

Cultural Resources Are Good for Business.

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Please check *The Grapevine* (p. 5) for important information on Pennsylvania Historical and Museum Commission.

1995 State of New Mexico Study Shows that Cultural Resources Are Good for Business.

by Dave Phillips, New Mexico Archaeological Council President

When we ask corporations or the public to support historic preservation, we tend to feel a little like Oliver Twist asking for more gruel. But at the statewide level, cultural resources aren't an imposition; they're good business. Just how good? According to a 1995 study by the N.M. Office of Cultural Affairs, cultural resources (broadly defined) generate \$1.6 billion in expenditures in New Mexico. That has created over 56,000 jobs in the state, far more than are provided by "vital" areas such as construction, health services, or manufacturing.

The study concludes that "New Mexico's cultural resources - museums, visual and performing arts, libraries, Indian reservations and pueblos, art galleries, historic buildings, arts councils, archaeologi-

cal sites, films and literature, community festivals - stimulate deep and broad economic and social development in our communities."

The study found that the direct expenditures for cultural resources totaled \$292 million; the total figure (which also includes indirect expenditures) was calculated by plugging data into a program developed by the U.S. Department of Commerce. Since no figures on CRM expenditures have been gathered up to now, one result of the state archeologist's initiative should be to show an even greater economic benefit from cultural resources.

The next time someone asks you what good culture is, or why it's worth preserving, you can point out that eliminating the cultural portion of New Mexico's economy would destroy a third more jobs than eliminating all the construction companies in the state. (Source: *On Fertile Ground: Assessing and Cultivating New Mexico's Cultural Resources*. State of New Mexico, Office of Cultural Affairs, Santa Fe.)

Professional Liability Insurance: What is it?

By Chris Butler

This month I want to discuss professional liability insurance, often called "errors & omissions insurance." Over the last eight months, I have been working to find competitive prices for this coverage. It has been my impression that many ACRA members do not carry the insurance and most do not have a good understanding of why it is needed. I hope to add a little insight into why this insurance is important to purchase.

The first thing to know about this

coverage is that it is very different from standard insurance coverages, such as automobile, and workers' compensation. Because of the unique nature of this type of insurance, the cost to purchase it can be expensive. Unlike automobile and property insurance where statistics are available to predict risk, professional liability is simply a guess. Unless you can easily group a

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ACRA Activities

ACRA Annual Meeting Update

by Dana McGowan, Jones and Stokes Associates, Inc.

Plans are moving ahead for the upcoming ACRA Annual Meeting this fall in Sacramento, California. The meetings, which will be hosted by Jones and Stokes Associates, Inc., will likely be held November 1-3, 1996. Confirmation of those dates and the host hotel will be made on a vote by the ACRA Board of Directors at a mid-year meeting in Baltimore in late March.

The format for the annual meeting will follow that of the meetings in Washington last fall. The Board of Director's Meeting will be held on Friday afternoon, November 1. The conference will begin Saturday morning and continue all day, November 2. Depending upon the number of papers to be given, there may be a need to run concurrent sessions. The ACRA Business Meeting will be held Sunday morning, November 3, and will last until about noon.

The meetings will probably be held in a downtown hotel near Old Sacramento, a commercial area along the Sacramento River that has been restored to look as it did around 1850-1860. The Sacramento Railroad Museum, a must for railroad buffs, is located in Old Sacramento. A narrow gauge excursion train is also located in Old Sacramento and operates trips along the Sacramento River.

The K Street Mall in that area has over 200 shops and restaurants. Other nearby attractions include the Crocker Art Museum, one of the oldest art museums in the West; Sutters Fort, which dates to the 1840s; and the California State Library, housing one of the largest and earliest collections of print materials, photographs, and paintings of the American West.

Interim Board Meeting

There will be an open board meeting on March 30-31, in Baltimore, MD. The meeting will be held at the Days Inn, just three blocks from the Inner Harbor. Rooms are \$79 per night. For reservations call: 1 (800) 886-8359, and be sure to mention that this is part of the ACRA meeting. It would be best to arrive Friday PM and count on staying over Saturday night. All meals are on your own.

The meeting will discuss the budget, various committee reports, and plans for the future. ACRA members in the Mid-Atlantic area are encouraged to attend and observe the proceedings.

Membership Lists and SHPOs

In February, ACRA sent out a list of full members to all 50 SHPOs and USVI and Puerto Rico historic preservation offices. Only members that indicated so on their membership questionnaire were included on this list. So far, we have received two responses. Oregon's SHPO indicated that they already have a list and that out-of-state contractors rarely win contracts in Oregon. The other is from the New Jersey's SHPO. Since we had only two members in New Jersey, the nice folks in the New Jersey SHPO office sent us New Jersey's lists so we can contact more CRM firms from their state. These lists included historical architects, conservationists, and archaeologists.

If you would like to be included on the next such mailing in approximately six months, please let Tom Wheaton know. If you have not completed the multipage membership questionnaire indicating your specialties, where you work, etc., please request one from Tom Wheaton. The little questionnaire in the ACRA brochure is incomplete and is only for an initial entry into our database. If you know of an organization besides the SHPOs that might benefit from having a list of our member firms, please let us know.

Professional Liability Insurance..

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profession together, such as attorneys, the premium is going to be based on each account's individual characteristics. The less an insurance company knows about a profession, the more likely a higher premium will occur. Unfortunately, some ACRA members have had this happen to them because of insurance companies unfamiliarity with the CRM profession.

Obviously, an important question to ask is what does this coverage insure against? The key element in the coverage is that it is going to insure you for an actual or alleged error, omission, or negligent act you make in performance of your profession. Unlike most insurance contracts, where damage to property or injury to person must occur, this policy protects you when someone has incurred financial loss due to your error or omission.

An example of an error which could cause financial loss comes from the field of archaeology. Lets say that during an inventory, your firm mistakenly fails to identify an important archaeological site. The site is then discovered after construction begins and all construction work has to be stopped while investigation of the site is undertaken. Your firm has made a mistake and it is causing a financial loss to the construction company which is incurring thousands of dollars of loss per day in down time. Your general liability policy will not insure this claim. Unless you have professional liability, you have no protection. This is the sort of situation that could put a company out of business.

Another example would be one in which you are subcontracting to a large engineering or environmental firm. The larger firm is sued by their client or another entity for something that happened on the project not even related to your involvement. In this event your company *could* be sued as well and it could take time in court to get yourself extracted from the lawsuit, despite the fact that you were not even involved.

In addition, professional liability also covers claim expenses. This means expendi-

tures, including legal services, costs of investigations, experts, and court costs, which would be incurred in defending a suit against you are covered. These costs can very quickly add up to thousands, if not tens of thousands, of dollars. Even if a suit is groundless, by having insurance you can avoid having to pay these expenses because your policy will do so.

Another key difference between professional liability and other insurance coverages is that it is a "claims made" policy. This means that the policy only covers those wrongful acts which occur and result in a claim during the policy period. If you purchase a policy on 1/1/96 and a claim is filed against you on 3/1/96, it is only covered if the act which caused the claim occurred on or after 1/1/96. If the act occurred on 11/1/95, it would not be covered. Because it is a claims made policy, which almost all errors & omission policies use, you need to be careful in changing policies. Also, if you are buying your first errors & omissions policy, it is not going to insure you for prior acts committed before the policy is issued.

Obviously, I can not discuss all of the details about professional liability. My comments are based on general conditions of a standard contract, so please remember that each company will have specific coverages, conditions, and exclusions.

The main point I want to emphasize is that even small firms should carry professional liability insurance. Although the chances of you making a mistake are unlikely, it is difficult to know what each employee and subcontractor is doing (yes this coverage can extend to your subcontractors as well). People do make mistakes and, at times, they can and do have significant financial consequences. It makes good business sense to protect your business properly by carrying this coverage.

Next issue, I will give you an update on our progress in finding the best market for professional liability insurance.

Membership Certificates

By now, all but the most recent members should have received member certificates signed by Chuck Niquette, and signed & sealed by Mike Polk. If you have not received your certificate, call Tom Wheaton at (770) 498-4155. Please check whether your certificate shows you as a full member or as an associate member. If this is incorrect, please let Tom know. New members will receive their certificates within two or three weeks of joining.

ACRA Web Site

Please check your entry at the ACRA web site (<http://www.mindspring.com/~wheaton/ACRA.html>) for accuracy. If you would like to have more than a simple name/address entry, please submit a one-line description of your company for uploading to the Supplier section.

If you would like to have a link to your home page or a full page add, please check out our advertising costs at the web site. A simple one-line ad is free to members.

ACRA Committee Reports

ACRA-L

We now have over 200 subscribers to the ACRA-L mailing list. Only about one-third are from the private sector, and most of these are ACRA members. The discussions have been lively, even if they are tipped a little toward the agency/academic point of view.

We need more ACRA members to become active on the list, not just to provide a more balanced discussion, but to educate our own members on what is really happening in CRM. To be able to address SHPOs, federal agency people, students, and other consultants in an immediate, give-and-take environment is hard to describe, but it is clearly an important and useful exercise.

To join, send this message:

SUBSCRIBE

ACRA-L <your name here as you would like to be listed> to this address

LISTPROC@LISTPROC.NONPROFIT.NET.

COMPETITIVE PRACTICES COMMITTEE

by Patrick O'Bannon, Chairperson

Positions and opinions on this subject are being sorted and evaluated by the committee in anticipation of presenting a report to the Board of Directors at its Baltimore meeting at the end of March. Much valuable information is coming from monitoring discussions about competitive practices on ACRA-L.



BEST PRACTICES COMMITTEE

by Mike Polk, Chairperson

Information from a variety of sources, including the lively discussions on ACRA-L, has been sorted and is being evaluated by the committee. One of the most difficult parts of evaluation is to separate out what so often appears to be problems caused by poor communication among the players involved in agency-consultant, agency-agency, consultant-consultant situations and even in interpretation of existing regulations. Something being debated by the committee concerns the idea of ACRA using its unique position to play a more meaningful role in these situations. A report is being prepared for the Board of Directors to be presented at the Baltimore meeting.



MEMBERSHIP COMMITTEE

David Ketz, Chairperson

Last year, members were requested to seek out regional meetings and newsletters where we could make converts to ACRA. So far, few people have taken the initiative to inform Tom Wheaton of such meetings (thanks to John McCarthy for taking on MAC and to Ned Heite for taking on the Mid-Atlantic meeting). We have sent representatives to a few national meetings, but this has mostly been driven by the board, not the membership. Please inform David Ketz of any meetings where we should have a representative with a handful of brochures (a display turned out to be too expensive). David's address is: The 106 Group, 370 Selby Ave., St.

Paul, MN 55102, e-mail ddketz@aol.com. We also need the mailing lists of newsletters. On this topic, the board has been relatively successful with thanks going to Dana McGowan, Dan Roberts, and Loretta Neumann, among others. But there are still lots of organizations out there we need to contact. Our database contains over 1,500 addresses, including 130 ACRA members, but this probably only represents one half of the number of potential member firms and consultants. If you are a member of an organization with a membership that might be interested in ACRA's activities, please send a copy of the newsletter to Tom Wheaton and inform David Ketz of the next meeting date and location. We need your help to make this organization work.



LABOR RELATIONS COMMITTEE

By Kevin Pape, Chairperson

By now the membership should have received the packet of information concerning the wage determination issue provided by the committee. Please read over this information, consider its implications, and contact the committee with any question you may have.

As indicated under Item 5 of the Action and Recommendation section, the committee intends to study the substantive issues associated with appropriate compensation, hiring practices, training, etc., for technicians and entry level personnel within our industry. Anyone with input regarding these issues is encouraged to contact Kevin Pape, at Gray & Pape, Inc., 1318 Main Street, Cincinnati, OH 45210; 513-287-7700.

ACRA has hired a top-notch labor lawyer, Maurice Baskin, to handle our appeal to the Department of Labor. The lawyer will be paid out of a separate legal fund set up by the ACRA Board of Directors for companies with a direct stake in this issue. If you would like to contribute to this special fund (we are asking for \$1,000 contributions), please send your check to Charissa Wang, the ACRA Treasurer at: Hardlines: Design and Delineation, 4608 Indianola Ave., Columbus, OH 43214.

Archaeology and Historic Preservation Legislative Update

ACRA Legislative Update

By Loretta Neumann & Kathleen Schamel
CEHP Incorporated
March 8, 1996

The second session of the 104th Congress picked up steam in early March after almost a month long recess in February. The following highlights some issues of concern to ACRA.

INTERIOR APPROPRIATIONS

The Congressional resolution for fiscal year 1996 funding for the Interior Department and related agencies (Advisory Council on Historic Preservation, National Endowments for the Arts & Humanities, Bureau of Land Management, Forest Service, etc.) was set to expire March 15. Congressional leaders cut a deal on an "omnibus" bill funding these and other unfunded departments through the end of September. For Interior, the funding levels would likely be at the same levels approved by the House/Senate conference committee last fall — Historic Preservation Fund grants to states would receive about \$31 million, (a 5 percent cut from the 1995 level) and the Advisory Council \$2.5 million (a cut of \$500,000). Environmentalists remained concerned about a number of "riders" that were attached to the earlier bills that President Clinton vetoed. If the riders did remain (or were not significantly changed), another veto was possible.

Meanwhile, as Congress struggled to resolve FY 1996 funding issues, the FY 1997 appropriations cycle began. House Appropriations subcommittee hearings were set for March and April, and markup possibly by the end of April or early May. Hearings are as follows: March 14, Natural Resources, Outside Witnesses (ACRA Board Member Loretta Neumann was set to testify); March 20, National Park Service Director; March 27, Fish & Wildlife Service Director and Forest Service Chief; March 28, Secretary of the Interior; March 17 & 18, Members of Congress; April 23, Bureau of Land Management Director.

No exact funding levels were publicly available until after the President releases his budget on March 18 but the following highlights some preliminary information on some of the agencies funded in the Interior bill:

* Advisory Council on Historic Preservation. The ACHP is likely to be "straight lined" into FY 1997, which means funding at the 1996 level, about \$2.5 million. With increased pay and other costs, this translates into a 12% cut from 1996 and a 27% cut from 1995.

* National Park Service. Indications are that the Historic Preservation Fund has not taken any major cuts during the

internal budgeting process for FY 1997 and that funding should be at a similar level to 1996. Grants under the Native American Graves Protection and Repatriation Act will probably be at the same level as the last two years, \$2.4 million. Also, the Interior Department may request \$400,000 for law enforcement assistance under ARPA.

* Bureau of Land Management - Sources at BLM indicate that the Departmental request for BLM's cultural resources program for FY 1997 is slightly higher than the enacted amount in FY 1995—\$12 million. In FY 1996, the BLM's cultural resource management program was cut by \$1 million, equivalent to the increase it had received in 1995 for implementation of NAGPRA. Staff indicate that while BLM has continued to meet the stringent deadlines established in NAGPRA, the work is being done at the expense of other critical CRM activities, including resource protection and visitor services.

* Forest Service - No cultural resource budget increases are expected, with requests for FY 1996, FY 1997, and FY 1998 (\$13-\$13.5 million) much lower than the \$17 million approved in FY 1994. The result is that public programs such as interpretation and protection of resources may suffer greatly.

* Fish and Wildlife Service - The service is seeking to increase protection of its archaeological sites, historic properties, and museum collections. FWS has no line item for cultural resources; funding comes from project budgets.

NATIONAL HISTORIC PRESERVATION ACT

The House Subcommittee on National Parks, Forests & Lands scheduled a hearing on Wednesday, March 20th on three bills that would amend the National Historic Preservation Act (NHPA):

(a) H.R. 563: Introduced by Rep. Wally Herger (R-CA), it would prohibit inclusion of sites on the National Register of Historic Places that do not contain artifacts or other physical evidence of human activity significant in history or prehistory. The bill was originally introduced in response to a determination of eligibility that was made with regard to Mount Shasta and subsequently rescinded in large part by the Keeper of the National Register. At issue was the expansion of a ski resort and concerns by Native Americans who considered the mountain to be sacred. H.R. 563 would specifically prohibit Mount Shasta from being on or eligible for the National Register nor being designated a historic district, site or national monument. It would also preclude other sites, as noted above, from the National Register,

(b) H.R. 3031, introduced by Rep. James Hansen (R-UT) would amend the National Historic Preservation Act to reauthorize funding for the Council on Historic Preservation. Hansen's bill, introduced at the request of the Council (which means he does not necessarily personally

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endorse it), would authorize ACHP at \$5 million annually through the year 2002.

(c) H.R. 1179, introduced by Rep. Bob Clement (D-TN) and Rep. John Duncan (R-TN), would authorize appropriations until 1999 for the preservation and restoration of historic buildings at historically black colleges and universities.

NATIONAL PARK SERVICE

Rumors have been flying about a possible "omnibus" National Park bill that would incorporate many of the pending damaging land management bills such as the Utah wilderness proposals. The "carrot" for Democrats to support such an omnibus bill is Sterling Forest, a 17,000-acre woodland area 40 miles from New York. Among other things, Sterling Forest protects the water supply for 2 million people in New Jersey; as a result, Senator Bill Bradley (D-NJ) has been holding up all bills coming out of the Senate Energy Committee, which also has jurisdiction over national parks, historic preservation, etc. Bradley wants federal funds to purchase the important watershed. In conversations with House Committee staff, it seems clear that they are working on an omnibus bill. The Senate staff reports that nothing has been drafted and they are still in discussion stages despite rumors from good sources that the Committee will take up an omnibus bill on March 19. All sorts of other things could be tagged on to the bill, so it bears watching.

ACRA News is a monthly publication of The American Cultural Resources Association. Our mission is to promote the professional, ethical and business practices of the cultural resources industry, including all of its affiliated disciplines, for the benefit of the resources, the public, and the members of the association.

This publication's purpose is to provide members with the latest information on the association's activities and to provide up to date information on federal and state legislative activities. All comments are welcome. Please address comments to:

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