

PROTECTION

Current Situation

The California Statewide Historic Preservation Plan states that protection is a fundamental objective of archaeological resource preservation efforts in California. The reality of the regulatory process, however, is that relatively few archaeological sites are protected. When discovered, most sites have already suffered impacts. Many sites have been damaged from vandalism, pothunting, natural forces (erosion, etc.) and neglect. Still others are destroyed through data recovery, poorly developed research designs, unqualified or unscrupulous archaeologists, or an absence of agency review and oversight.

- Archaeological resources receive a variable degree of protection.
- There is no clear consensus among local governments, public agencies, Native American groups, the general public, and archaeological professional about what constitutes a reasonable effort to protect archaeological resources.
- Discussing protection of sites is difficult because there is no data regarding how many of the known recorded sites still exist.
- Significant archaeological resources are being severely damaged, usually due to inadequate knowledge within local governments who make development decisions.
- For non-federal projects, it often is left to a single archaeological professional to make recommendations to the lead agency.
- Archaeologists often make decisions regarding site significance based on incomplete information, resulting in site destruction.

Ideal Situation

CEQA states that avoidance and preservation is the preferred alternative. It does not ‘mandate’ preservation. CEQA only mandates ‘consideration’ of cultural resources as part of the environmental review process that local governments must follow. Because preservation is the preferred alternative, the highest and best goal should be to preserve cultural resources whenever possible. Achieving this goal will require: increased Native American consultation and participation in the CEQA process, and creating a system of permitting, training, and checks and balances, with some State-level oversight and accountability requirements, among other measures. The state should encourage the following:

1. Preparation of cultural resource management plans in every local (city and county) jurisdiction to increase the probability of site protection through implementable policies, programs, and partnerships, including tailored and creative funding mechanisms to support this goal.
2. An emphasis on creative site protection, rather than destruction, through mitigation.
3. Inclusion of public education as integral to site protection.

How to Bridge the Gap

Bridging the gap will take the willingness of many entities to earnestly work toward changing the way we perceive and accomplish site protection, how we prioritize the value of site protection, how we mandate protection, and how we enforce protection compliance. There will have to be positive benefits established such as incentives, awards, and recognition that are meaningful for property owners, developers, local governments, public agencies (utility companies, redevelopment agencies, etc), archaeologists, OHP, and other entities. There will also have to be new mandates to ensure proper planning activities for site protection, as well as funding mechanisms to support oversight and assistance programs, mitigation banking programs, and other needed strategies.

1. Encourage local governments to create archaeology staff position (and fill them) or contract with qualified professional archaeologist to review reports, determine the need for studies, develop policies and ordinances, and oversee local cultural resources.
2. Encourage local governments to create meaningful economic incentives for site protection, such as preservation tax credits and/or tax or development credits for protection/conservation conveyance purposes.
3. Help local agencies consider programs that emphasize protection of cultural resources.
4. Local governments need to be encouraged by their citizenry and those concerned to include a cultural resource element in their General Plan. Current state law does not require such elements, but rather considers them optional.
5. Work more closely with universities to provide better training for future cultural resources professionals.
6. Encourage efforts to ensure that existing regulations and statutes are enforced through training for local level code and law enforcement personnel.
7. Educate local governments and public agencies regarding recently enacted "Senate Bill 18" (Traditional Tribal Places) to create opportunities to better involve the Native American communities in determining site protection planning efforts through mandated consultation training and implementation.
8. Encourage local governments to provide regular training on cultural resources statutes and responsibilities under CEQA for their staff and decision makers.
9. Encourage local governments to establish awards for site protection successes at their level government (similar to the Governor's Award program) to promote site protection.
10. Encourage local governments to establish mitigation fees to fund cultural resource management planning, similar to a General Plan Impact Fee that serves to generate funds for a city or county to pay for the preparation and updating of their general plans.
11. Encourage support for amendments to CEQA that mandate cultural resource protection whenever possible.
12. Encourage the increased participation of the descendant communities in all aspects of site protection as full partners, if not leaders, in the preservation of their cultural resources.