



Preserving America's Heritage

April 4, 2012

John Parker, PhD
Wolf Creek Archeology
P.O. Box 1353
Lucerne, CA 95458

***Ref: United States v. Bradley Mining Company, et. Al D.J. Ref. 90-11-3-07593
Sulphur Bank Mercury Mine Superfund Site
Lake County, California***

Dear Mr. Parker:

Thank you for your March 30, 2012 letter to John Fowler, Executive Director, Advisory Council on Historic Preservation (ACHP), regarding the draft Consent Decree between Elem, Bradley Mining, and the U.S. government. Mr. Fowler has asked me to respond on his behalf, and to inform you of the current status of our involvement in the Sulphur Bank Mercury Mine Superfund Site.

The ACHP is aware of the Environmental Protection Agency's (EPA's) history of consultation for Section 106 of the National Historic Preservation Act (NHPA), and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800), for the cleanup at the Elem Colony under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). We advised EPA in a letter dated December 11, 2007, of the need to review its internal guidance to better integrate historic preservation into the planning process. We recommended this action so that EPA could balance the requirements of Section 106 with its primary mission regarding preservation and enhancement of public health and the environment through its cleanup actions. We were pleased to learn that EPA subsequently initiated Section 106 for the BIA Road 120 Mine Waste Removal Action at the Sulphur Bank Mercury Mine Superfund Site pursuant to our regulations.

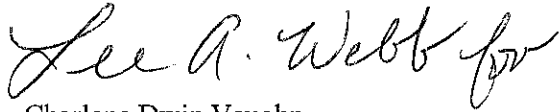
As your letter points out, the consent decree for this undertaking is a standard mechanism by which the federal government seeks to obtain partial reimbursement from the party responsible for the introduction of contaminants for the cost to EPA of cleanup efforts at CERCLA sites. A claim against the government for destruction of historic properties during the cleanup process is likely to be outside the scope of the settlement. While we note that the executed consent decree may affect future actions available to the Elem Tribe, the ACHP is not a signatory to the consent decree, and is unable to intervene in this legal action.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov

We appreciate your commitment to protection of historic resources. If we can answer any additional questions you have regarding EPA's Section 106 compliance responsibilities, please contact Louise Brodnitz at 202-606-8527.

Sincerely,

A handwritten signature in cursive script that reads "Lee A. Webb for". The signature is written in black ink and is positioned above the typed name of the signatory.

Charlene Dwin Vaughn
Assistant Director
Office of Federal Agency Programs
Federal Permits, Licensing and Assistance Section