



Preserving America's Heritage

TRADITIONAL CULTURAL LANDSCAPES IN THE SECTION 106 REVIEW PROCESS

Background. Since 1992, when Congress amended the National Historic Preservation Act to clarify that historic properties of religious and cultural significance to Indian tribes and Native Hawaiian organizations (NHOs) may be eligible for the National Register of Historic Places (National Register), the ACHP has seen a steady increase in the number of Section 106 reviews involving such historic properties. Improvements in federal agency consultation with Indian tribes and NHOs and greater recognition of their expertise in identifying historic properties of significance to them have likely contributed to this increase. It is equally likely that there have also been increasing development pressures in places not previously developed. An early 2011 Tribal Summit co-hosted by the ACHP in Palm Springs, California, underscored the fact that the nation's renewed emphasis on the development and transmission of renewable energy, as well as the continued focus on conventional energy, is placing additional pressures on landscapes throughout the country, and particularly in the west. See the attachment for a summary of the summit recommendations.

In recent years one particular issue concerning these traditional cultural resources has become prominent. The ACHP has participated in Section 106 reviews involving large scale historic properties which have included multiple, linked features that form a cohesive landscape of significance to a tribe or tribes or NHOs. A sampling of such cases is included as an attachment. The recognition and understanding of such places can often be a struggle for the non-tribal or non-Native Hawaiian participants in the process, partly due to the lack of experience in addressing such places and partly due to the lack of a vocabulary for identifying and evaluating these properties. Likewise, these expansive landscapes pose challenges for consulting parties in assessing and effectively dealing with the impacts of federal actions on them.

There are numerous places of this nature either listed in the National Register or determined eligible for inclusion in the National Register as a result of the Section 106 process, including Zuni Salt Lake in New Mexico, Bighorn Medicine Wheel/Medicine Mountain in Wyoming, Nantucket Sound in Massachusetts, Mauna Kea in Hawaii, and Mount Graham in Arizona. While the formal recognition process addresses some of the questions of significance and extent, the tribes or NHOs to whom they are significant often indicate that these expansive landscapes are part of a larger whole that is often not fully recognized or understood by those considering them through the Section 106 process. For example, although the area included in the Bighorn Medicine Wheel National Historic Landmark has just been expanded to approximately 4,000 acres, an area many times that size is of significance to the tribes. Likewise, the National Park Service acknowledged in its eligibility determination for Nantucket Sound that the recognized area was part of a larger significant landscape. Significant mountains such as Mount Taylor in New Mexico and Mount Graham, too, are often considered to be components of an even broader cultural landscape that retains significance for many tribes.

With the growing recognition that there are large scale historic properties of significance to Indian tribes and NHOs and that such places are increasingly being threatened by development, the ACHP initiated informal discussions with Indian tribes in 2009 about how to address these issues. The ACHP began by

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advancing the idea that these large scale properties might be best addressed as landscapes and looked to the field of landscape architecture for both a methodology and a vocabulary to apply to properties of religious and cultural significance. While these discussions continue, most have agreed that such properties warrant the attention of the preservation community and pressing Section 106 issues, such as energy development in the California desert, underscore the need to address these issues now.

The Forum. Recognizing the importance of this issue, the ACHP approached the National Park Service (NPS) with the proposal that a co-hosted forum be held in conjunction with the August ACHP business meeting in Seattle. This forum will be the first opportunity to both introduce to the ACHP members the range of issues and challenges regarding the identification and treatment of traditional cultural landscapes. While the ACHP staff have for many years been involved these issues, the increased pressures on tribal and Native Hawaiian cultural resources warrant elevating the dialogue to the policy level within the ACHP and the broader preservation community. The forum will provide the members an opportunity to identify actions that can be taken by the ACHP and others to address these issues.

The forum will include brief presentations by a federal agency that has experience in considering tribal landscapes through the Section 106 process, as well as representatives from the ACHP, NPS, Indian tribes, and the National Conference of State Historic Preservation Officers who have dealt with these issues for many years. These presentations will help to identify the broad range of issues related to the recognition, evaluation, and treatment of such places through the Section 106 process, and set the stage for further discussion with ACHP membership on how to address these issues. ACHP members and forum participants are encouraged to consider the following questions during this discussion:

1. How can the ACHP ensure that federal agencies, applicants, and their consultants are effectively identifying, evaluating, and treating tribal and Native Hawaiian landscapes through the Section 106 process?
2. What assistance and guidance is needed by SHPOs, Indian tribes, and NHOs to participate effectively in consultation and resolve disputes and questions that arise in the treatment of these resources?
3. What guidance and information is needed by Section 106 practitioners to address challenges relating to the following:
 - determining appropriate documenting for landscapes
 - addressing confidentiality concerns about the nature and precise location of certain elements of broader landscapes
 - addressing the status of private landholders within broad landscapes
 - developing appropriate treatment and mitigation measures for landscapes that may be adversely affected
 - consulting tribes, especially early in the design and planning phase of development
4. How can the ACHP best work with NPS to address related issues including documentation standards, and what other issues should be addressed directly by NPS?

ACHP staff will work closely with NPS to address the recommendations coming out of this discussion and determine appropriate steps for the ACHP. These steps may include policy statements, additional guidance, and targeted training.

Action Needed. The members should consider what actions the ACHP, the NPS, and other federal agencies might take to improve the treatment of traditional cultural landscapes in the Section 106 process.

Consideration should be given to short- and longer-term solutions and include policy recommendations, guidance, training, and other advisory or regulatory solutions.

Attachments:

Summary of Tribal Summit on Renewable Energy Recommendations
Sample of landscape cases

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