for the General Assembly in that it prohibits the enactment of laws that would infringe on certain rights.

Those rights and prohibitions are set forth in the 28 sections of the declaration, as follows:

Section 1 . Inherent Rights of Mankind

All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

Section 2. Political Powers

All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness. For the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper.

Section 3. Religious Freedom

All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect or support any place of worship or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience, and no preference shall ever be given by law to any religious establishments or modes of worship.

Section 4. Religion

No person who acknowledges the being of a God and a future state of rewards and punishments shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this Commonwealth.

Section 5. Elections

Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Section 6. Trial by Jury

Trial by jury shall be as heretofore, and the right thereof remain inviolate. The General Assembly may provide, however, by law, that a verdict may be rendered by not less than five-sixths of the jury in any civil case.

Section 7. Freedom of Press and Speech; Libels

The printing press shall be free to every person who may undertake to examine the proceeding of the Legislature or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had in any prosecution for the publication of papers relating to the official conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury; and in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Section 8. Security From Searches and Seizures

The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or seize any person or things shall issue without describing them as nearly as may be, nor without probable case, supported by oath or affirmation subscribed to by the affiant.

Section 9. Rights of Accused in Criminal Prosecutions

In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or

property, unless by the judgment of his peers or the law of the land. The use of a suppressed voluntary admission or voluntary confession to impeach the credibility of a person may be permitted and shall not be construed as compelling a person to give evidence against himself.

Section 10. Eminent Domain; Initiation of Criminal Proceedings; Twice in Jeopardy

Except as hereinafter provided no person shall, for any indictable offense, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger, or by leave of the court for oppression or misdemeanor in office. Each of the several courts of common pleas may, with the approval of the Supreme Court, provide for the initiation of criminal proceedings therein by information filed in the manner provided by law. No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.

Section 11. Open Courts; Suits Against the Commonwealth

All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct.

Section 12. Power of Suspending Laws

No power of suspending laws shall be exercised unless by the Legislature or by its authority.

Section 13. Bail, Fines and Punishments

Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

Section 14. Prisoners to be Bailable; Habeas Corpus

All prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when in the case of rebellion or invasion the public safety may require it.

Section 15. Special Criminal Tribunals

No commission shall issue creating special temporary criminal tribunals to try particular individuals or particular classes of cases.

Section 16. Insolvent Debtors

The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

Section 17. Ex Post Facto Laws; Impairment of Contracts

No ex post facto law, nor any law impairing the obligation of contracts, or

making irrevocable any grant of special privilege or immunities, shall be passed.

Section 18. Attainder

No person shall be attained of treason or felony by the Legislature.

Section 19. Attainder Limited

No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the Commonwealth.

Section 20. Right of Petition

The citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes by petition, address or remonstrance.

Section 21 . Right to Bear Arms

The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.

Section 22. Standing Army; Military Subordinate to Civil Power

No standing army shall, in time of peace, be kept up without the consent of the Legislature, and the military shall in all cases and at all times be in strict subordination to the civil power.

Section 23. Quartering of Troops

No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

Section 24. Titles and Offices

The Legislature shall not grant any title of nobility or heredity distinction, nor create any office the appointment to which shall be for a longer term than during good behavior.

Section 25. Reservation of Powers in People

To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

Section 26. No Discrimination by Commonwealth or Political Subdivisions.

Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right.

Section 27. Natural Resources and the Public Estate

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

Section 28. Sexual Discrimination

Equality of rights under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the sex of the individual.

SEPARATION OF POWERS**14. WHAT IS MEANT BY "SEPARATION OF POWERS"?**

The Pennsylvania Constitution provides in separate articles for three branches of government—legislative, executive, and judicial. There is a significant difference in the type of power granted to each branch.

The second article of the Constitution gives "legislative power of the Commonwealth" to the General Assembly, which includes both the Senate and the House of Representatives.

The fourth article gives the Governor "supreme executive power."

Judicial power is addressed in the fifth article, which establishes "a unified judicial system consisting of the Supreme Court, the Superior Court, the Commonwealth Court, courts of common pleas, community courts, municipal and traffic courts in the City of Philadelphia, and other such courts as may be provided by law and justices of the peace."

This three-way separation of government is intended to keep each branch independent of the others, providing a system of checks and balances that offers protection against the concentration of power within one branch.

AMENDMENTS**15. HOW CAN THE CONSTITUTION BE AMENDED?**

Amendments to the Pennsylvania Constitution may be proposed in either the Senate or the House of Representatives but must pass in both by a majority vote of the members elected.

Three months before the next general election, the proposed amendment is published in at least two newspapers in every county. After the election, the amendment must again be approved through a majority vote of the members of the General Assembly. The amendment is again published and voted on by the entire electorate. If passed by a majority vote, the amendment becomes part of the Constitution.

No individual amendment can be submitted more often than once in five years, and when two or more amendments are submitted at once, they are voted on separately (see Article XI, Section 1).

16. WHAT ABOUT IN AN EMERGENCY?

The procedure to amend the Constitution is simplified somewhat when a major

emergency threatens the safety and welfare of the Commonwealth. An emergency amendment can be proposed in the Senate or the House of Representatives at any regular or special session and must be passed by at least two-thirds of the members of both legislative bodies. The proposed amendment is then published in at least two newspapers in every county and is then voted upon by the electorate at least one month after being agreed to by the General Assembly. If there are two or more emergency amendments, they are voted on separately (see Article XI, Section 1).

17. HAS THIS EMERGENCY AMENDMENT PROCEDURE EVER BEEN USED?

Yes. Because of widespread damage to many parts of the state caused by Hurricane Agnes in the summer of 1972, a special session of the General Assembly was convened on August 14, 1972. A joint resolution was passed to amend the Constitution allowing the Assembly to enact laws providing tax rebates, credits, exemptions, grants-in-aid, state supplementations and other special provisions to individuals, corporations, associations, and nonprofit institutions, including private schools.

The purpose of this emergency amendment was to alleviate the danger, damage, suffering, and hardship as a result of a great storm or flood of September 1971 and June 1972. It was approved by the electorate on November 7, 1972.

This procedure was followed again in the regular sessions of 1975 and 1977, adding the years of 1974, 1975, and 1977. These additional emergency amendments were also approved by the electorate. Again, the purpose of these amendments was to permit financial aid to specified areas of the Commonwealth due to flooding and storms.

CONSTITUTIONAL CONVENTIONS

18. HOW MANY CONSTITUTIONS HAS PENNSYLVANIA HAD?

Four. The first Constitution was created in 1776 by a convention presided over by Benjamin Franklin. It was drafted when the great experiment of launching a free government in America was being undertaken and marked the passing of the old proprietary government and the transition from a colonial commonwealth. The second Constitution, in 1790, eliminated features of the original document found to be unwise or unworkable. It gave the Commonwealth a body of law that served as a model for future state constitutions in Pennsylvania and many other states as well. The convention that framed the Constitution of 1838 merely amended the previous version, keeping its main features intact. The fourth Constitution, that of 1874, was largely a result of public demand to address the issue of special legislation. It was drafted and adopted to meet new conditions and problems that resulted from the rapid growth and development of the state during and following the Civil War.

19. HOW CAN THE CONSTITUTION BE REVISED?

It takes a constitutional convention, called for by law, enacted by the General

Assembly and approved by the people.

20. SINCE THE PRESENT CONSTITUTION WAS ADOPTED, HOW MANY TIMES HAS THE QUESTION OF A CONSTITUTIONAL CONVENTION BEEN SUBMITTED TO THE PEOPLE?

Seven, most recently in the primary election of May 1967. The vote was 1,140,931 in favor of a constitutional convention and 703,576 against.

21. HOW MANY OF THOSE SEVEN TIMES WAS THE QUESTION APPROVED?

Only once, in 1967. That limited constitutional convention was called to consider the articles pertaining to legislative apportionment; judicial administration, organization, selection, and tenure; local government; taxation and state finance (with the exception of the uniformity clause already contained in the Constitution); and any amendment on the ballot in the 1967 primary election. As it turned out, the amendments on that ballot were approved, so they were not included at the convention.

Between 1873 and 1967, the question of a constitutional convention was defeated by the electorate six times.

22. BY WHAT VOTE WERE THE FOUR CONSTITUTIONS RATIFIED?

The Constitution of 1776 was not submitted to the people for a vote, instead being adopted by the convention. Of 96 members, 95 were present when the Constitution was signed, but 23 failed to do so.

In 1790, the Constitution was again adopted by convention rather than submitted to the people. This time, of 69 members, 63 signed the document. The convention completed the new Constitution on February 6, 1790, and then recessed with the purpose of finding out how the people felt about it. They reassembled on September 2, 1790, for the signing and then adjourned.

The Constitution of 1838 was the first to be submitted to the people for ratification. The vote was 113,971 for and 112,759 against—a slim majority of 1,212 votes. The main support for this Constitution came from the northern and western counties, with opposition coming from southeastern counties and the large cities.

Pennsylvania's present Constitution was ratified by the people on December 16, 1873, by a vote of 253,744 for and 108,594 against.

23. WHAT WERE THE EVENTS LEADING UP TO AND THE HIGHLIGHTS OF THE PENNSYLVANIA CONSTITUTIONAL CONVENTION OF 1967-68?

Our present Constitution was drafted in 1872-73 and ratified in 1874. Even before the turn of the century, several of its provisions were outmoded, and they consequently hampered the government's ability to meet the people's changing needs. Nevertheless, voters rejected calls for open constitutional conventions six

times between 1890 and 1963.

In 1967, the General Assembly passed, and the Governor approved, a bill calling for a limited constitutional convention to consider articles pertaining to: legislative apportionment; judicial administration, organization, selection and tenure; local government; taxation and state finance (except for the uniformity clause in the Constitution's taxation and finance article); and any amendment to the Constitution on the ballot in the 1967 primary election.

Because several of the originally proposed amendments were approved by the voters prior to the 1967 primary, only the four subject areas listed above needed to be addressed through a constitutional convention. The voters approved a limited convention to consider them in the 1967 primary election.

Act No. 2, the law authorizing the limited constitutional convention, called for the election of 150 delegates and designated 13 ex officio delegates, totaling 163. In the November 1967 municipal election, voters elected three delegates from each of the state's 50 senatorial districts. The ex officio delegates included the Lieutenant Governor and the Majority and Minority leadership of both the Senate and the House.

Act No. 2 placed several restrictions on the convention. The Act:

- set a three-month life for the convention, from Dec. 1, 1967, to Feb. 29, 1968;
- prohibited the convention from making any recommendation permitting or prohibiting the imposition of a graduated income tax;
- prohibited changing the portion of the Constitution specifying that all taxes should be uniform, for the same class of subjects, within the territorial limits of the authority levying the tax; and
- prohibited the convention from altering the restriction that the Motor License Fund should be used solely for public highways, bridges, and air navigation facilities.

The Pennsylvania Constitutional Convention of 1967-68, convened in the Hall of the House of Representatives in Harrisburg, was organized by the following officers: Lt. Gov. Raymond J. Broderick, President of the convention; Robert P. Casey, First Vice President; Frank A. Orban, Jr., Second Vice President; and James A. Michener, Secretary.

During December, delegates submitted 209 proposals, which were referred to the appropriate committees and subcommittees where they were carefully studied, analyzed and discussed. Public hearings were then held to augment information gained from pro-convention hearings.

Seven proposals emerged through the subcommittee and public hearing review process. In February 1968, these proposals were given to the full convention for debate and amendment. They were adopted by the convention in early March and ratified by the voters on April 23, 1968.

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Relationship of Section 106 to Other Laws

Federal agencies have responsibilities under a number of laws that may influence the way they carry out their Section 106 duties. Section 800.3 (b) of ACHP's regulations specifically encourages coordination of Section 106 responsibilities "with any reviews required under other authorities such as the National Environmental Policy Act, the Native American Graves Protection and Repatriation Act, the American Indian Religious Freedom Act, the Archeological Resources Protection Act, and agency-specific legislation."

However, compliance with one or more of these other statutes does not substitute for compliance with ACHP's regulations, 36 CFR Part 800, unless ACHP explicitly agrees that it does through execution of a Programmatic Agreement or approval of alternate procedures. Also, the regulations allow Federal agencies to comply with Section 106 through the use of the NEPA process and documentation, so long as the steps and standards of Section 800.8(c) of ACHP's regulations are met.

Several of the other Federal laws related to the National Historic Preservation Act (NHPA) with which agencies must comply are:

- National Environmental Policy Act of 1969 (NEPA);
- Archeological and Historic Preservation Act of 1974 (AHPA);
- Archeological Resources Protection Act of 1979 (ARPA);
- American Indian Religious Freedom Act of 1978 (AIRFA);
- Native American Graves Protection and Repatriation Act of 1990 (NAGPRA);
- and Americans with Disabilities Act of 1990 (ADA).

Agency-Specific Legislation

National Environmental Policy Act of 1969 (NEPA)

Under NEPA, agencies have broad responsibilities to be concerned about the impacts of their activities on the environment, including historic properties. To an extent, NEPA addresses some of the same concerns as NHPA, for instance regarding identification of irreversible effects.

Although Section 106 is a totally separate authority from NEPA—and is not satisfied simply by complying with NHPA—it is perfectly reasonable for agencies to coordinate studies done and documents prepared under Section 106 with those done under NEPA. ACHP's regulations provide guidance on how the NEPA and Section 106

processes can be coordinated (Section 800.8(a)). They also set forth the manner in which a Federal agency can use the NEPA process and documentation to comply with Section 106 (Section 800.8(c)).

Archeological and Historic Preservation Act of 1974 (AHPA)

If a project will affect historic properties that have archeological value, the AHPA may impose additional requirements on an agency. Notifying the Department of the Interior that you are doing something under AHPA does not constitute compliance with Section 106.

Archeological Resources Protection Act of 1979 (ARPA)

If Federal or Indian lands are involved, ARPA may impose additional requirements on an agency. ARPA:

- Prohibits unauthorized excavation on Federal and Indian lands,
- Establishes standards for permissible excavation
- Prescribes civil and criminal penalties
- Requires agencies to identify archeological sites, and
- Encourages cooperation between Federal agencies and private individuals.

Acquiring an ARPA permit does not constitute compliance with Section 106.

American Indian Religious Freedom Act of 1978 (AIRFA)

AIRFA affirms the right of Native Americans to have access to their sacred places. If a place of religious importance to American Indians may be affected by an undertaking, AIRFA promotes consultation with Indian religious practitioners, which may be coordinated with Section 106 consultation. Amendments to Section 101 of NHPA in 1992 strengthened the interface between AIRFA and NHPA by clarifying that:

- A. Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.
2. In carrying out its responsibilities under Section 106, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A). [16 U.S.C. 470a (a)(6) (A) and (B)].

Native American Graves Protection and Repatriation Act of 1990 (NAGPRA)

For activities on Federal lands, NAGPRA requires consultation with "appropriate" Indian tribes (including Alaska Native villages) or Native Hawaiian organizations prior to the intentional excavation, or removal after inadvertent discovery, of several kinds of cultural items, including human remains and objects of cultural patrimony. For activities on Native American or Native Hawaiian lands, which are defined in the statute, NAGPRA requires the consent of the Indian tribe or Native Hawaiian organization prior to the removal of cultural items. The law also provides for the repatriation of such items from Federal agencies and federally assisted museums and other repositories.

NAGPRA defines Native American cultural items as:

- Human remains,
- Associated funerary objects,
- Unassociated funerary objects,
- Sacred objects, and
- Cultural patrimony.

In brief, NAGPRA requires agencies to:

- Inventory Native American cultural items,
- Repatriate Native American cultural items, and
- Consult with Native American groups about permits to excavate on Federal or tribal lands.

1992 amendments to NHPA strengthened NAGPRA by encouraging "protection of Native American cultural items...and of properties of religious or cultural importance to Indian tribes, Native Hawaiians, or other Native American groups" [Section 112(b)(3)] and by stipulating that a Federal "...agency's procedures for compliance with Section 106...provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with Section 3(c) of the Native American Graves Protection and Repatriation Act...." [Section 110(a)(2)(E)(iii)]

Americans with Disabilities Act of 1990 (ADA)

The ADA requires State and local government entities and places of public accommodation to make newly constructed buildings accessible to individuals with disabilities. It also mandates that altered portions of existing buildings and facilities be made readily accessible and barriers to accessibility in existing buildings and facilities be removed when it is "readily achievable." However, if following the usual standards would threaten or destroy the historic significance of a feature of the building,

alternative standards which are contained in "Standards for Accessible Design: Americans with Disabilities Act Accessibility Guidelines" (ADAAG) may be used. The decision to use alternative standards must be made in consultation with the SHPO. If, during that consultation, it is determined that application of alternative standards would still threaten or destroy historic significance, ACHP must be consulted.

Agency-Specific Legislation

Some agencies also have legislation specific to themselves that may influence Section 106 review. Section 4(f) of the Department of Transportation Act, for example, generally bars a DOT agency from using a historic property for project purposes if there is any prudent and feasible alternative to doing so. This is a higher standard than that imposed by Section 106, but DOT agencies regularly coordinate their Section 4(f) review with their Section 106 responsibilities.

Other agency-specific legislation includes the Federal Land Policy and Management Act of 1977 (FLPMA), the National Forest Management Act of 1976 (NFMA), and the Public Buildings Cooperative Use Act of 1976 (PBCUA).

Updated May 1, 2002

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The American Presidency Project



John Woolley and Gerhard Peters

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JIMMY CARTER

XXXIX President of the United States: 1977-1981

American Indian Religious Freedom Statement on Signing S. Res. 102 Into Law.

August 12th, 1978

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I have signed into law S.J. Res. 102, the American Indian Religious Freedom Act of 1978. This legislation sets forth the policy of the United States to protect and preserve the inherent right of American Indian, Eskimo, Aleut, and Native Hawaiian people to believe, express, and exercise their traditional religions. In addition, it calls for a year's evaluation of the Federal agencies' policies and procedures as they affect the religious rights and cultural integrity of Native Americans.

It is a fundamental right of every American, as guaranteed by the first amendment of the Constitution, to worship as he or she pleases. This act is in no way intended to alter that guarantee or override existing laws, but is designed to prevent Government actions that would violate these constitutional protections. In the past, Government agencies and departments have on occasion denied Native Americans access to particular sites and interfered with religious practices and customs where such use conflicted with Federal regulations. In many instances, the Federal officials responsible for the enforcement of these regulations were unaware of the nature of traditional native religious practices and, consequently, of the degree to which their agencies interfered with such practices.

This legislation seeks to remedy this situation.

I am hereby directing that the Secretary of the Interior establish a Task Force comprised of representatives of the appropriate Federal agencies. They will prepare the report to the Congress required by this resolution, in consultation with native leaders. Several agencies, including the Department of Treasury and Interior, have already taken commendable steps to implement the intent of this resolution.

I welcome enactment of this resolution as an important action to assure religious freedom for all Americans.

Note: As enacted, S.J. Res. 102 is Public Law 95-341, approved August 11.

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H.R.506

Galisteo Basin Archaeological Sites Protection Act (Enrolled Bill [Final as Passed Both House and Senate] - ENR)

--H.R.506--

H.R.506

One Hundred Eighth Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twentieth day of January, two thousand and four

An Act

To provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Galisteo Basin Archaeological Sites Protection Act'.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS- The Congress finds that--

(1) the Galisteo Basin and surrounding area of New Mexico is the location of many well preserved

prehistoric and historic archaeological resources of Native American and Spanish colonial cultures;

(2) these resources include the largest ruins of Pueblo Indian settlements in the United States, spectacular examples of Native American rock art, and ruins of Spanish colonial settlements; and

(3) these resources are being threatened by natural causes, urban development, vandalism, and uncontrolled excavations.

(b) PURPOSE- The purpose of this Act is to provide for the preservation, protection, and interpretation of the nationally significant archaeological resources in the Galisteo Basin in New Mexico.

SEC. 3. GALISTEO BASIN ARCHAEOLOGICAL PROTECTION SITES.

(a) IN GENERAL- Except as provided in subsection (d), the following archaeological sites located in the Galisteo Basin in the State of New Mexico, totaling approximately 4,591 acres, are hereby designated as Galisteo Basin Archaeological Protection Sites:

Name

Acres

Arroyo Hondo Pueblo

21

Burnt Corn Pueblo

110

Chamisa Locita Pueblo

16

Comanche Gap Petroglyphs

764

Espinoso Ridge Site

160

La Cienega Pueblo & Petroglyphs

126

La Cienega Pithouse Village

179

La Cieneguilla Petroglyphs/Camino Real Site

531

La Cieneguilla Pueblo

11

Lamy Pueblo

30

Lamy Junction Site

80

Las Huertas

44

Pa'ako Pueblo

29

Petroglyph Hill

130

Pueblo Blanco

878

Pueblo Colorado

120

Pueblo Galisteo/Las Madres

133

Pueblo Largo

60

Pueblo She

120

Rote Chert Quarry

12

5

San Cristobal Pueblo

520

San Lazaro Pueblo

360

San Marcos Pueblo

152

Upper Arroyo Hondo Pueblo

12

Total Acreage

4,591

(b) AVAILABILITY OF MAPS- The archaeological protection sites listed in subsection (a) are generally depicted on a series of 19 maps entitled 'Galisteo Basin Archaeological Protection Sites' and dated July, 2002. The Secretary of the Interior (hereinafter referred to as the 'Secretary') shall keep the maps on file and available for public inspection in appropriate offices in New Mexico of the Bureau of Land Management and the National Park Service.

(c) BOUNDARY ADJUSTMENTS- The Secretary may make minor boundary adjustments to the archaeological protection sites by publishing notice thereof in the Federal Register.

(d) WITHDRAWAL OF PRIVATE PROPERTY- Upon the written request of an owner of private property included within the boundary of an archaeological site protected under this Act, the Secretary shall immediately remove that private property from within that boundary.

SEC. 4. ADDITIONAL SITES.

(a) IN GENERAL- The Secretary shall-

(1) continue to search for additional Native American and Spanish colonial sites in the Galisteo Basin area of New Mexico; and

(2) submit to Congress, within 3 years after the date funds become available and thereafter as needed, recommendations for additions to, deletions from, and modifications of the boundaries of the list of archaeological protection sites in section 3 of this Act.

(b) ADDITIONS ONLY BY STATUTE- Additions to or deletions from the list in section 3 shall be made only by an Act of Congress.

SEC. 5. ADMINISTRATION.

(a) In General-

(1) The Secretary shall administer archaeological protection sites located on Federal land in accordance with the provisions of this Act, the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), and other applicable laws in a manner that will protect, preserve, and maintain the archaeological resources and provide for research thereon.

(2) The Secretary shall have no authority to administer archaeological protection sites which are on non-Federal lands except to the extent provided for in a cooperative agreement entered into between the Secretary and the landowner.

(3) Nothing in this Act shall be construed to extend the authorities of the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Repatriation Act to private lands which are designated as an archaeological protection site.

(b) MANAGEMENT PLAN-

(1) IN GENERAL- Within 3 complete fiscal years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives, a general management plan for the identification, research, protection, and public interpretation of--

(A) the archaeological protection sites located on Federal land; and

(B) for sites on State or private lands for which the Secretary has entered into cooperative agreements pursuant to section 6 of this Act.

(2) CONSULTATION- The general management plan shall be developed by the Secretary in consultation with the Governor of New Mexico, the New Mexico State Land Commissioner, affected Native American pueblos, and other interested parties.

SEC. 6. COOPERATIVE AGREEMENTS.

The Secretary is authorized to enter into cooperative agreements with owners of non-Federal lands with regard to an archaeological protection site, or portion thereof, located on their property. The purpose of such an agreement shall be to enable the Secretary to assist with the protection, preservation, maintenance, and administration of the archaeological resources and associated lands. Where appropriate, a cooperative agreement may also provide for public interpretation of the site.

SEC. 7. ACQUISITIONS.

(a) IN GENERAL- The Secretary is authorized to acquire lands and interests therein within the boundaries of the archaeological protection sites, including access thereto, by donation, by purchase with

donated or appropriated funds, or by exchange.

(b) **CONSENT OF OWNER REQUIRED-** The Secretary may only acquire lands or interests therein with the consent of the owner thereof.

(c) **STATE LANDS-** The Secretary may acquire lands or interests therein owned by the State of New Mexico or a political subdivision thereof only by donation or exchange, except that State trust lands may only be acquired by exchange.

SEC. 8. WITHDRAWAL.

Subject to valid existing rights, all Federal lands within the archaeological protection sites are hereby withdrawn--

- (1) from all forms of entry, appropriation, or disposal under the public land laws and all amendments thereto;
- (2) from location, entry, and patent under the mining law and all amendments thereto; and
- (3) from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

SEC. 9. SAVINGS PROVISIONS.

Nothing in this Act shall be construed--

- (1) to authorize the regulation of privately owned lands within an area designated as an archaeological protection site;
- (2) to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of privately owned lands;
- (3) to modify, enlarge, or diminish any authority of Federal, State, tribal, or local governments to manage or regulate any use of land as provided for by law or regulation; or
- (4) to restrict or limit a tribe from protecting cultural or religious sites on tribal lands.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

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