



## **VOLUME 3 - ACHP POLICY AND LEGISLATIVE ADVICE**

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Preserving America's Heritage

**ACHP ADVICE TO THE PRESIDENT AND CONGRESS:  
COMMENTING ON PENDING AND PROPOSED LEGISLATION  
Office of Preservation Initiatives**

The ACHP is an unusual entity within the federal government, comprised of both non-federal and federal members, and has a broad range of duties and program authorities. One of the most important duties of the ACHP set forth in the National Historic Preservation Act is to “*advise the President and Congress on matters relating to historic preservation. . .*” (54 U.S.C. §304102). In fulfillment of this statutory charge, the ACHP periodically takes positions on pending and proposed legislation, and conveys its views to Congress for consideration.

Executive Branch procedures prescribe a strict process for the formulation of Administration positions on legislation, whether pending in the Congress or being advanced within the Administration for subsequent consideration by the Congress. Underlying these procedures is the principle that the Administration must speak with a single voice when dealing with the Legislative Branch. However, Congress wishes the ACHP to serve as an independent advisory voice on legislation, to provide a voice within the Administration that is not solely that of the federal establishment. Therefore, it has authorized the ACHP to submit its comments on bills directly to Congress without prior review by the Administration. The National Historic Preservation Act includes the following provision:

*No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of the recommendations, testimony, or comments to Congress. When the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of the actions in its legislative recommendations, testimony, or comments on legislation that it transmits to Congress. (54 U.S.C. § 304107)*

With this authorization, the ACHP members can provide comments to Congress that do not necessarily conform to the Administration's views, provided there are sufficient votes to pass such a motion. If there is no stated Administration position on a bill, however, federal agencies generally are loathe to take a position and normally abstain from voting. The ACHP's **Operating Procedures** (see briefing book, vol. 1) permit a majority of members present and voting to adopt a formal position on legislation. This allows federal members to participate actively in discussions on a bill, but, by abstaining during voting, not block the ability of the remaining voting members to act on a motion. In the past, the Chairman has agreed to note the outcome of such votes, including agency abstentions, in any comments to Congress on legislation.

The ACHP staff customarily coordinate informally with the ACHP's OMB budget examiner when taking legislative positions.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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**ACHP COMMUNICATIONS  
WITH THE 116TH CONGRESS  
Office of Preservation Initiatives**

The following is a summary of the written communications from the ACHP to Congress during the 116th Congress, and these communications are shown in their entirety in a chronological attachment. This summary breaks down the communications by the topic areas of the ACHP's approved legislative agenda for the 116th Congress. Congressional action on each topic also is summarized.

***Supporting preservation-friendly programs and funding***

- August 2, 2019 – Letters to the Senate Energy and Natural Resources Subcommittee on National Parks and the House Natural Resources Subcommittee on National Parks, Forests, and Public Lands supporting the Preserving America's Battlefields Act, which would increase funding and extend authorization for the Battlefield Land Acquisition Grant Program.

Congressional Action: The bill became law on December 20, 2019, as part of the Further Consolidated Appropriations Act for FY 2020.

- August 5, 2019 – Letter to the House Natural Resources Subcommittee on National Parks, Forests, and Public Lands supporting the National Heritage Area Act, which would provide a formal program structure for the current ad hoc system of congressional designation and oversight of National Heritage Areas.

Congressional Action: The bill did not pass in the 116<sup>th</sup> Congress, but has been reintroduced in the 117<sup>th</sup> Congress.

- March 24, 2020 – Letter to the House and Senate Appropriations Committees and their Subcommittees on Interior, Environment, and Related Agencies advocating for COVID-19 stimulus funding for State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs).

Congressional Action: SHPOs and THPOs did not receive dedicated stimulus funding in the COVID-19 economic stimulus laws.

***Maintaining and enhancing tax incentives for historic preservation***

- August 1, 2019 – Letter to the House Ways and Means Committee supporting the Historic Tax Credit Growth and Opportunity (HTC-GO) Act, which would amend the existing Historic Tax Credit to incentivize its use, notably for small projects and in disadvantaged areas.

Congressional Action: The bill did not pass in the 116th Congress, but has been reintroduced in the 117th Congress.

***Balancing regulatory reform and streamlining with protection of historic properties***

- April 17, 2020 – Letters to the House and Senate Appropriations Committees, the Senate Energy and Natural Resources Committee, and the House Natural Resources Committee raising concerns with a provision in the CARES Act (Pub. L. 116-136) that exempted the General Services Administration from Section 106 review for acquiring or improving properties in response to COVID-19.
- November 19, 2020 – Letters to the Senate and House Appropriations Committees advising against a proposed Section 106 review exemption for the Department of Health and Human Services (HHS) proposed in the Coronavirus Response Additional Supplemental Appropriations Act.

Congressional Action: The proposed HHS Section 106 exemption was not included in subsequent COVID-19 stimulus laws.

- June 8, 2020 – Letter to Senator Roy Blunt providing an update on development of the Program Comment to Exempt Consideration of Effects to Rail Properties Within Rail Rights-of-Way (ROW), which exempts specified activities within rail ROW from Section 106 review and provides additional streamlining for Section 106 review within rail ROW.

Congressional Action: The ACHP and national preservation organizations – such as the National Trust for Historic Preservation, National Conference of State Historic Preservation Officers, and the National Alliance of Tribal Historic Preservation Officers – are continuing discussions with Senator Blunt in the 117<sup>th</sup> Congress on issues regarding the rail ROW Program Comment.

***Fostering stewardship of historic properties on federal lands or under federal management***

- April 30, 2019 – Letters to the House Natural Resources Committee and its National Parks, Forests, and Public Lands Subcommittee and its Energy and Mineral Resources Subcommittee supporting the Chaco Cultural Heritage Area Protection Act, which would end development on federal lands within a buffer zone adjacent to the Chaco Culture National Historical Park and other portions of the Chaco Culture World Heritage Site.
- May 21, 2019 – Letter to the Senate Committee on Energy and Natural Resources supporting the Chaco Cultural Heritage Area Protection Act.
- June 10, 2019 – Letter to Senator Martin Heinrich to commend him for his work to preserve and protect Chaco Culture National Historical Park.

Congressional Action: The bill did not pass in the 116<sup>th</sup> Congress. However, the Consolidated Appropriations Act for FY 2021 passed by the 117<sup>th</sup> Congress states that no funds may be used for oil and gas leasing in the proposed buffer zone prior to completion of a tribal cultural resources investigation that is receiving federal funding.

- July 26, 2019 – Letter to the Senate Energy and Natural Resources Committee and House Leadership supporting the Restore Our Parks Act and the related Restore Our Parks and Public Lands Act, which would create a fund from federal energy development revenues to address deferred maintenance at National Parks.
- March 16, 2020 – Letters to the Senate Leadership and the House Leadership supporting the Great American Outdoors Act, which would: 1) create the National Parks and Public Land Legacy Restoration Fund to address deferred maintenance, principally at National Parks, and 2) would provide full and permanent funding for the Land and Water Conservation Fund.

- June 19, 2020 – Letter to the House Leadership and the House Natural Resources Committee supporting the Great American Outdoors Act.
- September 28, 2020 – Letter to Rep. Joe Cunningham thanking him for championing the Great American Outdoors Act and discussing how investment in traditional trades training could facilitate implementation of the Act and have economic benefits.

Congressional Action: The Great American Outdoors Act became law on August 4, 2020.

- October 2, 2019 – Letters to the Senate Armed Services Committee and House Armed Services Committee regarding the National Defense Authorization Act for FY 2020, which called for noise monitoring of military aircraft operations, specifically at Naval Air Station Whidby Island, an issue that the ACHP had previously addressed in formal Section 106 comments to the Department of the Navy regarding noise impacts on historic properties.

Congressional Action: The National Defense Authorization Act for FY 2020 became law on December 20, 2019. It requires real-time noise monitoring at West Coast sites with specified aircraft overflights, which includes Naval Air Station Whidby Island.

- June 8, 2020 – Letter to the House Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, which discussed Department of Veterans Affairs (VA) issues, including: Subcommittee discussions with VA about Section 106 and replacement of headstones for World War II German prisoners of war that include Nazi imagery; and the ACHP’s work with VA on the ACHP’s Leveraging Historic Federal Buildings Workgroup.

#### ***Other Correspondence***

- July 24, 2020 – Letter to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands (in response to the Subcommittee’s forum “The Restoration Economy: Examining Environmental and Economic Opportunities”) regarding how traditional trades training and the preservation of historic properties can contribute to immediate economic recovery and long-term economic prosperity.
- November 5, 2020 – Letter to Senators Benjamin Cardin and Chris Van Hollen, and Representatives Jamie Raskin and David Trone in response to their request for information regarding Section 106 review for the I-495 & I-270 Managed Lanes Study in Montgomery and Prince George’s Counties, Maryland.

Milford Wayne Donaldson FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

April 30, 2019

The Honorable Raúl M. Grijalva  
Chairman  
House Committee on Natural Resources  
Longworth House Office Building, 1324  
Washington, DC 20515

The Honorable Rob Bishop  
Ranking Member  
House Committee on Natural Resources  
Longworth House Office Building, 1324  
Washington, DC 20515

Dear Chairman Grijalva and Ranking Member Bishop:

I am writing to the Committee to convey the support of the Advisory Council on Historic Preservation (ACHP) for H.R. 2181, the Chaco Cultural Heritage Area Protection Act of 2019. The ACHP has a long history of concern for the protection of the unique resources of the Greater Chaco region and is pleased to see the Congress take steps to promote their long-term preservation.

Charged by the National Historic Preservation Act of 1966 (NHPA) to advise the President and the Congress on historic preservation matters, the ACHP's perspective on the challenges facing Chaco is twofold. First, a primary mission of the ACHP is to oversee and frequently engage in the federal historic preservation review process, established by Section 106 of the NHPA. In that capacity, the ACHP has been involved in Section 106 reviews for oil and gas development in the Chaco region for over two decades. We are fully aware of the threats that such development can pose to the fragile historic properties that comprise the Chacoan cultural heritage. Recently, I wrote to the acting Secretary of the Interior, stressing the need for a comprehensive approach to protection and sound management that has long been unmet, as evidenced by the continued recurrence of proposed lease sales that threaten to damage these sites and encroachment from approved development.

Similarly, the NHPA directs the Secretary of the Interior to coordinate participation by the United States in the World Heritage Convention in cooperation with the Secretary of State, the Smithsonian Institution, and the ACHP. To meet this statutory responsibility, the ACHP brings its expertise in the protection of historic properties, taking particular note of the treaty obligations of the United States government to protect and preserve the nation's World Heritage Sites for future generations. Chaco Culture National Historical Park and associated properties managed by the National Park Service and the Bureau of Land Management were inscribed in the World Heritage List in 1987 as the Chaco Culture World Heritage Site in recognition of their "Outstanding Universal Value." It is one of only 23 such sites in the United States.

The official "Statement of Outstanding Universal Value" for the Chaco Culture World Heritage Site, updated by the United States in 2014, states:

*... threats to its integrity from adjacent development (including associated utilities and roads), energy exploration, extraction, as well as transportation projects and proposals have increased.*

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*. . . A long-term goal for the property is to ensure that interventions that may occur within or adjacent to the property – including development, energy exploration, extraction, and transportation projects – do not have a negative impact on the property’s Outstanding Universal Value, authenticity and integrity.*

Chaco also is a place of transcendent spiritual and traditional cultural importance to Indian tribes of the region. Many Pueblos and Indian Tribes in the Four Corners region recognize that the Chaco Culture area is rich with sacred sites of utmost importance to them. The threats posed by continued development are not merely physical impacts on historic properties; they can impair the traditions and tribal way of life that has endured for centuries.

H.R. 2181 would take great strides in addressing these concerns and ensuring the long-term protection of this unique resource. By creating the “Chaco Cultural Heritage Withdrawal Area,” the legislation would remove development threats on federal lands within and adjacent to the Chaco National Historical Park and other portions of the World Heritage Site. It should be noted that by doing so the Congress would be fulfilling the obligations of the World Heritage Convention for states party to protect their World Heritage Sites and, where necessary, to create buffer zones for that purpose. The Operational Guidelines for the Implementation of the World Heritage Convention state:

*103. Wherever necessary for the proper protection of the property, an adequate buffer zone should be provided.*

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The provisions of H.R. 2181 would in large part meet the threats identified in the Chaco Culture World Heritage Site Statement of Outstanding Universal Value.

The ACHP urges the Committee to support this important step. At the same time, we would note that other actions, such as a comprehensive management plan for lands under the control of both the National Park Service and the Bureau of Land Management, the protection from development for non-federal lands within the Chaco landscape, and the engagement of local Indian tribes in the management of the greater Chaco Culture area, are desirable to further protect and preserve these important resources. The ACHP would welcome the opportunity to work with the Congress and the Administration in the future to advance these goals.

Sincerely yours,



Milford Wayne Donaldson  
Chairman

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Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

April 30, 2019

The Honorable Deb Haaland  
Chairman, House Subcommittee on  
National Parks, Forests, and Public Lands  
Longworth House Office Building, 1324  
Washington, DC 20515

The Honorable Don Young  
Ranking Member, House Subcommittee on  
National Parks, Forests, and Public Lands  
Longworth House Office Building, 1324  
Washington, DC 20515

Dear Chairman Haaland and Ranking Member Young:

I am writing to the Subcommittee to convey the support of the Advisory Council on Historic Preservation (ACHP) for H.R. 2181, the Chaco Cultural Heritage Area Protection Act of 2019. The ACHP has a long history of concern for the protection of the unique resources of the Greater Chaco region and is pleased to see the Congress take steps to promote their long-term preservation.

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April 30, 2019

The Honorable Alan S. Lowenthal  
Chairman, House Subcommittee on  
Energy and Mineral Resources  
Longworth House Office Building, 1522  
Washington, DC 20515

The Honorable Paul Anthony Gosar  
Ranking Member, House Subcommittee on  
Energy and Mineral Resources  
Longworth House Office Building, 1522  
Washington, DC 20515

Dear Chairman Lowenthal and Ranking Member Gosar:

I am writing to the Subcommittee to convey the support of the Advisory Council on Historic Preservation (ACHP) for H.R. 2181, the Chaco Cultural Heritage Area Protection Act of 2019. The ACHP has a long history of concern for the protection of the unique resources of the Greater Chaco region and is pleased to see the Congress take steps to promote their long-term preservation.

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H.R. 2181 would take great strides in addressing these concerns and ensuring the long-term protection of this unique resource. By creating the “Chaco Cultural Heritage Withdrawal Area,” the legislation would remove development threats on federal lands within and adjacent to the Chaco National Historical Park and other portions of the World Heritage Site. It should be noted that by doing so the Congress would be fulfilling the obligations of the World Heritage Convention for states party to protect their World Heritage Sites and, where necessary, to create buffer zones for that purpose. The Operational Guidelines for the Implementation of the World Heritage Convention state:

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The ACHP urges the Subcommittee to support this important step. At the same time, we would note that other actions, such as a comprehensive management plan for lands under the control of both the National Park Service and the Bureau of Land Management, the protection from development for non-federal lands within the Chaco landscape, and the engagement of local Indian tribes in the management of the greater Chaco Culture area, are desirable to further protect and preserve these important resources. The ACHP would welcome the opportunity to work with the Congress and the Administration in the future to advance these goals.

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Chairman

Milford Wayne Donaldson FAIA  
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Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

May 21, 2019

The Honorable Lisa Murkowski  
Chairman  
Senate Committee on Energy and Natural Resources  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510

The Honorable Joe Manchin  
Ranking Member  
Senate Committee on Energy and Natural Resources  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

I am writing to the Committee to convey the support of the Advisory Council on Historic Preservation (ACHP) for S. 1079, the Chaco Cultural Heritage Area Protection Act of 2019. The ACHP has a long history of concern for the protection of the unique resources of the Greater Chaco region and is pleased to see the Congress take steps to promote their long-term preservation.

Charged by the National Historic Preservation Act of 1966 (NHPA) to advise the President and the Congress on historic preservation matters, the ACHP's perspective on the challenges facing Chaco is twofold. First, a primary mission of the ACHP is to oversee and frequently engage in the federal historic preservation review process, established by Section 106 of the NHPA. In that capacity, the ACHP has been involved in Section 106 reviews for oil and gas development in the Chaco region for over two decades. We are fully aware of the threats that such development can pose to the fragile historic properties that comprise the Chacoan cultural heritage. Recently, I wrote to the acting Secretary of the Interior, stressing the need for a comprehensive approach to protection and sound management that has long been unmet, as evidenced by the continued recurrence of proposed lease sales that threaten to damage these sites and encroachment from approved development.

Similarly, the NHPA directs the Secretary of the Interior to coordinate participation by the United States in the World Heritage Convention in cooperation with the Secretary of State, the Smithsonian Institution, and the ACHP. To meet this statutory responsibility, the ACHP brings its expertise in the protection of historic properties, taking particular note of the treaty obligations of the United States government to protect and preserve the nation's World Heritage Sites for future generations. Chaco Culture National Historical Park and associated properties managed by the National Park Service and the Bureau of Land Management were inscribed in the World Heritage List in 1987 as the Chaco Culture World Heritage Site in recognition of their "Outstanding Universal Value." It is one of only 23 such sites in the United States.

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S. 1079 would take great strides in addressing these concerns and ensuring the long-term protection of this unique resource. By creating the “Chaco Cultural Heritage Withdrawal Area,” the legislation would remove development threats on federal lands within and adjacent to the Chaco National Historical Park and other portions of the World Heritage Site. It should be noted that by doing so the Congress would be fulfilling the obligations of the World Heritage Convention for states party to protect their World Heritage Sites and, where necessary, to create buffer zones for that purpose. The Operational Guidelines for the Implementation of the World Heritage Convention state:

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The provisions of S. 1079 would in large part meet the threats identified in the Chaco Culture World Heritage Site Statement of Outstanding Universal Value.

The ACHP urges the Committee to support this important step. At the same time, we would note that other actions, such as a comprehensive management plan for lands under the control of both the National Park Service and the Bureau of Land Management, the protection from development for non-federal lands within the Chaco landscape, and the engagement of local Indian tribes in the management of the greater Chaco Culture area, are desirable to further protect and preserve these important resources. The ACHP would welcome the opportunity to work with the Congress and the Administration in the future to advance these goals.

Sincerely yours,



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*Preserving America's Heritage*

June 10, 2019

The Honorable Martin Heinrich  
United States Senate  
Hart Senate Office Building, 303  
Washington, DC 20510

Dear Senator Heinrich:

On behalf of the Advisory Council on Historic Preservation (ACHP), I am writing to commend you on your leadership and efforts to preserve and protect Chaco Culture National Historical Park and sensitive areas adjacent to it. The ACHP was pleased to learn of Secretary of the Interior David Bernhardt's recent announcement to impose a one-year moratorium on oil and gas leasing in the vicinity of Chaco, a decision occasioned by a tour of the park given to the Secretary at your invitation. The ACHP has a long history in advocating for the protection of the unique resources of the Greater Chaco region and is pleased to see Congress and the Department of the Interior work collaboratively to promote their long-term preservation.

Charged by the National Historic Preservation Act of 1966 (NHPA) to advise the President and the Congress on historic preservation matters, the ACHP's perspective on the challenges facing Chaco is twofold. First, a primary mission of the ACHP is to oversee and frequently engage in the federal historic preservation review process, established by Section 106 of the NHPA. In that capacity, the ACHP has been involved in Section 106 reviews for oil and gas development in the Chaco region for decades. We are fully aware of the impacts that such development can have on the fragile historic resources of this profoundly significant area. Second, the NHPA directs the ACHP to cooperate with the Department of the Interior in the Department's coordination of United States participation in the World Heritage Convention. To meet this statutory responsibility, the ACHP brings its expertise in the protection of historic properties, taking particular note of the treaty obligations of the United States government to protect and preserve the nation's World Heritage Sites – including Chaco – for future generations.

The ACHP wrote earlier this year to the House Committee on Natural Resources in support of H.R. 2181, the Chaco Cultural Heritage Protection Act (introduced jointly in the Senate as S.1079, copy of letter of support attached). As you know, by creating the "Chaco Cultural Heritage Withdrawal Area," the legislation would remove development threats on federal lands within and adjacent to the Chaco National Historical Park and other portions of this World Heritage Site. H.R. 2181/S.1079 would take great strides in ensuring the long-term protection of this unique resource. I applaud your leadership on this legislation.

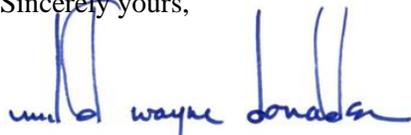
The ACHP would like to take this opportunity to also note that other actions, such as a comprehensive management plan for lands under the control of both the National Park Service and the Bureau of Land Management, the protection from development for non-federal lands within the Chaco landscape, and the engagement of local Indian tribes in the management of the greater Chaco Culture area, are desirable to

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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further protect and preserve these important resources. The ACHP would welcome the opportunity to work with the Congress and the Department of the Interior in the future to advance these goals.

Sincerely yours,



Milford Wayne Donaldson

Milford Wayne Donaldson FAIA  
Chairman

Attachment

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

July 26, 2019

The Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural Resources  
U.S. Senate  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510

The Honorable Joe Manchin III  
Ranking Minority Member  
Committee on Energy and Natural Resources  
U.S. Senate  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510

Dear Senator Murkowski and Senator Manchin:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Restore Our Parks Act (S. 500) and the related bill, Restore Our Parks and Public Lands Act (H.R. 1225). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP members voted at their July 10 business meeting (with federal agency members abstaining) to support this legislation.

As you know, the Department of the Interior (DOI) estimates it currently has a backlog of about \$16.4 billion worth of deferred maintenance. The largest portion of that total—\$11.9 billion—reflects needed maintenance of National Park Service (NPS) properties. It has been estimated that approximately 47 percent of the NPS assets needing repair are historic, making deferred maintenance a significant threat to the long-term preservation of NPS's inventory of historic properties. Left unchecked, such deferred maintenance could jeopardize the enjoyment by future generations of irreplaceable historic properties throughout our National Parks.

Creation of a deferred maintenance fund from federal energy development revenues, as proposed by the legislation under consideration, builds upon existing congressional policy precedent. Both the Historic Preservation Fund and the Land and Water Conservation Fund are funded by energy development revenues, and the successful track record of these funds demonstrates the wisdom inherent in using such revenues to help preserve natural and cultural resources. The proposed deferred maintenance fund would provide a critically needed influx of money to address DOI's maintenance backlog. Both the Senate and House versions of the legislation would help preserve NPS historic properties, whether through NPS receipt of 100 percent of the fund as called for in the Restore Our Parks Act or 80 percent of the fund as proposed in the Restore Our Parks and Public Lands Act.

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Please feel free to contact us if the ACHP can answer any questions regarding our support for these bills or if the ACHP can be of any further assistance. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

A handwritten signature in blue ink that reads "Aimee Jorjani". The signature is written in a cursive style with a large, sweeping initial "A".

Aimee Jorjani  
Chairman

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

July 26, 2019

The Honorable Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
Capitol Building, H-232  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
House Minority Leader  
U.S. House of Representatives  
Capitol Building, H-204  
Washington, D.C. 20515

Dear Madam Speaker and Mr. Leader:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Restore Our Parks and Public Lands Act (H.R. 1225)—which has been favorably reported out of committee—and the related bill, the Restore Our Parks Act (S. 500). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP members voted at their July 10 business meeting (with federal agency members abstaining) to support this legislation.

The Department of the Interior (DOI) estimates it currently has a backlog of about \$16.4 billion worth of deferred maintenance. The largest portion of that total—\$11.9 billion—reflects needed maintenance of National Park Service (NPS) properties. It has been estimated that approximately 47 percent of the NPS assets needing repair are historic, making deferred maintenance a significant threat to the long-term preservation of NPS's inventory of historic properties. Left unchecked, such deferred maintenance could jeopardize the enjoyment by future generations of irreplaceable historic properties throughout our National Parks.

Creation of a deferred maintenance fund from federal energy development revenues, as proposed by the legislation under consideration, builds upon existing congressional policy precedent. Both the Historic Preservation Fund and the Land and Water Conservation Fund are funded by energy development revenues, and the successful track record of these funds demonstrates the wisdom inherent in using such revenues to help preserve natural and cultural resources. The proposed deferred maintenance fund would provide a critically needed influx of money to address DOI's maintenance backlog. Both the House and Senate versions of the legislation would help preserve NPS historic properties, whether through NPS receipt of 80 percent of the fund as called for in the Restore Our Parks and Public Lands Act or 100 percent of the fund as proposed in the Restore Our Parks Act.

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Please feel free to contact us if the ACHP can answer any questions regarding our support for these bills or if the ACHP can be of any further assistance. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

A handwritten signature in blue ink that reads "Aimee Jorjani". The signature is written in a cursive, flowing style.

Aimee Jorjani  
Chairman

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

August 1, 2019

The Honorable Richard E. Neal  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Longworth House Office Building, 1102  
Washington, DC 20515

The Honorable Kevin P. Brady  
Ranking Minority Member  
Committee on Ways and Means  
U.S. House of Representatives  
Longworth House Office Building, 1102  
Washington, DC 20515

Dear Mr. Neal and Mr. Brady:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Historic Tax Credit Growth and Opportunity Act (H.R. 2825). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP members voted at their July 10 business meeting (with federal agency members abstaining) to support this legislation.

The existing Historic Tax Credit (HTC) is one of the most important federal incentives for the preservation of historic buildings. As you know, this 20 percent credit supports projects that rehabilitate income-producing historic buildings—commercial and industrial buildings, hotels, apartment buildings, residential rental properties, and other key contributors to our economy and our communities—while ensuring that their historic character is preserved. It has, since its inception in 1976, resulted in the rehabilitation of 44,341 historic properties through private investment of \$96.87 billion. Results include 285,264 rehabilitated housing units, 302,460 new housing units, 166,210 low- and moderate-income housing units, and the creation of an estimated 2.54 million total jobs.

Despite this success, however, aspects of the HTC constrain its application in some situations where it can be most needed. The Historic Tax Credit Growth and Opportunity Act would amend the credit to help address these issues. The bill would make it easier to complete small deals (defined as qualified rehabilitation expenses of \$2.5 million or less) by increasing the credit from 20% to 30% for these projects and would allow the credit to be transferred outside the development partnership for small deals. The bill also would make the HTC easier to use by non-profit organizations, which often use the credit to create new community assets that become catalysts for increased investment in economically distressed areas. The proposed changes to the HTC also would encourage its use, by lowering the substantial rehabilitation threshold (making more buildings eligible for the credit) and eliminating the requirement that the amount of the HTC must be deducted from a building's basis when ownership of the property changes.

These proposed changes would make an important tax credit even more effective and further incentivize the preservation of historic buildings throughout America. This could have a particularly positive effect in disinvested areas since, according to the National Park Service, 50% of HTC projects occurred in low- and moderate-income census tracts and 79% in economically distressed areas in FY 2017.

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Please feel free to contact us if the ACHP can answer any questions regarding our support for this bill or if the ACHP can be of any further assistance. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

A handwritten signature in blue ink that reads "Aimee Jorjani". The signature is written in a cursive style with a large initial 'A'.

Aimee Jorjani  
Chairman

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

August 2, 2019

The Honorable Steve Daines  
Chairman  
Subcommittee on National Parks  
Senate Committee on Energy and Natural Resources  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510

The Honorable Angus King  
Ranking Member  
Subcommittee on National Parks  
Senate Committee on Energy and Natural Resources  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510

Dear Senator Daines and Senator King:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Preserving America's Battlefields Act (S. 225). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP members voted at their July 10 business meeting to support this legislation.

The bill would increase funding and extend authorization for the Battlefield Land Acquisition Grant Program, which has been an extremely successful tool for preserving historic places. According to the American Battlefield Trust, this matching grant program has been used to preserve more than 30,000 acres of battlefield land across the country. Originally used only to preserve Civil War battlefields, the program was expanded in 2014 to include Revolutionary War and War of 1812 battlefields. The proposed funding increase and reauthorization through 2028 would well equip the program to play an important role in helping to preserve and interpret sites as part of the upcoming celebration of America's 250th anniversary in 2026.

The legislation would allow the use of up to 10 percent of the annual appropriation for projects other than land acquisition. This would include up to \$1 million in grants for programs and projects that improve battlefield interpretation and up to \$1 million in grants for the restoration of day-of-battle conditions on land preserved through the program. At the Subcommittee's hearing of June 19, the National Park Service representative testified in support of the bill, but recommended amending it to ensure that day-of-battle restoration projects are performed in accordance with the Secretary of the Interior's standards for historic preservation. The ACHP supports this proposed amendment.

Please feel free to contact us if the ACHP can answer any questions regarding our support for this bill or if the ACHP can be of any further assistance. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

Aimee Jorjani  
Chairman

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

August 2, 2019

The Honorable Deb Haaland  
Chairman  
Subcommittee on National Parks, Forests,  
and Public Lands  
House Natural Resources Committee  
Longworth House Office Building, 1328  
Washington, DC 20515

The Honorable Don Young  
Ranking Member  
Subcommittee on National Parks, Forests,  
and Public Lands  
House Natural Resources Committee  
Longworth House Office Building, 1328  
Washington, DC 20515

Dear Representative Haaland and Representative Young:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Preserving America's Battlefields Act (H.R. 307). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP members voted at their July 10 business meeting to support this legislation.

The bill would increase funding and extend authorization for the Battlefield Land Acquisition Grant Program, which has been an extremely successful tool for preserving historic places. According to the American Battlefield Trust, this matching grant program has been used to preserve more than 30,000 acres of battlefield land across the country. Originally used only to preserve Civil War battlefields, the program was expanded in 2014 to include Revolutionary War and War of 1812 battlefields. The proposed funding increase and reauthorization through 2028 would well equip the program to play an important role in helping to preserve and interpret sites as part of the upcoming celebration of America's 250th anniversary in 2026.

The legislation would allow the use of up to 10 percent of the annual appropriation for projects other than land acquisition. This would include up to \$1 million in grants for programs and projects that improve battlefield interpretation and up to \$1 million in grants for the restoration of day-of-battle conditions on land preserved through the program. At the Subcommittee's hearing of May 22, the National Park Service representative testified in support of the bill, but recommended amending it to ensure that day-of-battle restoration projects are performed in accordance with the Secretary of the Interior's standards for historic preservation. The ACHP supports this proposed amendment.

Please feel free to contact us if the ACHP can answer any questions regarding our support for this bill or if the ACHP can be of any further assistance. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

Aimee Jorjani  
Chairman

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

August 5, 2019

The Honorable Deb Haaland  
Chairman  
Subcommittee on National Parks, Forests,  
and Public Lands  
House Natural Resources Committee  
Longworth House Office Building, 1328  
Washington, DC 20515

The Honorable Don Young  
Ranking Member  
Subcommittee on National Parks, Forests,  
and Public Lands  
House Natural Resources Committee  
Longworth House Office Building, 1328  
Washington, DC 20515

Dear Representative Haaland and Representative Young:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the National Heritage Area Act (H.R. 1049). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP members voted at their July 10 business meeting (with federal members abstaining) to support this legislation.

The bill would provide a formal program structure for the current ad hoc system of congressional designation and oversight of National Heritage Areas. As you know, Congress has authorized 55 National Heritage Areas in 34 states, including six new areas designated this March. There also are a number of National Heritage Area feasibility studies in process. While the National Park Service (NPS) manages funding and administration of National Heritage Areas through its Heritage Partnership Program, the bill would create a codified National Heritage Area system with national standards and processes for feasibility studies, designations, and heritage area management plans.

At your April 30 Subcommittee hearing, NPS testified that it supports establishing a statutory framework for the National Heritage Area program. However, NPS asked that the Subcommittee defer action in order to give the agency an opportunity to work with you on revisions. Specific needed amendments were not cited, but the testimony noted ongoing issues of funding equity among National Heritage Areas and questions regarding the intent of congressional funding caps. If discussions are not already ongoing, the ACHP urges the Subcommittee to work with NPS to address operational concerns raised in the agency's testimony and then report favorably on H.R. 1049. The legislation would bring increased predictability and consistency to an important program that helps local communities to preserve and promote their historic resources.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Please feel free to contact us if the ACHP can answer any questions regarding our support for this bill or if the ACHP can be of any further assistance. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

A handwritten signature in blue ink that reads "Aimee Jorjani". The signature is written in a cursive style with a large initial 'A'.

Aimee Jorjani  
Chairman

The Honorable Aimee Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

October 2, 2019

The Honorable James Inhofe  
Chairman  
Committee on Armed Services  
United States Senate  
Russell Senate Office Building  
SR-228  
Washington, DC 20510

The Honorable Jack Reed  
Ranking Member  
Committee on Armed Services  
United States Senate  
Russell Senate Office Building  
SR-228  
Washington, DC 20510

Dear Senator Inhofe and Senator Reed:

As the conference committee members work to reconcile the Senate and House versions of the National Defense Authorization Act (NDAA) (S. 1790), the Advisory Council on Historic Preservation (ACHP) would like to provide information germane to consideration of proposed provisions regarding the noise impacts of military aviation operations. Earlier this year, the ACHP provided comments to the Navy on a project that will result in noise impacts to historic properties, as discussed further below. The ACHP's original comments and the Navy's response are attached to provide further context as the committee considers both versions of the NDAA.

Established by the National Historic Preservation Act (NHPA) of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP also oversees administration of the review requirements of Section 106 of the NHPA – codified at 54 U.S.C. §306108 – which requires that federal agencies take into account the effect of their undertakings on historic properties. Earlier this year, the Navy concluded a Section 106 review of the Department's proposed increase of EA-18G Growler aircraft and aircraft operations (and development of support facilities) at Naval Air Station Whidbey Island, Washington. The Navy determined that these actions will have an adverse effect on historic properties, and most notably the Ebey's Landing National Historical Reserve, principally through noise impacts.

In February, the ACHP issued final comments to the Navy on the project following its termination of consultation. (See attached.) In the Section 106 review process such comments are not binding on federal agencies, but they must be taken into account by the agency head in making a final decision on how to proceed. In the case of the Growler expansion, the Navy agreed with some of the ACHP's recommendations and rejected others. One ACHP recommendation that the Navy declined to implement was development of a noise monitoring program at Naval Air Station Whidby Island to measure effects, including cumulative effects, of increased Growler aircraft operations to historic properties.

Both the Senate and House versions of the NDAA address noise monitoring of military aircraft operations. Section 5305 of the Senate bill is specific to Naval Air Station Whidby Island and would require noise monitoring of Growler operations in some areas and planning for further monitoring in others, including above and adjacent to the Ebey's Landing National Historical Reserve. The House bill takes a broader approach. It would require real-time noise-monitoring studies at three Navy installations and three Air

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Force installations, with a report to Congress that discusses how the actual noise monitoring results compare with previous noise modeling studies. The House bill (in Section 358) also would require the Department of Defense to undertake a five-year pilot program under which installations could fund installing noise insulation at private residences impacted by military aviation noise.

The Section 106 review of the Growler expansion at Naval Air Station Whidbey Island highlights both the complexity and importance of addressing noise impacts to historic properties as well as the public controversy that the potential for noise impacts engenders. As reflected in our comments, the nature of auditory effects on historic properties can be difficult to measure and predict accurately based on noise modeling in advance of project implementation. Noise monitoring of actual operations ground truths previous analysis and allows for a more accurate assessment of what, if any, additional actions could be taken to minimize impacts to historic properties.

The ACHP hopes that this information will assist the conference committee members in their consideration of proposed noise monitoring and mitigation provisions of the NDAA. Please feel free to contact us if the ACHP can answer any questions or be of any further assistance. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Aimee Jorjani  
Chairman

Attachments:

- Comment letter from ACHP Chairman Milford Wayne Donaldson FAIA to the Honorable Richard V. Spencer, Secretary of the Navy, February 19, 2019
- Response from the Honorable Richard V. Spencer, Secretary of the Navy, to ACHP Chairman Milford Wayne Donaldson FAIA, March 8, 2019

The Honorable Aimee Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

October 2, 2019

The Honorable Adam Smith  
Chairman  
Committee on Armed Services  
United States House of Representatives  
2216 Rayburn House Office Building  
Washington, DC 20515

The Honorable Mac Thornberry  
Ranking Member  
Committee on Armed Services  
United States House of Representatives  
2216 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Smith and Representative Thornberry:

As the conference committee members work to reconcile the Senate and House versions of the National Defense Authorization Act (NDAA) (S. 1790), the Advisory Council on Historic Preservation (ACHP) would like to provide information germane to consideration of proposed provisions regarding the noise impacts of military aviation operations. Earlier this year, the ACHP provided comments to the Navy on a project that will result in noise impacts to historic properties, as discussed further below. The ACHP's original comments and the Navy's response are attached to provide further context as the committee considers both versions of the NDAA.

Established by the National Historic Preservation Act (NHPA) of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP also oversees administration of the review requirements of Section 106 of the NHPA – codified at 54 U.S.C. §306108 – which requires that federal agencies take into account the effect of their undertakings on historic properties. Earlier this year, the Navy concluded a Section 106 review of the Department's proposed increase of EA-18G Growler aircraft and aircraft operations (and development of support facilities) at Naval Air Station Whidbey Island, Washington. The Navy determined that these actions will have an adverse effect on historic properties, and most notably the Ebey's Landing National Historical Reserve, principally through noise impacts.

In February, the ACHP issued final comments to the Navy on the project following its termination of consultation. (See attached.) In the Section 106 review process such comments are not binding on federal agencies, but they must be taken into account by the agency head in making a final decision on how to proceed. In the case of the Growler expansion, the Navy agreed with some of the ACHP's recommendations and rejected others. One ACHP recommendation that the Navy declined to implement was development of a noise monitoring program at Naval Air Station Whidby Island to measure effects, including cumulative effects, of increased Growler aircraft operations to historic properties.

Both the Senate and House versions of the NDAA address noise monitoring of military aircraft operations. Section 5305 of the Senate bill is specific to Naval Air Station Whidby Island and would require noise monitoring of Growler operations in some areas and planning for further monitoring in others, including above and adjacent to the Ebey's Landing National Historical Reserve. The House bill takes a broader approach. It would require real-time noise-monitoring studies at three Navy installations and three Air Force installations, with a report to Congress that discusses how the actual noise monitoring results

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compare with previous noise modeling studies. The House bill (in Section 358) also would require the Department of Defense to undertake a five-year pilot program under which installations could fund installing noise insulation at private residences impacted by military aviation noise.

The Section 106 review of the Growler expansion at Naval Air Station Whidbey Island highlights both the complexity and importance of addressing noise impacts to historic properties as well as the public controversy that the potential for noise impacts engenders. As reflected in our comments, the nature of auditory effects on historic properties can be difficult to measure and predict accurately based on noise modeling in advance of project implementation. Noise monitoring of actual operations ground truths previous analysis and allows for a more accurate assessment of what, if any, additional actions could be taken to minimize impacts to historic properties.

The ACHP hopes that this information will assist the conference committee members in their consideration of proposed noise monitoring and mitigation provisions of the NDAA. Please feel free to contact us if the ACHP can answer any questions or be of any further assistance. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Aimee Jorjani  
Chairman

Attachments:

- Comment letter from ACHP Chairman Milford Wayne Donaldson FAIA to the Honorable Richard V. Spencer, Secretary of the Navy, February 19, 2019
- Response from the Honorable Richard V. Spencer, Secretary of the Navy, to ACHP Chairman Milford Wayne Donaldson FAIA, March 8, 2019

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



March 16, 2020

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Charles Schumer  
Minority Leader  
United States Senate  
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Schumer:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Great American Outdoors Act (S. 3422). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP members voted unanimously at their March 13 business meeting to support this legislation.

S. 3422, introduced by Senator Cory Gardner (CO), would provide \$9.5 billion over five years to address a federal agency deferred maintenance backlog, principally in our National Parks. The Department of the Interior estimates it currently has a backlog of about \$16.4 billion worth of deferred maintenance. The largest portion of that total—\$12 billion—reflects needed maintenance of National Park Service (NPS) properties. It has been estimated that approximately 47 percent of the NPS assets needing repair are historic, making deferred maintenance a significant threat to the long-term preservation of NPS's inventory of historic properties. Left unchecked, such deferred maintenance could jeopardize the enjoyment by future generations of irreplaceable historic properties throughout our National Parks.

S. 3422 proposes the creation of the National Parks and Public Land Legacy Restoration Fund from federal energy development revenues, which builds upon existing congressional policy precedent. Both the Historic Preservation Fund and the Land and Water Conservation Fund (LWCF) are funded by energy development revenues, and the successful track record of these funds demonstrates the wisdom inherent in using such revenues to help preserve natural and cultural resources.

The past achievements of the LWCF argue for its full and permanent funding, as proposed in S. 3422. The LWCF funds federal land acquisition for outdoor recreation and matching grants to state and tribal governments for the acquisition and development of public parks and other outdoor recreation sites. However, less than half of the funding set aside for the LWCF has been appropriated for intended purposes since the program was created. S. 3422 would ensure full funding in the future, while still giving Congress input into how the money is spent. The LWCF focuses in large part on conserving natural and recreational resources, but also is an important source of federal funding for protecting cultural resources.

The ACHP applauds the leadership of President Trump, Secretary of the Interior David Bernhardt, yourselves, and the many bipartisan co-sponsors of this important legislation that will significantly aid in the preservation of historic properties. Please feel free to contact us if the ACHP can answer any

questions regarding our support for the Great American Outdoors Act or if the ACHP can be of any further assistance. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Aimee K. Jorjani  
Chairman

cc: Senate Energy and Natural Resources Committee

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



March 16, 2020

The Honorable Nancy Pelosi  
Speaker of the House  
United States House of Representatives  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
Washington, DC 20515

Dear Speaker Pelosi and Minority Leader McCarthy:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Great American Outdoors Act (S. 3422). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP members voted unanimously at their March 13 business meeting to support this legislation. We are conveying our support to you in hopes that the House soon will be taking up this Senate bill or developing a companion bill. We are pleased to see that the House has several standalone bills addressing the goals of S. 3422 under consideration.

S. 3422, introduced by Senator Cory Gardner (CO), would provide \$9.5 billion over five years to address a federal agency deferred maintenance backlog, principally in our National Parks. The Department of the Interior estimates it currently has a backlog of about \$16.4 billion worth of deferred maintenance. The largest portion of that total—\$12 billion—reflects needed maintenance of National Park Service (NPS) properties. It has been estimated that approximately 47 percent of the NPS assets needing repair are historic, making deferred maintenance a significant threat to the long-term preservation of NPS's inventory of historic properties. Left unchecked, such deferred maintenance could jeopardize the enjoyment by future generations of irreplaceable historic properties throughout our National Parks.

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The ACHP applauds the leadership of President Trump, Secretary of the Interior David Bernhardt, and the many bipartisan co-sponsors of S. 3422 and similar bills in the House. This important legislation will

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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significantly aid in the preservation of historic properties. Please feel free to contact us if the ACHP can answer any questions regarding our support for the Great American Outdoors Act or if the ACHP can be of any further assistance. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Aimee K. Jorjani  
Chairman

cc: House Natural Resources Committee

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



March 24, 2020

The Honorable Nita M. Lowey  
Chairwoman, House Committee  
On Appropriations  
U.S. House of Representatives  
2365 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Kay Granger  
Ranking Member, House Committee  
on Appropriations  
U.S. House of Representatives  
1026 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Betty McCollum  
Chairwoman, Interior, Environment,  
and Related Agencies Appropriations  
Subcommittee  
U.S. House of Representatives  
2256 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable David Joyce  
Ranking Member, Interior, Environment,  
and Related Agencies Appropriations  
Subcommittee  
U.S. House of Representatives  
1124 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairwoman Lowey, Ranking Member Granger, Chairwoman McCollum, and Ranking Member Joyce:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for coronavirus stimulus funding for State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation.

SHPOs and THPOs play a critical and foundational role in advising and assisting federal agencies regarding the effects on historic properties of projects they carry out, license, or assist, pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108). Cumulatively, on average, 110,000 such projects a year are reviewed by SHPOs and THPOs, including important infrastructure projects. SHPOs also review private development projects qualifying for the federal Historic Tax Credit. In FY 2019, they reviewed over 4,000 projects representing over \$12 billion in private investment. The current coronavirus outbreak has forced SHPOs and THPOs to implement more than usual levels of teleworking, to curtail operations, and in some cases to close. Some offices have limited or incomplete access to digital data on the state's or tribe's historic properties. To enable these critical authorities to function in the review of projects and Historic Tax Credit applications currently in the pipeline, funding is needed for the 57 SHPOs and 195 THPOs to acquire sufficient computer/communications hardware and software, increased bandwidth and speed, and increased security and remote IT support.

SHPO and THPO operations are funded by grants from the Historic Preservation Fund (HPF) administered by the National Park Service (NPS). Additional HPF funding should be made available to SHPOs and THPOs to help them respond to the coronavirus pandemic. An immediate investment of

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\$50,000 per SHPO and \$25,000 per THPO (no match required) provided through the HPF would support short-term acquisition of necessary resources to maintain an efficient historic preservation review process and keep project planning and approvals in motion. Funding in the amount of \$250,000 would be needed for NPS administration of these grants. An additional \$3,000,000 would assist SHPOs and THPOs in longer-term efforts to enhance digitization of records and mapping on an as-needed or competitive basis. This level of funding would require total supplemental funds from the HPF of \$10,975,000. (See attached table for a summary breakdown of costs.)

### *Scope of the Need*

Recent information from the National Conference of State Historic Preservation Officers and the National Association of Tribal Historic Preservation Officers indicate that many basic communication and technology challenges prevent SHPO and THPO staff from fulfilling their responsibilities while working remotely. The coronavirus pandemic has led to several SHPOs and THPOs ceasing normal operations. Many offices are functioning but with scaled back resources limited only to information currently available remotely. In many instances, employees are able to carry out some work from home, but others cannot, especially in THPO offices.

In order to ensure the effective participation of these key partners in Section 106 reviews and avoid delaying critical projects, SHPO and THPO staff must have access to computers at home and in their office for exchanging information via email and other platforms, remote access to GIS systems, and other communication devices that can facilitate the exchange of information among their offices, federal agencies they interact with, the ACHP, and others. Addressing immediate connectivity needs would require software and hardware upgrades, expanded licenses, and dedicated human resources. Further, making telework more widespread, effective, and efficient requires additional bandwidth and speed.

Each state and tribe has its own system to maintain its inventory of cultural resources based on their IT requirements and what works best for it. In some cases, there has been limited digitization of location and other data, which further exacerbates the problem of maintaining SHPO and THPO effectiveness when working remotely. Addressing this problem also will necessitate additional funding to jump start digitization efforts as the coronavirus emergency plays out over the coming months.

The ACHP urges Congress to assist SHPOs and THPOs during this crisis to help ensure the continued advancement of projects carried out, licensed, or assisted by federal agencies. Action now will address immediate needs, and the ACHP looks forward to working with the Administration and the Congress in addressing future needs in later stimulus and recovery legislation. Please feel free to contact us to discuss this matter further. Our executive director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Aimee K. Jorjani  
Chairman

Attachment

cc: House Natural Resources Committee

**Proposed Coronavirus Stimulus Funding for  
State and Tribal Historic Preservation Officers**

State Historic Preservation Offices (SHPOs)	57 x \$50,000	\$2.850 million
Tribal Historic Preservation Offices (THPOs)	195 x \$25,000	\$4.875 million
National Park Service grants administration		\$250,000
SHPO/THPO grants for digitization		\$3 million
<b>Total from Historic Preservation Fund</b>		<b>\$10.975 million</b>

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



April 17, 2020

The Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural Resources  
U.S. Senate  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510

The Honorable Joe Manchin III  
Ranking Minority Member  
Committee on Energy and Natural Resources  
U.S. Senate  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510

Dear Senator Murkowski and Senator Manchin:

As discussions proceed on various emergency, stimulus, and recovery efforts, I would like to bring to your attention an environmental review exemption that was included in the CARES Act (Pub. L. 116-136). The CARES Act included an exemption for the General Services Administration (GSA) from the provisions of both the National Environmental Policy Act and the National Historic Preservation Act (NHPA). As the independent federal agency charged with advising the President and Congress on matters relating to historic preservation and as the agency charged with overseeing the Section 106 regulations, the ACHP wishes to provide the following information to you should any similar provisions be proposed in future COVID-19 stimulus or recovery legislation.

Title V of Division B of the CARES Act includes the following provision:

*Provided further, That no action taken by the Administrator to acquire real property and interests in real property or to improve real property in response to coronavirus shall be deemed a Federal action or undertaking and subject to review under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), or the National Historic Preservation Act of 1966, as amended (54 U.S.C. 9 300101 et seq.), respectively.*

This applies to \$275,000,000 of authorized expenditures for GSA “to remain available until expended, to prevent, prepare for, and respond to coronavirus, domestically or internationally.” Whether the exemption applies only to immediate “response” activities is unclear.

The ACHP maintains a policy against such exemptions and has done so because the regulations that implement Section 106 of the NHPA, found at 36 C.F.R. Part 800, provide for a variety of tools to adapt the process to the needs of particular agency programs. They have been used effectively to address the concerns of agencies and stakeholders in a wide variety of federal programs.

In meeting the current challenge of the COVID-19 pandemic, there is the need to ensure that governmental response efforts move with the utmost speed. Fortunately, the Section 106 regulations at 36 C.F.R. §800.12(b)(2) provide an expedited process for emergency response actions. These provisions allow federal agencies to notify State Historic Preservation Officers, Tribal Historic Preservation Officers, the ACHP, and others about emergency undertakings and provide a seven-day timeframe for advisory

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comments. That period can be shortened even further if the agency determines that circumstances warrant it, and there is no obligation for the agency to wait for comments.

The Section 106 regulations permit an agency to use these expedited procedures for a 30-day period after the declaration of an emergency, as they are intended to govern only immediate emergency responses. However, with the unique circumstances of the current emergency, the ACHP has issued a blanket extension for all federal agencies to invoke the emergency provisions through May 29, 2020. (See attached.) Depending on circumstances, the end date of the blanket extension may be further deferred. This is done by action of the ACHP's Executive Director without notice and comment or other procedural requirements.

This process enables agencies to quickly and effectively respond to emergencies while still considering potential effects on historic properties. It has been used repeatedly in dealing with natural disasters. In sum, having this tool readily available negates the need for any legislative exemption from Section 106 for emergency response situations.

As I mentioned earlier, the ACHP is concerned that the GSA exemption may go beyond immediate response actions to the emergency given the inclusion of the terms "prevent" and "prepare for" regarding coronavirus threats in the future. Again, we believe the tools available in the Section 106 regulations adequately equip us to address these longer-term actions without resorting to legislative exemptions.

One final note regarding the current situation: the ACHP maintains an active COVID-19 webpage that has regular updates the Section 106 process and can be accessed at [www.achp.gov/coronavirus](http://www.achp.gov/coronavirus).

Should you have any questions regarding this issue or the ACHP's COVID-19 response efforts, please contact me. The ACHP looks forward to working with you as future legislation advances to address the pandemic and its impacts. Historic preservation tools have proven their value as economic development drivers, and the ACHP has taken positions on some that are likely to be considered in future stimulus or economic recovery legislation. I would welcome the opportunity to share our ideas with you when the time comes.

Sincerely,



Aimee K. Jorjani  
Chairman

Attachment

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



April 17, 2020

The Honorable Richard Shelby  
Chairman  
Committee on Appropriations  
U.S. Senate  
Capitol Building, S-128  
Washington, DC 20510

The Honorable Patrick Leahy  
Ranking Minority Member  
Committee on Appropriations  
U.S. Senate  
Capitol Building, S-128  
Washington, DC 20510

Dear Senator Shelby and Senator Leahy:

As discussions proceed on various emergency, stimulus, and recovery efforts, I would like to bring to your attention an environmental review exemption that was included in the CARES Act (Pub. L. 116-136). The CARES Act included an exemption for the General Services Administration (GSA) from the provisions of both the National Environmental Policy Act and the National Historic Preservation Act (NHPA). As the independent federal agency charged with advising the President and Congress on matters relating to historic preservation and as the agency charged with overseeing the Section 106 regulations, the ACHP wishes to provide the following information to you should any similar provisions be proposed in future COVID-19 stimulus or recovery legislation.

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Aimee K. Jorjani  
Chairman

Attachment

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



April 17, 2020

The Honorable Raúl Grijalva  
Chairman  
Committee on Natural Resources  
U.S. House of Representatives  
Longworth House Office Building, #1324  
Washington, DC 20515

The Honorable Rob Bishop  
Ranking Minority Member  
Committee on Natural Resources  
U.S. House of Representatives  
Longworth House Office Building, #1324  
Washington, DC 20515

Dear Representative Grijalva and Representative Bishop:

As discussions proceed on various emergency, stimulus, and recovery efforts, I would like to bring to your attention an environmental review exemption that was included in the CARES Act (Pub. L. 116-136). The CARES Act included an exemption for the General Services Administration (GSA) from the provisions of both the National Environmental Policy Act and the National Historic Preservation Act (NHPA). As the independent federal agency charged with advising the President and Congress on matters relating to historic preservation and as the agency charged with overseeing the Section 106 regulations, the ACHP wishes to provide the following information to you should any similar provisions be proposed in future COVID-19 stimulus or recovery legislation.

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Sincerely,



Aimee K. Jorjani  
Chairman

Attachment

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



April 17, 2020

The Honorable Nita Lowey  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Capitol Building, H-307  
Washington, DC 20515

The Honorable Kay Granger  
Ranking Minority Member  
Committee on Appropriations  
U.S. House of Representatives  
Capitol Building, H-307  
Washington, DC 20515

Dear Representative Lowey and Representative Granger:

As discussions proceed on various emergency, stimulus, and recovery efforts, I would like to bring to your attention an environmental review exemption that was included in the CARES Act (Pub. L. 116-136). The CARES Act included an exemption for the General Services Administration (GSA) from the provisions of both the National Environmental Policy Act and the National Historic Preservation Act (NHPA). As the independent federal agency charged with advising the President and Congress on matters relating to historic preservation and as the agency charged with overseeing the Section 106 regulations, the ACHP wishes to provide the following information to you should any similar provisions be proposed in future COVID-19 stimulus or recovery legislation.

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Should you have any questions regarding this issue or the ACHP's COVID-19 response efforts, please contact me. The ACHP looks forward to working with you as future legislation advances to address the pandemic and its impacts. Historic preservation tools have proven their value as economic development drivers, and the ACHP has taken positions on some that are likely to be considered in future stimulus or economic recovery legislation. I would welcome the opportunity to share our ideas with you when the time comes.

Sincerely,



Aimee K. Jorjani  
Chairman

Attachment

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



June 8, 2020

The Honorable Debbie Wasserman Schultz  
Chairwoman, Subcommittee on Military Construction,  
Veterans Affairs, and Related Agencies  
Committee on Appropriations  
U.S. House of Representatives  
Capitol Building, HT-2  
Washington, DC 20515

Dear Representative Schultz:

The Advisory Council on Historic Preservation (ACHP) has followed with interest the recent discussions between the Subcommittee and the Department of Veterans Affairs (VA) regarding several VA cemetery headstones for World War II German prisoners of war that include Nazi imagery. We understand from a June 1 press release from VA that the agency plans to replace the headstones and will be initiating review of that action in accordance with Section 106 of the National Historic Preservation Act. As the independent federal agency charged with advising the President and Congress on matters relating to historic preservation and as the agency charged with overseeing the Section 106 regulations, the ACHP is pleased that VA is moving forward toward a constructive solution in this case. We would like to take this opportunity to provide the Subcommittee with the following relevant information.

As VA moves forward with the Section 106 review process, it is required to consult with relevant state and local stakeholders, including the Utah and Texas State Historic Preservation Officers (SHPOs). Depending on how that consultation proceeds, the ACHP may become involved. The goal of the process is to assess effects of the proposed project on historic properties and to avoid or mitigate any adverse effects. Following consultation with the SHPOs and other concerned parties, VA will then make its final decision on how to deal with the headstones.

In 2018, as part of the national discussion on Confederate monuments, the ACHP issued a Policy Statement on Controversial Commemorative Works (see attached). The guiding principles in this document were adopted by the ACHP to assist federal, state, and local governments facing decisions about the management or disposition of controversial commemorative works. In general, the policy statement stresses the need for decision makers to directly confront history's difficult chapters; consult broadly with the public to ascertain contemporary community views; consider a range of management alternatives; and promote public education regarding all aspects (positive and negative) of the nation's history. The approaches being proposed by VA—preserving the removed headstones in the National Cemetery Administration History Collection and installing interpretive signs at all VA national cemeteries where foreign enemy prisoners of war are interred—appear consistent with treatment alternatives mentioned in the ACHP policy statement.

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The ACHP currently is working with VA on another issue that may be of interest to the Subcommittee. VA is one of six federal agencies participating on the ACHP's Leveraging Historic Federal Buildings Workgroup. The group has been convened to identify obstacles to reusing or "outleasing" federal historic properties to the private sector, and to develop recommendations for overcoming those impediments.

Federally owned historic buildings that are not used are generally at greater risk for deterioration and neglect. One potential solution to this situation is for agencies to seek non-federal partners who will use the properties and provide an influx of needed capital for their rehabilitation and maintenance. The agency, the historic resource, and the local economy all benefit. An excellent example is VA's use of its Enhanced Use Lease authority to partner with a developer at Milwaukee's Clement J. Zablocki VA Medical Center (VAMC). Deteriorated National Historic Landmark buildings at the VAMC will be rehabilitated to house homeless (or at risk) veterans and their families.

We look forward to sharing the recommendations that are developed by the ACHP Leveraging Historic Federal Buildings Workgroup. If you have any questions regarding that group or any other issues regarding historic preservation, please feel free to contact me.

Sincerely,



Aimee K. Jorjani  
Chairman

Attachment

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



June 8, 2020

The Honorable Roy Blunt  
United States Senate  
260 Russell Senate Office Building  
Washington, DC 20510-2508

Dear Senator Blunt:

Following our letter to you in November 2019, we wanted to take this opportunity to provide you with an update on the actions we have taken in response to your questions and concerns, as expressed in the November 20, 2019, correspondence. As you know, the Fixing America's Surface Transportation (FAST) Act (49 U.S.C. § 24202) addressed a specific point regarding the review process under Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108). Section 106 requires federal agencies to take into account the effects of undertakings they carry out, license, permit, or assist on historic properties. The FAST Act directed the Advisory Council on Historic Preservation (ACHP) to issue an exemption from Section 106 for rail rights-of-way (ROW) that would be consistent with that done for the interstate highway system. To provide additional context and background on this issue and possible next steps, I am pleased to share the following information.

After passage of the FAST Act, both Department of Transportation (USDOT) staff and ACHP staff worked closely with the Senate Committee on Commerce, Science, and Transportation, Subcommittee on Surface Transportation, Merchant Marine Infrastructure, Safety, and Security to ensure the solution mandated by Congress (that an exemption for rail ROW be consistent with that done for the interstate highway system) also met the requirements of the NHPA (54 U.S.C. § 304108(c)). The administrative tool that exempted agencies from reviewing the effects of their undertakings on the interstate highway is only available under the NHPA and the Section 106 implementing regulations for those undertakings with foreseeable and likely minimal or no adverse effects to historic properties. We understood the activities for which the rail industry specifically requested regulatory relief primarily included demolition, safety and hazard improvements, and other activities that would adversely affect historic properties.

The ACHP and USDOT recognized that the FAST Act directed agency action and timelines but did not provide the ACHP with any additional authority to exempt undertakings or historic properties from Section 106 review beyond the ACHP's existing authority in the NHPA and 36 CFR § 800.14(c). The two-part approach in the FAST Act that directed USDOT to submit a proposed exemption to the ACHP and the ACHP to issue the exemption, which follows the process set forth in 36 CFR § 800.14(c), further supported this interpretation that the clear intent of the FAST Act was for the ACHP to use its existing authority and regulatory process to exempt undertakings within rail ROW. Therefore, in order to achieve the requirement and the broader policy intent of the FAST Act, in coordination with USDOT, the ACHP developed the *Program Comment to Exempt Consideration of Effects to Rail Properties Within Rail Rights-of-Way* (Program Comment) that explicitly exempted activities within rail ROW from Section 106

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review as well as provided additional streamlining for Section 106 review within rail ROW. A Program Comment is a program alternative authorized under the regulations implementing Section 106 that allows a federal agency to request that the ACHP comment on a category of undertakings in lieu of commenting on a case-by-case basis (36 CFR § 800.14(e)). The Program Comment tool offered greater flexibility, scope, and reach than the limited exemption tool. Throughout the development of the Program Comment, rail industry representatives participated alongside preservation stakeholders in negotiating terms and commenting on draft versions.

The Program Comment that the ACHP membership approved in 2018 includes a straightforward exemption for many activities with minimal or low potential to adversely affect historic properties, called the “activities-based approach.” In addition, the Program Comment includes a “property-based approach” that is a further exemption for activities that may adversely affect historic rail properties once the applicant completes the process to identify certain significant properties that would remain subject to Section 106. It is important to note that the Program Comment has been successful in streamlining and exempting activities from review under Section 106. As the Federal Railroad Administration has shared with us, the activities-based approach has been used more than 300 times. Other modes within USDOT have reported similar successes in the Program Comment’s implementation.

The property-based approach is practically identical to the highway exemption, and the criteria for those significant historic properties to remain subject to Section 106 are quite similar. The difference between the rail Program Comment and the interstate exemption in this section is only procedural. Under the interstate highway exemption, the Federal Highway Administration required state DOTs to do the upfront identification work to determine which properties would remain subject to Section 106 review while exempting the consideration of effects to all others. In the rail Program Comment, USDOT provided applicants with the responsibility to carry out identification work in cases where an applicant wanted to take advantage of this additional efficiency. We understand this approach is due to the different administrative structures and capabilities for road and rail in USDOT and the states. State DOTs own the resources and were able to perform the identification and evaluation work, and carried out such work relying largely on pre-existing state and federal funding to do so. Most of the rail ROWs are privately owned, and USDOT has said it lacks the resources to conduct such identification work nationwide. It is important to note that the activities-based exemption in the Program Comment became immediately available to all federal agencies upon issuance of the Program Comment.

In October 2019, USDOT issued guidance for implementation of the property-based approach. The development of this guidance document was required by the Program Comment. It further explains the process for project applicants to identify historic rail properties, provides helpful tips, and describes how the USDOT would make the final decision of which properties would be exempt from consideration under Section 106 review. The guidance also highlights the flexibility in the process, allowing project applicants discretion to choose the area or rail property type to consider in the process.

Over the past several months, the ACHP has met multiple times with rail industry representatives, staff and leadership from USDOT, and other federal agencies that have authority to permit, approve, or fund actions within rail ROW, such as the Army Corps of Engineers and the US Coast Guard. We engaged in frank discussions with these parties regarding the operation and use of the 2018 Program Comment. We considered whether an amendment to the Program Comment would be useful in further streamlining the required environmental reviews.

During those meetings, it was apparent that the industry representatives continue to believe it was inappropriate for applicants to have the responsibility to carry out such identification work under the property-based approach. The ACHP acknowledges that the Program Comment does put the responsibility on applicants to carry out identification efforts in order to utilize the streamlining option in

the property-based approach. The ACHP urges Congress to consider ways this might be alleviated. Additional investments in carrying out this work, such as through appropriations to USDOT to assist with these identification efforts or to carry them out itself, could address the concerns raised by industry representatives. While the ACHP maintains that the rail Program Comment is in its current form consistent with the interstate highway exemption, we are supportive of additional efforts to find a balanced and appropriate way forward to address industry's concerns. Further investment in this regard would assist all parties in realizing the full potential of this Program Comment.

While we believe that the crux of the issue is relieving industry of the obligation to gather the information needed to support the property-based approach, we will continue to seek administrative improvements to make the Program Comment function more effectively.

Should you have any other questions or would like to discuss further, please contact me at any time.

Sincerely,



Aimee K. Jorjani  
Chairman

Hon. Aimee K. Jorjani  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



June 19, 2020

The Honorable Nancy Pelosi  
Speaker of the House  
United States House of Representatives  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
Washington, DC 20515

The Honorable Raúl M. Grijalva  
Chairman  
Committee on Natural Resources  
United States House of Representatives  
Washington, DC 20515

The Honorable Rob Bishop  
Ranking Member  
Committee on Natural Resources  
United States House of Representatives  
Washington, DC 20515

Dear Speaker Pelosi, Leader McCarthy, Representative Grijalva, and Representative Bishop:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Great American Outdoors Act (S. 3422/H.R.7092). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. I previously conveyed the ACHP's support for the bill (see attached), but wish to reiterate it in light of the bill's recent passage in the Senate and the introduction of an identical bill in the House.

The Great American Outdoors Act offers a historic opportunity, both to conserve natural and cultural resources for future generations and also to help address our current national crisis. I urge you to seize this opportunity and support passage of a clean bill without amendments.

While the bill was drafted long before the advent of COVID-19, its passage would help to sustain and assist local communities in their recovery from the pandemic. It would create new jobs to address deferred maintenance of federal properties while also pumping additional parks and recreation funding into local economies. Additionally, the bill would help to preserve the parks and open spaces that Americans are craving as an antidote to the constraints and stress of the pandemic.

Please feel free to contact me with any questions regarding the ACHP's unqualified support for the Great American Outdoors Act.

Sincerely,

Aimee K. Jorjani  
Chairman

Attachment

Hon. Aimee K. Jorjani  
Chairman

Rick Gonzalez, AIA  
Vice Chairman

John M. Fowler  
Executive Director



July 24, 2020

The Honorable Deb Haaland  
Chairman  
Subcommittee on National Parks,  
Forests and Public Lands  
Committee on Natural Resources  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Don Young  
Ranking Member  
Subcommittee on National Parks,  
Forests and Public Lands  
Committee on Natural Resources  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Haaland and Ranking Member Young:

As chairman of the Advisory Council on Historic Preservation (ACHP), I was very interested in the Subcommittee's virtual forum on July 7, 2020, "The Restoration Economy: Examining Environmental and Economic Opportunities." Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The recent forum focused principally on natural resources conservation; however, investing in cultural resources preservation also offers a huge opportunity to bolster the economy, particularly through traditional trades training. Repurposing and restoring the already built environment has created an economic sector also known as "restorative development." Within the historic preservation field, it is a natural evolution to maintain or re-adapt a building, already possessing embodied energy, as the ultimate form of recycling, while offering endless possibilities for career paths. Likewise, planners and preservationists are keenly aware of the key interconnectedness of the built and natural environment.

Restoration work on historic buildings cannot be done without skilled workers in the traditional trades and construction fields; however, there is a shortage of such workers. Investing in opportunities for people—notably youth and veterans—to acquire marketable knowledge, skills, and abilities in the traditional trades would help to put people to work while helping to ensure that precious historic resources are preserved for future generations. In response, I have formed an ACHP Traditional Trades Training Task Force comprised of experts in the restoration trades field, to explore how the federal government can help promote this outcome. (More about the Task Force and its members is available at <https://www.achp.gov/initiatives/traditional-trades-training>.)

Academic programs, apprenticeships, service corps work, and volunteer immersion programs all can offer pathways into the traditional trades. This makes traditional trades training well suited to engaging diverse groups in local communities in learning new skills while working to preserve their community's historic character, with lasting effects on livability and affordability as an alternative to new and costly construction. Helping people acquire these specialized skills can fill jobs and change lives.

Traditional trades training also could help to maximize the impact of the Great American Outdoors Act. The Department of the Interior and the U.S. Forest Service will be spending millions of dollars under the

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bill to address properties suffering from deferred maintenance, many of which are historic. A shortage of trained crafts people in the traditional trades could complicate this important effort.

As the Subcommittee continues to explore the role that investing in the environment can play in immediate economic recovery and long-term economic prosperity, the ACHP and the Traditional Trades Training Task Force would welcome an opportunity to further discuss how traditional trades training might contribute to those goals.

Sincerely, .



Aimee K. Jorjani  
Chairman

Hon. Aimee K. Jorjani  
Chairman

Rick Gonzalez, AIA  
Vice Chairman

John M. Fowler  
Executive Director



September 28, 2020

The Honorable Joe Cunningham  
U.S. House of Representatives  
Cannon House Office Building  
Washington, DC 20515

Dear Representative Cunningham:

As chairman of the Advisory Council on Historic Preservation (ACHP), I want to thank you for your leadership in passage of the Great American Outdoors Act (GAOA). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. I recently had the great pleasure of swearing in Kristopher B. King, executive director of the Preservation Society of Charleston, as the newest expert member of the ACHP.

The GAOA offers a historic opportunity, both to conserve natural and cultural resources for future generations, and also to help address our current economic crisis. It will create new jobs to address deferred maintenance of federal properties, principally in National Parks, where almost half the buildings suffering from deferred maintenance are historic. Restoration work on these buildings cannot be done without skilled workers in the traditional trades and construction fields. A current shortage of such workers could complicate this important effort, however.

Investing in opportunities for people—notably youth and veterans—to acquire marketable knowledge, skills, and abilities in the traditional trades would help to put people to work while helping to ensure precious historic resources are preserved for future generations. In response to this issue, I have formed an ACHP Traditional Trades Training Task Force to explore how the federal government can help promote the development of a robust workforce in the skilled preservation trades. The Task Force includes experts in the restoration trades field, including Simeon A. Warren, dean emeritus of the American College of the Building Arts in Charleston. (More about the Task Force and its members is available at <https://www.achp.gov/initiatives/traditional-trades-training>.)

The House Natural Resources Subcommittee on National Parks, Forests and Public Lands hosted a virtual forum in July on “The Restoration Economy: Examining Environmental and Economic Opportunities.” While that forum focused principally on natural resources conservation, investing in cultural resources preservation also offers a huge opportunity to bolster the economy, particularly through traditional trades training. Academic programs, apprenticeships, service corps work, and volunteer immersion programs all can offer pathways into the traditional trades. This makes traditional trades training well suited to engaging diverse groups in local communities in learning new skills while working to preserve their community’s historic character, with lasting effects on livability and affordability as an alternative to new and costly construction.

As the Natural Resources Committee further explores the role that investing in the natural and built environment can play in immediate economic recovery and long-term economic prosperity, I would welcome an opportunity to discuss with you how traditional trades training might contribute to those goals. Helping people acquire specialized skills in the traditional trades can both fill jobs and change lives.

Sincerely, .



Aimee K. Jorjani  
Chairman

Hon. Aimee K. Jorjani  
Chairman

Rick Gonzalez, AIA  
Vice Chairman

John M. Fowler  
Executive Director



November 5, 2020

The Honorable Benjamin L. Cardin  
United States Senate  
Washington, DC 20510

The Honorable Chris Van Hollen  
United States Senate  
Washington, DC 20510

The Honorable Jamie Raskin  
United States House of Representatives  
Washington, DC 20515

The Honorable David Trone  
United States House of Representatives  
Washington, DC 20515

REF: I-495 & I-270 Managed Lanes Study  
Montgomery & Prince George's County, MD  
ACHPConnect #012723

Dear Senator Cardin, Senator Van Hollen, Representative Raskin, and Representative Trone:

I appreciate receiving your correspondence regarding the I-495 & I-270 Managed Lanes Project. The Advisory Council on Historic Preservation (ACHP) oversees the Section 106 review process and in certain cases participates in consultation to consider the effects of federally funded projects like this on historic properties. The ACHP has been participating in the consultation led by the Federal Highway Administration (FHWA) for this project along with other consulting parties in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800) since May 22, 2018. A key interest of ours has been to ensure the FHWA commits through a Programmatic Agreement (PA) to an appropriate process for identifying historic properties and assessing the potential effects that might occur to these properties from the development of this important project. The Section 106 process relies upon extensive consultation with a diverse array of consulting parties, and the PA will reflect not only their input but will also allow them to continue to be involved in resolving any adverse effects from the undertaking.

We appreciate you highlighting the importance of historic properties to the local community and the broader public, and assure you that the Section 106 process is designed to give full consideration to their preservation. As a signatory to the PA for this project, the ACHP will closely review and comment on the document to ensure effects to historic properties, including sites of significance to the African American community such as the Morningstar Tabernacle No. 88, Moses Hall and Cemetery, and the Gibson Grove A.M.E. Zion Church, are appropriately analyzed. We expect the PA to address avoidance and minimization measures, additional historic property identification and evaluation efforts, effects assessment, and mitigation processes. Throughout these efforts, it will be essential for FHWA to ensure the substantial and continued involvement of consulting parties and the public.

The ACHP looks forward to continued consultation and collaboration with FHWA and all consulting parties on the I-495 & I-270 Managed Lanes Project. Should you have any questions regarding this project, please contact Reid Nelson, Director, Office of Federal Agency Programs, at (202) 517-0206 or via email at [rnelson@achp.gov](mailto:rnelson@achp.gov).

Sincerely, .



Aimee K. Jorjani  
Chairman

Hon. Aimee K. Jorjani  
Chairman

Rick Gonzalez, AIA  
Vice Chairman

John M. Fowler  
Executive Director



November 19, 2020

The Honorable Richard Shelby  
Chairman  
Committee on Appropriations  
U.S. Senate  
Capitol Building, S-128  
Washington, DC 20510

The Honorable Patrick Leahy  
Vice Chairman  
Committee on Appropriations  
U.S. Senate  
Capitol Building, S-128  
Washington, DC 20510

Dear Senator Shelby and Senator Leahy:

As discussions resume on coronavirus relief legislation, the Advisory Council on Historic Preservation (ACHP) would like to bring to your attention an environmental review exemption for the Department of Health and Human Services (HHS) that has been proposed in the Coronavirus Response Additional Supplemental Appropriations Act (S. 4320). The bill would provide additional appropriations for the Public Health and Social Services emergency fund. The proposed exemption mirrors language included in the CARES Act (Pub. L. 116-136) that exempted the General Services Administration from the provisions of both the National Environmental Policy Act and the National Historic Preservation Act (NHPA). The ACHP expressed its concern regarding this exemption in correspondence to you dated April 17, 2020 (see attached). As the independent federal agency charged with advising the President and Congress on matters relating to historic preservation and as the agency charged with overseeing review under Section 106 of the NHPA, the ACHP believes that the proposed exemption in S. 4320 is not necessary.

One of the HHS funding amounts proposed by S. 4320 would equal \$8.085 billion, the bulk of which would go to the Health Resources and Services Administration (HRSA). For this funding, the bill includes the following provision:

*Provided further, That funding made available under this paragraph in this Act shall not be subject to requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or the National Historic Preservation Act of 1966.*

The ACHP maintains a policy against such exemptions and has done so because the regulations that implement Section 106 of the NHPA, found at 36 C.F.R. Part 800, provide for a variety of tools to adapt the process to the needs of particular agency programs. They have been used effectively to address the concerns of agencies and stakeholders in a wide variety of federal programs.

In meeting the current challenge of the COVID-19 pandemic, there is the need to ensure that governmental response efforts move with the utmost speed. Fortunately, many of the HRSA expenditures that would be funded under the bill (such as those involving staffing, training, and capacity building) already would require no review under Section 106 of the NHPA beyond HRSA determining that they

have no potential to impact historic properties. Other activities (such as renovation or construction of health centers) would require further review; however, the Section 106 regulations at 36 C.F.R. §800.12(b)(2) provide an expedited process for emergency response actions.

This expedited process enables agencies to quickly and effectively respond to emergencies while still considering potential effects on historic properties. It has been used repeatedly in dealing with natural disasters. Agencies are allowed to use these expedited procedures for a 30-day period after the declaration of an emergency, as they are intended to govern only immediate emergency responses. However, with the unique circumstances of the current emergency, the ACHP has issued a blanket extension for all federal agencies to invoke the emergency provisions. The Section 106 regulations at 36 C.F.R. §800.12(a) also permit agencies to develop agency-specific procedures for taking historic properties into account during operations which respond to a disaster or emergency. The Federal Emergency Management Agency has created such procedures for its COVID-19 response undertakings.

The current blanket extension of the standard Section 106 emergency procedures and the option of developing HHS-specific emergency procedures negate the need for any legislative exemption from Section 106 for HHS and HRSA COVID-19-related projects. HHS and HRSA have been using the blanket extension of the Section 106 emergency procedures successfully since March. HRSA's applicants have submitted 63 projects, all of which were handled expeditiously as provided for under the emergency provisions.

One final note regarding the current situation: the ACHP maintains an active COVID-19 webpage that has regular updates on the Section 106 process and can be accessed at [www.achp.gov/coronavirus](http://www.achp.gov/coronavirus).

Should you have any questions regarding this issue or the ACHP's COVID-19 response efforts, please contact me. The ACHP looks forward to working with you as future legislation advances to address the pandemic and its impacts. Historic preservation tools have proven their value as economic development drivers, and the ACHP has taken positions on some that are likely to be considered in future stimulus or economic recovery legislation. I would welcome the opportunity to share our ideas with you when the time comes.

Sincerely,



Aimee K. Jorjani  
Chairman

Attachment

Hon. Aimee K. Jorjani  
Chairman

Rick Gonzalez, AIA  
Vice Chairman

John M. Fowler  
Executive Director



November 19, 2020

The Honorable Nita Lowey  
Chairwoman  
Committee on Appropriations  
U.S. House of Representatives  
Capitol Building, H-307  
Washington, DC 20515

The Honorable Kay Granger  
Ranking Minority Member  
Committee on Appropriations  
U.S. House of Representatives  
Capitol Building, H-307  
Washington, DC 20515

Dear Representative Lowey and Representative Granger:

As discussions resume on coronavirus relief legislation, the Advisory Council on Historic Preservation (ACHP) would like to bring to your attention an environmental review exemption for the Department of Health and Human Services (HHS) that has been proposed in H.R. 8086, a bill that would provide additional appropriations for the Public Health and Social Services emergency fund. The proposed exemption mirrors language included in the CARES Act (Pub. L. 116-136) that exempted the General Services Administration from the provisions of both the National Environmental Policy Act and the National Historic Preservation Act (NHPA). The ACHP expressed its concern regarding this exemption in correspondence to you dated April 17, 2020 (see attached). As the independent federal agency charged with advising the President and Congress on matters relating to historic preservation and as the agency charged with overseeing review under Section 106 of the NHPA, the ACHP believes that the proposed exemption in H.R. 8086 is not necessary.

One of the funding amounts proposed by H.R. 8086 would equal \$8.085 billion, the bulk of which would go to the Health Resources and Services Administration (HRSA). For this funding, the bill includes the following provision:

*Provided further, That funding made available under this paragraph in this Act shall not be subject to requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or the National Historic Preservation Act of 1966.*

The ACHP maintains a policy against such exemptions and has done so because the regulations that implement Section 106 of the NHPA, found at 36 C.F.R. Part 800, provide for a variety of tools to adapt the process to the needs of particular agency programs. They have been used effectively to address the concerns of agencies and stakeholders in a wide variety of federal programs.

In meeting the current challenge of the COVID-19 pandemic, there is the need to ensure that governmental response efforts move with the utmost speed. Fortunately, many of the HRSA expenditures that would be funded under the bill (such as those involving staffing, training, and capacity building) already would require no review under Section 106 of the NHPA beyond HRSA determining that they have no potential to impact historic properties. Other activities (such as renovation or construction of

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health centers) would require further review; however, the Section 106 regulations at 36 C.F.R. §800.12(b)(2) provide an expedited process for emergency response actions.

This expedited process enables agencies to quickly and effectively respond to emergencies while still considering potential effects on historic properties. It has been used repeatedly in dealing with natural disasters. Agencies are allowed to use these expedited procedures for a 30-day period after the declaration of an emergency, as they are intended to govern only immediate emergency responses. However, with the unique circumstances of the current emergency, the ACHP has issued a blanket extension for all federal agencies to invoke the emergency provisions. The Section 106 regulations at 36 C.F.R. §800.12(a) also permit agencies to develop agency-specific procedures for taking historic properties into account during operations which respond to a disaster or emergency. The Federal Emergency Management Agency has created such procedures for its COVID-19 response undertakings.

The current blanket extension of the standard Section 106 emergency procedures and the option of developing HHS-specific emergency procedures negate the need for any legislative exemption from Section 106 for HHS and HRSA COVID-19-related projects. HHS and HRSA have been using the blanket extension of the Section 106 emergency procedures successfully since March. HRSA's applicants have submitted 63 projects, all of which were handled expeditiously as provided for under the emergency provisions.

One final note regarding the current situation: the ACHP maintains an active COVID-19 webpage that has regular updates on the Section 106 process and can be accessed at [www.achp.gov/coronavirus](http://www.achp.gov/coronavirus).

Should you have any questions regarding this issue or the ACHP's COVID-19 response efforts, please contact me. The ACHP looks forward to working with you as future legislation advances to address the pandemic and its impacts. Historic preservation tools have proven their value as economic development drivers, and the ACHP has taken positions on some that are likely to be considered in future stimulus or economic recovery legislation. I would welcome the opportunity to share our ideas with you when the time comes.

Sincerely,



Aimee K. Jorjani  
Chairman

Attachment



*Preserving America's Heritage*

**ACHP COMMUNICATIONS  
WITH THE 115<sup>TH</sup> CONGRESS  
Office of Preservation Initiatives**

The following is a summary of the written communications to date from the ACHP to Congress during the 115<sup>th</sup> Congress, and these communications are shown in their entirety in a chronological attachment. This summary breaks down the communications by the topic areas of the ACHP's approved legislative agenda for the 115th Congress. Congressional action on each topic also is summarized.

***Maintaining and enhancing tax incentives for historic preservation.***

- January 30, 2017 – Letter to the House Ways and Means Committee advising on the importance of retaining the federal historic rehabilitation tax credit
- May 31, 2017 – Letter for the record to the House Ways and Means Committee discussing the job creation benefits of the federal historic rehabilitation tax credit in response to a hearing on “How Tax Reform Will Grow Our Economy and Create Jobs”
- November 14, 2017 – Letters to the Senate Finance Committee and the House Ways and Means Committee supporting retention of the existing 20% historic rehabilitation tax credit in the final version of the Tax Cuts and Jobs Act, as opposed to the Senate’s proposed halving of the credit and its proposed elimination by the House

Congressional Action: The Tax Cuts and Jobs Act that became law on December 22, 2017, retains the existing 20% historic rehabilitation tax credit, but requires that the credit be taken over five years. The existing 10% credit for rehabilitating older (but not “historic”) buildings was repealed.

***Supporting preservation-friendly programs and funding***

- December 5, 2017 – Letters to the Senate and House Appropriations Committees supporting adequate FY 2018 funding for the Historic Preservation Fund (HPF), preferably at or above the figure proposed by the House in a pending omnibus spending bill (which is higher than that proposed by the Senate)

Congressional Action: The Consolidated Appropriations Act, 2018, which became law on March 23, 2018, funded the HPF at \$96.910 million, an increase of \$16 million over the previous year. This represents the highest level of funding for the HPF since its inception in 1966.

***Preserving the fundamental integrity of the National Register of Historic Places.***

- December 5, 2017 – Letters to the Senate and House Appropriations Committees objecting to

provisions in the proposed FY 2018 omnibus spending bill that would prevent FY 2018 funds for DOI from being used to: 1) address the National Register eligibility of the proposed Trestles Historic District; and 2) establish a national heritage area, national heritage corridor, national heritage canal way, national heritage tour route, national historic district, or cultural heritage corridor, or other heritage partnership program in certain specified Colorado counties

Congressional Action: The Consolidated Appropriations Act, 2018, which became law on March 23, 2018, did not include either of the problematic provisions objected to by the ACHP.

***Fostering Stewardship of Historic Properties on Federal Lands or Under Federal Management***

- August 20, 2018 – Letters to the House Natural Resources Committee and the Senate Energy and Natural Resources Committee supporting the Senate’s Restore Our Parks Act and the House’s Restore Our Parks and Public Lands Act, both of which would create a fund from federal energy development revenues to address deferred maintenance at National Parks (and other federal agencies under the House version of the bill)

Congressional Action: The bills have been favorably marked up by committees in both the Senate and House. There is strong bipartisan support for the fundamental concept of both bills, although there are differences between the two.

- August 20, 2018 - Letters to the House Natural Resources Committee and the Senate Energy and Natural Resources Committee supporting the Golden Spike 150<sup>th</sup> Anniversary Act, which would: 1) redesignate the Golden Spike National Historic Site as a National Historical Park; 2) create a program to commemorate and interpret the Transcontinental Railroad (called the Transcontinental Railroad Network in the House bill); and 3) address (in the House bill) Section 106 review of certain actions by landowners adjacent to the National Park unit

Congressional Action: The bill passed the House on June 25, 2018. It has been reported favorably out the Senate Energy and Natural Resources Committee with amendments.

***Balancing regulatory reform and streamlining with protection of historic properties.***

- June 26, 2017 – Letter to the House Natural Resources Committee objecting to a section in the Resilient Federal Forests Act that would: 1) allow the Forest Service and BLM to complete Section 106 review for forest management activities through phased identification and assessment of adverse effects, but without consultation with SHPOs, THPOs, or any other entity; and 2) cap consultation at 90 days if the phased approach is not used.

Congressional Action: The version of the Resilient Federal Forests Act that passed the House on November 1 did not contain the section opposed by the ACHP. It now includes language developed by the ACHP and NCSHPO requiring development of a PA or other program alternative to expedite Section 106 reviews for forest management activities. The bill has not yet advanced in the Senate.

***Supporting Presidential designation of national monuments.***

- December 18, 2017 – Letter to the House leadership opposing the National Monument Creation and

Protection Act, which would make extensive changes to the national monument designation process that would limit the types of historic properties that could be protected and restrict their protection in the designation process.

Congressional Action: No Congressional action has been taken recently on the bill.

- January 11, 2018 – Statement for the record to the House Natural Resources Subcommittee on Federal Lands opposing the Shash Jáa National Monument and Indian Creek National Monument Act (H.R. 4532), following a subcommittee hearing on the bill. H.R. 4532 would declare null and void the 2016 presidential proclamation that created the Bears Ears National Monument and would create two smaller national monuments.
  - Congressional Action: The House Natural Resources Subcommittee on Federal Lands held a hearing on the bill on January 30, 2018. There has been no further action on the bill.

***Attachment:*** Written communications to date from the ACHP to Congress during the 115th Congress

*November 28, 2018*

Milford Wayne Donaldson, FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

January 30, 2017

The Honorable Kevin P. Brady  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Longworth House Office Building, 1102  
Washington, DC 20515

The Honorable Richard E. Neal  
Ranking Member  
Committee on Ways and Means  
U.S. House of Representatives  
Longworth House Office Building, 1102  
Washington, DC 20515

REF: Federal Historic Rehabilitation Tax Credit

Dear Chairman Brady and Ranking Member Neal:

Since Congress plans to advance tax reform in this session, I would like to take this opportunity to commend to you an important tax incentive that has an outstanding record of past success and great future potential to create jobs, grow the economy, and support community vitality – the federal historic rehabilitation tax credit, also known as the historic tax credit. Administered by the Department of the Interior and the Internal Revenue Service, this 20 percent credit supports projects that rehabilitate income-producing historic buildings – commercial and industrial buildings, hotels, apartment buildings, residential rentals, etc. – while maintaining their historic character. The Advisory Council on Historic Preservation (ACHP) wishes to express its full support for maintaining the historic tax credit as a component of a reformed tax code.

The ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation, including the impact of tax policies upon historic preservation. The ACHP consistently has encouraged measures to ensure the continued use of the historic tax credit as a valuable tool for integrating historic preservation and development investment, and for improving the economic vitality of America's communities.

The “Better Way for Tax Reform” blueprint released last summer recommends eliminating most special-interest deductions and credits that are designed to encourage particular business activity. The historic tax credit is different, however, in that it does not support a specific industry or locality. Rather, it encourages renovation of underutilized commercial properties for a variety of uses in communities throughout the country. The incentive it offers is often essential to the financing for rehabilitation projects that are helping revitalize urban cores and small town Main Streets.

Since the inception of the historic tax credit in 1976, more than 41,000 tax credit projects have been approved in all 50 states, the District of Columbia, the Virgin Islands, and Puerto Rico. These projects have generated \$78.3 billion dollars in rehabilitation investment, created 2.36 million jobs, rehabilitated almost 265,000 housing units, created more than 263,000 new housing units, and developed 146,000 low and moderate income housing units.<sup>1</sup> For local communities, this translates into enhanced property values, more affordable rental housing, removal of blighted conditions, and sustainable reuse of resources.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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It is also important to note that the federal historic rehabilitation tax credit pays for itself. The \$23.1 billion cumulative cost of the program has been more than offset by the \$28.1 billion in federal tax receipts generated by the rehabilitation projects receiving the credit.<sup>2</sup>

While the historic tax credit is helping to revitalize communities across the country, it is a particularly important tool for cities struggling to adapt to shrinking populations. A special Rightsizing Task Force of the ACHP has seen how the federal rehabilitation tax credit plays a role in the revitalization of cities and their traditional neighborhoods. In each of the cities visited by the task force – Buffalo, Cleveland, Detroit, Newark, and Saginaw – local officials shared examples of tax credit projects that are helping to stabilize and reshape neighborhoods.

The historic tax credit has a critically important role to play in restoring buildings and bringing renewed vitality to America's city centers and Main Street corridors. We respectfully request that you carefully consider the effectiveness, value, and reach of the historic tax credit, and its impact on American communities as you proceed with your assessment of tax code reform priorities. We are confident that your examination will conclude that this valuable tax credit is a cost-effective way to encourage essential private sector investment in our nation's cities and towns, and not a tax break merely benefitting a special interest.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance. Our Executive Director, John Fowler, can be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

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<sup>1,2</sup> National Park Service, *Federal Tax Incentives for Rehabilitating Historic Buildings: Statistical Report and Analysis for Fiscal Year 2015* (March 2016); Rutgers University and the National Park Service, *Annual Report on the Economic Impact of the Federal Historic Tax Credit for FY 2015* (August 2016).

Milford Wayne Donaldson, FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

May 31, 2017

The Honorable Kevin P. Brady  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Longworth House Office Building, 1102  
Washington, DC 20515

The Honorable Richard E. Neal  
Ranking Member  
Committee on Ways and Means  
U.S. House of Representatives  
Longworth House Office Building, 1102  
Washington, DC 20515

REF: Letter for the Record: Hearing on How Tax Reform Will Grow Our Economy and Create Jobs,  
May 18, 2017

Dear Chairman Brady and Ranking Member Neal:

The Advisory Council on Historic Preservation (ACHP) welcomes the opportunity to provide the Committee on Ways and Means with a letter for the record following the May 18 hearing on how tax reform will grow our economy and create jobs. Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. Among its duties, the NHPA specifically tasks the ACHP with promoting studies regarding the effects of tax policies at all levels of government on historic preservation.

The written testimony of the hearing witnesses tended to focus on reducing corporate tax rates, modernizing international tax rules, and simplifying the tax code. Tax credits were not central to the testimony, but the ACHP would like to take this opportunity to commend to you an important tax incentive that has an outstanding record of past success and great future potential to create jobs, grow the economy, and support community vitality – the federal historic rehabilitation tax credit, also known as the historic tax credit.

Administered by the Department of the Interior and the Internal Revenue Service, the current 20 percent credit supports projects that rehabilitate income-producing historic buildings – commercial and industrial buildings, hotels, apartment buildings, residential rentals, etc. – while maintaining their historic character. The incentive it offers is often essential to the financing for rehabilitation projects that are helping revitalize both urban cores and small towns. The ACHP wishes to express its full support for maintaining the historic tax credit as a component of a reformed tax code. The ACHP consistently has encouraged measures to ensure the continued use of the historic tax credit as a valuable tool for integrating historic preservation and development investment, and for improving the economic vitality of America's communities.

Since the inception of tax incentives for historic preservation in 1976, more than 42,000 projects have been approved in all 50 states, the District of Columbia, the Virgin Islands, and Puerto Rico. As of FY 2016, these projects have generated \$84.15 billion dollars in rehabilitation investment and created 2.44 million jobs.<sup>1</sup> These jobs have benefited several key sectors of the economy, notably the construction, manufacturing, services, and financial/real estate sectors. Sectors not immediately associated with historic rehabilitation, such as agriculture, mining, transportation, and public utilities, have benefited as well. (For more information

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on the impacts of the historic tax credit by sector, see the attached chart.) As of FY 2015, the cumulative positive impacts on the national economy included \$271.7 billion in output, \$134.7 billion in GDP, \$99.1 billion in income, and \$39.0 billion in taxes, including \$28.1 billion in federal tax receipts.<sup>2</sup>

It also is important to note that the historic tax credit pays for itself. Through FY 2015, the \$23.1 billion cumulative cost of the program was more than offset by the \$28.1 billion in federal tax receipts generated by the rehabilitation projects receiving the credit.<sup>3</sup>

The success of the historic tax credit is reflected in legislation introduced in this session that would build upon the credit and further enhance it. The Historic Tax Credit Improvement Act (S. 425/H.R. 1158) has bipartisan support, with nearly equal numbers of Republican and Democratic cosponsors. (There are a total of 54 cosponsors in the House and 10 in the Senate.) The bill would refine the credit to encourage its use in small, midsize, and rural communities, and to make community-oriented projects – such as the rehabilitation of theaters, libraries, and schools – easier. Using the historic tax credit to encourage rehabilitation of historic schools also is addressed in the School Infrastructure Modernization Act (S. 1156), which would modify the credit to apply to school buildings that continue to operate as schools.

The historic tax credit has a critically important role to play in retaining and restoring key historic landmark buildings and complexes and bringing renewed economic vitality to America's city centers and Main Street corridors. We respectfully request that you carefully consider the effectiveness, value, and reach of the credit, and its impact on American communities as you proceed with your assessment of tax code reform priorities. We are confident that your examination will conclude that the historic tax credit is a cost-effective way to encourage essential private sector investment in our nation's cities and towns, and that the credit makes an important contribution to growing the economy and creating jobs.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance. Our Executive Director, John Fowler, can be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

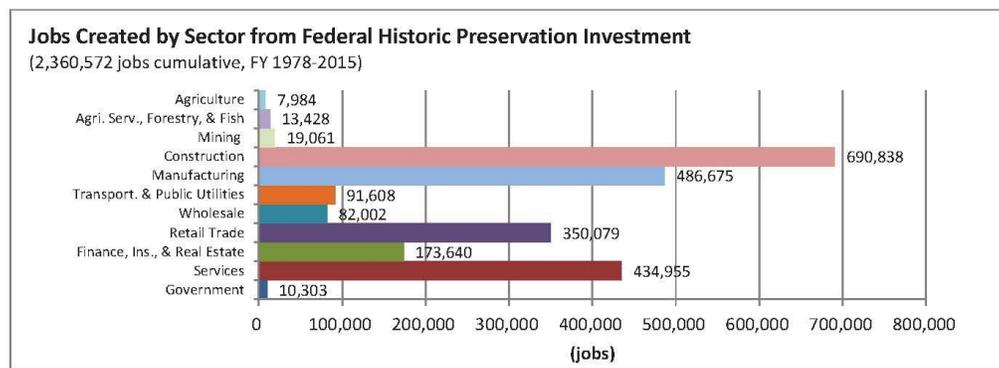
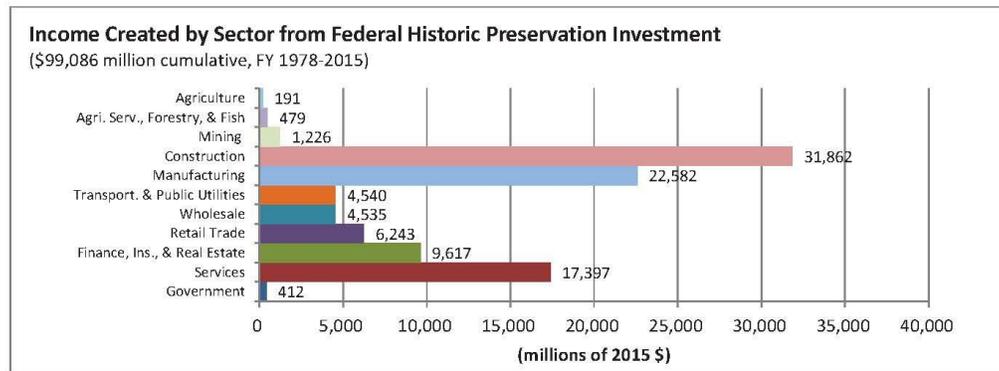
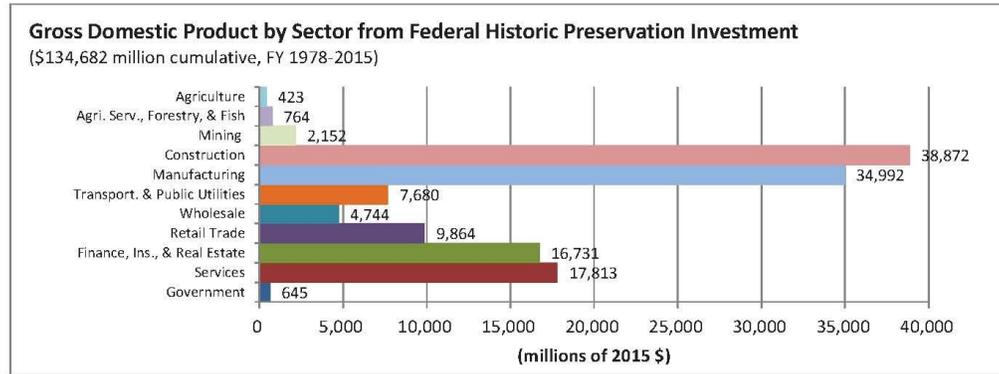
Attachment

<sup>1</sup>National Park Service, *Federal Tax Incentives for Rehabilitating Historic Buildings: Statistical Report and Analysis for Fiscal Year 2016* (March 2017).

<sup>2</sup>Rutgers University and the National Park Service, *Annual Report on the Economic Impact of the Federal Historic Tax Credit for FY 2015* (August 2016).

<sup>3</sup>Ibid.

**SUMMARY EXHIBIT 1**  
**National Economic and Tax Impacts of Federal HTC-related Activity**  
**FY 1978 through FY 2015 (HTC Investment: \$120.8 billion)**



Milford Wayne Donaldson, FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

June 26, 2017

The Honorable Rob Bishop  
Chairman  
Committee on Natural Resources  
Longworth House Office Building, 1324  
Washington, DC 20515

The Honorable Raúl Grijalva  
Ranking Member  
Committee on Natural Resources  
Longworth House Office Building, 1324  
Washington, DC 20515

Dear Chairman Bishop and Representative Grijalva:

As consideration of the Resilient Federal Forests Act (H.R. 2936) proceeds, the Advisory Council on Historic Preservation (ACHP) would like to provide the Natural Resources Committee with comments on Section 122 of the bill, "Consultation under the National Historic Preservation Act." The ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP also oversees administration of the review requirements of Section 106 of the National Historic Preservation Act (NHPA) – codified at 54 U.S.C. §306108 – which are the subject of Section 122 of the bill. In this capacity, we urge the Committee to delete Section 122, since administrative options already are available to accomplish the goal of streamlining Section 106 review and tailoring it to the needs of forest management. Inclusion of Section 122 actually could work at cross-purposes to that objective by causing confusion in administration of the Section 106 process and increasing the risk of legal challenges.

The ACHP encourages agencies to address complex projects and continuing programs programmatically in order to streamline the historic preservation review process. The Section 106 review regulations (36 CFR Part 800) include a variety of tools, known as Program Alternatives, that federal agencies, including the Forest Service and the Bureau of Land Management (BLM), regularly use to tailor the historic preservation review process to their needs. The Forest Service already has used one such tool – the Programmatic Agreement – to streamline Section 106 reviews for forest management activities for most of its forests. The ACHP believes that a broader Program Alternative that could regularize and improve these streamlining measures across Forest Service and BLM lands would be achievable and beneficial to all stakeholders. Given the flexibility provided by the alternatives to case-by-case Section 106 review that are available, the ACHP has been consistent in advising Congress that agency-specific legislative remedies – like Section 122 – simply are unnecessary and, as in the present case, may even be counterproductive.

There is a good chance that Section 122, if implemented, could make the Section 106 review process for forest management activities less efficient rather than more. The following consequences could increase the risk of controversy, delay, and/or legal challenges.

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- Section 122(a) of the bill would permit the Forest Service and BLM to undertake phased identification of historic properties and assessment of project effects under Section 106 without consultation with State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), or other entities, including the ACHP. This runs counter to a fundamental tenet of the Section 106 review process, which is agency consultation with stakeholders, especially those who can provide the federal agency with useful information on historic properties. Removing these participants from the planning process eliminates an important voice on what places matter to local communities, leaving decision making completely in the hands of federal land managers.
- Lack of SHPO and THPO involvement would delay and complicate efforts by the Forest Service and BLM to adequately identify historic properties and assess project effects. While the Forest Service and BLM may have information about the location and significance of some historic properties on lands they manage, they largely depend on SHPOs to maintain and provide access to a more complete inventory of historic properties in their state. Likewise, THPOs often possess information about properties of religious and cultural significance to them that is not directly available to these agencies. Excluding consultation with these critical partners would quite likely result in a greater expenditure of time and money by the agencies to re-identify and assess effects to properties that are already documented in databases maintained by SHPOs and THPOs. The end result of implementing this provision could be the unnecessary duplication of effort for no additional benefit on the one hand and legal challenges over the failure of the agencies to adequately identify affected properties on the other.
- While Section 122(a) addresses identification of historic properties and assessment of project effects, it is silent on what the agency is supposed to do if the potential for effects is found. The Section 106 process provides a well-established roadmap for completing that final step, i.e., the agency – in consultation with other parties – deciding what it will do to avoid or mitigate adverse effects. Absent that roadmap, agency staff would have no direction on how to proceed, and it would be difficult for the Forest Service and BLM to demonstrate that the requirements of Section 106 had been met.
- Section 122(b) provides that consultation on projects not addressed under Section 122(a) would be capped at 90 days. This one-size-fits-all time frame does not recognize that review of some projects simply cannot be completed properly in such a limited time. Cases requiring longer consultation most often involve conflicts between federal agency plans and the wishes of local communities pertaining to the treatment of the historic places that they value. As with Section 122(a), the unintended consequence of this provision will be to reinforce the ability of the federal land manager to ignore or dismiss the views of State and tribal government and local citizens. In contrast, the Section 106 Program Alternatives discussed earlier provide mechanisms for agencies to work with the ACHP and other parties to streamline the timeline of the review process commensurate with the complexity of the projects under consideration. Solutions can be reached that properly balance expediting decisions with the protection of local interests.

The ACHP urges the Committee to delete Section 122 from the Resilient Federal Forests Act. The ACHP would welcome the opportunity to explore available administrative tools that can effectively address the desire for streamlining Section 106 review and that would avoid the potential negative outcomes of the legislative remedy proposed.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of H.R. 2936. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,

A handwritten signature in blue ink that reads "milford wayne donaldson". The signature is written in a cursive style with a vertical line extending downwards from the end.

Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

November 14, 2017

The Honorable Orrin Hatch  
Chairman  
Committee on Finance  
United States Senate  
Rm. SD-219  
Dirksen Senate Office Building  
Washington, DC 20510-6200

The Honorable Ron Wyden  
Ranking Member  
Committee on Finance  
United States Senate  
Rm. SD-219  
Dirksen Senate Office Building  
Washington, DC 20510-6200

REF: Federal Historic Rehabilitation Tax Credit

Dear Chairman Hatch and Ranking Member Wyden:

As both the House and the Senate are moving to finalize tax reform through the Tax Cuts and Jobs Act, I want to strongly urge you to continue to include the federal historic rehabilitation tax credit, also known as the historic tax credit, at its full current value. Administered by the Department of the Interior and the Internal Revenue Service, this 20 percent credit supports projects that rehabilitate income-producing historic buildings—commercial and industrial buildings, hotels, apartment buildings, residential rental properties, and other key contributors to our economy and our communities—while ensuring that their historic character is preserved. The House has proposed elimination of this valuable tool entirely, and the current version of the Senate bill reduces the credit to 10 percent while eliminating the existing 10 percent credit for pre-1936 building rehabilitation. The Advisory Council on Historic Preservation (ACHP) recommends that the historic tax credit be maintained at its current level of 20 percent as a significant component of the reformed tax code you are working to put in place.

The ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation, including the impact of tax policies upon historic preservation. The ACHP consistently has encouraged measures to ensure the continued use of the historic tax credit as an extremely valuable tool for creating jobs, for supporting business development, for integrating historic preservation and commercial investment, and for improving the economic vitality of America's communities large and small. At our recent quarterly meeting on November 9, 2017, the ACHP members (with federal members necessarily abstaining) voted to fully support the historic tax credit and directed me to forcefully convey that support to you as well as to the President.

While some have raised concerns about any offset to federal revenue resulting from the credit, the truth is that the federal historic rehabilitation tax credit more than pays for itself. The \$25.2 billion cumulative cost of the program has been more than offset by the \$29.8 billion in federal tax receipts generated by the rehabilitation projects receiving the credit.<sup>2</sup>

Since the inception of the historic tax credit in 1976, more than 42,000 tax credit projects have been approved in all 50 states, the District of Columbia, the Virgin Islands, and Puerto Rico. These projects have

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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generated \$84.15 billion in rehabilitation investment, created 2.44 million jobs, rehabilitated more than 271,000 housing units, created almost 278,000 new housing units, and developed 153,000 low- and moderate- income housing units.<sup>1</sup> For local communities, this translates into enhanced property values, more affordable rental housing, removal of blighted conditions, and sustainable reuse of resources.

President Ronald Reagan praised the incentive in 1984, stating, “Our historic tax credits have made the preservation of our older buildings not only a matter of respect for beauty and history, but of course for economic good sense.” This statement is as true today as it was then. Over the course of its history, the historic tax credit has returned an average of \$1.20 to the Treasury for every credit dollar allocated. The historic tax credit has a critically important role to play in restoring buildings and bringing renewed vitality to America’s city centers and Main Street corridors.

We ask that you carefully consider the effectiveness, value, and reach of the historic tax credit and its impact on American communities as you proceed with mark-up and amendments finalizing the Tax Cuts and Jobs Act. We are confident that you and your colleagues who care deeply about the well-being of this country and its future will conclude that this valuable tax credit is a cost-effective way to create jobs and encourage essential private sector investment in our nation’s cities and towns.

Please feel free to contact me if you have any questions on our position or if the ACHP can be of any assistance. Our Executive Director, John Fowler, can also be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

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<sup>1,2</sup> National Park Service, *Federal Tax Incentives for Rehabilitating Historic Buildings: Statistical Report and Analysis for Fiscal Year 2016* (March 2017); Rutgers University and the National Park Service, *Annual Report on the Economic Impact of the Federal Historic Tax Credit for FY 2016* (July 2017).

Milford Wayne Donaldson, FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

November 14, 2017

The Honorable Kevin Brady  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
1102 Longworth HOB  
Washington, DC 20515

The Honorable Richard E. Neal  
Ranking Member  
Committee on Ways and Means  
U.S. House of Representatives  
1102 Longworth HOB  
Washington, DC 20515

REF: Federal Historic Rehabilitation Tax Credit

Dear Chairman Brady and Ranking Member Neal:

As both the House and the Senate are moving to finalize tax reform through the Tax Cuts and Jobs Act, I want to strongly urge you to continue to include the federal historic rehabilitation tax credit, also known as the historic tax credit, at its full current value. Administered by the Department of the Interior and the Internal Revenue Service, this 20 percent credit supports projects that rehabilitate income-producing historic buildings—commercial and industrial buildings, hotels, apartment buildings, residential rental properties, and other key contributors to our economy and our communities—while ensuring that their historic character is preserved. The current version of the Senate bill reduces the credit to 10 percent while eliminating the existing 10 percent credit for pre-1936 building rehabilitation. The House has proposed elimination of this valuable tool entirely. The Advisory Council on Historic Preservation (ACHP) recommends that the historic tax credit be maintained at its current level of 20 percent as a significant component of the reformed tax code you are working to put in place.

The ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation, including the impact of tax policies upon historic preservation. The ACHP consistently has encouraged measures to ensure the continued use of the historic tax credit as an extremely valuable tool for creating jobs, for supporting business development, for integrating historic preservation and commercial investment, and for improving the economic vitality of America's communities large and small. At our recent quarterly meeting on November 9, 2017, the ACHP members (with federal members necessarily abstaining) voted to fully support the historic tax credit and directed me to forcefully convey that support to you as well as to the President.

While some have raised concerns about any offset to federal revenue resulting from the credit, the truth is that the federal historic rehabilitation tax credit more than pays for itself. The \$25.2 billion cumulative cost of the program has been more than offset by the \$29.8 billion in federal tax receipts generated by the rehabilitation projects receiving the credit.<sup>2</sup>

Since the inception of the historic tax credit in 1976, more than 42,000 tax credit projects have been approved in all 50 states, the District of Columbia, the Virgin Islands, and Puerto Rico. These projects have generated \$84.15 billion in rehabilitation investment, created 2.44 million jobs, rehabilitated more than

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271,000 housing units, created almost 278,000 new housing units, and developed 153,000 low- and moderate- income housing units.<sup>1</sup> For local communities, this translates into enhanced property values, more affordable rental housing, removal of blighted conditions, and sustainable reuse of resources.

President Ronald Reagan praised the incentive in 1984, stating, “Our historic tax credits have made the preservation of our older buildings not only a matter of respect for beauty and history, but of course for economic good sense.” This statement is as true today as it was then. Over the course of its history, the historic tax credit has returned an average of \$1.20 to the Treasury for every credit dollar allocated. The historic tax credit has a critically important role to play in restoring buildings and bringing renewed vitality to America’s city centers and Main Street corridors.

We ask that you carefully consider the effectiveness, value, and reach of the historic tax credit and its impact on American communities as you proceed with mark-up and amendments finalizing the Tax Cuts and Jobs Act. We are confident that you and your colleagues who care deeply about the well-being of this country and its future will conclude that this valuable tax credit is a cost-effective way to create jobs and encourage essential private sector investment in our nation’s cities and towns.

Please feel free to contact me if you have any questions on our position or if the ACHP can be of any assistance. Our Executive Director, John Fowler, can also be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

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<sup>1,2</sup> National Park Service, *Federal Tax Incentives for Rehabilitating Historic Buildings: Statistical Report and Analysis for Fiscal Year 2016* (March 2017); Rutgers University and the National Park Service, *Annual Report on the Economic Impact of the Federal Historic Tax Credit for FY 2016* (July 2017).

Milford Wayne Donaldson FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

December 5, 2017

The Honorable Thad Cochran  
Chairman  
Committee on Appropriations  
U.S. Senate  
Capitol Building, S-128  
Washington, DC 20510

The Honorable Patrick J. Leahy  
Ranking Minority Member  
Committee on Appropriations  
U.S. Senate  
Capitol Building, S-128  
Washington, DC 20510

Dear Senators Cochran and Leahy:

As development of the FY 2018 budget proceeds, the Advisory Council on Historic Preservation (ACHP) would like to take this opportunity to share its views regarding funding for the Historic Preservation Fund (HPF). Established by the National Historic Preservation Act (NHPA) of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP applauds the commitment to preservation of America's historic properties demonstrated by the Chairman's Mark, which would appropriate \$77.910 million for the HPF. The House omnibus bill (H.R. 3354) proposes an additional \$5 million for the HPF. As discussed below, we urge the Senate to consider supporting this higher figure as differences between the bills are resolved. In addition, the ACHP would like to bring to your attention two problematic sections of the House bill that could negatively affect the preservation of historic properties should they be included in the final appropriations bill.

***HPF Funding.*** The HPF is the source of National Park Service (NPS) grants-in-aid to State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs), which perform critical functions in administering the federal preservation program established by the NHPA. Among other duties, SHPOs and THPOs conduct surveys of historic properties; prepare nominations to the National Register of Historic Places; review the impact of federal projects on historic properties; assist in federal Historic Tax Credit project reviews; implement disaster recovery grants; and conduct preservation education and planning. While maintaining at least level funding for SHPOs and THPOs is critically important, the ACHP urges the Senate to give serious consideration to increasing such funding given the important tasks fulfilled by these offices.

Both the Chairman's Mark and H.R. 3354 would provide HPF funding for several existing NPS preservation grant programs. These address preservation of sites associated with the African American Civil Rights Movement; the identification of historic properties associated with communities currently underrepresented in the National Register of Historic Places; and the repair of historic properties at Historically Black Colleges and Universities. Given that these programs help to ensure that the federal historic preservation program is working to identify and preserve properties that reflect the full range of the American experience, the ACHP strongly supports continued funding of these programs at or above their FY 2017 funding level.

Both the Chairman's Mark and H.R. 3354 also would provide HPF funding for grants to support the rehabilitation of a broader spectrum of historic properties. H.R. 3354 would do so through the existing Save America's Treasures grant program, which focuses on nationally significant properties, while the Chairman's Mark would create a new grant program that also would assist properties of state or local significance. The

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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ACHP strongly supports funding for either program (or support for both) in the final appropriations legislation.

While H.R. 3354 would provide critical funding for the HPF, the bill also contains provisions that would place constraints on the use of FY 2018 funding in reference to specific historic properties in California and Colorado. The ACHP urges the Senate to delete the following sections of H.R. 3354 in final appropriations legislation.

**Section 115.** Section 115 of H.R. 3354 would prohibit Department of the Interior (DOI) FY 2018 funds from being used to address the eligibility of the proposed Trestles Historic District for listing on the National Register of Historic Places. The district is a surfing mecca that has played a role in the establishment of surfing as part of Southern California culture. For several years, there has been controversy regarding whether its National Register designation would impact plans for a new toll road extension in the area. NPS (which administers the National Register program) will be unable to proceed with a final finding on the significance of the district if Section 115 is included in the final appropriations bill.

Section 115 contravenes a fundamental principle of the national historic preservation program: the historic designation process is the objective, professional evaluation of properties against established criteria of significance without consideration of current use or future plans. Federal agencies ultimately are the final decision makers—following consultation and public review—as to how their projects will proceed, taking into account the factual information on the significance of historic properties as established by the National Register evaluation process. Section 115 seeks to block the normal process for identifying and evaluating historic properties in the context of environmental review of federal projects and would set a harmful precedent that would undermine protection of historic properties under the NHPA. It would also create confusion and delay in further conduct of the federal environmental and historic preservation reviews of any future projects due to the inability to resolve the basic issue of the district’s historic significance.

**Section 451.** Section 451 of H.R. 3354 would prohibit use of DOI FY 2018 funds to assist any entity in establishing a national heritage area, national heritage corridor, national heritage canal way, national heritage tour route, national historic district, or cultural heritage corridor, or other heritage partnership program in nine specified counties in southeastern Colorado. Portions of the Santa Fe National Historic Trail (SFNHT) already run through the region. A few years ago, an effort to develop a National Heritage Area in several of the listed counties was shelved in the wake of public opposition over property rights issues.

Protection of private property rights is apparently a key impetus for inclusion of Section 451 in H.R. 3354. However, the heritage designations cited therein, including the existing SFNHT, do not force property owners to take any actions or impose federal constraints on use of their property. Likewise, the processes leading to such designations are public processes and ultimately can result in no designation taking place (as has happened in the very counties in question). Section 451 would set a harmful precedent for limiting the application of heritage recognition programs used by local citizens to identify, recognize, and protect historic properties.

At the November 9th business meeting of the ACHP, voting members agreed unanimously with the views conveyed in this letter. Federal agency members of the ACHP abstained from voting given the lack of a formal Administration position on the specific issues in question.

Thank you for your support of the federal historic preservation program and protection of our nation’s irreplaceable historic properties. Please feel free to contact us if the ACHP can be of any assistance during development of the FY 2018 budget. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

December 5, 2017

The Honorable Rodney P. Frelinghuysen  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Capitol Building, H-305  
Washington, DC 20515

The Honorable Nita M. Lowey  
Ranking Minority Member  
Committee on Appropriations  
U.S. House of Representatives  
Capitol Building, H-305  
Washington, DC 20515

Dear Senators Frelinghuysen and Lowey:

As development of the FY 2018 budget proceeds, the Advisory Council on Historic Preservation (ACHP) would like to take this opportunity to share its views regarding funding for the Historic Preservation Fund (HPF). Established by the National Historic Preservation Act (NHPA) of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP applauds the commitment to preservation of America's historic properties demonstrated by the omnibus bill passed by the House (H.R. 3354), which would appropriate \$82.910 million for the HPF. The Senate Chairman's Mark proposes \$77.910 million. As discussed below, we urge the House to continue support for HPF funding at or above the level proposed in H.R. 3354 as differences with the Senate are resolved. In addition, the ACHP would like to bring to your attention two problematic sections of H.R. 3354 that could negatively affect the preservation of historic properties should they be included in the final appropriations bill.

**HPF Funding.** The HPF is the source of National Park Service (NPS) grants-in-aid to State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs), which perform critical functions in administering the federal preservation program established by the NHPA. Among other duties, SHPOs and THPOs conduct surveys of historic properties; prepare nominations to the National Register of Historic Places; review the impact of federal projects on historic properties; assist in federal Historic Tax Credit project reviews; implement disaster recovery grants; and conduct preservation education and planning. While maintaining at least level funding for SHPOs and THPOs is critically important, the ACHP urges the House to give serious consideration to increasing such funding given the important tasks fulfilled by these offices.

Both H.R. 3354 and the Senate Chairman's Mark would provide HPF funding for several existing NPS preservation grant programs. These address preservation of sites associated with the African American Civil Rights Movement; the identification of historic properties associated with communities currently underrepresented in the National Register of Historic Places; and the repair of historic properties at Historically Black Colleges and Universities. Given that these programs help to ensure that the federal historic preservation program is working to identify and preserve properties that reflect the full range of the American experience, the ACHP strongly supports continued funding of these programs at or above their FY 2017 funding level.

Both H.R. 3354 and the Senate Chairman's Mark also would provide HPF funding for grants to support the rehabilitation of a broader spectrum of historic properties. H.R. 3354 would do so through the existing Save America's Treasures grant program, which focuses on nationally significant properties, while the Senate Chairman's Mark would create a new grant program that also would assist properties of state or local

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significance. The ACHP strongly supports funding for either program (or support for both) in the final bill.

While H.R. 3354 would provide critical funding for the HPF, the bill also contains provisions that would place constraints on the use of FY 2018 funding in reference to specific historic properties in California and Colorado. The ACHP urges the House to consider dropping the following sections of H.R. 3354 in development of final appropriations legislation.

**Section 115.** Section 115 of H.R. 3354 would prohibit Department of the Interior (DOI) FY 2018 funds from being used to address the eligibility of the proposed Trestles Historic District for listing on the National Register of Historic Places. The district is a surfing mecca that has played a role in the establishment of surfing as part of Southern California culture. For several years, there has been controversy regarding whether its National Register designation would impact plans for a new toll road extension in the area. NPS (which administers the National Register program) will be unable to proceed with a final finding on the significance of the district if Section 115 is included in the final appropriations bill.

Section 115 contravenes a fundamental principle of the national historic preservation program: the historic designation process is the objective, professional evaluation of properties against established criteria of significance without consideration of current use or future plans. Federal agencies ultimately are the final decision makers—following consultation and public review—as to how their projects will proceed, taking into account the factual information on the significance of historic properties as established by the National Register evaluation process. Section 115 seeks to block the normal process for identifying and evaluating historic properties in the context of environmental review of federal projects and would set a harmful precedent that would undermine protection of historic properties under the NHPA. It would also create confusion and delay in further conduct of the federal environmental and historic preservation reviews of any future projects due to the inability to resolve the basic issue of the district’s historic significance.

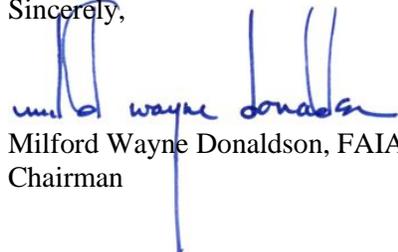
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Protection of private property rights apparently is a key impetus for inclusion of Section 451 in H.R. 3354. However, the heritage designations cited therein, including the existing SFNHT, do not force property owners to take any actions or impose federal constraints on use of their property. Likewise, the processes leading to such designations are public processes and ultimately can result in no designation taking place (as has happened in the very counties in question). Section 451 would set a harmful precedent for limiting the application of heritage recognition programs used by local citizens to identify, recognize, and protect historic properties.

At the November 9th business meeting of the ACHP, voting members agreed unanimously with the views conveyed in this letter. Federal agency members of the ACHP abstained from voting given the lack of a formal Administration position on the specific issues in question.

Thank you for your support of the federal historic preservation program and protection of our nation’s irreplaceable historic properties. Please feel free to contact us if the ACHP can be of any assistance during development of the FY 2018 budget. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

December 18, 2017

The Honorable Paul Ryan  
Speaker of the House  
Office of the Speaker of the House  
U.S. House of Representatives  
Capitol Building, H-232  
Washington, DC 20515-6501

The Honorable Nancy Pelosi  
House Minority Leader  
Office of the House Minority Leader  
U.S. House of Representatives  
Capitol Building, H-204  
Washington, DC 20515-6537

Dear Speaker Ryan and Leader Pelosi:

As consideration of the National Monument Creation and Protection Act (H.R. 3990) proceeds in the House of Representatives, the Advisory Council on Historic Preservation (ACHP) would like to take this opportunity to express its opposition due to the bill's potential negative impact on the protection of significant historic properties. Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on historic preservation matters. The ACHP is concerned that the extensive changes to the national monument designation process proposed in the bill would limit the types of historic properties that could be protected and would greatly restrict their protection in the designation process. These changes would undermine a preservation tool that has been effectively used by every President since Theodore Roosevelt over more than a century to protect some of the nation's most iconic historic and natural places. Tellingly, the first efforts to protect the Grand Canyon, not only a renowned national park but a World Heritage site, were made by President Roosevelt in 1908 using the Antiquities Act.

***Limits on Historic Properties Eligible for Protection.*** The Antiquities Act currently authorizes the President to protect properties of historic or scientific interest on federal lands through designation of national monuments. H.R. 3990 would significantly constrain the range of historic properties eligible for such designation. The Antiquities Act's existing provision for designation of "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest" would be replaced by authorization to designate an "object or objects of antiquity." Such objects would be limited to relics, artifacts, skeletal remains, fossils, and "certain buildings" (a term that is not defined, but presumably is intended to be substantially more limited than under current law). Natural geographic features (such as the Grand Canyon, apparently) would be excluded, which would also preclude designation of such features that are historically or culturally significant because of their traditional religious and cultural significance to Indian tribes. In addition, since H.R. 3990 would prohibit designation of submerged lands, shipwrecks and other significant underwater archaeological resources also would not be eligible for national monument protection.

In his recent report to the President regarding Antiquities Act designations, Secretary of the Interior Ryan Zinke has recommended study of three new possible national monuments. It is not at all certain, however, that any of them would qualify for designation under the restrictive terms of H.R. 3990. Two of the proposed monuments focus on historically significant buildings: the home of civil rights activist Medgar Evers and Camp Nelson, a training and recruitment center for African-American soldiers during the Civil

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War. It is unclear whether these two properties could be designated under H.R. 3990's imprecise provision for designating "certain buildings" as "objects of antiquity." Secretary Zinke also has recommended potential designation of the Badger-Two Medicine area in Montana, citing the fact that it is a traditional cultural district considered sacred by the Blackfeet Nation. However, since geographic features no longer would qualify for designation under H.R. 3990, designating the sacred natural features of Badger-Two Medicine presumably would be difficult if not impossible. While the Badger-Two Medicine area also contains archaeological sites, its traditional cultural landscape is the key aspect of the area's significance.

The ACHP recommends against approval of H.R. 3990 due to its proposed reduction of the scope of historic properties that could be designated as national monuments and urges that the current range of historic properties eligible for designation not be diminished.

***Lack of a Resource Protection Standard to Guide Designation Decisions.*** Presently, the Antiquities Act requires that national monuments be "confined to the smallest area compatible with the proper care and management of the objects to be protected." H.R. 3990 would delete this standard and replace it with acreage caps tied to a public review process. While the ACHP supports a public process to inform executive branch decisions, arbitrary criteria regarding the size of national monuments disregards the fundamental purpose of national monument designation – protection of significant historic and scientific resources important to the nation. Replacing the current standard, which is based on an objective assessment of resource protection needs, would seriously hamper the ability of the President and federal decision makers to fashion a proposed designation with the parcel size required to ensure adequate preservation of the historic properties in question. It also would circumscribe the ability of affected state, tribal, and local governments, other stakeholders, and the public to influence the federal decision.

The current standard for determining the needed size of a monument, which provides for case-by-case consideration of resource protection needs, is replaced in H.R. 3990 by a maximum acreage cap of 85,000 acres. This appears both arbitrary and artificially low. The Bears Ears National Monument as recently revised by President Trump is 201,876 acres; the revised Grand Staircase-Escalante National Monument is 1,003,863 acres. Secretary Zinke's proposal for a national monument in the Badger-Two Medicine area references an approximately 130,000 acre parcel. These examples underscore that the maximum acreage provision proposed in H.R. 3990 is not realistic and is not a reasonable substitute for a resource protection standard like that currently in the Antiquities Act.

The ACHP therefore recommends against approval of H.R. 3990 due to its proposed deletion of a resource protection standard for gauging the adequate size of a national monument and urges that such a standard be maintained.

At the November 9th business meeting of the ACHP, voting members agreed unanimously with the views conveyed in this letter. Federal agency members of the ACHP abstained from voting given the lack of a formal Administration position on the specific issues in question, as did the National Conference of State Historic Preservation Officers.

Please feel free to contact me to discuss these issues further or if the ACHP can be of any assistance during consideration of H.R. 3990. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

**Statement of Milford Wayne Donaldson, FAIA  
Chairman, Advisory Council on Historic Preservation**

**Shash Jáa National Monument and Indian Creek National Monument Act (H.R. 4532)  
House Natural Resources Subcommittee on Federal Lands Hearing  
January 9, 2018**

The Advisory Council on Historic Preservation (ACHP) would like to take this opportunity to share its views with the Subcommittee regarding the Shash Jáa National Monument and Indian Creek National Monument Act (H.R. 4532). The ACHP is the independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's historic resources. Created by the National Historic Preservation Act of 1966, the ACHP is charged with advising the President and Congress on national historic preservation policy. In that capacity the ACHP often provides its views to the Congress on legislation under consideration that may affect the national historic preservation program and the preservation of historic properties of importance to the American people. In fulfillment of this duty, the ACHP advises against enactment of H.R. 4532.

The ACHP has long supported the National Monument designation system founded on the provisions of the Antiquities Act of 1906 as an effective historic preservation protective process. In the ACHP's legislative agenda for the 114<sup>th</sup> and the 115<sup>th</sup> Congresses, the membership specifically included opposition to any legislative efforts to undermine the authority of the President to designate National Monuments under the Antiquities Act.

As recently as November 2017, the ACHP membership took a position on H.R. 3990, the National Monument Creation and Protection Act, and resolved that:

“The ACHP supports Presidential designation of National Monuments as an important tool for the protection of historic properties on federal land...”<sup>1</sup>

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<sup>1</sup>The resolution in its entirety reads as follows:

“Whereas, the ACHP supports Presidential designation of national monuments as an important tool for the protection of historic properties on federal land;

Whereas, the ACHP is concerned that the National Monument Creation and Protection Act (H.R. 3990) makes extensive changes in the current national monument designation process that would limit the types of historic properties that could be protected and deemphasize protection of cultural and natural resources in the designation process, thereby undermining a preservation tool that has been effectively used for more than a century to protect some of the nation's most iconic places; and

Whereas, the ACHP supports transparency and consultation with affected governments and stakeholders in the designation process for national monuments while respecting the role of the federal government as a steward of these resources for the entire nation;

Now, be it resolved that the ACHP opposes H.R. 3990 as reported out of committee and directs the chairman to advise the Administration and the Congress regarding these concerns.”

It is from this perspective that the ACHP must express its concern about a fundamental provision of H.R. 4532. Section 4 of the bill declares null and void Presidential Proclamation 9558 that established the Bears Ears National Monument. This National Monument was established by the President following the statutory directive given to him by the Congress in the Antiquities Act. It was an exercise of a valid legal authority based on over a century of practice, conforming to standards and procedures that have been thoughtfully evolved and scrupulously followed to achieve reasoned determinations through the objective application of professional standards and consideration of national and local interests, needs, and priorities.

The ACHP readily acknowledges that the Congress possesses the authority through legislative action to modify or rescind National Monument designations made by the President. However, we would note that the Congress has never, in the over century-long history of the Antiquities Act, exercised that power to vacate a presidential action. The ACHP opposes H.R. 4532 on those grounds, as the primary provisions that follow to establish two new reconfigured and drastically reduced National Monuments are premised on the abolition of the existing Bears Ears National Monument.

The ACHP appreciates this opportunity to share its views with the subcommittee. We value our longstanding and mutually beneficial relationship in working with the Natural Resources Committee and look forward to continuing to assist the committee in our shared goals to preserve and protect the Nation's irreplaceable cultural heritage. Please do not hesitate to call on me or my staff with any questions or requests for assistance on these issues.

Milford Wayne Donaldson, FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

August 20, 2018

The Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural Resources  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510-6150

The Honorable Maria Cantwell  
Ranking Minority Member  
Committee on Energy and Natural Resources  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510-6150

Dear Senators Murkowski and Cantwell:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Restore Our Parks Act (S. 3172) and the Restore Our Parks and Public Lands Act (H.R. 6510). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The voting ACHP members unanimously supported the referenced legislation (with the Department of Agriculture abstaining).

As you know, the Department of the Interior (DOI) estimates that it currently has a backlog of about \$16 billion worth of deferred maintenance. The largest portion of that total – \$11.6 billion – reflects needed maintenance of National Park Service (NPS) properties. It has been estimated that 47 percent of the NPS assets needing repair are historic, making deferred maintenance a significant threat to the long-term preservation of NPS's inventory of historic properties. Looking at just two parks, historic properties in Denali National Park and Preserve need \$34.7 million in deferred maintenance, and historic properties in Mount Rainier National Park suffer from a \$136.9 million maintenance backlog. Left unchecked, such deferred maintenance could jeopardize the enjoyment by future generations of irreplaceable historic properties throughout our National Parks.

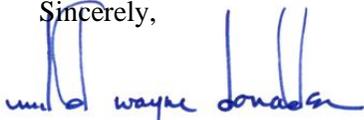
Creation of a deferred maintenance fund from federal energy development revenues, as proposed by the legislation under consideration, builds upon existing Congressional policy precedent. Both the Historic Preservation Fund and the Land & Water Conservation Fund are funded by energy development revenues, and the successful track record of these funds demonstrates the wisdom inherent in using such revenues to help preserve natural and cultural resources. The proposed deferred maintenance fund would provide a critically needed influx of money to address DOI's maintenance backlog. Both bills would help preserve NPS historic properties, whether through NPS receipt of 100% of the fund as called for in the Restore Our Parks Act or 80% of the fund as proposed in the Restore Our Parks and Public Lands Act.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Please feel free to contact us if the ACHP can answer any questions regarding our support for these bills or if the ACHP can be of any further assistance. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson

Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

August 20, 2018

The Honorable Rob Bishop  
Chairman  
Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Raul Grijalva  
Ranking Minority Member  
Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, D.C. 20515

Dear Mr. Bishop and Mr. Grijalva:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Restore Our Parks Act (S. 3172) and the Restore Our Parks and Public Lands Act (H.R. 6510). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The voting ACHP members unanimously supported the referenced legislation (with the Department of Agriculture abstaining).

As you know, the Department of the Interior (DOI) estimates that it currently has a backlog of about \$16 billion worth of deferred maintenance. The largest portion of that total – \$11.6 billion – reflects needed maintenance of National Park Service (NPS) properties. It has been estimated that 47 percent of the NPS assets needing repair are historic, making deferred maintenance a significant threat to the long-term preservation of NPS's inventory of historic properties. Left unchecked, such deferred maintenance could jeopardize the enjoyment by future generations of irreplaceable historic properties throughout our National Parks.

Creation of a deferred maintenance fund from federal energy development revenues, as proposed by the legislation under consideration, builds upon existing Congressional policy precedent. Both the Historic Preservation Fund and the Land & Water Conservation Fund are funded by energy development revenues, and the successful track record of these funds demonstrates the wisdom inherent in using such revenues to help preserve natural and cultural resources. The proposed deferred maintenance fund would provide a critically needed influx of money to address DOI's maintenance backlog. Both bills would help preserve NPS historic properties, whether through NPS receipt of 100% of the fund as called for in the Restore Our Parks Act or 80% of the fund as proposed in the Restore Our Parks and Public Lands Act.

Please feel free to contact us if the ACHP can answer any questions regarding our support for these bills or if the ACHP can be of any further assistance. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

Milford Wayne Donaldson, FAIA  
Chairman

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Milford Wayne Donaldson, FAIA  
Chairman

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Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

August 20, 2018

The Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural Resources  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510-6150

The Honorable Maria Cantwell  
Ranking Minority Member  
Committee on Energy and Natural Resources  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510-6150

Dear Senators Murkowski and Cantwell:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Golden Spike 150th Anniversary Act (S. 2831/H.R.5751), which was passed by the House of Representatives on June 25. Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The voting ACHP members unanimously supported the referenced legislation (with the Departments of the Interior, Defense, Homeland Security, Housing and Urban Development, and Agriculture; and the General Services Administration abstaining).

Next year will mark the 150th anniversary of the creation of the Transcontinental Railroad, a 1,912-mile rail line that would revolutionize American settlement and trade. The ACHP recognizes the significance of the upcoming sesquicentennial and the importance of preserving historic properties associated with its development. The event currently is memorialized and interpreted by the National Park Service (NPS) at the Golden Spike National Historic Site. The proposed bill would enhance this commemoration by re-designating the National Historic Site as a National Historical Park and by creating the Transcontinental Railroad Network (Network). All NPS units and programs that relate to the Transcontinental Railroad would be included in the Network, along with other relevant federal, state, local, and privately owned properties that wish to participate. NPS would provide promotion, interpretation, and technical assistance for the Network.

The parameters of the proposed Network are modeled closely on the U.S. Civil Rights Network, which was created when the African American Civil Rights Network Act became law on January 8, 2018. Creation of such national or multi-state networks of federal and non-federal sites associated with important historic events or themes – with participation and assistance from NPS – could become an important new model for federal support of preservation and interpretation of historic properties. The ACHP supports this concept as offering important opportunities to encourage and leverage preservation of associated historic properties through collaborative partnerships between the federal government and non-federal land owners. The ACHP notes, however, that NPS has raised issues regarding operationalizing the Network using existing resources, and we hope that Congress will continue to coordinate with NPS in this regard.

The House version of the Golden Spike 150th Anniversary Act was amended to include a provision addressing activities of adjacent landowners at “historical crossings” of the historic railroad right-of-way in the park. This issue is an important one since a major component of the Golden Spike National Historic

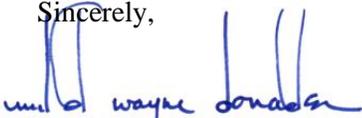
ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637  
Phone: 202-517-0200 • Fax: 202-517-6381 • [achp@achp.gov](mailto:achp@achp.gov) • [www.achp.gov](http://www.achp.gov)

Site is 15 miles of linear historic railroad grade surrounded by non-federal land. The House bill would require development of a Programmatic Agreement under Section 106 of the National Historic Preservation Act to streamline review of certain actions by adjacent landowners that would have limited impacts on the historic railroad right-of-way. As the federal agency responsible for overseeing the Section 106 review process, the ACHP agrees that streamlining review as proposed is appropriate, but we would like to assist in clarifying the House bill's provision in that regard to help ensure effective consultation and development of the document.

Please feel free to contact us if the ACHP can answer any questions regarding our support for the Golden Spike 150<sup>th</sup> Anniversary Act or if the ACHP can be of any further assistance. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

A handwritten signature in blue ink that reads "Milford Wayne Donaldson". The signature is written in a cursive style with a long, vertical flourish extending downwards from the end of the name.

Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

August 20, 2018

The Honorable Rob Bishop  
Chairman  
Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Raul Grijalva  
Ranking Minority Member  
Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, D.C. 20515

Dear Mr. Bishop and Mr. Grijalva:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Golden Spike 150th Anniversary Act (S. 2831/H.R.5751), which was passed by the House of Representatives on June 25. Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The voting ACHP members unanimously supported the referenced legislation (with the Departments of the Interior, Defense, Homeland Security, Housing and Urban Development, and Agriculture; and the General Services Administration abstaining).

Next year will mark the 150th anniversary of the creation of the Transcontinental Railroad, a 1,912-mile rail line that would revolutionize American settlement and trade. The ACHP recognizes the significance of the upcoming sesquicentennial and the importance of preserving historic properties associated with its development. The event currently is memorialized and interpreted by the National Park Service (NPS) at the Golden Spike National Historic Site. The proposed bill would enhance this commemoration by re-designating the National Historic Site as a National Historical Park and by creating the Transcontinental Railroad Network (Network). All NPS units and programs that relate to the Transcontinental Railroad would be included in the Network, along with other relevant federal, state, local, and privately owned properties that wish to participate. NPS would provide promotion, interpretation, and technical assistance for the Network.

The parameters of the proposed Network are modeled closely on the U.S. Civil Rights Network, which was created when the African American Civil Rights Network Act became law on January 8, 2018. Creation of such national or multi-state networks of federal and non-federal sites associated with important historic events or themes – with participation and assistance from NPS – could become an important new model for federal support of preservation and interpretation of historic properties. The ACHP supports this concept as offering important opportunities to encourage and leverage preservation of associated historic properties through collaborative partnerships between the federal government and non-federal land owners. The ACHP notes, however, that NPS has raised issues regarding operationalizing the Network using existing resources, and we hope that Congress will continue to coordinate with NPS in this regard.

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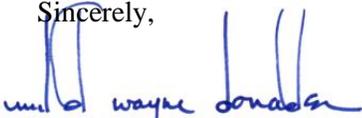
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Please feel free to contact us if the ACHP can answer any questions regarding our support for the Golden Spike 150<sup>th</sup> Anniversary Act or if the ACHP can be of any further assistance. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

A handwritten signature in blue ink that reads "Milford Wayne Donaldson". The signature is written in a cursive style with a large initial "M" and "D".

Milford Wayne Donaldson, FAIA  
Chairman



*Preserving America's Heritage*

**ACHP COMMUNICATIONS  
WITH THE 114<sup>TH</sup> CONGRESS  
Office of Preservation Initiatives**

The following is a summary of the written communications from the ACHP to Congress during the 114<sup>th</sup> Congress, and these communications are shown in their entirety in a chronological attachment. This summary breaks down the communications by the topic areas of the ACHP's approved legislative agenda for the 114<sup>th</sup> Congress. The eventual Congressional action on each topic also is summarized.

***Reauthorizing and fully funding the Historic Preservation Fund.***

- April 29, 2015 - Outside Witness Testimony to the Subcommittee on Interior, Environment, and Related Agencies, Senate Appropriations Committee, supporting FY 2016 funding for the Historic Preservation Fund (HPF)
- July 27, 2015 – Letter to the Senate Energy and Natural Resources Committee supporting the proposed reauthorization of the HPF in the Energy Policy Modernization Act
- February 9, 2016 - Testimony for the Record to the Subcommittee on Federal Lands, House Natural Resources Committee, supporting the proposed reauthorization of the HPF in the National Historic Preservation Amendments Act

Congressional Action: The HPF was reauthorized through 2023 by the National Park Service Centennial Act, which was signed into law on December 16, 2016.

***Enhancing the effectiveness of the ACHP and the national preservation program.***

- February 8, 2016 – Letter to Representative Thomas McClintock, Chairman, Subcommittee on Federal Lands, House Natural Resources Committee, forwarding a draft bill that would amend the National Historic Preservation Act (NHPA) to provide for a full-time ACHP Chair and add the General Chairman of the National Association of Tribal Historic Preservation Officers (NATHPO) as an ACHP Member
- February 9, 2016 - Testimony for the Record to the Subcommittee on Federal Lands, House Natural Resources Committee, seeking inclusion of language in the National Historic Preservation Amendments Act to address creation of a full-time ACHP Chair and addition of NATHPO as an ACHP Member

Congressional Action: The proposed amendments to the NHPA regarding the ACHP were included in the National Park Service Centennial Act, which was signed into law on December 16, 2016.

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***Maintaining and enhancing tax incentives for historic preservation.***

- April 8, 2015 – Letter to the Senate Community Development and Infrastructure Tax Working Group regarding tax reform and the federal historic rehabilitation tax credit

Congressional Action: Congress did not advance tax reform in the 114<sup>th</sup> Congress.

***Preserving the fundamental integrity of the National Register of Historic Places.***

- May 7, 2015 – Letters opposing the Military LAND Act provisions in the FY 2016 National Defense Authorization Act:
  - Senate Armed Services Committee
  - Senate Energy and Natural Resources Committee
- August 1, 2016 – Letters objecting to the Military LAND Act provisions in the FY 2017 National Defense Authorization Act:
  - Senate Armed Services Committee
  - House Armed Services Committee
- August 1, 2016 – Letter to the Senate Leadership objecting to a provision in the FY 2017 Department of Defense Appropriations Act that would prevent funds made available by the bill from being used to designate or expand a “heritage asset” under the NHPA in certain specified Colorado counties
- August 8, 2016 – Letter to the Senate Energy and Natural Resources Committee bringing to its attention the ACHP opposition to the above-referenced provisions of the FY 2017 National Defense Authorization Act and the FY 2017 Department of Defense Appropriations Act
- August 8, 2016 – Letter to Senate Leadership objecting to provisions in the FY 2017 Department of the Interior, Environment, and Related Agencies Appropriations Act that would prevent listing of federal property on the National Register if the managing federal agency objects

Congressional Action: The provisions of the Military LAND Act were not included in the National Defense Authorization Act for either FY 2016 or FY 2017.

***Fostering federal stewardship of publicly-owned historic resources.***

- November 24, 2015 – Letters supporting the National Park Service Centennial Act:
  - Senate Energy and Natural Resources Committee
  - House Natural Resources Committee

Congressional Action: The National Park Service Centennial Act was signed into law on December 16, 2016.

- November 30, 2015 – Letters supporting the Enhanced Use Lease provisions of the Los Angeles Homeless Veterans Leasing Act:
  - Senate Veterans’ Affairs Committee
  - House Veterans’ Affairs Committee

Congressional Action: Provisions supported by the ACHP regarding leasing in the Los Angeles Homeless Veterans Leasing Act were included in another bill, the West Los Angeles Leasing Act, which became law on September 29, 2016.

- August 8, 2016 – Letter to Senate Leadership objecting to provisions in the FY 2017 Department of the Interior, Environment, and Related Agencies Appropriations Act that would prevent BLM from moving forward with its “Planning 2.0” rulemaking process pending extensive additional public comment

Congressional Action: A Continuing Resolution for Fiscal Year 2017 was passed in lieu of spending bills, including the Interior appropriations bill, and BLM proceeded to finalize its Planning 2.0 regulation, which became effective on January 11, 2017. Subsequently, however, Congress passed a resolution disapproving the regulation, which was signed into law on March 27, 2017.

- December 1, 2016 – Letter to the Chairs of the Senate Environment and Public Works Committee and the House Transportation and Infrastructure Committee supporting provisions of the Water Resources Development Act that would enhance Corps stewardship of its historic properties and improve consultation with Indian tribes

Congressional Action: Three of the four provisions supported by the ACHP in the Water Resources Development Act were included in the Water Infrastructure Improvements for the Nation Act, which was signed into law on December 16, 2016. Particularly important, the law requires the Corps to review its policies, regulations, and guidance related to consulting with Indian tribes regarding Corps flood control, environmental restoration, and other projects, as well as Corps permits that may have an impact on tribal cultural or natural resources.

***Coordinating Section 106 and Section 4(f) reviews for surface transportation programs.***

- May 1, 2015 – Letters objecting to Section 106/Section 4(f) provisions in the GROW AMERICA Act:
  - Senate Commerce, Science, and Transportation Committee
  - Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security, Senate Commerce, Science, and Transportation Committee
  - House Transportation and Infrastructure Committee
  - Subcommittee on Highways and Transit, House Transportation and Infrastructure Committee
- May 22, 2015 – Letter to the Senate Environment and Public Works Committee objecting to Section 106/Section 4(f) provisions in the GROW America Act
- August 6, 2015 – Letter to the House Transportation and Infrastructure Committee objecting to Section 106/Section 4(f) provisions in the GROW AMERICA Act and the DRIVE Act

Congressional Action: The final surface transportation authorization act, the Fixing America’s Surface Transportation Act (FAST Act), was signed into law on December 4, 2015. While there were some compromises in language in the final bill, the legislation retained the provisions permitting the Department of Transportation to use the National Environmental Policy Act and Section 106 to fulfill the requirements of Section 4(f) review if certain provisions are met.

***Ensuring that environmental streamlining does not waive or weaken the Section 106 process.***

- July 30, 2015 – Letter to the Senate Commerce, Science, and Transportation Committee objecting to language in the Comprehensive Transportation and Consumer Protection Act that would amend the language of Section 106 to exempt railroad rights-of-way from review

- August 6, 2015 – Letter to the House Transportation and Infrastructure Committee objecting to language in the DRIVE Act that would amend the language of Section 106 to exempt railroad rights-of-way from review
- November 23, 2015 – Letter to the Surface Transportation Bill Conference Committee objecting to language in the DRIVE Act that would amend the language of Section 106 to exempt railroad rights-of-way from review

Congressional Action: The final surface transportation authorization act, the Fixing America’s Surface Transportation Act (FAST Act), was signed into law on December 4, 2015. Proposed provisions amending the language of Section 106 to exempt railroad rights-of-way from review were dropped in favor of revised language which retains the exemption without amending Section 106 itself, consistent with the ACHP position. The ACHP, in coordination with the U.S. Department of Transportation, has developed a draft program comment to implement the exemption, which was published for public comment on November 17, 2017.

***Building a more inclusive preservation program.***

- April 29, 2015 - Outside Witness Testimony to the Subcommittee on Interior, Environment, and Related Agencies, Senate Appropriations Committee, supporting FY 2016 HPF funding for the National Park Service Civil Rights Initiative and grants for underrepresented communities

Congressional Action: The Consolidated Appropriation Act (H.R. 2029), which finalized Fiscal Year 2016 federal funding levels, was signed into law on December 18, 2015. The grant program to communities underrepresented in statewide inventories and the National Register of Historic Places received level funding (\$500,000). The Administration’s proposed initiative to preserve the sites and stories of the Civil Rights movement was launched with \$8 million.

- April 18, 2016 – Letter to the House Leadership supporting H.R. 295, a bill to reauthorize the Historically Black Colleges and Universities historic preservation grant program

Congressional Action: H.R. 295 passed the House on September 12, 2016, but was not passed by the Senate before the end of the 114<sup>th</sup> Congress. The bill has been reintroduced in the 115th Congress.

- June 14, 2016 – Letters supporting the African American Civil Rights Network Act/ U.S. Civil Rights Network Act:
  - Subcommittee on Federal Lands, House Natural Resources Committee
  - Subcommittee on National Parks, Senate Energy and Natural Resources Committee

Congressional Action: The bill did not pass in either the Senate or House. The bill has been reintroduced in the 115th Congress.

- June 17, 2016 – Letter to the Senate Energy and Natural Resources Committee supporting the Preservation Research at Institutions Serving Minorities Act (PRISM Act), which had been incorporated into the House amendment of the North American Energy Security and Infrastructure Act (S. 2012)

Congressional Action: Differences between the House and Senate on the North American Energy Security and Infrastructure Act were not resolved by the end of the 114<sup>th</sup> Congress, and the bill was not passed. In the 115th Congress, the text of the bill has been included in the Senate's proposed Energy and Natural Resources Act.

- June 24, 2016 – Letter to the Subcommittee on Indian, Insular, and Alaska Native Affairs, House Committee on Natural Resources, supporting the Native American Tourism and Improving Visitor Experience (NATIVE) Act

Congressional Action: The NATIVE Act was signed into law on September 23, 2016.

***Supporting Presidential designation of national monuments.***

- August 8, 2016 – Letter to Senate Leadership objecting to provisions in the FY 2017 Department of the Interior, Environment, and Related Agencies Appropriations Act that sought to restrict presidential creation of National Monuments in specified counties in eight states.

Congressional Action: The specific provisions in the Interior appropriations bill regarding National Monuments did not become law since a Continuing Resolution was passed in lieu of spending bills, including the Interior appropriations bill. No other legislation was passed that would curtail Presidential designation of National Monuments.

***Encouraging stability and continued growth of the National Heritage Area program.***

- There was no ACHP communication with Congress on this topic during the 114<sup>th</sup> Congress, and no major legislation was passed regarding National Heritage Areas.

*December 20, 2017*

Milford Wayne Donaldson, FAIA  
Chairman  
Sacramento, CA

Teresa Leger de Fernandez  
Vice Chairman  
Santa Fe, NM

Terry Guen, FASLA  
Chicago, IL

Dorothy Lippert, Ph.D.  
Washington, DC

Lynne Sebastian, Ph.D.  
Rio Rancho, NM

Robert G. Stanton  
Fairfax Station, VA

Bradford J. White  
Evanston, IL

Leonard A. Forsman  
Chairman, Suquamish Tribe  
Suquamish, WA

Hon. Sally R. Jewell  
Secretary of the Interior

Hon. Stephen T. Ayers, FAIA  
Architect of the Capitol

Hon. Tom Vilsack  
Secretary of Agriculture

Hon. Ashton B. Carter  
Secretary of Defense

Hon. Arne Duncan  
Secretary of Education

Hon. Denise Turner Roth  
Acting Administrator  
General Services Administration

Hon. Jeh Johnson  
Secretary of Homeland Security

Hon. Julián Castro  
Secretary of Housing & Urban  
Development

Hon. Anthony Foxx  
Secretary of Transportation

Hon. Robert A. McDonald  
Secretary of Veterans Affairs

Mayor Joseph P. Riley, Jr.  
Charleston, SC

Elizabeth Hughes  
President  
National Conference of State  
Historic Preservation Officers

Marita Rivero  
Chair, National Trust for Historic  
Preservation

John M. Fowler  
Executive Director



*Preserving America's Heritage*

April 8, 2015

The Honorable Dean Heller  
Hart Senate Office Building, SH-324  
United States Senate  
Washington, DC 20510-2805

The Honorable Michael Bennet  
Russell Senate Office Building, SR-261  
United States Senate  
Washington, DC 20510-0609

REF: Community Development and Infrastructure Tax Working Group  
Comment Regarding the Federal Historic Rehabilitation Tax Credit

Dear Senator Heller and Senator Bennet:

As the Community Development and Infrastructure Tax Working Group pursues its work, I would like to take this opportunity to commend to you an important tax incentive program that has an outstanding record of past success and great future potential to create jobs, grow the economy, and support community vitality – the federal historic rehabilitation tax credit, also known as the historic tax credit. Administered by the Department of the Interior and the Internal Revenue Service, this credit is provided to projects that rehabilitate income-producing historic buildings while maintaining their historic character. The Advisory Council on Historic Preservation (ACHP) wishes to express its full support for maintaining the historic tax credit as a component of a reformed tax code.

The ACHP is an independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's historic resources. Created by act of Congress in 1966, the ACHP is charged with advising the President and Congress on national historic preservation policy and specifically the impact of tax policies upon historic preservation. We consistently have encouraged measures to ensure the continued use of the historic tax credit as a valuable tool for integrating historic preservation and development investment, and for improving the economic vitality of America's communities. The credit has evolved to become one of the federal government's most successful initiatives to promote the preservation of historic properties and the revitalization of our nation's older cities and towns.

Since the inception of the historic tax credit, more than 40,000 tax credit projects have been approved, representing \$73.8 billion in private investment (more than \$110 billion in inflation-adjusted dollars). Tax credit use not only has preserved important historic resources, it has created 2.47 million jobs, rehabilitated almost 256,000 housing units, created 248,000 new housing units, and developed almost 138,000 low

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and moderate income housing units.<sup>1</sup> For local communities, this translates into enhanced property values, more affordable rental housing, removal of blighted conditions, and sustainable reuse of resources.

It is also important to note that the federal historic rehabilitation tax credit pays for itself. The \$21 billion cumulative cost of the program has been more than offset by the over \$26.6 billion in federal tax receipts generated by the rehabilitation projects receiving the credit.<sup>2</sup>

While the historic tax credit is helping to revitalize communities across the country, it is a particularly important tool for cities struggling to adapt to shrinking populations. A special Rightsizing Task Force of the ACHP has seen how the federal rehabilitation tax credit plays a role in the revitalization of cities and their traditional neighborhoods. In each of the cities visited by the task force – Buffalo, Cleveland, Detroit, Newark, and Saginaw – local officials shared examples of tax credit projects that are helping to stabilize and reshape neighborhoods.

The historic tax credit has a critically important role to play in restoring buildings and bringing renewed vitality to America's city centers and Main Street corridors. We respectfully request that you carefully consider the effectiveness, value, and reach of the historic tax credit, and its impact on American communities as you proceed with your assessment of tax code reform priorities. We are confident that your examination will conclude that this valuable tax credit is a cost-effective way to encourage private sector investment in our nation's cities and towns, building a strong future on the foundations of our past.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance. Our Executive Director, John Fowler, can be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

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<sup>1,2</sup> National Park Service, *Federal Tax Incentives for Rehabilitating Historic Buildings: Statistical Report and Analysis for Fiscal Year 2014* (March 2015); Rutgers University and the National Park Service, *Annual Report on the Economic Impact of the Federal Historic Tax Credit for FY 2013* (August 2014).

**Outside Witness Testimony of  
Milford Wayne Donaldson, FAIA, LEED AP,  
Chairman, Advisory Council on Historic Preservation,  
To the Subcommittee on Interior, Environment, and Related Agencies,  
Senate Committee on Appropriations,  
Regarding FY 2016 Appropriations  
For the National Park Service  
From the Historic Preservation Fund**

**April 29, 2015**

The Advisory Council on Historic Preservation (ACHP) welcomes the opportunity to share its views with the Subcommittee regarding FY 2016 funding from the Historic Preservation Fund (HPF) for National Park Service (NPS) activities. The ACHP is an independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's historic resources. Created by the National Historic Preservation Act in 1966, the ACHP is charged with advising the President and Congress on national historic preservation policy. The ACHP membership, the majority of which is appointed by the President, is made up of federal agencies, preservation experts, concerned citizens, a mayor, a governor, and major preservation non-profit organizations.

Traditionally, the HPF is the source of NPS grants-in-aid to State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs), which perform critical functions in administering the federal preservation program established by the National Historic Preservation Act (NHPA). The FY 2016 budget proposal would continue this funding while also appropriating monies from the HPF for NPS grants to support the preservation of sites associated with the African American Civil Rights Movement and the identification of historic properties associated with communities currently underrepresented in the National Register of Historic Places. The ACHP supports the FY 2016 budget proposal for the HPF as a minimum funding level and applauds the addition of funding for the Civil Rights initiative, but asks that the Subcommittee also consider increasing funding to SHPOs and THPOs given chronic underfunding of their activities.

***SHPO/THPO Funding.*** In 1976, Congress established the HPF to support the delivery of programs mandated by the NHPA. Annually, the HPF funds a variety of activities carried out by SHPOs and THPOs, forming the backbone of preservation activity in the nation. These include conducting surveys of historic properties; preparing nominations to the National Register of Historic Places; reviewing the impact of federal projects on historic properties; assisting in federal Historic Tax Credit project reviews; implementing disaster recovery grants; and conducting preservation education and planning.

In 1980, Congress authorized up to \$150 million in annual Outer Continental Shelf revenue from oil and gas leases to be deposited into the HPF. However, annual appropriations have never approached this figure and, in recent years, have been less than \$60 million. This level of funding has seriously impacted the overall capacity of both SHPOs and THPOs to efficiently fulfill their obligations in the federal preservation program. This has constrained their effectiveness when participating in federal agency planning processes and when providing expert advice on historic properties affected by federal actions.

Although funding levels for SHPOs have increased slowly since 1981, they have never approached full funding nor have they kept pace with inflation. Since 2010, funding essentially has been flat lined; the \$46.925 million proposed in the FY 2016 budget is level with last year's appropriation. When inflation is factored in, the current buying power of HPF funding for SHPOs is virtually the same as it was in 1987. Meanwhile, the demands placed on SHPOs have continued to increase as state budgets have declined.

While SHPOs have been challenged by recent HPF funding levels, the picture has been even bleaker for THPOs. The average allocation of funds to individual THPOs has decreased so significantly over recent years that some programs have had to close for several months at the end of each year because of lack of funds. As the number of Indian tribes operating approved THPO programs increases, the amount of HPF funds appropriated for THPOs has not kept pace. In FY 1996, 12 tribes received an average of \$80,000. In 2014, there were 151 THPOs certified by NPS to receive funds. The resulting average allocation of about \$58,000 translated to a decrease of approximately \$22,000 per THPO compared to 1996 even before adjusting for inflation. While the ACHP fully supports the proposed increase of \$1 million for THPOs in the FY 2016 budget, we believe that this increase is only a partial step toward meeting the need.

The ACHP supports the proposed FY 2016 funding level for SHPOs and THPOs as preferable to a lower figure. However, we urge the Subcommittee to give serious consideration to increasing such funding. The ACHP strongly supports full and permanent funding for the HPF at its authorized level of \$150 million for FY 2016 and beyond. Adequate funding is critically important to ensure the effective participation of SHPOs and THPOs in consultation with federal agencies on projects involving national priorities such as energy development and infrastructure permitting, disaster planning and resilience, climate change adaptation, military readiness and national security needs, and public lands management. SHPOs and THPOs also need predictable funding to continue to identify properties worthy of preservation and manage such information with modern digital technology. October 15, 2016, marks the 50th anniversary of the NHPA. Full and permanent funding for the HPF in the FY 2016 budget would be a fitting recognition of this milestone and signify the federal government's continued commitment to assisting States and Indian Tribes in preserving the rich heritage of our nation for future generations.

***Civil Rights Initiative.*** To mark the 50th anniversary of the Voting Rights Act, the FY 2016 NPS budget proposes \$50 million to restore and highlight key sites across the country that tell the story of the struggle for civil rights. Of that amount, \$32.5 million would come from the Historic Preservation Fund, including \$30.0 million in competitive grants to document, interpret, and preserve the stories and sites associated with the Civil Rights Movement and the African-American experience, and \$2.5 million for grants to Historically Black Colleges and Universities.

The struggle to end legal racial discrimination and segregation had a profound influence on the course of American history and continues to shape our society today. The physical places associated with the people and events of the civil rights movement help us both to understand and to celebrate what took place fifty years ago. There are sites throughout the country associated with the African American civil rights struggle of the 1950s and 1960s, some of which are being preserved and interpreted, and some of which are threatened either directly by development or through deterioration. The proposed competitive grants from the HPF to help preserve such properties are much needed, and the ACHP fully supports this proposed funding.

Historic structures on the campuses of historically black colleges and universities (HBCUs) also face threats, including lack of resources for repairs. Since the mid-1990s, Congress periodically has funded preservation grants for HBCUs, but the last funding was in 2009 with an infusion of funds from the American Recovery and Reinvestment Act. The proposed FY 2016 HBCU grant funding would build upon the past benefits of this grant program and would be an important component of the overall NPS Civil Rights Initiative. The ACHP supports this proposed HPF funding.

***Grants for Underrepresented Communities.*** The FY 2016 NPS budget would continue an existing grant program that addresses the issue of underrepresentation of certain communities and groups in the range of properties included in the National Register of Historic Places. The goal of the program is to make strides toward ensuring that the makeup of the National Register fully reflects the diversity of the American story. In FY 2014, funded projects included inventories of African American heritage sites in Montana,

Pueblo Nations in New Mexico, LGBT sites in New York City, Latino properties in Washington's Yakima Valley, and Asian American sites in Utah. FY 2014 grants also are supporting the preparation of National Register nominations for LGBT sites in Kentucky, African American Civil Rights resources in Baltimore, and sites associated with Chinese immigrants and Chinese Americans in Boston.

The changing demographics of America pose opportunities as well as challenges for the national historic preservation program. The diversity of cultures in the United States shapes and enriches the American experience, and the federal government can encourage wider involvement and representation in determining what historic sites are worthy of recognition and preservation; how history and cultural heritage should be valued, interpreted, and preserved; and how the American public as a whole can take advantage of the programs and tools created under the NHPA. The HPF-funded underrepresented community grant program is an important tool in building a more inclusive preservation program, and the ACHP fully supports its continued funding in FY 2016.

Thank you for this opportunity to advise the Subcommittee on FY 2016 appropriations for the National Park Service from the Historic Preservation Fund. If the ACHP can provide any additional information, please contact our Executive Director, John M. Fowler, at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Milford Wayne Donaldson, FAIA  
Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

May 1, 2015

Honorable John Thune  
Chairman  
Senate Commerce, Science, and Transportation Committee  
United State Senate  
512 Dirksen Senate Building  
Washington, DC 20510

Honorable Bill Nelson  
Ranking Member  
Senate Commerce, Science, and Transportation Committee  
United State Senate  
512 Dirksen Senate Building  
Washington, DC 20510

Dear Chairman Thune and Ranking Member Nelson:

As the Congress undertakes consideration of important surface transportation legislation, the Advisory Council on Historic Preservation (ACHP) wishes to offer its views on the critical intersection between the nation's transportation infrastructure and our cultural patrimony. We submit these comments in furtherance of our fundamental statutory charge as an independent federal agency to "advise the President and the Congress on matters relating to historic preservation." (54 U.S.C. §304102)

Our comments focus on the Administration's proposed bill, Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America Act, known as the GROW AMERICA Act. While the proposal has not been formally introduced in the Congress, it is an important component of the dialogue on surface transportation legislation and frames several issues of significant import for the nation's heritage.

At the outset, we commend the Administration for developing a proposal that will provide increased and stable funding for surface transportation. Taking appropriate measures to avoid the insolvency of the Highway Trust Fund is important to all of America. Likewise, helping States and local governments to fund highway, transit, and rail projects in which Federal assistance often closes financial gaps is critical to our economy and population.

We were pleased that the GROW AMERICA Act includes an increase in the TIGER competitive grant program by 100 percent (approximately \$7.5 billion over six years) and \$6 billion in the highway and transit competitive grant program entitled, Fixing and Accelerating Surface Transportation (FAST). These programs will provide grants for historic preservation activities related to transportation projects located in urban, rural, and tribal communities. Ongoing interagency collaboration regarding port expansion, rail improvements, and maintenance and rehabilitation of highways, and planning and environmental reviews will assist in timely project delivery.

While the ACHP supports the programs advanced by the GROW AMERICA Act, we have serious concerns about certain provisions that would modify existing processes for addressing transportation project impacts on historic properties. Section 1005 would fundamentally alter the protections for historic properties that have been in place for nearly 50 years. It would permit the outcomes reached through the review process established by Section 106 of the National Historic Preservation Act (54 U.S.C. §306108) to substitute for the more rigorous requirements of Section 4(f) of the Department of Transportation Act

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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(49 U.S.C. §303). Section 106 establishes a procedural review process, while Section 4(f) mandates a substantive standard that requires the Secretary of Transportation to determine that there is “no feasible and prudent alternative” to a transportation project adversely affecting historic properties and to further undertake “all possible planning to minimize harm” to such properties.

For nearly five decades, these processes have acted in harmony to accommodate important historic preservation values with the delivery of essential transportation projects. The rationale put forward for altering the current system is that the processes are duplicative and create inefficiencies. The ACHP’s experience, based on its fundamental statutory responsibility to oversee the Section 106 process, does not support that assessment and conclusion. To the contrary, our close working relationship over the years with the Federal Highway Administration (FHWA), which is the agency most experienced in dealing with Section 4(f) and Section 106 reviews, has confirmed the importance of these two mutually-reinforcing processes in reaching good historic preservation outcomes, and has demonstrated that they can work harmoniously and efficiently.

There is no question that opportunities exist to improve the interface between Section 106 and Section 4(f), especially as new and expanded funding programs are put into place that deal with the nation’s rail and transit infrastructure. We learned from our collaboration with FHWA that the administrative tools provided by the ACHP’s regulations implementing Section 106 offer opportunities to better coordinate the two processes and gain efficiencies. Likewise, in March 2013, the Report to Congress entitled, *Streamlining Compliance with Section 4(f) of the Department of Transportation Act and Section 106 of the National Historic Preservation Act, in accordance with the Passenger Rail Investment and Improvement Act of 2008 (PL. 100-432)*, included recommendations for administrative actions that would improve both environmental reviews. Subsequent discussions initiated in the fall of 2014 between the ACHP and DOT, along with the Federal Railroad Administration and Federal Transit Administration, have explored the needs specific to these modes and the utility of the existing administrative options to address these issues, as recommended in the congressionally-mandated report.

These collaborative efforts are progressing well. The transportation agencies have been able to identify several areas where process improvements would be helpful and the ACHP, working with its preservation partners, has offered specific solutions that can be achieved in a reasonable time frame. It is worth noting that we have concluded that Section 1005 will not resolve the operational issues that the DOT agencies have identified.

The ACHP would also like to draw the committee’s attention to Section 1006 of the GROW AMERICA Act, which would exempt “Improvements to, or the maintenance, rehabilitation, or operation of railroad or rail transit lines or elements thereof” from the provisions of Section 4(f). This provision would leave in place the requirements of Section 106 for any federal grant that would affect properties listed on or eligible for the National Register of Historic Places.

The ACHP believes this is a useful provision and would support it if two points were addressed. First, the term “improvements” is unclear and could include the demolition and replacement of existing historic resources. We believe this should be defined in the accompanying report to make clear that the term does not include demolition and replacement. Second, Section 1006 as currently drafted excludes railroad stations from its provisions. We believe that exclusion should be expanded to include rail facilities that have been designated National Historic Landmarks or National Civil Engineering Landmarks. This would be a small expansion in number, but would ensure that properties of exceptional historic significance in America’s railroad history, such as the Eads Bridge across the Mississippi River or the Moffat Tunnel through the Rocky Mountains, are given the highest protection of federal historic preservation law.

The ACHP appreciates this opportunity to comment on this important legislative issue and would welcome the opportunity to elaborate on any point we have raised. John Fowler, the ACHP's Executive Director, can be reached at 202-517-0200 or [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely yours,

  
Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

May 1, 2015

Honorable Sam Graves  
Chairman  
Subcommittee on Highways and Transit  
2251 Rayburn House Office Building  
Washington, D.C. 20515

Honorable Eleanor Holmes Norton  
Ranking Member  
Subcommittee on Highways and Transit  
2251 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Graves and Ranking Member Holmes Norton:

As the Congress undertakes consideration of important surface transportation legislation, the Advisory Council on Historic Preservation (ACHP) wishes to offer its views on the critical intersection between the nation's transportation infrastructure and our cultural patrimony. We submit these comments in furtherance of our fundamental statutory charge as an independent federal agency to "advise the President and the Congress on matters relating to historic preservation." (54 U.S.C. §304102)

Our comments focus on the Administration's proposed bill, Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America Act, known as the GROW AMERICA Act. While the proposal has not been formally introduced in the Congress, it is an important component of the dialogue on surface transportation legislation and frames several issues of significant import for the nation's heritage.

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*Preserving America's Heritage*

May 1, 2015

Honorable Deb Fischer  
Chairman  
Subcommittee on Transportation and Merchant  
Marine Infrastructure, Safety and Security  
United State Senate  
512 Dirksen Senate Building  
Washington, DC 20510

Honorable Cory Booker  
Ranking Member  
Subcommittee on Transportation and Merchant  
Marine Infrastructure, Safety and Security  
United State Senate  
512 Dirksen Senate Building  
Washington, DC 20510

Dear Chairman Fischer and Ranking Member Booker:

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Chairman

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Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

May 1, 2015

Honorable Bill Shuster  
Chairman  
House Transportation and Infrastructure Comm.  
2163 Rayburn House Office Building  
Washington, D.C. 20515

Honorable Peter DeFazio  
Ranking Member  
House Transportation and Infrastructure Comm.  
2163 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Shuster and Ranking Member DeFazio:

As the Congress undertakes consideration of important surface transportation legislation, the Advisory Council on Historic Preservation (ACHP) wishes to offer its views on the critical intersection between the nation's transportation infrastructure and our cultural patrimony. We submit these comments in furtherance of our fundamental statutory charge as an independent federal agency to "advise the President and the Congress on matters relating to historic preservation." (54 U.S.C. §304102)

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Chairman

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Chairman  
Sacramento, CA

Teresa Leger de Fernandez  
Vice Chairman  
Santa Fe, NM

Terry Guen, FASLA  
Chicago, IL

Dorothy Lippert, Ph.D.  
Washington, DC

Lynne Sebastian, Ph.D.  
Rio Rancho, NM

Robert G. Stanton  
Fairfax Station, VA

Bradford J. White  
Evanston, IL

Leonard A. Forsman  
Chairman, Suquamish Tribe  
Suquamish, WA

Hon. Sally R. Jewell  
Secretary of the Interior

Hon. Stephen T. Ayers, FAIA  
Architect of the Capitol

Hon. Tom Vilsack  
Secretary of Agriculture

Hon. Ashton B. Carter  
Secretary of Defense

Hon. Arne Duncan  
Secretary of Education

Hon. Denise Turner Roth  
Acting Administrator  
General Services Administration

Hon. Jeh Johnson  
Secretary of Homeland Security

Hon. Julián Castro  
Secretary of Housing & Urban  
Development

Hon. Anthony Foxx  
Secretary of Transportation

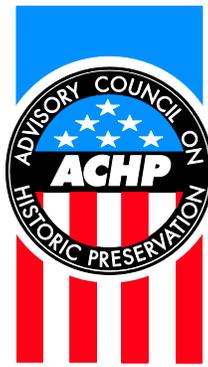
Hon. Robert A. McDonald  
Secretary of Veterans Affairs

Mayor Joseph P. Riley, Jr.  
Charleston, SC

Elizabeth Hughes  
President  
National Conference of State  
Historic Preservation Officers

Marita Rivero  
Chair, National Trust for Historic  
Preservation

John M. Fowler  
Executive Director



*Preserving America's Heritage*

May 7, 2015

The Honorable John McCain  
Chairman  
Committee on Armed Services  
United States Senate  
Russell Senate Office Building, SR-228  
Washington, DC 20510

The Honorable Jack Reed  
Ranking Member  
Committee on Armed Services  
United States Senate  
Russell Senate Office Building, SR-228  
Washington, DC 20510

Dear Chairman McCain and Ranking Member Reed:

The Advisory Council on Historic Preservation (ACHP) would like to bring an issue of importance to the national historic preservation program to the Committee's attention as it considers Defense authorization legislation. Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, the ACHP wishes to express its strong opposition to Section 2853 of the National Defense Authorization Act (NDAA) currently pending a vote in the House of Representatives (H.R. 1735). We urge that the provision be deleted from the final NDAA.

Section 2853 of H.R. 1735 – an amendment to the original bill which embodies the text of the proposed Military LAND Act (H.R. 135) – would amend Section 101 of the NHPA to allow federal agencies to prevent designation of federal properties as historic (and reverse existing designations) based on agency determinations of national security needs. The intended effect is to permit federal agencies to avoid addressing the impacts of their actions on historic properties as required by Section 106 of the NHPA. This is unnecessary and an unwarranted departure from an established system that has served historic preservation and federal agency programs well for nearly half a century.

Identical provisions were included in last year's House version of the NDAA – also as an amendment to include the Military LAND Act (then H.R. 3687) – sparking opposition by many organizations, agencies, and individuals active in the national historic preservation movement. The ACHP advised the Senate against the provisions at that time, and ultimately they were not included in the Senate version of the bill or in the final enrolled bill. Recently, the ACHP membership voted unanimously to reiterate its opposition to the provisions of the Military LAND Act in this Congress.

Although concerns for military training and readiness are mentioned in Section 2853, it would permit any federal property-managing agency – not just Defense agencies – to object to the historic designation of its properties (or revoke such designation) for

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“reasons of national security.” This fact, coupled with the absence of a definition for “reasons of national security,” suggests that the provisions of Section 2853 could be widely invoked. Such authority is simply not necessary in order to balance preservation of historic properties with national security needs, as the Section 106 review process has been specifically designed to do just that.

Under the NHPA, designation of federal properties as historic does not mean that they must be preserved. It does mean that agencies need to proceed with the historic preservation review process when such properties may be affected by agency actions. Through the review process, agencies determine whether they can avoid, minimize, or mitigate any adverse effects on the historic properties. The process fosters creativity and a common-sense approach to problem solving that usually results in agencies and local stakeholders reaching agreement on how to address conflicts between historic preservation objectives and agency mission requirements. But ultimately, whether agreement is reached or not, the federal agency always remains the final decision maker as to how its project affecting the property will proceed.

The ACHP encourages agencies to address complex projects and continuing programs programmatically in order to streamline the historic preservation review process. The Defense agencies have used this tool very effectively when addressing military training and readiness issues. The following examples highlight how the military has successfully used programmatic approaches to address historic properties while not compromising training and readiness.

- In 2014, the Army worked with the ACHP and the State Historic Preservation Offices of Texas and New Mexico to develop a Programmatic Agreement for the operation, maintenance, and development on Fort Bliss. This will continue to streamline review of thousands of projects and training activities undertaken each year in support of Army readiness on the installation.
- In 2013, the Army worked with the ACHP and the Colorado State Historic Preservation Officer to develop two Programmatic Agreements to address operation of training areas and ranges on Fort Carson and the Pinon Canyon Maneuver Site. These agreements identify how historic properties will be managed through a comprehensive proactive strategy that replaces project-by-project review.
- Since 2008, Naval Base Coronado has been implementing a Programmatic Agreement to address the impact to historic properties from the Navy’s operation of its Southern California on-shore and immediate off-shore ranges used to conduct readiness and other operational training activities. Training addressed by the Agreement includes air warfare, surface warfare, under-sea warfare, strike warfare, submarine and amphibious warfare, shore bombardment, aerial bombing, special warfare, research and development tests and evaluation, and Joint Task Force Exercises.

These and other examples underscore the Department of Defense’s position on Section 2853. At a hearing during the last Congress, the Department of Defense testified that compliance with the NHPA is not an impediment to meeting military readiness obligations and that the provisions now embodied in Section 2853 are not needed to preserve access to testing and training lands. Indeed, the ACHP has reviewed its records and has been unable to find any examples where historic designation of properties and subsequent review of projects affecting them has compromised a federal agency’s ability to address national security issues. It is our understanding that the Department of Defense has not changed its position on the provisions of Section 2853, and the ACHP subscribes completely to the Department’s views.

Were Section 2853 to be enacted, the Congress would be abandoning a fundamental principle it established when it created the national historic preservation program in 1966. The basic premise of the historic designation process is the objective evaluation of properties against established criteria of significance without consideration of current use or future plans. When properties are determined to meet

those criteria, they are recognized as such so that their historic significance can then be factored in to management decisions. The Department of the Interior testified last year regarding the adverse implications of granting federal agencies authority to oppose historic designation of properties based on management issues rather than objective consideration of the historic importance of such properties. Indeed, the ACHP knows of no instance where Congress has authorized federal agencies to invert the process and allow them to assert that their mission needs override objective professional determinations that properties are historically significant.

Almost fifty years of practice has demonstrated the wisdom and workability of the current designation and review process for historically significant federal properties. The ACHP urges the Armed Services Committee to follow the course it set last year and oppose inclusion of the provisions of Section 2853 in the Senate version of the NDAA and in the bill's final iteration.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of the NDAA. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,

A handwritten signature in blue ink that reads "Milford Wayne Donaldson". The signature is written in a cursive style with a large initial "M" and "W".

Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman  
Sacramento, CA

Teresa Leger de Fernandez  
Vice Chairman  
Santa Fe, NM

Terry Guen, FASLA  
Chicago, IL

Dorothy Lippert, Ph.D.  
Washington, DC

Lynne Sebastian, Ph.D.  
Rio Rancho, NM

Robert G. Stanton  
Fairfax Station, VA

Bradford J. White  
Evanston, IL

Leonard A. Forsman  
Chairman, Suquamish Tribe  
Suquamish, WA

Hon. Sally R. Jewell  
Secretary of the Interior

Hon. Stephen T. Ayers, FAIA  
Architect of the Capitol

Hon. Tom Vilsack  
Secretary of Agriculture

Hon. Ashton B. Carter  
Secretary of Defense

Hon. Arne Duncan  
Secretary of Education

Hon. Denise Turner Roth  
Acting Administrator  
General Services Administration

Hon. Jeh Johnson  
Secretary of Homeland Security

Hon. Julián Castro  
Secretary of Housing & Urban  
Development

Hon. Anthony Foxx  
Secretary of Transportation

Hon. Robert A. McDonald  
Secretary of Veterans Affairs

Mayor Joseph P. Riley, Jr.  
Charleston, SC

Elizabeth Hughes  
President  
National Conference of State  
Historic Preservation Officers

Marita Rivero  
Chair, National Trust for Historic  
Preservation

John M. Fowler  
Executive Director



Preserving America's Heritage

May 7, 2015

The Honorable Lisa Murkowski  
Chairman, Committee on Energy  
and Natural Resources  
United States Senate  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510

The Honorable Maria Cantwell  
Ranking Member, Committee on Energy  
and Natural Resources  
United States Senate  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

The Advisory Council on Historic Preservation (ACHP) would like to bring to your attention provisions in the National Defense Authorization Act pending in the House (H.R. 1735) that could have significant implications for the preservation of historic properties, a subject under the jurisdiction of the Committee on Energy and Natural Resources. Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation.

Section 2853 of the proposed House bill would amend the NHPA to permit federal agencies to prevent designation of federal properties as historic (and reverse existing designations) based on agency determinations of national security needs. Identical provisions were included in last year's House version of the NDAA, sparking opposition by many organizations, agencies, and individuals active in the national historic preservation movement. The ACHP advised both the Armed Services Committee and your committee against the provisions at that time, and ultimately they were not included in the Senate version of the bill or in the final enrolled bill.

Recently, the ACHP membership voted unanimously to reiterate its opposition to the proposed changes to the NHPA as both unnecessary and unwarranted. Attached is a letter from the ACHP to the Senate Committee on Armed Services setting forth our position in more detail. Please feel free to contact us if you have any questions or if the ACHP can be of any assistance. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,

Milford Wayne Donaldson, FAIA  
Chairman

Attachment

[See May 7, 2015, letter to Sens. McCain and Reed.]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Milford Wayne Donaldson, FAIA  
Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

May 22, 2015

Honorable James M. Inhofe  
Chairman  
Committee on Environment and Public Works  
United State Senate  
Dirksen Senate Office Building, SD-410  
Washington, DC 20510

Honorable Barbara Boxer  
Ranking Member  
Committee on Environment and Public Works  
United State Senate  
Dirksen Senate Office Building, SD-410  
Washington, DC 20510

Dear Chairman Inhofe and Ranking Member Boxer:

As the Congress undertakes consideration of important surface transportation legislation, the Advisory Council on Historic Preservation (ACHP) wishes to offer its views on the critical intersection between the nation's transportation infrastructure and our cultural patrimony. We submit these comments in furtherance of our fundamental statutory charge as an independent federal agency to "advise the President and the Congress on matters relating to historic preservation." (54 U.S.C. §304102)

Our comments focus on the Administration's proposed bill, Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America Act, known as the GROW AMERICA Act. While the proposal has not been formally introduced in the Congress, it is an important component of the dialogue on surface transportation legislation and frames several issues of significant import for the nation's heritage.

At the outset, we commend the Administration for developing a proposal that will provide increased and stable funding for surface transportation. Taking appropriate measures to avoid the insolvency of the Highway Trust Fund is important to all of America. Likewise, helping States and local governments to fund highway, transit, and rail projects in which Federal assistance often closes financial gaps is critical to our economy and population.

We were pleased that the GROW AMERICA Act includes an increase in the TIGER competitive grant program by 100 percent (approximately \$7.5 billion over six years) and \$6 billion in the highway and transit competitive grant program entitled, Fixing and Accelerating Surface Transportation (FAST). These programs will provide grants for historic preservation activities related to transportation projects located in urban, rural, and tribal communities. Ongoing interagency collaboration regarding port expansion, rail improvements, and maintenance and rehabilitation of highways, and planning and environmental reviews will assist in timely project delivery.

While the ACHP supports the programs advanced by the GROW AMERICA Act, we have serious concerns about certain provisions that would modify existing processes for addressing transportation project impacts on historic properties. Section 1005 would fundamentally alter the protections for historic properties that have been in place for nearly 50 years. It would permit the outcomes reached through the review process established by Section 106 of the National Historic Preservation Act (54 U.S.C. §306108) to substitute for the more rigorous requirements of Section 4(f) of the Department of Transportation Act (49 U.S.C. §303).

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Section 106 establishes a procedural review process, while Section 4(f) mandates a substantive standard that requires the Secretary of Transportation to determine that there is “no feasible and prudent alternative” to a transportation project adversely affecting historic properties and to further undertake “all possible planning to minimize harm” to such properties.

For nearly five decades, these processes have acted in harmony to accommodate important historic preservation values with the delivery of essential transportation projects. The rationale put forward for altering the current system is that the processes are duplicative and create inefficiencies. The ACHP’s experience, based on its fundamental statutory responsibility to oversee the Section 106 process, does not support that assessment and conclusion. To the contrary, our close working relationship over the years with the Federal Highway Administration (FHWA), which is the agency most experienced in dealing with Section 4(f) and Section 106 reviews, has confirmed the importance of these two mutually-reinforcing processes in reaching good historic preservation outcomes, and has demonstrated that they can work harmoniously and efficiently.

There is no question that opportunities exist to improve the interface between Section 106 and Section 4(f), especially as new and expanded funding programs are put into place that deal with the nation’s rail and transit infrastructure. We learned from our collaboration with FHWA that the administrative tools provided by the ACHP’s regulations implementing Section 106 offer opportunities to better coordinate the two processes and gain efficiencies. Likewise, in March 2013, the Report to Congress entitled, *Streamlining Compliance with Section 4(f) of the Department of Transportation Act and Section 106 of the National Historic Preservation Act, in accordance with the Passenger Rail Investment and Improvement Act of 2008 (PL. 100-432)*, included recommendations for administrative actions that would improve both environmental reviews. Subsequent discussions initiated in the fall of 2014 between the ACHP and DOT, along with the Federal Railroad Administration and Federal Transit Administration, have explored the needs specific to these modes and the utility of the existing administrative options to address these issues, as recommended in the congressionally-mandated report.

These collaborative efforts are progressing well. The transportation agencies have been able to identify several areas where process improvements would be helpful and the ACHP, working with its preservation partners, has offered specific solutions that can be achieved in a reasonable time frame. It is worth noting that we have concluded that Section 1005 will not resolve the operational issues that the DOT agencies have identified.

The ACHP would also like to draw the committee’s attention to Section 1006 of the GROW AMERICA Act, which would exempt “Improvements to, or the maintenance, rehabilitation, or operation of railroad or rail transit lines or elements thereof” from the provisions of Section 4(f). This provision would leave in place the requirements of Section 106 for any federal grant that would affect properties listed on or eligible for the National Register of Historic Places.

The ACHP believes this is a useful provision and would support it if two points were addressed. First, the term “improvements” is unclear and could include the demolition and replacement of existing historic resources. We believe this should be defined in the accompanying report to make clear that the term does not include demolition and replacement. Second, Section 1006 as currently drafted excludes railroad stations from its provisions. We believe that exclusion should be expanded to include rail facilities that have been designated National Historic Landmarks or National Civil Engineering Landmarks. This would be a small expansion in number, but would ensure that properties of exceptional historic significance in America’s railroad history, such as the Eads Bridge across the Mississippi River or the Moffat Tunnel through the Rocky Mountains, are given the highest protection of federal historic preservation law.

The ACHP appreciates this opportunity to comment on this important legislative issue and would welcome the opportunity to elaborate on any point we have raised. John Fowler, the ACHP's Executive Director, can be reached at 202-517-0200 or [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely yours,

  
Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman  
Sacramento, CA

Teresa Leger de Fernandez  
Vice Chairman  
Santa Fe, NM

Terry Guen, FASLA  
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Chairman, Suquamish Tribe  
Suquamish, WA

Hon. Sally R. Jewell  
Secretary of the Interior

Hon. Stephen T. Ayers, FAIA  
Architect of the Capitol

Hon. Tom Vilsack  
Secretary of Agriculture

Hon. Ashton B. Carter  
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Hon. Arne Duncan  
Secretary of Education

Hon. Denise Turner Roth  
Acting Administrator  
General Services Administration

Hon. Jeh Johnson  
Secretary of Homeland Security

Hon. Julián Castro  
Secretary of Housing & Urban  
Development

Hon. Anthony Foxx  
Secretary of Transportation

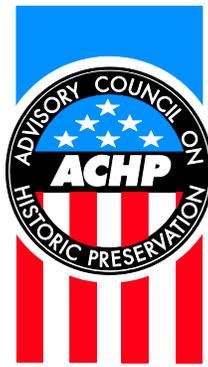
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Charleston, SC

Elizabeth Hughes  
President  
National Conference of State  
Historic Preservation Officers

Marita Rivero  
Chair, National Trust for Historic  
Preservation

John M. Fowler  
Executive Director



Preserving America's Heritage

July 27, 2015

The Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural  
Resources  
304 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Maria Cantwell  
Ranking Member  
Committee on Energy and Natural  
Resources  
304 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Murkowski and Senator Cantwell:

The Advisory Council on Historic Preservation (ACHP) wishes to express its strong support for the permanent reauthorization of the Historic Preservation Fund (HPF), as proposed in Section 5003 of the recently introduced Energy Policy Modernization Act of 2015.

Established by the National Historic Preservation Act (54 U.S.C. 300101 et seq.) (NHPA), the ACHP is an independent federal agency charged with advising the President and Congress on historic preservation matters. One of the ACHP's primary functions is to oversee implementation of Section 106 of the NHPA, which establishes the review process for federal actions that affect historic properties. In that capacity in particular, the ACHP works closely with the State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs). The HPF provides critical funding for SHPOs and THPOs as well as other important preservation program needs.

Most recently at its regular quarterly meeting on July 15, 2015, the ACHP unanimously expressed support for reauthorization of the HPF as proposed in the National Historic Preservation Amendments Act (H.R. 2817). In addition, at its regular quarterly meeting on July 17, 2014, the members of the ACHP unanimously adopted a motion supporting full and permanent funding for the HPF at the authorized level of \$150 million annually, beginning in Fiscal Year 2016.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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The text of the latter adopted motion reads as follows:

**MOTION ON FULL FUNDING FOR  
THE HISTORIC PRESERVATION FUND**

*Adopted by the Advisory Council on Historic Preservation,  
Philadelphia, Pennsylvania, July 17, 2014*

*Whereas, the Historic Preservation Fund (HPF) established by the National Historic Preservation Act (NHPA) funds a broad range of activities carried out by State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs), including maintaining qualified staff to meet Section 106, Tax Act, preservation planning, and other key duties as part of the national historic preservation program; and*

*Whereas, although the HPF is authorized at \$150 million annually, funding has never reached this level and considerably lower annual appropriations continue to have extremely negative impacts on the ability of SHPOs and especially THPOs to maintain effective organizations and carry out their responsibilities under NHPA; and*

*Whereas, the ACHP, federal agencies, and stakeholders have a critical interest in ensuring that SHPOs and THPOs are funded at levels sufficient to ensure their effective participation in Section 106 consultation as well as in other national priorities such as energy development and infrastructure permitting, disaster planning and resilience, climate change adaptation, military readiness and national security needs, and public lands management; and*

*Whereas, SHPOs and THPOs also need predictable funding to continue to identify properties worthy of preservation and manage such information with modern digital technology;*

*Now, therefore, the ACHP strongly encourages the Administration to seek full and permanent funding of the HPF at its authorized level in the President's budget for FY 2016 and beyond.*

We believe your proposal to reauthorize the HPF as part of the Energy Policy Modernization Act of 2015 is an important first step in ensuring the continuation and sustainability of critically needed historic preservation funding support, and we greatly appreciate its inclusion.

Thank you. Please feel free to contact us if you have any questions, or if the ACHP can be of any assistance during further consideration of the Historic Preservation Fund reauthorization. Our Executive Director John Fowler can be reached at [jfowler@achp.gov](mailto:jfowler@achp.gov); 202-517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

July 30, 2015

The Honorable John Thune  
Chairman, Committee on Commerce,  
Science, and Transportation  
Dirksen Senate Office Building, SD-512  
Washington, DC 20510-6125

The Honorable Bill Nelson  
Ranking Member, Committee on Commerce,  
Science, and Transportation  
Dirksen Senate Office Building, SD-512  
Washington, DC 20510-6125

Dear Chairman Thune and Ranking Member Nelson:

Regarding the Comprehensive Transportation and Consumer Protection Act (S. 1732), the Advisory Council on Historic Preservation (ACHP) would like to bring an issue of importance to the national historic preservation program to the Committee's attention. Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, the ACHP wishes to express its strong opposition to Section 5505 of S. 1732 as currently drafted.

Section 5505 of S. 1732 would amend Section 106 of the NHPA (54 U.S.C. § 306108). Under Section 106, federal agencies are required to take into account the effect of their undertakings on historic properties and provide the ACHP with an opportunity to comment on such effects. Section 5505 of S. 1732 would amend Section 106 to add a requirement that the ACHP issue an exemption of railroad rights-of-way from review. While the ACHP accepts the concept of a railroad rights-of-way exemption, the ACHP strongly opposes amending the language of Section 106 itself and believes the Committee's goal can be met in an alternative way.

The attached briefing paper lays out the reasons for our concern, as well as proposed revised language for Section 5505 which would have the same effect as the current language but would avoid amending Section 106 itself. The ACHP urges the Committee to substitute this revised language for the current language of Section 5505 as a technical amendment.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of S. 1732. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,

Milford Wayne Donaldson, FAIA  
Chairman

Attachment

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637  
Phone: 202-517-0200 • Fax: 202-517-6381 • [achp@achp.gov](mailto:achp@achp.gov) • [www.achp.gov](http://www.achp.gov)

**The Comprehensive Transportation and Consumer Protection Act (S. 1732)  
and Historic Preservation Review Under  
Section 106 of the National Historic Preservation Act**

Section 5505 of the Comprehensive Transportation and Consumer Protection Act (S. 1732) would amend Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108) to require that the Advisory Council on Historic Preservation (ACHP) issue an exemption of railroad rights-of-way from review. This would be the first substantive amendment to that key provision of the NHPA in almost 40 years and should be considered carefully.

While the ACHP accepts the concept of a railroad rights-of-way exemption from Section 106 and does not object to a legislative directive to complete one within a specified time, the ACHP strongly opposes amending Section 106 of the NHPA. Amending the language of Section 106 itself would encourage future requests for legislative exemptions, an outcome that Congress has previously sought to avoid, and cause unnecessary confusion in the administration of the government-wide Section 106 process.

As drafted, Section 5505 would split the existing language of Section 106 into three subsections: subsection (a) would retain the current language requiring agencies to take into account the effects of their undertakings on historic properties; subsection (b) would retain the existing requirement that agencies provide the ACHP with an opportunity to comment on undertakings; and subsection (c) would be the proposed railroad rights-of-way exemption. This alteration of the current statutory language is problematic for two reasons.

First, the addition of a specific exemption to the provision that states the generally applicable requirements for federal historic preservation reviews would give harmful prominence to the concept of legislative exemptions. Exemptions by their nature have always been rare exceptions to the rule. Including one in the body of Section 106 strongly suggests a new norm, one that could invite further efforts for specific exemptions through amendments to Section 106. This outcome would place an unnecessary burden on the legislative process and undermine Section 106 through multiple legislative exemptions.

Second, Section 106 applies to all federal projects, not just transportation projects. Accordingly, Section 106 in its current statutory form has become an established concept within the federal project delivery process and is widely embedded in government procedures, guidance, training, and public information materials, as well as industry processes and publications. Subdividing it into three parts will cause unnecessary confusion among users and require revision of a massive amount of material even though there is no substantive change in the current language of Section 106.

If Section 5505 is retained, the ACHP urges that it be revised so that it does not amend Section 106 itself. The ACHP recommends the following language that would have the same effect as the current draft of Section 5505 but would address the concerns raised:

RAILROAD RIGHTS-OF-WAY.—No later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Advisory Council on Historic Preservation a proposed exemption of railroad rights-of-way from review pursuant to Section 306108 of title 54, United States Code, that is consistent with the exemption for the interstate highway system issued by the Advisory Council on Historic Preservation on March 10, 2005 (70 Fed. Reg. 11,928). The Advisory Council on Historic Preservation shall issue such an exemption no later than 180 days after the date the Secretary of Transportation submits the proposed exemption.

Milford Wayne Donaldson, FAIA  
Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

August 6, 2015

Honorable Bill Shuster  
Chairman  
House Transportation and Infrastructure Comm.  
2163 Rayburn House Office Building  
Washington, D.C. 20515

Honorable Peter DeFazio  
Ranking Member  
House Transportation and Infrastructure Comm.  
2163 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Shuster and Ranking Member DeFazio:

As development of comprehensive surface transportation legislation proceeds, the Advisory Council on Historic Preservation (ACHP) would like to bring several issues to your attention as you consider the GROW AMERICA Act (H.R. 3064) and the Senate's DRIVE Act (H.R. 22). Established by the National Historic Preservation Act, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, the ACHP wishes to express concerns regarding several sections of the above mentioned bills and their potential impact on the national historic preservation program.

**Section 35505 of the DRIVE Act.** Section 35505 of the DRIVE Act would amend Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108). Under Section 106, federal agencies are required to take into account the effect of their undertakings on historic properties and provide the ACHP with an opportunity to comment on such effects. Section 35505 of the DRIVE Act would amend Section 106 to add a requirement that the ACHP issue an exemption of railroad rights-of-way from review. While the ACHP accepts the concept of a railroad rights-of-way exemption from Section 106 and does not object to a legislative directive to complete one within a specified time, the ACHP strongly opposes amending Section 106. Amending the language of Section 106 itself would encourage future requests for legislative exemptions, an outcome that Congress has previously sought to avoid, and cause unnecessary confusion in the administration of the government-wide Section 106 process. There is an alternative way to achieve the exemption that would not result in these negative outcomes.

As drafted, Section 35505 would split the existing language of Section 106 into three subsections: subsection (a) would retain the current language requiring agencies to take into account the effects of their undertakings on historic properties; subsection (b) would retain the existing requirement that agencies provide the ACHP with an opportunity to comment on undertakings; and subsection (c) would be the proposed railroad rights-of-way exemption. This alteration of the current statutory language is problematic for two reasons.

First, the addition of a specific exemption to the provision that states the generally applicable requirements for federal historic preservation reviews would give harmful prominence to the concept of legislative exemptions. Exemptions by their nature have always been rare exceptions to the rule. Including one in the body of Section 106 strongly suggests a new norm, one that could invite further efforts for specific exemptions through amendments to Section 106. This outcome would place an unnecessary burden on the legislative process and undermine Section 106 through multiple legislative

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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exemptions.

Second, Section 106 applies to all federal projects, not just transportation projects. Accordingly, Section 106 in its current statutory form has become an established concept within the federal project delivery process and is widely embedded in government procedures, guidance, training, and public information materials, as well as industry processes and publications. Subdividing it into three parts will cause unnecessary confusion among users and require revision of a massive amount of material even though there is no substantive change in the current language of Section 106.

If exempting railroad rights-of-way from Section 106 review is retained in the final version of a surface transportation bill, the ACHP urges that the language of Section 35505 not be used as currently drafted, but rather be revised so that it does not amend Section 106 itself. The ACHP recommends the following language that would have the same effect as the current draft of Section 35505 but would address the concerns raised:

**RAILROAD RIGHTS-OF-WAY.**—No later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Advisory Council on Historic Preservation a proposed exemption of railroad rights-of-way from review pursuant to Section 306108 of title 54, United States Code, that is consistent with the exemption for the interstate highway system issued by the Advisory Council on Historic Preservation on March 10, 2005 (70 Fed. Reg. 11,928). The Advisory Council on Historic Preservation shall issue such an exemption no later than 180 days after the date the Secretary of Transportation submits the proposed exemption.

**Section 1005 of the GROW AMERICA Act/Section 11116 of the DRIVE Act.** Section 1005 of the GROW AMERICA Act and Section 11116 of the DRIVE Act are substantially identical and would permit outcomes reached through the review process established by Section 106 of the National Historic Preservation Act to substitute for the more rigorous requirements of Section 4(f) of the Department of Transportation Act (49 U.S.C. §303). The ACHP previously forwarded correspondence (see attached) that outlined our serious concerns regarding this proposal. We would like to take this opportunity to refer you to that correspondence and reiterate our continuing concerns.

**Section 1006 of the GROW AMERICA Act/Section 35502 of the DRIVE Act.** Section 1006 of the GROW AMERICA Act and Section 35502 of the DRIVE Act are substantially identical and would exempt “improvements to, or the maintenance, rehabilitation, or operation of railroad or rail transit lines or elements thereof” from Section 4(f) review. The attached correspondence also addresses this section, which the ACHP believes is useful but should be tweaked for clarity and to ensure protection of exceptionally significant historic properties.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of comprehensive transportation legislation. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

Attachment

[See May 1, 2015, letter to Reps. Shuster and DeFazio.]

Milford Wayne Donaldson, FAIA  
Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

November 23, 2015

Honorable Bill Shuster  
Chairman  
Surface Transportation Bill Conference Committee  
2251 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Shuster:

As development of comprehensive surface transportation legislation (H.R. 22) moves toward conclusion, the Advisory Council on Historic Preservation (ACHP) would like to reiterate our previous comments (see attached) regarding potential impacts of the Senate's version of H.R. 22 (the DRIVE Act) on the national historic preservation program. The ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, the ACHP urges the Conference Committee to take our previous comments into account and to consider alternative legislative language (see below) developed by the ACHP to accomplish the goal of Section 35505 of the Senate version of H.R. 22.

**Section 35505 (Senate version).** Section 35505 would amend Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108). Under Section 106, federal agencies are required to take into account the effect of their undertakings on historic properties and provide the ACHP with an opportunity to comment on such effects. Section 35505 would amend Section 106 to add a requirement that the ACHP issue an exemption of railroad rights-of-way from review. While the ACHP accepts the concept of a railroad rights-of-way exemption from Section 106 and does not object to a legislative directive to complete one within a specified time, the ACHP strongly opposes amending Section 106. Amending the language of Section 106 itself would encourage future requests for legislative exemptions, an outcome that Congress has previously sought to avoid, and cause unnecessary confusion in the administration of the government-wide Section 106 process. There is an alternative way to achieve the exemption that would not result in these negative outcomes.

As drafted, Section 35505 would split the existing language of Section 106 into three subsections: subsection (a) would retain the current language requiring agencies to take into account the effects of their undertakings on historic properties; subsection (b) would retain the existing requirement that agencies provide the ACHP with an opportunity to comment on undertakings; and subsection (c) would be the proposed railroad rights-of-way exemption. This alteration of the current statutory language is problematic for two reasons.

First, the addition of a specific exemption to the provision that states the generally applicable requirements for federal historic preservation reviews would give harmful prominence to the concept of legislative exemptions. Exemptions by their nature have always been rare exceptions to the rule. Including one in the body of Section 106 strongly suggests a new norm, one that could invite further efforts for specific exemptions through amendments to Section 106. This outcome would place an

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unnecessary burden on the legislative process and undermine Section 106 through multiple legislative exemptions.

Second, Section 106 applies to all federal projects, not just transportation projects. Accordingly, Section 106 in its current statutory form has become an established concept within the federal project delivery process and is widely embedded in government procedures, guidance, training, and public information materials, as well as industry processes and publications. Subdividing it into three parts will cause unnecessary confusion among users and require revision of a massive amount of material even though there is no substantive change in the current language of Section 106.

If exempting railroad rights-of-way from Section 106 review is retained in the final version of H.R. 22, the ACHP urges that the language of Section 35505 not be used as currently drafted, but rather be revised so that it does not amend Section 106 itself. The ACHP recommends the following language that would have the same effect as the current draft of Section 35505 but would address the concerns raised:

RAILROAD RIGHTS-OF-WAY.—No later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Advisory Council on Historic Preservation a proposed exemption of railroad rights-of-way from review pursuant to Section 306108 of title 54, United States Code, that is consistent with the exemption for the interstate highway system issued by the Advisory Council on Historic Preservation on March 10, 2005 (70 Fed. Reg. 11,928). The Advisory Council on Historic Preservation shall issue such an exemption no later than 180 days after the date the Secretary of Transportation submits the proposed exemption.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of H.R. 22. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

Attachment

[See May 1, 2015, and August 6, 2015, letters to Reps. Shuster and DeFazio]



*Preserving America's Heritage*

November 24, 2015

The Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural Resources  
304 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Maria Cantwell  
Ranking Member  
Committee on Energy and Natural Resources  
304 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Murkowski and Senator Cantwell:

The Advisory Council on Historic Preservation (ACHP) wishes to express its strong support for the National Park Service Centennial Act (S. 2257/H.R. 3556). Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on historic preservation matters.

The National Park Service (NPS) manages some of America's most iconic historic properties. The ACHP has long supported adequate funding for NPS and innovative management and programming by the agency. S. 2257 offers a wide range of well-conceived options consistent with those goals. The bill proposes further funding for critical infrastructure projects, leveraging public-private donations and partnerships, and expanding volunteer and job opportunities in national parks and historic sites. These are certainly appropriate strategies to memorialize NPS' centennial, and a fitting way to address the ongoing needs and future challenges surrounding the care of our national patrimony.

In addition and importantly, while the bulk of the bill addresses management of the National Park System, it also acknowledges the value of NPS's partnership programs. Through these programs, NPS provides technical assistance and funding to non-federal entities, support that is critical to the functioning of the federal-state-tribal-local preservation partnership that has developed since the passage of the National Historic Preservation Act fifty years ago. Such programs include: Historic Preservation Fund grants to State and Tribal Historic Preservation Officers; the National Register of Historic Places; the National Historic Landmarks Program; rehabilitation preservation tax credit certification; the National Native American Graves Protection and Repatriation Act program; the National Heritage Area Program; Tribal Heritage Grants; and other heritage grant programs. S. 2257 includes a "Centennial Declaration" in Section 101 that would codify the agency's responsibility for such financial and technical assistance programs, and direct the Secretary of the Interior to use such programs to benefit the public. The ACHP supports NPS's partnership programs, many of which are central to the operation of the national preservation program, and applauds inclusion of this provision in the bill.

There is an omission in Section 101, however, that merits clarification. Indian tribes and Native Hawaiian organizations are not included in the list of recipients in Section 101, although several NPS partnership programs assist them. Based on discussions with NPS, the ACHP certainly has no reason to believe that this was a deliberate omission. Indian tribes and Native Hawaiian organizations are key players in the

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federal preservation program. Resolving their omission in Section 101 – and also in a list of non-federal parties in Section 901 of the bill – is vital.

Please feel free to contact us if you have any questions, or if the ACHP can be of any assistance during consideration of S. 2257. Our Executive Director, John M. Fowler, can be reached at [jfowler@achp.gov](mailto:jfowler@achp.gov) or 202-517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman



*Preserving America's Heritage*

November 24, 2015

The Honorable Rob Bishop  
Chairman  
Committee on Natural Resources  
Longworth House Office Building, 1324  
Washington, DC 20515

The Honorable Raul Grijalva  
Ranking Member  
Committee on Natural Resources  
Longworth House Office Building, 1324  
Washington, DC 20515

Dear Chairman Bishop and Representative Grijalva:

The Advisory Council on Historic Preservation (ACHP) wishes to express its strong support for the National Park Service Centennial Act (S. 2257/H.R. 3556). Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on historic preservation matters.

The National Park Service (NPS) manages some of America's most iconic historic properties. The ACHP has long supported adequate funding for NPS and innovative management and programming by the agency. H.R. 3556 offers a wide range of well-conceived options consistent with those goals. The bill proposes further funding for critical infrastructure projects, leveraging public-private donations and partnerships, and expanding volunteer and job opportunities in national parks and historic sites. These are certainly appropriate strategies to memorialize NPS' centennial, and a fitting way to address the ongoing needs and future challenges surrounding the care of our national patrimony.

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federal preservation program. Resolving their omission in Section 101 – and also in a list of non-federal parties in Section 901 of the bill – is vital.

Please feel free to contact us if you have any questions, or if the ACHP can be of any assistance during consideration of H.R. 3556. Our Executive Director, John M. Fowler, can be reached at [jfowler@achp.gov](mailto:jfowler@achp.gov) or 202-517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

November 30, 2015

The Honorable John Hardy Isakson  
Chairman  
Committee on Veterans' Affairs  
United States Senate  
Russell Senate Office Building, SR-412  
Washington, DC 20510-6375

The Honorable Richard "Dick" Blumenthal  
Ranking Member  
Committee on Veterans' Affairs  
United States Senate  
Russell Senate Office Building, SR-412  
Washington, DC 20510-6375

Dear Chairman Isakson and Senator Blumenthal:

The Advisory Council on Historic Preservation (ACHP) wishes to express its support for the Los Angeles Homeless Veterans Leasing Act (S. 2013/H.R. 3484). Established by the National Historic Preservation Act (54 U.S.C. 300101 et seq.), the ACHP is the independent federal agency charged with advising the President and Congress on historic preservation matters.

The West Los Angeles Department of Veterans Affairs (VA) Campus, the subject of the bill, was established in 1888 as the Pacific Branch of the National Home for Disabled Volunteer Soldiers and still retains many historic properties, including two historic districts. The Los Angeles Homeless Veterans Leasing Act would assist in preserving VA's underutilized historic properties in Los Angeles by expanding the department's ability to use Enhanced Use Leases (EULs) for a range of services that benefit veterans in addition to supportive housing for veterans that are at risk of homelessness or are homeless. Since leasing can be an efficient and cost-effective tool for preserving underutilized historic buildings, the ACHP voted unanimously at its recent business meeting to support the Los Angeles Homeless Veterans Leasing Act. The VA is a member of the ACHP and expressed its support for the bill.

The challenges that VA faces in preserving and reusing its historic properties extend far beyond Los Angeles, however. VA has more than 2,000 historic buildings and landscapes, including a number of National Historic Landmarks, in its nationwide portfolio. In 2013, the National Trust for Historic Preservation issued a report, [Honoring Our Nation's Veterans: Saving Their Places of Health Care and Healing](#), which examined in detail the challenges and opportunities these historic properties pose for VA. The report discussed EULs as a tool for preservation of underutilized and unused VA historic properties and concluded that the restriction of EULs to only supportive housing reduces the usefulness of EULs as a tool for repurposing properties. The report recommended expanding the range of veteran-related services that might be provided through EULs. The ACHP requests that Congress consider expanding EUL authority at all VA facilities so that all of VA's historic properties might benefit from the opportunities broader leasing authority could provide.

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If you have any questions, or if the ACHP can be of any assistance, please contact the ACHP's Executive Director, John M. Fowler, at [jfowler@achp.gov](mailto:jfowler@achp.gov) or 202-517-0200.

Sincerely,

A handwritten signature in blue ink that reads "Milford Wayne Donaldson". The signature is written in a cursive style with a large initial "M" and "W".

Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

November 30, 2015

The Honorable Jefferson B. Miller  
Chairman  
Committee on Veterans' Affairs  
United States House of Representatives  
335 Cannon House Office Building  
Washington, DC 20515

The Honorable Corrine Brown  
Ranking Member  
Committee on Veterans' Affairs  
United States House of Representatives  
335 Cannon House Office Building  
Washington, DC 20515

Dear Chairman Miller and Representative Brown:

The Advisory Council on Historic Preservation (ACHP) wishes to express its support for the Los Angeles Homeless Veterans Leasing Act (S. 2013/H.R. 3484). Established by the National Historic Preservation Act (54 U.S.C. 300101 et seq.), the ACHP is the independent federal agency charged with advising the President and Congress on historic preservation matters.

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If you have any questions, or if the ACHP can be of any assistance, please contact the ACHP's Executive Director, John M. Fowler, at [jfowler@achp.gov](mailto:jfowler@achp.gov) or 202-517-0200.

Sincerely,

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Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

February 8, 2016

The Honorable Thomas McClintock  
Chairman, Subcommittee on Federal Lands  
United States House of Representatives  
Rayburn House Office Building, 2331  
Washington, DC 20515-0504

Dear Mr. McClintock:

I am writing to you both as a constituent and as the presidentially-appointed Chairman of the Advisory Council on Historic Preservation (ACHP). I have had the honor and the privilege of serving as Chairman since 2010 and have come to have a deep understanding and appreciation for the important role that the ACHP plays in the national historic preservation program. Created by the Congress in 1966 and made an independent agency in 1976, the ACHP is unique in the federal government as the agency whose sole mission is historic preservation.

Our statutory charge is to advise both the President and the Congress on historic preservation matters. In particular, the ACHP manages the process that the Congress created to ensure that federal agencies consider the impacts of their projects on the historic resources that local communities value. Under this process, citizens are given the opportunity to participate in the planning process for federal projects, offering them a window on federal decision-making and a forum for expressing their concerns and ideas. The system has been a highly successful example of public engagement since 1966 and, from my experience as California State Historic Preservation Officer (SHPO) under Governor Schwarzenegger, I can testify to it as a model of federalism, being largely administered by state officials.

During my tenure at the ACHP, I have come to recognize that there are important ways that the agency could be improved. Foremost is the area of leadership and accountability. It will undoubtedly surprise you to learn that the ACHP lacks a full-time policy-level head. I as Chairman, along with the other presidentially-appointed members, serve in a part-time capacity. The absence of an appointee who is on the job in Washington on a full-time basis limits the ACHP's impact within the Executive Branch and deprives the Administration and the Congress of an executive who is politically accountable. Conversion of the position to full time can be done with a simple amendment to the ACHP's authorizing legislation and the cost would be minimal, less than \$225,000 annually.

Another organizational shortcoming is the absence of a representative of Tribal Historic Preservation Officers (THPO) in the ACHP's membership. The federal government relies heavily on SHPOs carrying out the national historic preservation program in the states and likewise on THPOs on their respective reservations. In 1980, the Congress amended the membership of the ACHP to include a representative of the national organization of SHPOs. It is time to do the same thing for the national organization of THPOs.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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I am enclosing a draft bill, along with a background statement, that would achieve these two simple but important goals. Your Federal Lands Subcommittee will be taking up H.R. 2817 this week, which would amend the National Historic Preservation Act in order to extend the authorization for the Historic Preservation Fund. That Act also contains the authorities of the ACHP and our amendments could be a simple addition. We would also welcome any other opportunities to incorporate our amendments into related legislation, such as the National Park Service Centennial bill.

The ACHP will be submitting formal testimony for the record at this week's hearing on H.R. 2817, urging action as I have set forth in this letter. I hope you will be supportive of our efforts and I would like the opportunity to speak to you personally about the issue. I will follow up with your staff to arrange such a conversation.

Sincerely yours,

A handwritten signature in blue ink that reads "Milford Wayne Donaldson". The signature is written in a cursive style with a large initial "M" and "W".

Milford Wayne Donaldson, FAIA  
Chairman  
Advisory Council on Historic Preservation

Attachments

## A Bill

To amend division A of subtitle III of title 54 of the United States Code, known as the National Historic Preservation Act, to provide a full time Chairman and add the General Chairman of the National Association of Tribal Historic Preservation Officers to the membership of the Advisory Council on Historic Preservation.

*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 “National Historic Preservation Act Amendments of 2015.”

### SEC. 2. NATIONAL HISTORIC PRESERVATION ACT.

(a) ADDITIONAL MEMBER.—Section 304101(a) of title 54, United States Code, is amended—

(1) by redesignating paragraphs (8), (9), (10) and (11) as paragraphs (9), (10), (11), and (12), respectively; and

(2) by inserting a new paragraph (8) as follows:

“(8) the General Chairman of the National Association of Tribal Historic Preservation Officers;”

(b) FULL TIME CHAIRMAN.—Section 304101 of title 54, United States Code, is further amended –

(1) by redesignating paragraphs (e) and (f) as paragraphs (f) and (g), respectively; and

(2) by inserting a new paragraph (e) as follows:

“(e) (1) After January 1, 2016, the Chairman shall:

(A) be appointed by the President;

(B) serve full time; and

(C) be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(2) the Chairmen before the first appointment of a Chairman in accordance with subsection (1) of this paragraph will receive \$100 per diem when engaged in the performance of the duties of the Council, and receive reimbursement for necessary

traveling and subsistence expenses incurred by them in the performance of the duties of the Council.”; and

(3) in subsection (f) (as redesignated), by striking “may act in place” and inserting “shall perform the functions”.

(c) CONFORMING CHANGES.—

(1) Section 304101 of title 54, United States Code, is further amended—

(A) in subsection (b), by striking “, (7) and (8)” and inserting “and (7) to (9)”;

(B) in subsection (c), by striking “under paragraphs (1) and (9) to (11)” and inserting “under paragraphs (10) to (12)”, and by striking “An appointed member may not serve more than 2 terms” and inserting “An appointed member, other than the Chairman of the Council, may not serve more than 2 terms”;

(C) in subsection (f) (as redesignated), by striking “paragraph (5), (6), (9), or (10)” and inserting “paragraph (5), (6), (10), or (11).”; and

(D) in subsection (g) (as redesignated), by striking “Twelve members” and inserting “Thirteen members”;

(2) Section 304104 of title 54, United States Code, is amended by inserting after the first sentence the following: “The Chairman of the Council shall be compensated as provided in paragraph (e) of Section 304101 of this title.”; and

(3) Section 304105(a) of title 54, United States Code, is amended by striking “report directly to the Council” and inserting “report directly to the Chairman”, and striking “duties as the Council may prescribe” and inserting “duties as the Chairman may prescribe.”

(4) Section 5314 of title 5, United States Code, is amended by adding at the end the following new item: “Chairman of the Advisory Council on Historic Preservation.”.

(d) CLARIFICATION.—Section 7302 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 16 U.S.C. 469n) is amended –

(1) in subsection (d)(2), by striking “Council” in each place it appears and inserting “Chairman of the Council”; and

(2) in subsection (d)(4), by striking “Council” and inserting “Chairman of the Council”.

**National Historic Preservation Act Amendments of 2015**  
**Section-by-Section Analysis**

**Section 1:** Lists the short title of the bill.

**Section 2:** Amends the National Historic Preservation Act to add the General Chairman of the National Association of Tribal Historic Preservation Officers as a new member of the Advisory Council on Historic Preservation, make the position of the Chairman of the Advisory Council on Historic Preservation a full time position, makes several conforming amendments, and substitutes the Chairman of the Advisory Council on Historic Preservation for the Council in carrying out certain provisions of the Act pertaining to the Preserve America program.

**AMENDMENTS TO THE NATIONAL HISTORIC PRESERVATION ACT TO PROVIDE FOR  
A FULL TIME CHAIR OF THE ADVISORY COUNCIL ON HISTORIC PRESERVATION AND  
ADD THE GENERAL CHAIRMAN OF THE NATIONAL ASSOCIATION OF TRIBAL  
HISTORIC PRESERVATION OFFICERS AS A MEMBER**

Since the Congress established the Advisory Council on Historic Preservation (ACHP) as part of the National Historic Preservation Act of 1966 (NHPA), both the national historic preservation program and the ACHP have matured and grown dramatically. Preservation has become a mainstream movement as the nation's communities experience the renewal of historic downtowns and neighborhoods. Preservation strategies enable citizens to enjoy historic resources in rural areas and on public lands. The national historic preservation program has recognized over a million historic properties, making them eligible for federal tax credits, grants, and protection. Preservation tools and techniques make historic properties a living part of contemporary America, creating jobs and economic growth while saving important places of the past. The core partnership of all levels of government and the private sector is uniquely American and underlies the success of the program, which has been strengthened and expanded by the Congress and the Executive Branch repeatedly over nearly five decades.

Likewise, the ACHP has evolved and matured during the past half century. Initially an adjunct of the National Park Service (NPS), the Congress made the ACHP an independent federal agency in 1976. At that time, it authorized the ACHP to issue regulations to guide federal agencies in meeting their obligations to consider the impacts of their actions on historic properties. Today over 125,000 federal actions a year are reviewed in accordance with the ACHP's regulations, providing citizens, state and local governments, and tribal nations a voice in federal planning and decision-making. In 2007, the Congress gave the ACHP a permanent appropriations authorization. In 2009, it entrusted the ACHP with additional program responsibilities with regard to designating Preserve America Communities and consulting with the Secretary of the Interior to provide grants to those communities. This legislation codified the first government-wide, White House-led historic preservation initiative, which had been created and managed by the ACHP.

The ACHP's advisory duties have similarly become more impactful. Fulfilling its initial 1966 legislative charge to advise the President and the Congress on historic preservation matters, the ACHP has assumed an increasingly important role in shaping government policy affecting the nation's patrimony. As the sole federal agency with the exclusive mission of promoting historic preservation, ACHP input is regularly sought by Administration leadership on issues of national importance. The ACHP is a standing member of cabinet-level councils and committees dealing with such subjects as infrastructure development, climate change adaptation, and tribal affairs. In 2003, the President issued the Preserve America Executive Order, drafted by the ACHP, to improve the stewardship of federal historic properties. It directed the ACHP to regularly assess how federal agencies manage their historic properties and make recommendations triennially to the President for improvement.

While the ACHP has assumed an active role in the formulation of national policy and the implementation of critical federal programs, its leadership structure remains unchanged since 1966. The head of the agency, the ACHP Chair, is a part-time presidential appointee. Day-to-day operations of the ACHP are entrusted to an executive director, designated in the original NHPA to be the Director of the NPS. In

1976, when the Congress made the ACHP an independent agency with its own staff, it made the executive director an ACHP career employee. The position is now in the career Senior Executive Service.

The existing arrangement presents the anomaly of an independent federal agency with important programmatic and policy formulation responsibilities being effectively led on a daily basis by a career employee supervised by a policy-level Chair who is part-time and often geographically remote. Lacking are the opportunities inherent in a full-time presidentially-appointed position, located in the Nation's capital, to participate on a regular basis as an equal member of Administration leadership. This diminishes the effectiveness of the ACHP as a voice in national policy deliberations and lessens the national role of historic preservation, contrary to the original intent of the Congress.

Several studies over the past decade have singled this out as a deficiency in the federal program structure. In 2006, a panel of preservation experts convened as part of the Preserve America Summit recommended consideration of a full-time Presidential appointee to lead the ACHP. Acting in response, ACHP and Department of the Interior leadership jointly convened an expert panel in 2009 to evaluate the structure of the federal historic preservation program. Its priority recommendation was that the ACHP should have a full-time chair appointed by the president, a recommendation subsequently endorsed by the ACHP membership. In 2011, a special "Federal Historic Preservation Program Task Force," comprised of leaders of the major national historic preservation organizations, conducted an extensive study of ways to increase the effectiveness of the federal historic preservation program. Among other things, it supported the earlier recommendation for a full-time ACHP chair. The ACHP membership unanimously endorsed the Task Force recommendations, echoing their prior action.

The ACHP also seeks to advance the interests of Native Americans by providing formal representation for the nation's Tribal Historic Preservation Officers (THPOs). In 1992, Congress amended the NHPA to authorize tribal historic preservation programs certified by the Secretary of the Interior and created THPOs, with functions that are parallel to those of State Historic Preservation Officers (SHPOs) within their respective jurisdictions. Like SHPOs, THPOs are responsible for coordinating preservation programs in accordance with federal standards and with federal matching grant support. Recognizing the importance of SHPOs in the national program, the Congress added the President of National Conference of SHPOs (NCSHPO), the SHPO national non-profit organization, as a member of the ACHP in 1980.

While the NHPA provides for a presidentially appointed Native American or Native Hawaiian member, there is no formal voice for THPOs, who are tribal government officials, on the ACHP. Given that the National Association of Tribal Historic Preservation Officers (NATHPO) is the THPO equivalent of NCSHPO, the ACHP invited the General Chairman of NATHPO to become an observer on the ACHP in 1998. The growing importance of THPOs in the program (there are currently 160 and eventually most of the 565 federally recognized Indian tribes could have certified THPOs) now justifies providing NATHPO with full membership on the ACHP, comparable to its state counterpart.

Simple administrative changes in the ACHP's authorizing legislation can achieve both of these objectives and continue the Congress' longstanding commitment to strengthening the program to preserve and enhance our irreplaceable heritage, a fitting action at the 50<sup>th</sup> anniversary of the NHPA in 2016.

Milford Wayne Donaldson, FAIA  
Chairman

Teresa Leger de Fernandez  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

**Testimony for the Record by  
Milford Wayne Donaldson, FAIA,  
Chairman, Advisory Council on Historic Preservation,  
To the Subcommittee on Federal Lands,  
House Committee on Natural Resources,  
Regarding the National Historic Preservation Amendments Act (H.R. 2817)**

**February 9, 2016**

The Advisory Council on Historic Preservation (ACHP) welcomes the opportunity to share its views with the Subcommittee regarding the National Historic Preservation Amendments Act (H.R. 2817). The ACHP is an independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's historic resources. Created by the National Historic Preservation Act (NHPA) in 1966, the ACHP is charged with advising the President and Congress on national historic preservation policy. The ACHP membership, the majority of which is appointed by the President, is made up of federal agencies, preservation experts, concerned citizens, a mayor, a governor, and major preservation non-profit organizations.

As discussed below, the ACHP strongly supports H.R. 2817. Reauthorization of the Historic Preservation Fund as called for in the bill is critical to the functioning of the national preservation program. Its importance is such that the ACHP urges the Subcommittee to consider permanent authorization rather than the 10 year reauthorization called for in the bill. The ACHP also recommends that the Subcommittee explore the opportunity presented by H.R. 2817 to address two other amendments to the NHPA that would enhance the effectiveness of the ACHP as well as the national preservation program – conversion of the current part-time status of its chair to full-time and extension of voting membership on the ACHP to the General Chairman of the National Association of Tribal Historic Preservation Officers (NATHPO).

***Reauthorization of the Historic Preservation Fund.***

In 1976, Congress established the Historic Preservation Fund (HPF) to support the delivery of programs mandated by the NHPA. The HPF is funded by Outer Continental Shelf oil and gas revenues, based on the sound concept that a portion of the monies generated by the depletion of non-renewable resources should be reinvested in the conservation of other non-renewable resources, namely historic properties. Administered by the National Park Service, the HPF is the source of program funds that are dispersed as grants-in-aid to State Historic Preservation Offices (SHPOs) and to Tribal Historic Preservation Offices (THPOs). HPF monies also support more than 1,900 Certified Local Governments (CLGs), those local governments whose preservation programs have been endorsed by the state and the National Park Service as meeting certain criteria. HPF matching grants to SHPOs, THPOs, and CLGs serve as catalysts for preserving and protecting our Nation's irreplaceable heritage without expending tax dollars.

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The HPF funds a variety of activities carried out by SHPOs, THPOs, and CLGs, forming the backbone of preservation activity in the nation. Such activities include conducting surveys of historic properties; preparing nominations to the National Register of Historic Places; reviewing the impact of federal projects on historic properties; assisting in federal Historic Tax Credit project reviews; implementing disaster recovery grants; and conducting preservation education and planning. Funds from the HPF ensure that SHPOs, THPOs, and CLGs have resources to enable them to address protection of historic properties in the context of important national priorities, including energy development and infrastructure permitting, disaster planning and resilience, climate change adaptation, community revitalization, military readiness and national security needs, and public lands management.

The HPF also has been the source for important targeted grant funds to nongovernmental organizations. In FY 2014 through FY 2016, Congress appropriated funds from the HPF for a grant program to help increase the number of listings in the National Register of Historic Places associated with currently underrepresented communities, including African Americans, Latinos, Asian Americans, and LGBT Americans. In FY 2016, \$8 million was appropriated from the HPF for grants to preserve the sites and stories of the Civil Rights Movement.

The HPF provides vital funding support to the partnership between federal, state, tribal, and local governments that is working to preserve historic properties nationwide. The ACHP urges the Subcommittee to support H.R. 2817. However, given the HPF's 40-year track record of success, the ACHP recommends that the Subcommittee advance a permanent authorization rather than the 10-year reauthorization called for in the bill. The programs funded by the HPF are mature and well integrated into state, tribal, and local government participation in the national historic preservation program. Permanent authorization of the fund would remove the uncertainty associated with periodic reauthorization. Permanent authorization of the HPF this year – which marks the 50<sup>th</sup> anniversary of the NHPA – would be both appropriate recognition of that milestone and a statement of the federal government's continued commitment to assisting states, tribes, and local communities in preserving the rich heritage of our nation for future generations.

### ***Enhancing the Effectiveness of the ACHP and the National Preservation Program.***

Given that the Congress will be undertaking amendments to the NHPA to achieve reauthorization of the HPF, the ACHP would like to draw the committee's attention to another matter that warrants action. This affects the composition and leadership of the ACHP.

Since the Congress established the ACHP in 1966 as part of the NHPA, both the national historic preservation program and the ACHP have matured and grown dramatically. Preservation has become a mainstream movement as the nation's communities experience the renewal of historic downtowns and neighborhoods. Preservation strategies enable citizens to enjoy historic resources in rural areas and on public lands. The national historic preservation program has recognized over a million historic properties, making them eligible for federal tax credits, grants, and protection. Preservation tools and techniques make historic properties a living part of contemporary America, creating jobs and economic growth while saving important places of the past. The core partnership of all levels of government and the private sector is uniquely American and underlies the success of the program, which has been strengthened and expanded by the Congress and the Executive Branch repeatedly over nearly five decades.

Likewise, the ACHP has evolved and matured during the past half century. Initially an adjunct of the National Park Service (NPS), the Congress made the ACHP an independent federal agency in 1976. At that time, it authorized the ACHP to issue regulations to guide federal agencies in meeting their obligations to consider the impacts of their actions on historic properties. Today over 125,000 federal actions a year are reviewed in accordance with the ACHP's regulations, providing citizens, state and local

governments, and tribal nations a voice in federal planning and decision-making. In 2007, the Congress gave the ACHP a permanent appropriations authorization. In 2009, it entrusted the ACHP with additional program responsibilities with regard to designating Preserve America Communities and consulting with the Secretary of the Interior to provide grants to those communities. This legislation codified the first government-wide, White House-led historic preservation initiative, which had been created and managed by the ACHP.

The ACHP's advisory duties have similarly become more impactful. Fulfilling its initial 1966 legislative charge to advise the President and the Congress on historic preservation matters, the ACHP has assumed an increasingly important role in shaping government policy affecting the nation's patrimony. As the sole federal agency with the exclusive mission of promoting historic preservation, ACHP input is regularly sought by Administration leadership on issues of national importance. The ACHP is a standing member of cabinet-level councils and committees dealing with such subjects as infrastructure development, climate change adaptation, and tribal affairs. In 2003, the President issued the Preserve America Executive Order, drafted by the ACHP, to improve the stewardship of federal historic properties. It directed the ACHP to regularly assess how federal agencies manage their historic properties and make recommendations triennially to the President for improvement.

While the ACHP has assumed an active role in the formulation of national policy and the implementation of critical federal programs, its leadership structure remains unchanged since 1966. The head of the agency, the ACHP Chair, is a part-time presidential appointee. Day-to-day operations of the ACHP are entrusted to an executive director, designated in the original NHPA to be the Director of the NPS. In 1976, when the Congress made the ACHP an independent agency with its own staff, it made the executive director an ACHP career employee. The position is now in the career Senior Executive Service.

The existing arrangement presents the anomaly of an independent federal agency with important programmatic and policy formulation responsibilities being effectively led on a daily basis by a career employee supervised by a policy-level Chair who is part-time and often geographically remote. Lacking are the opportunities inherent in a full-time presidentially-appointed position, located in the Nation's capital, to participate on a regular basis as an equal member of Administration leadership. This diminishes the effectiveness of the ACHP as a voice in national policy deliberations and lessens the national role of historic preservation, contrary to the original intent of the Congress.

Several studies over the past decade have singled this out as a deficiency in the federal program structure. In 2006, a panel of preservation experts convened as part of the Preserve America Summit recommended consideration of a full-time Presidential appointee to lead the ACHP. Acting in response, ACHP and Department of the Interior leadership jointly convened an expert panel in 2009 to evaluate the structure of the federal historic preservation program. Its priority recommendation was that the ACHP should have a full-time chair appointed by the president, a recommendation subsequently endorsed by the ACHP membership. In 2011, a special "Federal Historic Preservation Program Task Force," comprised of leaders of the major national historic preservation organizations, conducted an extensive study of ways to increase the effectiveness of the federal historic preservation program. Among other things, it supported the earlier recommendation for a full-time ACHP chair. The ACHP membership unanimously endorsed the Task Force recommendations, echoing their prior action.

The ACHP also seeks to advance the interests of Native Americans by providing formal representation for the nation's Tribal Historic Preservation Officers (THPOs). In 1992, Congress amended the NHPA to authorize tribal historic preservation programs certified by the Secretary of the Interior and created THPOs, with functions that are parallel to those of State Historic Preservation Officers (SHPOs) within their respective jurisdictions. Like SHPOs, THPOs are responsible for coordinating preservation programs in accordance with federal standards and with federal matching grant support. Recognizing the

importance of SHPOs in the national program, the Congress added the President of National Conference of SHPOs (NCSHPO), the SHPO national non-profit organization, as a member of the ACHP in 1980.

While the NHPA provides for a presidentially appointed Native American or Native Hawaiian member, there is no formal voice for THPOs, who are tribal government officials, on the ACHP. Given that NATHPO is the THPO equivalent of NCSHPO, the ACHP invited the General Chairman of NATHPO to become an observer on the ACHP in 1998. The growing importance of THPOs in the program (there are currently 160 and eventually most of the 565 federally recognized Indian tribes could have certified THPOs) now justifies providing NATHPO with full membership on the ACHP, comparable to its state counterpart.

Simple administrative changes in the ACHP's authorizing legislation can achieve both of these objectives. The Chairman of the ACHP has recently submitted a draft bill to the Subcommittee that would carry this out. Combined with a permanent authorization for the HPF, this action would continue the Congress' longstanding commitment to strengthening the program to preserve and enhance our irreplaceable heritage, a fitting achievement for the 50<sup>th</sup> anniversary of the NHPA in 2016.

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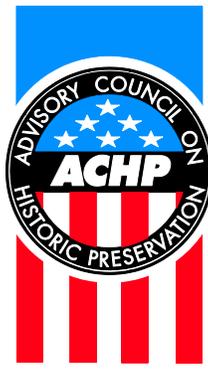
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*Preserving America's Heritage*

April 18, 2016

The Honorable Kevin McCarthy  
House Majority Leader  
United States House of Representatives  
Office of the House Majority Leader  
Capitol Building, H-107  
Washington, DC 20515

The Honorable Nancy Pelosi  
House Minority Leader  
United States House of Representatives  
Office of the House Minority Leader  
Capitol Building, H-204  
Washington, DC 20515

Dear Representatives McCarthy and Pelosi:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for House consideration of H.R. 295, a bill to reauthorize the Historically Black Colleges and Universities historic preservation grant program. Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation.

In 1996, Congress authorized the grant program to support the preservation and restoration of historic buildings and structures on the campus of Historically Black Colleges and Universities (HBCUs). The funding source is the Historic Preservation Fund (HPF). The authorization for the program has expired, and the last year that HPF funding was appropriated was 2006. (There was a one-time infusion of funds from the American Recovery and Reinvestment Act in 2009.) H.R. 295 would authorize appropriations for the program up to \$10 million annually for the next ten years.

Most HBCUs were founded following the Civil War to provide an equal opportunity for education to African Americans during the era of Reconstruction. HBCUs are important symbols of the historic African American struggle for equality and continue to provide education for new generations. However, many historic buildings on these campuses are threatened because of critical rehabilitation needs and limited resources to address them. Reflecting the pressing need for renovation funds, the Department of the Interior is seeking \$3 million in HBCU grant funding in its FY 2017 budget request as part of the Department's broader initiative to preserve the sites and stories of the Civil Rights movement. Reauthorization of the grant program for the next ten years would be in keeping with the continued need for preserving HBCU historic resources.

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Please feel free to contact us if the ACHP can be of any assistance during further consideration of H.R. 1033. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson

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Chairman

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Preserving America's Heritage

June 14, 2016

The Honorable Tom McClintock  
Chairman  
Subcommittee on Federal Lands  
Committee on Natural Resources  
United States House of Representatives  
Longworth House Office Building, 1332  
Washington, DC 20515

The Honorable Niki Tsongas  
Ranking Member  
Subcommittee on Federal Lands  
Committee on Natural Resources  
United States House of Representatives  
Longworth House Office Building, 1332  
Washington, DC 20515

Dear Representatives Cassidy and Heinrich:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the African American Civil Rights Network Act (H.R. 3683). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation.

In March, the National Park Service testified in favor of a companion Senate bill (S. 2309), and the ACHP would like to echo that strong support. The struggle to end legal racial discrimination and segregation had a profound influence on the course of American history and continues to shape our society today. The physical places associated with the people and events of the civil rights movement help us both to understand and to celebrate what took place. There are sites throughout the country associated with the African American civil rights struggle, some of which are being preserved and interpreted, and some of which are threatened either directly by development or through neglect. The network envisioned in H.R. 3683 would provide vital federal leadership, guidance, and assistance to promote preservation of these sites and their appreciation by the public.

Please feel free to contact us if the ACHP can be of any assistance during further consideration of H.R. 3683. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

Milford Wayne Donaldson, FAIA  
Chairman

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Preserving America's Heritage

June 14, 2016

The Honorable Dr. William Cassidy, MD  
Chairman  
Subcommittee on National Parks  
Committee on Energy and Natural Resources  
United States Senate  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510-6150

The Honorable Martin T. Heinrich  
Ranking Member  
Subcommittee on National Parks  
Committee on Energy and Natural Resources  
United States Senate  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510-6150

Dear Senators Cassidy and Heinrich:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the U.S. Civil Rights Network Act (S. 2309). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation.

The National Park Service testified in favor of S. 2309 at your March 17 hearing on the bill, and the ACHP would like to echo that strong support. The struggle to end legal racial discrimination and segregation had a profound influence on the course of American history and continues to shape our society today. The physical places associated with the people and events of the African American civil rights movement help us both to understand and to celebrate what took place. There are sites throughout the country associated with the African American civil rights struggle, some of which are being preserved and interpreted, and some of which are threatened either directly by development or through neglect. The network envisioned in S. 2309 would provide vital federal leadership, guidance, and assistance to promote preservation of these sites and their appreciation by the public.

Please feel free to contact us if the ACHP can be of any assistance during further consideration of S. 2309. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

Milford Wayne Donaldson, FAIA  
Chairman

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*Preserving America's Heritage*

June 17, 2016

The Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural Resources  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510-6150

The Honorable Maria Cantwell  
Ranking Minority Member  
Committee on Energy and Natural Resources  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510-6150

Dear Senators Murkowski and Cantwell:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Preservation Research at Institutions Serving Minorities Act (PRISM Act). The bill was introduced in the Senate as S. 805 and has been included (with amendments) in the House of Representatives version of the comprehensive energy bill (S. 2012). Established by the National Historic Preservation Act (NHPA) of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The members of the ACHP voted unanimously to support the PRISM Act. (As is usually the case when the Administration has not yet taken a position on a bill, federal agency members of the ACHP abstained.)

The NHPA authorizes the Department of the Interior to provide technical and/or financial assistance to historically black colleges and universities, to tribal colleges, and to colleges with a high enrollment of Native Americans or Native Hawaiians, to establish preservation training and degree programs. S. 805 would expand the eligibility to receive such assistance to include Hispanic-serving educational institutions. The version of the bill passed by the House as part of S. 2012 would expand the eligibility for assistance further to include universities and colleges serving Asian Americans and Pacific Islanders.

The diversity of cultures in our country shapes and enriches the American experience, and changing demographics create opportunities as well as challenges for the national historic preservation program. The ACHP is working to encourage broader involvement and representation in determining what historic sites are worthy of recognition and preservation; how history and cultural heritage should be valued, interpreted, and preserved; and how we can ensure the American public as a whole can take advantage of the NHPA's programs and tools. Toward those goals, the ACHP supports the PRISM Act a step forward toward building a more inclusive national preservation program.

Please feel free to contact us if the ACHP can be of any assistance during further consideration of the PRISM Act. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

Milford Wayne Donaldson, FAIA  
Chairman

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Preserving America's Heritage

June 24, 2016

The Honorable Don Young, Chairman  
Subcommittee on Indian, Insular, and  
Alaska Native Affairs  
Committee on Natural Resources  
United States House of Representatives  
Thomas P. O'Neill, Jr. Federal Office Bldg.  
200 C Street, SW, 4450  
Washington, DC 20515

The Honorable Dr. Raul Ruiz, Ranking Member  
Subcommittee on Indian, Insular, and  
Alaska Native Affairs  
Committee on Natural Resources  
United States House of Representatives  
Thomas P. O'Neill, Jr. Federal Office Bldg.  
200 C Street, SW, 4450  
Washington, DC 20515

Dear Representatives Young and Ruiz:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the Native American Tourism and Improving Visitor Experience (NATIVE) Act (S. 1579), which was passed by the Senate on April 25. Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation.

Heritage tourism can be a powerful economic development tool. Attracting visitors to a community creates revenue and jobs, and capitalizing on heritage assets is particularly important since numerous studies have shown that heritage tourists stay longer and spend more than other tourists. Focusing on heritage tourism can also help a community diversify its economy. The NATIVE Act would provide needed support from the federal government to assist Indian tribes, tribal organizations, and Native Hawaiian organizations to build sustainable recreational and cultural travel and tourism infrastructure and capacity. The bill also would assist Indian tribes and Native Hawaiians in providing visitor experiences that are authentic and respectful, thus promoting understanding and respect for diverse cultures.

Please feel free to contact us if the ACHP can be of any assistance during further consideration of S. 2309. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,

Milford Wayne Donaldson, FAIA  
Chairman

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Preserving America's Heritage

August 1, 2016

The Honorable John McCain  
Chairman  
Committee on Armed Services  
United States Senate  
Russell Senate Office Building, SR-228  
Washington, DC 20510

The Honorable Jack Reed  
Ranking Member  
Committee on Armed Services  
United States Senate  
Russell Senate Office Building, SR-228  
Washington, DC 20510

Dear Senator McCain and Senator Reed:

The Advisory Council on Historic Preservation (ACHP) would like to bring an issue of importance to the national historic preservation program to your attention as the National Defense Authorization Act (NDAA) proceeds to conference. Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, the ACHP wishes to express its strong opposition to Section 2855 of the House of Representatives amendment of the NDAA (S. 2943). We urge that this section be deleted from the final bill.

Section 2855 would amend Section 101 of the NHPA to allow federal agencies to prevent designation of federal properties as historic (and reverse existing designations) based on agency determinations of national security needs. The intended effect is to permit federal agencies to avoid addressing the impacts of their actions on historic properties as required by Section 106 of the NHPA. This is unnecessary and an unwarranted departure from an established system that has served historic preservation and federal agency programs well for nearly half a century.

Similar text was included in the House version of the NDAA the past two years, each time sparking opposition by many organizations, agencies, and individuals active in the national historic preservation movement. The ACHP previously advised against the provisions, and ultimately they were not included in the final bills. The ACHP membership recently voted unanimously to reiterate its opposition to such provisions as embodied this year in Section 2855.

Although concerns for military training and readiness are mentioned in Section 2855, it would permit any federal property-managing agency – not just Defense agencies – to object to the historic designation of its properties (or revoke such designation) for “reasons of national security.” This fact, coupled with the absence of a definition for “reasons of national security,” suggests that the provisions of Section 2855 could be widely invoked. Such authority is simply not necessary in order to balance preservation

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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of historic properties with national security needs, as the Section 106 review process has been specifically designed to do just that.

Under the NHPA, designation of federal properties as historic does not mean that they must be preserved. It does mean that agencies need to proceed with the historic preservation review process when such properties may be affected by agency actions. Through the review process, agencies determine whether they can avoid, minimize, or mitigate any adverse effects on the historic properties. The process fosters creativity and a common-sense approach to problem solving that usually results in agencies and local stakeholders reaching agreement on how to address conflicts between historic preservation objectives and agency mission requirements. But ultimately, whether agreement is reached or not, the federal agency always remains the final decision maker as to how its project affecting the property will proceed.

The ACHP encourages agencies to address complex projects and continuing programs programmatically in order to streamline the historic preservation review process. The Defense agencies have used this tool very effectively when addressing military training and readiness issues. The following examples highlight how the military has successfully used programmatic approaches to address historic properties while not compromising training and readiness.

- In 2014, the Army worked with the ACHP and the State Historic Preservation Offices of Texas and New Mexico to develop a Programmatic Agreement for the operation, maintenance, and development on Fort Bliss. This will continue to streamline review of thousands of projects and training activities undertaken each year in support of Army readiness on the installation.
- In 2013, the Army worked with the ACHP and the Colorado State Historic Preservation Officer to develop two Programmatic Agreements to address operation of training areas and ranges on Fort Carson and the Pinon Canyon Maneuver Site. These agreements identify how historic properties will be managed through a comprehensive proactive strategy that replaces project-by-project review.
- Since 2008, Naval Base Coronado has been implementing a Programmatic Agreement to address the impact to historic properties from the Navy's operation of its Southern California on-shore and immediate off-shore ranges used to conduct readiness and other operational training activities. Training addressed by the Agreement includes air warfare, surface warfare, under-sea warfare, strike warfare, submarine and amphibious warfare, shore bombardment, aerial bombing, special warfare, research and development tests and evaluation, and Joint Task Force Exercises.

These and other examples underscore the Department of Defense's position on Section 2855. At a Congressional hearing on the FY 2015 NDAA, the Department of Defense testified that compliance with the NHPA is not an impediment to meeting military readiness obligations and that the provisions now embodied in Section 2855 are not needed to preserve access to testing and training lands. Indeed, the ACHP has reviewed its records and has been unable to find any examples where historic designation of properties and subsequent review of projects affecting them has compromised a federal agency's ability to address national security issues. The Department of Defense has not changed its position on the substance of Section 2855, and the ACHP subscribes completely to the Department's views.

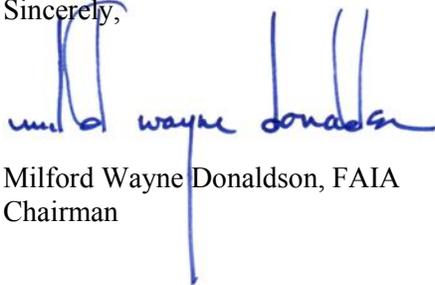
Were Section 2855 to be enacted, the Congress would be abandoning a fundamental principle it established when it created the national historic preservation program in 1966. The basic premise of the historic designation process is the objective evaluation of properties against established criteria of significance without consideration of current use or future plans. When properties are determined to meet those criteria, they are recognized as such so that their historic significance can then be factored in to management decisions. At a Congressional hearing on the FY 2015 NDAA, the Department of the Interior testified regarding the adverse implications of granting federal agencies authority to oppose historic designation of

properties based on management issues rather than objective consideration of the historic importance of such properties. Indeed, the ACHP knows of no instance where Congress has authorized federal agencies to invert the process and allow them to assert that their mission needs override objective professional determinations that properties are historically significant.

Almost fifty years of practice has demonstrated the wisdom and workability of the current designation and review process for historically significant federal properties. The ACHP urges Congress to follow the course set over the past two years and delete Section 2855 in the final version of the NDAA.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of the NDAA. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,

A handwritten signature in blue ink that reads "Milford Wayne Donaldson". The signature is written in a cursive style with a large initial "M" and "W".

Milford Wayne Donaldson, FAIA  
Chairman

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Marita Rivero  
Chair, National Trust for Historic  
Preservation

John M. Fowler  
Executive Director



Preserving America's Heritage

August 1, 2016

The Honorable Mac Thornberry  
Chairman  
Committee on Armed Services  
United States House of Representatives  
Rayburn House Office Building, 2216  
Washington, DC 20515

The Honorable Adam Smith  
Ranking Member  
Committee on Armed Services  
United States House of Representatives  
Rayburn House Office Building, 2216  
Washington, DC 20515

Dear Representative Thornberry and Representative Smith:

The Advisory Council on Historic Preservation (ACHP) would like to bring an issue of importance to the national historic preservation program to your attention as the National Defense Authorization Act (NDAA) proceeds to conference. Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, the ACHP wishes to express its strong opposition to Section 2855 of the House of Representatives amendment of the NDAA (S. 2943). We urge that this section be deleted from the final bill.

Section 2855 would amend Section 101 of the NHPA to allow federal agencies to prevent designation of federal properties as historic (and reverse existing designations) based on agency determinations of national security needs. The intended effect is to permit federal agencies to avoid addressing the impacts of their actions on historic properties as required by Section 106 of the NHPA. This is unnecessary and an unwarranted departure from an established system that has served historic preservation and federal agency programs well for nearly half a century.

Similar text was included in the House version of the NDAA the past two years, each time sparking opposition by many organizations, agencies, and individuals active in the national historic preservation movement. The ACHP previously advised against the provisions, and ultimately they were not included in the final bills. The ACHP membership recently voted unanimously to reiterate its opposition to such provisions as embodied this year in Section 2855.

Although concerns for military training and readiness are mentioned in Section 2855, it would permit any federal property-managing agency – not just Defense agencies – to object to the historic designation of its properties (or revoke such designation) for “reasons of national security.” This fact, coupled with the absence of a definition for “reasons of national security,” suggests that the provisions of Section 2855 could be widely invoked. Such authority is simply not necessary in order to balance preservation

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of historic properties with national security needs, as the Section 106 review process has been specifically designed to do just that.

Under the NHPA, designation of federal properties as historic does not mean that they must be preserved. It does mean that agencies need to proceed with the historic preservation review process when such properties may be affected by agency actions. Through the review process, agencies determine whether they can avoid, minimize, or mitigate any adverse effects on the historic properties. The process fosters creativity and a common-sense approach to problem solving that usually results in agencies and local stakeholders reaching agreement on how to address conflicts between historic preservation objectives and agency mission requirements. But ultimately, whether agreement is reached or not, the federal agency always remains the final decision maker as to how its project affecting the property will proceed.

The ACHP encourages agencies to address complex projects and continuing programs programmatically in order to streamline the historic preservation review process. The Defense agencies have used this tool very effectively when addressing military training and readiness issues. The following examples highlight how the military has successfully used programmatic approaches to address historic properties while not compromising training and readiness.

- In 2014, the Army worked with the ACHP and the State Historic Preservation Offices of Texas and New Mexico to develop a Programmatic Agreement for the operation, maintenance, and development on Fort Bliss. This will continue to streamline review of thousands of projects and training activities undertaken each year in support of Army readiness on the installation.
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These and other examples underscore the Department of Defense's position on Section 2855. At a Congressional hearing on the FY 2015 NDAA, the Department of Defense testified that compliance with the NHPA is not an impediment to meeting military readiness obligations and that the provisions now embodied in Section 2855 are not needed to preserve access to testing and training lands. Indeed, the ACHP has reviewed its records and has been unable to find any examples where historic designation of properties and subsequent review of projects affecting them has compromised a federal agency's ability to address national security issues. The Department of Defense has not changed its position on the substance of Section 2855, and the ACHP subscribes completely to the Department's views.

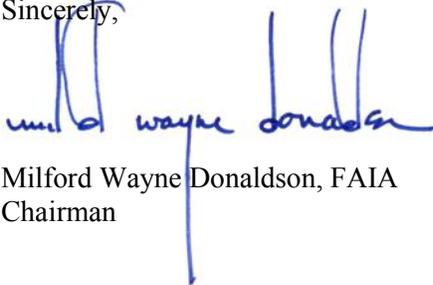
Were Section 2855 to be enacted, the Congress would be abandoning a fundamental principle it established when it created the national historic preservation program in 1966. The basic premise of the historic designation process is the objective evaluation of properties against established criteria of significance without consideration of current use or future plans. When properties are determined to meet those criteria, they are recognized as such so that their historic significance can then be factored in to management decisions. At a Congressional hearing on the FY 2015 NDAA, the Department of the Interior testified regarding the adverse implications of granting federal agencies authority to oppose historic designation of

properties based on management issues rather than objective consideration of the historic importance of such properties. Indeed, the ACHP knows of no instance where Congress has authorized federal agencies to invert the process and allow them to assert that their mission needs override objective professional determinations that properties are historically significant.

Almost fifty years of practice has demonstrated the wisdom and workability of the current designation and review process for historically significant federal properties. The ACHP urges Congress to follow the course set over the past two years and delete Section 2855 in the final version of the NDAA.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of the NDAA. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,

A handwritten signature in blue ink that reads "Milford Wayne Donaldson". The signature is written in a cursive style with a large initial "M" and "W".

Milford Wayne Donaldson, FAIA  
Chairman

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Chair, National Trust for Historic  
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John M. Fowler  
Executive Director



Preserving America's Heritage

August 1, 2016

The Honorable Mitch McConnell  
Senate Majority Leader  
United States Senate  
Capitol Building, S-230  
Washington, DC 20510

The Honorable Harry Reid  
Senate Minority Leader  
United States Senate  
Capitol Building, S-230  
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Reid:

The Advisory Council on Historic Preservation (ACHP) would like to bring an issue of importance to the national historic preservation program to your attention as the Senate proceeds with consideration of the Department of Defense Appropriations Act as passed by the House of Representatives (H.R. 5293). Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, the ACHP wishes to express its strong opposition to Section 10006 of H.R. 5293. The ACHP recently voted unanimously (with one abstention) to urge Congress to reject inclusion of this section in the final defense appropriations bill.

Section 10006 would require that no funds made available by the bill be used to designate or expand a "heritage asset" under the NHPA in certain specified Colorado counties. Given that the term "heritage asset" is not defined in the NHPA, the language of Section 10006 is imprecise and its exact meaning unclear. It may be referring to designation of properties to the National Register of Historic Places, which is addressed by the NHPA. If so, the proposed restriction would be a completely arbitrary constraint on the Department of Defense's (DoD's) ability to comply with its responsibilities under Section 110 of the NHPA to identify, evaluate, and nominate properties under its control to the National Register. DoD does not support passage of Section 10006, as indicated by the affirmative vote of its ACHP representative on the recent motion to oppose that section of the House bill.

Section 10006 may be grounded in a misunderstanding of the National Register designation process. In conjunction with introducing the amendment which became Section 10006, Representative Ken Buck (R-CO) stated that the provision:

*... prohibits funds from being used to limit private property rights in southeast Colorado. The Department of Defense can designate land, buildings, and archaeological sites as heritage assets to extend Federal control over private property . . .*

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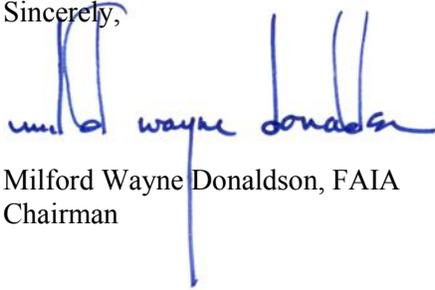
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Actually, DoD is not empowered under the NHPA to designate privately owned properties to the National Register. It may designate properties under the Department's control, but plays no role whatsoever in designation of privately owned properties.

Section 10006 of H.R. 5293 would set an arbitrary precedent regarding designation of federal properties as historic while not addressing the apparent concern that led to its initial introduction. The ACHP urges the Senate to oppose inclusion of Section 10006 in the final version of the Defense appropriations bill.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of the bill. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,

A handwritten signature in blue ink that reads "milford wayne donaldson". The signature is written in a cursive style. Below the signature, there is a vertical line that extends downwards from the end of the signature.

Milford Wayne Donaldson, FAIA  
Chairman

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John M. Fowler  
Executive Director



Preserving America's Heritage

August 8, 2016

The Honorable Lisa Murkowski  
Chairman, Committee on Energy  
and Natural Resources  
United States Senate  
304 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Maria Cantwell  
Ranking Member, Committee on Energy  
and Natural Resources  
United States Senate  
304 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

The Advisory Council on Historic Preservation (ACHP) would like to bring to your attention provisions in the House versions of both the National Defense Authorization Act and the Department of Defense Appropriations Act which could have significant implications for the preservation of historic properties, a subject under the jurisdiction of the Committee on Energy and Natural Resources. Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation.

**National Defense Authorization Act (S. 2943).** Section 2855 of the House amendment of the Senate bill would amend the NHPA to permit federal agencies to prevent designation of federal properties as historic (and reverse existing designations) based on agency determinations of national security needs. In the prior two years, similar provisions were included in the House versions of the defense authorization bill, sparking opposition by many organizations, agencies, and individuals active in the national historic preservation movement. Each time, the ACHP advised Congress against the provisions, and ultimately they were not included in the final bills.

Recently, the ACHP membership voted unanimously to reiterate its opposition to the proposed changes to the NHPA embodied in Section 2855 as both unnecessary and unwarranted. Attached is a copy of a letter to the Senate Armed Services Committee leadership participating on the conference committee considering the bill which sets forth the ACHP position in more detail.

**Department of Defense Appropriations Act (S. 3000/H.R. 5293).** As passed by the House, Section 10006 of the defense appropriations bill would require that no funds made available by the bill be used to designate or expand a "heritage asset" under the NHPA in certain specified Colorado counties. The term "heritage asset" is not defined in the NHPA, so the exact meaning of this provision is unclear, but it may be referring to designation of properties to the National Register of Historic Places. Passage would set an arbitrary precedent constraining Department of Defense designation of its historic properties.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Recently, the ACHP membership voted to oppose Section 10006. Attached is a copy of a letter to the Senate leadership that sets forth the ACHP position in more detail.

Please feel free to contact us if you have any questions or if the ACHP can be of any assistance. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,

A handwritten signature in blue ink that reads "Milford Wayne Donaldson". The signature is written in a cursive style with a large initial "M".

Milford Wayne Donaldson, FAIA  
Chairman

Attachments

[See August 1, 2016, letter to Sen. McCain and Reed, and August 1, 2016, letter to Sen. McConnell and Reid.]

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Preserving America's Heritage

August 8, 2016

The Honorable Mitch McConnell  
Senate Majority Leader  
United States Senate  
Capitol Building, S-230  
Washington, DC 20510

The Honorable Harry Reid  
Senate Minority Leader  
United States Senate  
Capitol Building, S-230  
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Reid:

The Advisory Council on Historic Preservation (ACHP) would like to take this opportunity to provide comments on the Department of the Interior, Environment, and Related Agencies Appropriations Act (S. 3068/H.R. 5538). Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, the ACHP wishes to express its opposition to Sections 123, 443, and 453 of the House version of the bill. These sections pose threats to: the National Register of Historic Places; enhanced effectiveness of Bureau of Land Management (BLM) historic property stewardship; and designation of National Monuments. We urge that Sections, 123, 443, and 453 of H.R. 5538 not be included in the final bill.

**Section 123.** Section 123 would prevent listing of federal property on the National Register of Historic Places if the federal agency managing the property objects. No limit is placed on why an agency could object, and there is no requirement that an agency even state the reason for its objection. Additionally, Section 123 contains language barring the expenditure of funds appropriated by the bill "to operate or maintain" a federal property listed on the National Register if the property managing agency objects to its historic designation. This language is vague and its full effect is unclear, but use of funds for cooperative agreements is a specific expenditure noted in the bill.

In its Statement of Administration Policy (SAP) on H.R. 5538, the Administration opposed Section 123. The ACHP subscribes completely to the Administration's finding that, "Enactment of this section could lead to a fundamental weakening of highly successful and widely admired programs that recognize and protect the Nation's shared heritage."

The ACHP assumes that the principal intended effect of this provision is to permit federal agencies to avoid addressing the impacts of their actions on historic properties in accordance Section 106 of the NHPA and other environmental laws. However, giving federal agencies the authority to block designation of federal properties as historic is simply not necessary in order to balance preservation of historic properties with agency

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missions and project needs, as the Section 106 review process has been specifically designed to do just that.

Under the NHPA, designation of federal properties as historic does not mean that they must be preserved. It does mean that agencies need to consider them in their ongoing planning and resource management, and proceed with the historic preservation review process when such properties may be affected by agency actions. Through the review process, agencies determine whether they can avoid, minimize, or mitigate any adverse effects on the historic properties. The process fosters creativity and a common-sense approach to problem solving that usually results in agencies and local stakeholders reaching agreement on how to address conflicts between historic preservation objectives and agency mission requirements. But ultimately, whether agreement is reached or not, the federal agency always remains the final decision maker as to how its project affecting the property will proceed.

Were Section 123 to be enacted, Congress would be abandoning a fundamental principle it established when it created the national historic preservation program in 1966. The basic premise of the historic designation process is the objective evaluation of properties against established criteria of significance without consideration of current use or future plans. When properties are determined to meet those criteria, they are recognized as such so that their historic significance can then be factored in to management decisions. The ACHP knows of no instance where Congress has authorized federal agencies to invert the process and allow them to assert that their mission needs override objective professional determinations that properties are historically significant.

Almost fifty years of practice has demonstrated the wisdom and workability of the current designation and review process for historically significant federal properties. The ACHP urges the Senate to stay that course and oppose inclusion of Section 123 in the final version of the bill.

**Section 443.** Section 443 would prevent BLM from moving forward with its “Planning 2.0” rulemaking process pending extensive additional public comment. The Planning 2.0 initiative is an effort by the agency to rethink the resource management plans that provide the framework for the management of public lands. The proposed rule would make changes to existing regulations to improve the bureau’s ability to respond to environmental, economic and social changes; to strengthen opportunities for public involvement in planning; and to improve BLM’s ability to use landscape-level management approaches to more efficiently and effectively manage the public lands.

During development of the draft rule, BLM sought public comment and received over 6,000 comments from organizations and individuals. Since issuance of the draft rule for comment in February, there have been webinars and a public hearing to assist the public in reviewing and commenting on the proposed rule. In its SAP on H.R. 5538, the Administration strongly opposed Section 443, stating that “. . . delay would prevent BLM from finalizing a rule that supports Administration goals of facilitating science-based, landscape-level planning with early public involvement.” Working toward such goals is anticipated to benefit BLM stewardship as well as public appreciation of such historic properties, and the ACHP therefore opposes deferring finalization of the proposed rule and urges the Senate to oppose inclusion of Section 443 in the final version of the bill.

**Section 453.** Section 453 seeks to restrict presidential creation of National Monuments in specified counties in eight states. Establishment of National Monuments in the listed counties currently is under consideration. Since the president is authorized under the Antiquities Act to declare National Monuments, it is unclear whether the proposed blocking of the expenditure of funds appropriated by the bill would indeed prevent designation of new National Monuments. The intent to do so, however, is clear.

The Administration strongly opposes Section 453 in its SAP, stating that it “. . . would debilitate a successful program that has been used to protect areas critical to the Nation's natural and cultural heritage such as

Bandelier National Monument and the Statue of Liberty.” The ACHP’s opposition is underpinned by this same concern. The ability of the president to protect resources on federal land through direct executive action is important and has been utilized by most presidents since passage of the Antiquities Act in 1906. Several major national parks were first national monuments, including Grand Canyon, Petrified Forest, Olympic, and Acadia. Just a few of the other significant sites that have been designated national monuments by presidential proclamation include Devils Tower, Canyon of the Ancients, and Muir Woods. In every case, important federally-owned cultural and natural resources have benefitted from the proactive and expeditious action of national monument designation.

Presidential designation of National Monuments takes place only after outreach and dialogue with local, state, tribal, and national stakeholders. In response to such outreach, some proposed designations do not advance. Others proceed, often with wide public support. Section 453 seeks to arbitrarily halt this process in 48 counties, disregarding ongoing public discussion and 110 years of precedent for presidential action. The ACHP urges the Senate to oppose inclusion of Section 453 in the final version of the bill.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of the Department of the Interior, Environment, and Related Agencies Appropriations Act. Our Executive Director, John Fowler, may be reached at (202) 517-0200 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,

A handwritten signature in blue ink that reads "Milford Wayne Donaldson". The signature is written in a cursive style with a large initial "M" and "W".

Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman  
Sacramento, CA

Leonard A. Forsman  
Vice Chairman  
Suquamish Tribe, Suquamish, WA

Terry Guen, FASLA  
Chicago, IL

Luis G. Hoyos  
Los Angeles County, California

Dorothy Lippert, Ph.D.  
Washington, DC

Robert G. Stanton  
Fairfax Station, VA

Bradford J. White  
Evanston, IL

Jordan E. Tannenbaum  
Fairfax, VA

Hon. Sally R. Jewell  
Secretary of the Interior

Hon. Stephen T. Ayers, FAIA  
Architect of the Capitol

Hon. Tom Vilsack  
Secretary of Agriculture

Hon. Ashton B. Carter  
Secretary of Defense

Hon. John B. King, Jr.  
Secretary of Education

Hon. Denise Turner Roth  
Administrator  
General Services Administration

Hon. Jeh Johnson  
Secretary of Homeland Security

Hon. Julián Castro  
Secretary of Housing & Urban  
Development

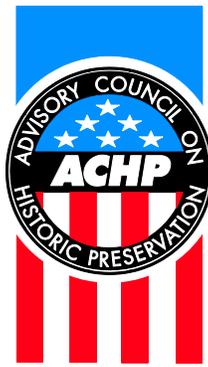
Hon. Anthony Foxx  
Secretary of Transportation

Hon. Robert A. McDonald  
Secretary of Veterans Affairs

Elizabeth Hughes  
President  
National Conference of State  
Historic Preservation Officers

Marita Rivero  
Chair, National Trust for Historic  
Preservation

John M. Fowler  
Executive Director



*Preserving America's Heritage*

December 1, 2016

The Honorable James M. Inhofe  
Chairman, Committee on  
Environment and Public Works  
United States Senate  
Dirksen Senate Office Building, SD-410  
Washington, DC 20510

The Honorable William "Bill" Shuster  
Chairman, Committee on Transportation  
and Infrastructure  
United States House of Representatives  
Rayburn House Office Building, 2251  
Washington, DC 20515

Dear Senator Inhofe and Representative Shuster:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for four sections in the House and Senate versions of the Water Resources Development Act (S.2848/H.R. 5303) that would enhance consideration and protection of historic properties, particularly those of interest to Indian tribes. Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. The sections in question are Section 120 and Section 185 of the House bill and Section 1040 and Section 3007 of the Senate bill. The ACHP urges inclusion of these sections in the final version of the Water Resources Development Act.

Section 120 of the House bill addresses a previous Congressional mandate that the Corps of Engineers (Corps) inventory and assess its properties, and would make an important change to the criteria used by the Corps in determining which properties are not needed to fulfill its missions. Section 120 would add a criterion addressing the economic, cultural, historic, or recreational significance of properties. This addition would help to ensure that broader, public interest issues—including the historical significance of properties—are considered during the Corps' evaluation.

Section 185 of the House bill would require the Corps to review its policies, regulations, and guidance related to consulting with Indian tribes regarding Corps flood control, environmental restoration, and other projects, as well as Corps permits that may have an impact on tribal cultural or natural resources. The result of this review would be a report to Congress that would include proposed changes to Corps tribal consultation policies or justification of why changes are not needed. Given past controversies regarding the adequacy of Corps consultation with Indian tribes on cultural and natural resource issues—recently, for example, with the Dakota Access Pipeline—the proactive review called for by Section 185 could be an important step toward more effective tribal consultation on future projects.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Section 1040 of the Senate bill would expand an existing Corps tribal partnership program and would enhance the Corps' ability to address projects involving the preservation of cultural and natural resources in Indian Country. Section 1040 would direct the Corps to undertake feasibility studies for such projects when requested by tribes, and the Corps also would be authorized to undertake design and construction for such projects. Passage of Section 1040 would provide an important new avenue for federal expertise and assistance to tribes seeking to preserve natural and cultural resources.

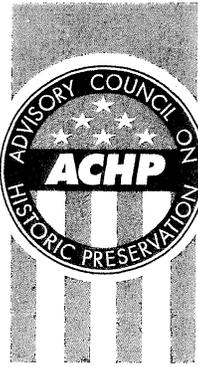
Section 3007 of the Senate bill would authorize the Secretary of the Interior, in consultation with the Corps, to carry out a program to address the safety of federal dams in Indian country. Part of the program would address the deferred maintenance needs of Indian dams that create risks to public or employee safety, or to natural or cultural resources. Among other issues, criteria for distributing funds under the program would have to take into account a dam's risk to natural and cultural resources and the extent to which funding could assist in protecting such resources.

Inclusion of these four sections in the final Water Resources Development Act would enhance Corps consideration of cultural resources, particularly cultural resources of interest to Indian tribes. Please feel free to contact us if the ACHP can be of any assistance during further consideration of the bill. Our Executive Director, John Fowler, may be reached at (202) 517-0200.

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman



Preserving America's Heritage

John L. Nau, III  
Chairman

Susan S. Barnes  
Vice Chairman

Rhonda Bentz  
Washington, DC

Julia A. King, Ph.D.  
St. Mary's City, MD

Ann A. Pritzlaff  
Denver, CO

Mark A. Sadd  
Charleston, WV

John G. Williams, III, AIA  
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Gerald P. Jemison  
Seneca Nation  
Victor, NY

Governor Matthew Blunt  
Jefferson City, MO

Mayor Alan Autry  
Fresno, CA

Stephen T. Ayers, FAIA  
Acting Architect of the  
Capitol

Hon. Mike Johanns  
Secretary of Agriculture

Hon. Dirk Kempthorne  
Secretary of the Interior

Hon. Stephen L. Johnson  
Administrator,  
Environmental  
Protection Agency

Hon. Lurita A. Doan  
Administrator, General  
Services Administration

Hon. Robert Gates  
Secretary of Defense

Hon. Mary E. Peters  
Secretary of Transportation

Jonathan Kemper  
Chairman, National Trust  
for Historic Preservation

Jay D. Vogt  
President, National  
Conference of State  
Historic Preservation  
Officers

John M. Fowler  
Executive Director

March 12, 2007

The Honorable Charles B. Rangel  
U.S. House of Representatives  
2354 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Rangel:

The Advisory Council on Historic Preservation (ACHP) wishes to express its continued support for improving the effectiveness and efficiency of the historic preservation tax credit, as proposed in the Community Restoration and Revitalization Act (H.R. 1043).

Established by the National Historic Preservation Act of 1966, the ACHP is the independent Federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP consistently has encouraged measures to ensure the continued use of the historic preservation tax credit program as a tool for integrating historic preservation and development investment, and for improving the economic vitality of America's communities.

The Federal tax credit for rehabilitation of historic buildings has been one of the most successful revitalization programs ever created by the Federal government, having leveraged more than \$30 billion in private investment to rehabilitate historic buildings into rental housing, offices, and retail stores. The Community Restoration and Revitalization Act would build upon this success by making the historic preservation tax credit easier to use, especially for projects that also use the Low-Income Housing Tax Credit and for smaller, "Main-Street"-oriented projects. The bill would also promote use of the credit in disinvested, high poverty areas.

The proposed improvements to the existing credit are in keeping with the goals of the White House's Preserve America initiative, which encourages and supports community efforts to preserve and use our priceless cultural heritage. At the recent Preserve America Summit, First Lady Laura Bush and participants from across the country reviewed past successes in preservation and considered how to further promote reuse of our historic assets. An important finding of the Summit was the need to make modifications to the historic preservation tax credit along the lines of those proposed in the Community Restoration and Revitalization Act. The revisions

ADVISORY COUNCIL ON HISTORIC PRESERVATION

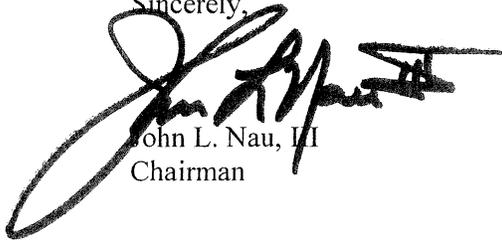
1100 Pennsylvania Avenue NW, Suite 809 • Washington, DC 20004

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would support the efforts of reuse and revitalization that are underway in the 458 designated Preserve America Communities across the Nation.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of H.R. 1043. Our Executive Director, John Fowler, can be reached at (202) 606-8503.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Nau, II". The signature is stylized with a large loop at the beginning and a horizontal line at the end.

John L. Nau, II  
Chairman

John L. Nau, III  
Chairman

Susan S. Barnes  
Vice Chairman

Rhonda Bentz  
Washington, DC

Julia A. King, Ph.D.  
St. Mary's City, MD

Ann A. Pritzlaff  
Denver, CO

Mark A. Sadd  
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John G. Williams, III, AIA  
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Governor Matthew Blunt  
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Stephen T. Ayers, FAIA  
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Capitol

Hon. Mike Johanns  
Secretary of Agriculture

Hon. Dirk Kempthorne  
Secretary of the Interior

Hon. Stephen L. Johnson  
Administrator  
Environmental  
Protection Agency

Hon. Lurita A. Doan  
Administrator, General  
Services Administration

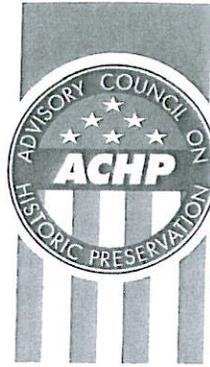
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Chairman, National Trust  
for Historic Preservation

Jay D. Vogt  
President, National  
Conference of State  
Historic Preservation  
Officers

John M. Fowler  
Executive Director



*Preserving America's Heritage*

June 7, 2007

The Honorable Harry Reid  
Majority Leader  
United States Senate  
528 Hart Senate Office Building  
Washington, DC 20510

Dear Majority Leader Reid:

The Advisory Council on Historic Preservation (ACHP) wishes to express its support for the National Landscape Conservation System Act (S. 1139), which would provide legislative authorization for the existing National Landscape Conservation System (NLCS). Legislative establishment of the NLCS would help to ensure the long-term protection of many important historic resources administered by the Bureau of Land Management.

Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. Preservation of historic properties on America's public lands is an issue of considerable importance, as reflected by Executive Order 13287, "Preserve America," which was signed by President Bush in 2003. Among its provisions, Executive Order 13287 directs Federal agencies to increase their knowledge of historic resources in their care and to enhance the management of these assets.

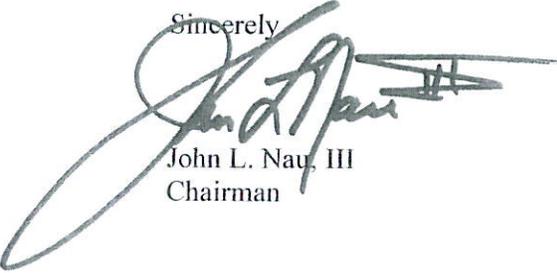
Enhancing resource management was a driving force behind the Secretary of the Interior's creation of the NLCS in 2000. Comprised of Bureau of Land Management lands that have been recognized as having exceptional natural, cultural, and scenic values, the system includes approximately 26 million acres of National Monuments, National Conservation Areas, National Wild and Scenic Rivers, Wilderness Areas, Wilderness Study Areas, and National Historic and Scenic Trails.

Establishment of the NLCS has focused attention on the conservation needs of the remarkable landscapes it encompasses. They are threatened by energy exploration and mining, off-road vehicle use, looting of archaeological sites, and vandalism as preservation of natural and cultural resources competes with other uses.

Congressional authorization of the NLCS not only will ensure the system's continued existence, but also will acknowledge the importance of the natural and cultural resources involved. They have quite rightly been called the "crown jewels" of our public lands, and stability and recognition for the NLCS will help to ensure their effective management for future generations..

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of S. 1139. Our Executive Director, John Fowler, can be reached at (202) 606-8503.

Sincerely



John L. Nau, III  
Chairman

John L. Nau, III  
Chairman

Susan S. Barnes  
Vice Chairman

Rhonda Bentz  
Washington, DC

Mark A. Sadd, Esq.  
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Stephen T. Ayers, AIA  
Acting Architect of the Capitol

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Secretary of Agriculture

Hon. Carlos M. Gutierrez  
Secretary of Commerce

Hon. Dr. Robert Gates  
Secretary of Defense

Hon. Margaret Spellings  
Secretary of Education

Hon. Alphonso R. Jackson  
Secretary of Housing & Urban  
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Secretary of the Interior

Hon. Mary Peters  
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Secretary of Veterans Affairs

Hon. Lurita A. Doan  
Administrator, General  
Services Administration

Jay D. Vogt  
President  
National Conference of State  
Historic Preservation Officers

Jonathan Kemper  
Chairman, National Trust for  
Historic Preservation

John M. Fowler  
Executive Director



September 13, 2007

The Honorable Tom Harkin  
Chairman  
Committee on Agriculture, Nutrition and Forestry  
United States Senate  
SR-328A Russell Senate Office Building  
Washington, DC 20510-6000

Dear Senator Harkin:

The Advisory Council on Historic Preservation (ACHP) wishes to express its support for inclusion of provisions in the Farm Bill to promote preservation of historic properties and rural heritage assets. Established by the National Historic Preservation Act of 1966, the ACHP is the independent Federal agency charged with advising the President and Congress on matters relating to historic preservation.

Department of Agriculture programs that promote natural resource conservation can also help to protect rural historic properties, notably through support for the purchase of conservation easements. The last Farm Bill changed the Farm and Ranch Lands Protection Program (FRPP) to include specific reference to historical and archeological resources in the definition of lands eligible for easement purchase assistance. This has proven an important tool for protecting historic battlefields, rural historic districts, archeological sites, and other properties. The House version of the new Farm Bill (H.R. 2419) would retain this aspect of the FRPP.

The last Farm Bill also authorized creation of a Historic Barn Preservation Program to promote preservation of one of the rural landscape's most iconic historic properties. To date this program has not received funding, but the need that sparked its creation remains no less acute as the number of America's historic barns continues to diminish. Reauthorization of the Historic Barn Preservation Program, as proposed by H.R. 2419, would continue the opportunity for a successful launch of this important initiative.

The new Farm Bill also offers opportunities to acknowledge the important role that historic preservation can play in rural reinvestment. Preservation of the historic structures, districts, and landscapes of rural America help to retain a unique sense of place which lures heritage tourists as well as businesses and

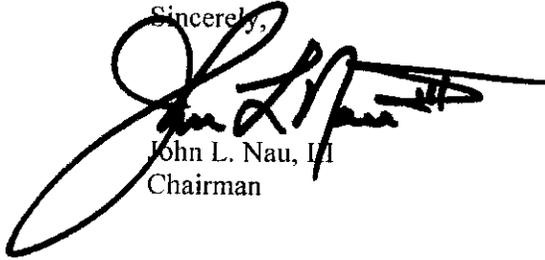
ADVISORY COUNCIL ON HISTORIC PRESERVATION

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entrepreneurs. H.R. 2419 addresses this by referencing preservation of rural heritage as a specific component of the Rural Strategic Investment Program. Whether through that program or other planning and investment initiatives, preservation can play an important role in promoting economic vitality in rural communities.

We applaud the historic preservation language included in the House bill and urge Congress to include provisions that promote historic preservation in rural communities as it continues to develop the 2007 Farm Bill. Please feel free to contact us if you have any questions or if the ACHP can be of any assistance. Our Executive Director, John Fowler, can be reached at (202) 606-8503.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Nau, III". The signature is stylized with a large loop at the beginning and a long horizontal stroke extending to the right.

John L. Nau, III  
Chairman

John L. Nau, III  
Chairman

Susan S. Barnes  
Vice Chairman

Rhonda Bentz  
Washington, DC

Mark A. Sadd, Esq.  
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John G. Williams, III, AIA  
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Governor Matthew Blunt  
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Stephen T. Ayers, AIA  
Acting Architect of the Capitol

Hon. Chuck Conner  
Acting Secretary of Agriculture

Hon. Carlos M. Gutierrez  
Secretary of Commerce

Hon. Dr. Robert Gates  
Secretary of Defense

Hon. Margaret Spellings  
Secretary of Education

Hon. Alphonso R. Jackson  
Secretary of Housing & Urban  
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Hon. Dirk Kempthorne  
Secretary of the Interior

Hon. Mary Peters  
Secretary of Transportation

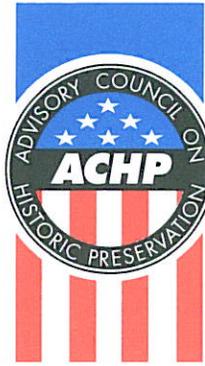
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Hon. Lurita A. Doan  
Administrator, General  
Services Administration

Jay D. Vogt  
President  
National Conference of State  
Historic Preservation Officers

J. Clifford Hudson  
Chairman, National Trust for  
Historic Preservation

John M. Fowler  
Executive Director



Preserving America's Heritage

January 31, 2008

The Honorable Wayne Allard  
United States Senate  
521 Dirksen Senate Office Building  
Washington, DC 20510-0606

Dear Senator Allard:

March 2008 will mark the fifth anniversary of the Administration's Preserve America initiative, which encourages community efforts to preserve and enjoy our priceless heritage. It is an opportune time to review the program's accomplishments given the recent introduction of the Preserve America and Save America's Treasures Act, S.2262/H.R.3981. This legislation would provide permanent authorization for the Preserve America initiative as well as the Save America's Treasures program.

Established by the National Historic Preservation Act of 1966, the Advisory Council on Historic Preservation (ACHP) is the independent Federal agency charged with advising the President and Congress on historic preservation matters. The ACHP plays a key role in administering the Preserve America initiative, in cooperation with the Department of the Interior and other partner federal agencies. Over the past five years, we have seen first hand how Preserve America contributes to the preservation and productive use of our nation's historic properties.

A major focus of Preserve America is encouraging heritage tourism and economic development through preservation. Principal components of the program include Preserve America Grants, designation of Preserve America Communities, and presentation of Preserve America Presidential Awards. The enclosed packet provides a summary of the program along with additional information. S.2262/H.R.3981 would formally establish the Preserve America program, provide legislative authorization for the grants, and codify the process for designating Preserve America Communities.

Preserve America provides community recognition and financial assistance that resonates strongly with communities across the nation. To date, 571 communities from all 50 states have been designated as Preserve America Communities, making them eligible to apply for Preserve America grants. A complete list is enclosed.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Since 2006, Congress has appropriated almost \$17 million for the Preserve America grant program. These grants support planning, development, and implementation of innovative heritage tourism activities, including documenting historic resources, interpreting historic sites, marketing, and training. Funded projects involve public-private partnerships and serve as models to communities nationwide for heritage tourism, education, and economic development. In FY 2006 and FY 2007, 140 Preserve America grants totaling approximately \$9.8 million were awarded in 40 states. A complete list of grants is enclosed.

In 2006, First Lady Laura Bush convened the Preserve America Summit in New Orleans, marking the 40<sup>th</sup> anniversary of the National Historic Preservation Act. Experts from across the country examined ways to improve preservation efforts. The enclosed report outlines the recommendations that resulted from the Summit. The ACHP currently is working with its partner federal agencies to implement these recommendations.

Complementing Preserve America is the Save America's Treasures Program, which would also receive permanent authorization under S.2262/H.R.3981. Created in 1998 as a Millennium initiative, Save America's Treasures grants have become a most successful stimulus for historic preservation. Grants are made for preservation work on nationally significant historic properties and cultural artifacts. To date, 967 grants totaling \$264.5 million have been awarded in all 50 states, the District of Columbia, Puerto Rico, and the Midway Islands.

The ACHP applauds the leadership that the Congress has always shown in advancing national historic preservation goals. Providing legislative authorization for both programs will ensure that these programs continue helping communities preserve and use our nation's historic properties.

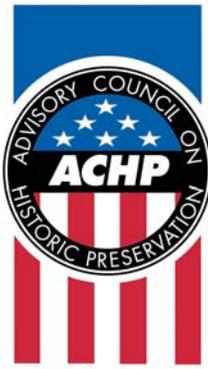
Thank you for your commitment and dedication to historic preservation. We look forward to your ongoing support of Preserve America. Your efforts will ensure that the story of our great nation is preserved for future generations. Should you have any questions, please feel free to contact me at (713) 866-6330 or John Fowler, ACHP Executive Director, at (202) 606-8503.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Nau, III". The signature is fluid and cursive, with the first name "John" being the most prominent.

John L. Nau, III  
Chairman

Enclosure



*Preserving America's Heritage*

## **STATEMENT FOR THE RECORD**

**SUBMITTED BY JOHN L. NAU, III  
CHAIRMAN, ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**TO THE SUBCOMMITTEE ON NATIONAL PARKS,  
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
THE HONORABLE DANIEL K. AKAKA, CHAIRMAN**

**HEARING ON THE  
PRESERVE AMERICA AND SAVE AMERICA'S TREASURES ACT (S. 2262)**

**APRIL 9, 2008**

### **SUMMARY STATEMENT**

The Preserve America and Save America's Treasures Act (S. 2262) would provide legislative authorization for two existing programs that are important sources of support for the preservation and productive use of our nation's historic properties. The Advisory Council on Historic Preservation (ACHP), an independent federal agency, has been a leader in administering the Preserve America program over the five years of its existence. We can attest to the success of Preserve America in helping communities across the nation. Preserve America, with its emphasis on public-private partnerships to promote heritage tourism and economic vitality through historic preservation, complements the work of the Save America's Treasures Program, which helps to fund the rehabilitation and conservation of America's most significant historic resources. The ACHP supports S. 2262, since legislative authorization will ensure the continued existence of these important programs.

### **BACKGROUND**

Title II of the National Historic Preservation Act (NHPA) established the ACHP. NHPA charges the ACHP with advising the President and the Congress on historic preservation matters and entrusts the ACHP with the unique mission of advancing historic preservation within the federal government and the national historic preservation program. The ACHP's authority and responsibilities are principally derived from the NHPA.

The ACHP plays a pivotal role in the national historic preservation program. Founded as a unique partnership among federal, state, and local governments, Indian tribes, and the public to advance the preservation of America's heritage while recognizing contemporary needs, the partnership has matured and expanded over time. The ACHP promotes consistency in federal preservation efforts and assists federal agencies in meeting their preservation responsibilities.

The ACHP also plays a key role in shaping historic preservation policy and programs at the highest levels of the Administration. In that capacity, the ACHP created an initiative for the White House designed to stimulate creative partnerships among all levels of government and the private sector to preserve and actively use historic resources for a better appreciation of America's history and diversity. The initiative is known as Preserve America.

The components of Preserve America complement the work of the Save America's Treasures program. Save America's Treasures grants fund preservation and/or conservation work on nationally significant intellectual and cultural artifacts and historic structures and sites. The Preserve America and Save America's Treasures Act (S. 2262) would provide legislative authorization for both the Preserve America initiative and the Save America's Treasures program.

## **PRESERVE AMERICA**

First Lady Laura Bush, Honorary Chair of Preserve America, announced the Preserve America initiative on March 3, 2003. On the same day, President George W. Bush issued Executive Order 13287, "Preserve America," to improve federal stewardship of historic properties and to foster recognition of such properties as national assets to be used for economic, educational, and other purposes.

Preserve America encourages and supports community efforts to preserve and enjoy our priceless cultural and natural heritage. The goals of the initiative include a greater shared knowledge about the nation's past, strengthened regional identities and local pride, increased local participation in preserving the country's cultural and natural heritage assets, and support for the economic vitality of our communities. Preserve America promotes these objectives through the following:

- ***Recognition programs:*** The ACHP administers the Preserve America Communities program (discussed in detail below) and the Preserve America Presidential Awards program. Through the Presidential Awards program, four awards are given annually to organizations, businesses, and government entities for exemplary accomplishments in the sustainable use and preservation of cultural or natural heritage assets; demonstrated commitment to the protection and interpretation of America's cultural or natural heritage assets; and integration of these assets into contemporary community life.
- ***Financial assistance for local communities:*** The National Park Service manages the Preserve America Grants program (discussed in detail below).
- ***Educational outreach:*** The Preserve America History Teacher of the Year Award, established by the Gilder Lehrman Institute of American History, recognizes outstanding American history teachers and the crucial importance of American history education. As Honorary Chair of Preserve America, First Lady Laura Bush has presented this annual award.
- ***Preserve America Summit:*** To celebrate the 40th anniversary of passage of the NHPA, the ACHP convened the Preserve America Summit in October 2006. With First Lady Laura Bush as the keynote speaker, more than 450 invited participants gathered to consider historic preservation's past and future. Based on issues discussed at the Summit, the ACHP issued recommendations on actions the federal government should take to promote continued growth and improvement in the federal preservation program, and enhanced use and appreciation of America's invaluable heritage assets. The ACHP is working with federal and non-federal partners to advance implementation of these recommendations.

- ***Executive Order 13287, “Preserve America”***: The Preserve America Executive Order mandates a number of actions that are intended to encourage better accountability for the use of federally owned historic properties. Every three years, each agency with real property management responsibilities must prepare and submit to the ACHP and the Secretary of the Interior a report detailing the progress the agency has made in identifying, protecting, and using historic properties in its ownership. Based on these reports, the ACHP prepares a report to the President on the state of the federal government’s historic properties and their contribution to local economic development.

The ACHP co-chairs (with the Department of the Interior) a Preserve America Steering Committee comprised of 13 departments and agencies.<sup>1</sup> In coordination with the White House, the Preserve America Steering Committee identifies policy needs and oversees the initiative. At the operational level, ACHP staff works with partner federal agencies and others as appropriate to carry out specific Preserve America activities.

### **Preserve America Communities**

S. 2262 would codify the current process for designating Preserve America Communities. The ACHP, in cooperation with the National Park Service, administers the Preserve America Community program. Designation recognizes communities that protect and celebrate their local heritage. Communities eligible to apply include municipalities, counties, Indian tribes, and neighborhoods in large cities. Since the program began, Mrs. Bush has designated 608 communities in all 50 states and the U.S. Virgin Islands.

Preserve America Communities use their historic assets for economic development and community revitalization and encourage people to experience and appreciate local historic resources through education and heritage tourism programs. To be designated, an applicant community must demonstrate that it recently supported a historic or cultural preservation project that promotes heritage tourism or fosters economic vitality and which involves a public/private partnership. The community also must indicate its commitment to the preservation of heritage assets and meet criteria within three broad categories: discovering heritage through historic places, protecting historic resources, and promoting historic assets.

Currently designated Preserve America Communities are richly varied. Some are iconic historic places, like New Orleans, Gettysburg, and Williamsburg. Some are major metropolitan areas, such as Philadelphia, Phoenix, and Miami. In contrast, Preserve America Communities can also be very small, like Medora, North Dakota, (population 100) a gateway community for Theodore Roosevelt National Park that has become a popular tourist attraction in large part because of preservation of its frontier heritage.

Neighborhoods in large cities can apply to become Preserve America Communities, and the 14 designated to date are diverse. Among them are Honolulu’s Chinatown Historic District, San Diego’s Little Italy, and The District, the historic heart of Nashville, Tennessee. Counties are also eligible for designation. Among those designated are six rural counties in southeastern Colorado—Baca, Bent, Crowley, Kiowa, Otero, and Prowers Counties—that became Preserve America Communities as part of a regional strategy to promote heritage tourism and economic revitalization.

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<sup>1</sup> Federal agencies represented on the Preserve America Steering Committee are the ACHP; the U.S. Departments of Agriculture, Commerce, Defense, Education, Housing and Urban Development, Interior, and Transportation; the General Services Administration; the Institute for Museum and Library Services; the National Endowment for the Humanities; the President’s Committee on the Arts and the Humanities; and the President’s Council on Environmental Quality.

Indian tribes as well as Native Alaskan villages and corporations are also eligible to become Preserve America Communities. Two have applied to date, resulting in designation of the White Mountain Apache Tribe and St. George Island in Alaska's Pribilof Islands.

Designation as a Preserve America Community provides national recognition for the grass-roots efforts of communities both to preserve their heritage and to use it in support of their economic vitality. In addition to intangible benefits such as enhanced community visibility and pride, Preserve America Community designation also makes communities eligible for Preserve America Grants.

### **Preserve America Grants**

S. 2262 would provide legislative authorization for the existing Preserve America Grant Program. Since 2006, Congress has appropriated almost \$17 million for Preserve America Grants. Administered by the National Park Service, in cooperation with the ACHP, these grants offer a new type of federal preservation funding that supports heritage tourism initiatives, promotion/marketing programs, and interpretive/educational initiatives.

While other programs address physical rehabilitation, Preserve America Grants provide critically needed up-front planning and associated assistance to communities looking for ways to preserve their local heritage in a self-sustaining manner. No other federal funding program has this specific focus. Preserve America Grants support planning, development, implementation, or enhancement of innovative activities and programs in heritage tourism, including interpretation/education, planning, marketing, training, and research/documentation of cultural resources. Funded projects involve public-private partnerships and serve as models to communities nationwide for heritage tourism, historic preservation, education, and economic development.

Preserve America Grants are awarded through a competitive process. Grants require a dollar-for-dollar, non-federal match, which can be cash, donated services, or use of equipment. Eligible recipients are designated Preserve America Communities; Certified Local Governments<sup>2</sup> that have applied for Preserve America Community designation; State Historic Preservation Offices (SHPOs); and Tribal Historic Preservation Offices (THPOs). The minimum grant request is \$20,000 federal share (resulting in a total project cost of \$40,000). The maximum grant request for any project is \$250,000 (resulting in a total project cost of \$500,000).

Some communities, like the historic textile center of Gastonia, North Carolina, have received grants to develop multi-faceted marketing campaigns—using wayfinding signs, walking tour brochures, Web sites and other materials—to promote themselves as heritage and cultural tourism destinations. Others are using Preserve America Grants to plan for the reuse of historic properties for heritage tourism. For example, Brattleboro, Vermont, received a Preserve America Grant to create a master plan for the rehabilitation and adaptive reuse of the historic Estey Organ Factory Complex as a museum. Similarly, Silver City, New Mexico, is using a Preserve America Grant to plan for the adaptive reuse and rehabilitation of the historic Silver City Waterworks.

Twenty-five SHPOs have received Preserve America Grants. Some, like Arkansas and South Carolina, have established subgrant programs to assist local communities in promoting heritage tourism. Others, including Montana and Wyoming, are using Preserve America Grants to fund preservation and heritage tourism training for local communities.

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<sup>2</sup> A Certified Local Government (CLG) is a community whose local preservation program has been certified by their State Historic Preservation Officer as meeting established standards for the protection of historic properties. CLGs are eligible to receive a portion of the federal Historic Preservation Fund funding provided to the states.

Some SHPO grant recipients are focusing their efforts on specific historic properties. For example, Pennsylvania is creating a living history program to increase the visibility of Underground Railroad and Civil War resources in several counties, while Georgia has launched a campaign to protect and interpret the state's historic cemeteries. Several states—Arkansas, Colorado, Kentucky, Montana, North Carolina, and Pennsylvania—are using Preserve America Grant funds for survey and planning initiatives aimed at revitalizing rural areas through heritage tourism.

Preserve America Grants do not fund “bricks and mortar” rehabilitation of historic resources, but rather their productive continued preservation and use. Thus, the program complements rather than duplicates other federal funding programs, including Save America's Treasures.

### **SAVE AMERICA'S TREASURES**

S. 2262 would provide legislative authorization for the Save America's Treasures program, which was created in 1998 as a Millennium initiative. The program has evolved to become one of the largest and most successful sources of federal funding for historic preservation. Since FY 1999, 967 grants (469 earmarks and 498 competitive grants) totaling \$264.5 million have been awarded. All 50 states, the District of Columbia, Puerto Rico, and Midway Island have received grants.

Save America's Treasures funds preservation and/or conservation work on nationally significant intellectual and cultural artifacts, and historic structures and sites. Intellectual and cultural artifacts include artifacts, collections, documents, sculpture, and works of art. Historic structures and sites include historic districts, sites, buildings, structures, and objects. Reflecting the scope of the program, Save America's Treasures grants have helped to conserve both the Star-Spangled Banner and the house in Baltimore where the flag was created, as well as the original draft of the national anthem it inspired.

Federal, state, local, and tribal government entities, and non-profit organizations are eligible to apply for the competitive matching-grant component of the program. A dollar-for-dollar, non-federal match is required. The minimum grant request for collections projects is \$25,000; the minimum grant request for historic property projects is \$125,000. The maximum grant request for all projects is \$700,000.

First Lady Laura Bush is the Honorary Chair of Save America's Treasures. The grant program is administered by the National Park Service in partnership with the President's Committee on the Arts and the Humanities. Collaborating on the selection and oversight of the grants are the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum and Library Services. The National Trust for Historic Preservation is the program's private partner, and its fundraising efforts help projects secure the required private match.

Save America's Treasures has been instrumental in helping to preserve some of America's most significant historic resources. Many are associated with famous Americans, like the Dexter Avenue King Memorial Baptist Church in Montgomery, Alabama, where Dr. Martin Luther King, Jr. began his quest for civil rights, and Thomas Edison's letters and lab notes at the Edison National Historic Site in New Jersey. Others are places where uniquely important historic events occurred, from Boston's Old North Church, starting point of Paul Revere's famous ride, to the Manhattan Project Buildings in Los Alamos, New Mexico, birthplace of the atom bomb. Architecturally significant properties receiving grants run the gamut from ancient sites like the cliff dwellings of Mesa Verde, to important 20th century properties like the Liberty Theatre in Astoria, Oregon, which is one of the best examples of a motion picture palace in the Pacific Northwest.

## CONCLUSION

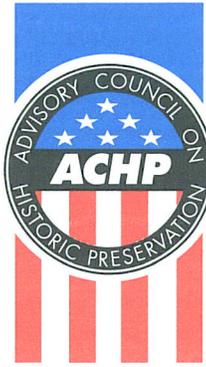
For five years and 10 years, respectively, Preserve America and Save America's Treasures have evolved to provide vitally needed support for the preservation and productive use of our nation's heritage assets. Across the country, in communities large and small, these programs have a proven track record of supporting heritage tourism, and the rehabilitation and conservation of historic resources. We hope the Subcommittee will favorably consider S. 2262, which will provide the legislative authorization needed to ensure the future continuance of Preserve America and Save America's Treasures.

We appreciate the Subcommittee's interest in these issues, and thank you for your consideration and the opportunity to present our views.

John L. Nau, III  
Chairman

Susan S. Barnes  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

September 23, 2009

The Honorable Nick J. Rahall II  
Chair, Committee on Natural Resources  
U.S. House of Representatives  
1324 Longworth Building  
Washington, DC 20515

Dear Congressman Rahall:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for full, permanent funding of the Land and Water Conservation Fund (LWCF), as proposed in the Consolidated Land, Energy, and Aquatic Resources Act of 2009 (H.R. 3534). We commend you for introducing this important legislation, which constitutes one of the most important steps our Nation can take today to ensure that future generations of Americans have the opportunity to enjoy our irreplaceable natural treasures.

The LWCF is funded principally from Outer Continental Shelf revenues, and H.R. 3534 also would tap this source to provide permanent funding for a new fund, the Ocean Resources Conservation and Assistance Fund. Unmentioned in the bill however, is the LWCF's cultural counterpart, the Historic Preservation Fund (HPF), which is also funded by Outer Continental Shelf lease and sales proceeds. We believe that H.R. 3534 offers the opportunity to look comprehensively at how Outer Continental Shelf revenues are reinvested in resource conservation, and we urge you to also address full, permanent funding for the HPF as part of this bill. The Nation's heritage has both natural and cultural dimensions and both should be treated in a parallel fashion.

The ACHP is the independent federal agency charged with advising the President and Congress on preservation of our nation's historic properties. In this capacity, we have long advocated for adequate resources to address the challenges facing our cultural heritage. We support full and permanent funding for the LWCF because, although it is focused principally on conserving natural and recreational resources, the LWCF also is a source of federal funding for cultural resource protection. Natural and cultural resources are inextricably intertwined; through time, people have shaped the natural landscapes surrounding them or have been shaped in turn by those landscapes. The traces left behind of past human use and the cultural values people currently ascribe to natural areas are important to understand, respect, and protect. Permanent increased funding for the LWCF will help ensure that this goal is met. But this will not adequately address the continuing need for the cultural side of our Nation's heritage.

Fundamental to using Outer Continental Shelf oil and gas revenues to fund the LWCF is the sound concept that a portion of the monies generated by the depletion of non-renewable resources should be reinvested in the conservation of other non-renewable resources. It likewise was the premise when Congress decided in 1976 to use Outer Continental Shelf revenues to fund the HPF, the cultural resources counterpart to the LWCF, since historic resources also are non-renewable. Understandably, this concept

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also underpins the proposed creation and funding of an Ocean Resources Conservation and Assistance Fund to conserve ocean, coastal, and Great Lakes resources.

The HPF supports implementation of the provisions of the National Historic Preservation Act (NHPA), the legislation that provides the framework for America's national preservation program. Key to that framework is a partnership involving federal, tribal, state, and local governments working with the private sector to identify historic properties and "to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations."

The HPF supports:

- State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs). These partners receive annual matching grants to assist them in carrying out their responsibilities under the NHPA. SHPOs and THPOs identify historic properties, foster local government preservation programs, review federal and state preservation tax incentive projects, provide technical assistance, and review federal projects for their impact on historic properties. By funding this network of offices, the HPF supports the preservation of historic properties nationwide. An integral component of the Congress' vision in creating the HPF was SHPOs and THPOs using HPF funds directly for acquisition or rehabilitation of historic properties to ensure their long-term preservation. Funding levels for most of the history of the program have prevented the realization of this vision.
- Save America's Treasures Grants. One of the largest and most successful historic preservation grant programs, Save America's Treasures received permanent authorization in the 2009 Omnibus Public Lands Management Act. Grants are available for preservation and/or conservation work on nationally significant intellectual and cultural artifacts and historic structures and sites. This "bricks and mortar" grant program has helped to preserve many significant historic properties across the nation and has become especially important given the absence of HPF funding to SHPOs and THPOs that can be used directly for restoration, rehabilitation, and other badly needed physical preservation work.
- Preserve America Grants. These grants support preservation efforts through heritage tourism, education, and historic preservation planning. The program supports innovative activities and programs in heritage tourism such as surveying and documenting historic resources, interpreting historic sites, planning, promotion, and training. Preserve America grants complement HPF "bricks and mortar" grants by fostering economic strategies and business plans that support the long-term productive use of historic properties, reducing the need to seek public funds for future restoration or rehabilitation. The program was permanently authorized in the 2009 Omnibus Public Lands Management Act.

The NHPA authorizes \$150 million yearly from Outer Continental Shelf revenues to fund the HPF through 2015. However, just as the LWCF traditionally has not received full funding, neither has the HPF – only \$69.5 million was appropriated in FY 2009. The adequacy of appropriated HPF funding was one of several important issues addressed by an independent review panel convened by the ACHP and the Department of the Interior in 2008 to explore improvements in the federal preservation program. Establishment of such a panel was one of the recommendations of the national Preserve America Summit, a convocation of more than 450 stakeholders that took place on the 40th anniversary of the NHPA in 2006.

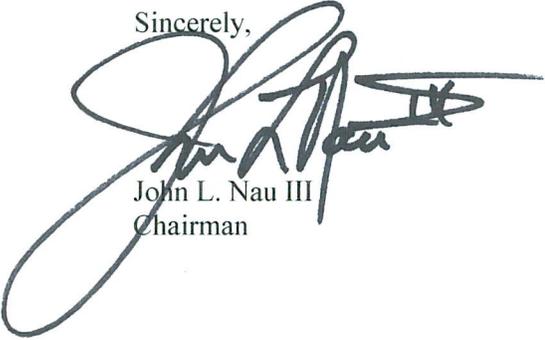
The independent review panel, comprised of leaders representing varied perspectives in the field of historic preservation<sup>1</sup>, recommended fully funding the HPF. The current funding level precludes use of the HPF for acquisition and development projects as originally envisioned and authorized in the NHPA. It also fails to provide adequate resources to fully address the responsibilities and mandates that the NHPA places on SHPOs and THPOs, an ongoing challenge that has become particularly acute as States and tribes have struggled to weather the economic downturn of the last year. The panel particularly noted the relative lack of funding for THPOs. Each year sees the recognition of new THPOs under the provisions of the NHPA, and currently 85 THPOs are sharing an HPF appropriation of only \$7 million.

The ACHP membership carefully reviewed the panel's recommendations in February and endorsed them. Incorporating permanent and adequate funding for the HPF would fulfill the goals of the ACHP's recommendation.

H.R. 3534 offers an opportunity to address use of Outer Continental Shelf revenues for resource conservation in a comprehensive way. Increased resources could strengthen the current activities supported by the HPF and, importantly, enable the HPF to be used to support hands-on preservation activities across the Nation. However, unless the cultural environment is brought into the equation by including the HPF on the same basis as the LWCF, this opportunity is likely to be lost, along with much of America's heritage, for years to come.

The ACHP welcomes this opportunity to share its views and would be pleased to provide further information or assistance on this issue of critical importance to historic preservation.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Nau III", with a large, stylized flourish extending from the bottom left.

John L. Nau III  
Chairman

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<sup>1</sup> The panel members were: Susan Barnes, Vice Chairman, Advisory Council on Historic Preservation, and President and Chief Executive Officer, The Landmark Group of Companies; Philip Grone, former Deputy Under Secretary of Defense for Installations and Environment, Department of Defense; Daniel P. Jordan, President, The Thomas Jefferson Foundation, and Trustee, National Trust for Historic Preservation; Frank G. Matero, Professor of Architecture and Chair of the Graduate Program in Historic Preservation, University of Pennsylvania; Richard Moe, President, National Trust for Historic Preservation; David Morgan, former Kentucky State Historic Preservation Officer and Project Panel Member, National Academy of Public Administration; The Honorable Ellen O. Moyer, Mayor, City of Annapolis; Theresa Pasqual, Director, Acoma Historic Preservation Office; Doug Wheeler, Partner, Hogan & Hartson; Jay D. Vogt, South Dakota State Historic Preservation Officer and former President, National Conference of State Historic Preservation Officers.

John L. Nau, III  
Chairman

Susan S. Barnes  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

December 11, 2009

The Honorable Jeff Bingaman  
Chair, Energy and Natural Resources Committee  
United States Senate  
703 Hart Senate Office Building  
Washington, D.C. 20510

Dear Chairman Bingaman:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for full, permanent funding of the Land and Water Conservation Fund (LWCF), as proposed in the Land and Water Conservation Authorization and Funding Act (S. 2747). We commend you for introducing this important legislation, which constitutes one of the most important steps our Nation can take today to ensure that future generations of Americans have a chance to enjoy our irreplaceable natural treasures. However, we believe that this is also an important opportunity to look comprehensively at how Outer Continental Shelf revenues are reinvested in resource conservation. We therefore urge you in addition to address full and permanent funding for the Historic Preservation Fund (HPF), the cultural resources counterpart of the LWCF.

The ACHP is the independent federal agency charged with advising the President and Congress on preservation of our nation's historic properties. In this capacity, we have long advocated for adequate resources to address the challenges facing our cultural heritage. We support full and permanent funding for the LWCF because, although it is focused principally on conserving natural and recreational resources, the LWCF also is a source of federal funding for cultural resource protection. Natural and cultural resources are inextricably intertwined; through time, people have shaped the natural landscapes surrounding them or have been shaped in turn by those landscapes. The traces left behind of past human use and the cultural values people currently ascribe to natural areas are important to understand, respect, and protect. Permanent increased funding for the LWCF will help ensure that this goal is met. But this will not adequately address all the continuing needs of the cultural side of our Nation's heritage.

Fundamental to using Outer Continental Shelf oil and gas revenues to fund the LWCF is the sound concept that a portion of the monies generated by the depletion of non-renewable resources should be reinvested in the conservation of other non-renewable resources. That likewise was the premise when Congress decided in 1976 to use Outer Continental Shelf proceeds to fund the HPF, since historic resources also are non-renewable. The HPF supports implementation of the provisions of the National Historic Preservation Act (NHPA), the legislation first passed in 1966 that provides the framework for America's national preservation program. Key to that framework is a partnership involving federal, tribal, state, and local governments working with the private sector to identify historic properties and "to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations."

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The HPF supports:

- State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs). These partners receive annual matching grants to assist them in carrying out their responsibilities under the NHPA. SHPOs and THPOs identify historic properties, foster local government preservation programs, review federal and state preservation tax incentive projects, provide technical assistance, and review federal projects for their impact on historic properties. By funding this network of offices, the HPF supports the preservation of historic properties nationwide. An integral component of the Congress' vision in creating the HPF was SHPOs and THPOs using HPF funds directly for acquisition or rehabilitation of historic properties to ensure their long-term preservation. Funding levels for most of the history of the program have prevented the realization of this vision.
- Save America's Treasures Grants. One of the largest and most successful historic preservation grant programs, Save America's Treasures received permanent authorization in the 2009 Omnibus Public Land Management Act. Grants are available for preservation and/or conservation work on nationally significant intellectual and cultural artifacts and historic structures and sites. This "bricks and mortar" grant program has helped to preserve many significant historic properties across the nation and has become especially important given the absence of HPF funding to SHPOs and THPOs that can be used directly for restoration, rehabilitation, and other badly needed physical preservation work.
- Preserve America Grants. These grants support preservation efforts through heritage tourism, education, and historic preservation planning. The program supports innovative activities and programs in heritage tourism such as surveying and documenting historic resources, interpreting historic sites, planning, promotion, and training. Preserve America grants complement HPF "bricks and mortar" grants by fostering economic strategies and business plans that support the long-term productive use of historic properties, reducing the need to seek public funds for future restoration or rehabilitation. The program has been funded through the HPF for two of the four years of its existence. The Preserve America Grants program was permanently authorized in the 2009 Omnibus Public Land Management Act.

The NHPA authorizes \$150 million yearly from Outer Continental Shelf revenues to fund the HPF through 2015. However, just as the LWCF traditionally has not received full funding, neither has the HPF – only \$79.5 million was appropriated for FY 2010. The adequacy of appropriated HPF funding was one of several important issues addressed by an independent review panel convened by the ACHP and the Department of the Interior in 2008 to explore improvements in the federal preservation program. Establishment of such a panel was one of the recommendations of the national Preserve America Summit, a convocation of more than 450 stakeholders that took place on the 40th anniversary of the NHPA in 2006.

The independent review panel was comprised of leaders representing varied perspectives in the field of historic preservation<sup>1</sup> and made a number of recommendations, all of which ACHP later reviewed and

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<sup>1</sup> The panel members were: Susan Barnes, Vice Chairman, Advisory Council on Historic Preservation, and President and Chief Executive Officer, The Landmark Group of Companies; Philip Grone, former Deputy Under Secretary of Defense for Installations and Environment, Department of Defense; Daniel P. Jordan, President, The Thomas Jefferson Foundation, and Trustee, National Trust for Historic Preservation; Frank G. Matero, Professor of Architecture and Chair of the Graduate Program in Historic Preservation, University of Pennsylvania; Richard Moe, President, National Trust for Historic Preservation; David Morgan, former Kentucky State Historic Preservation Officer and Project Panel Member, National Academy of Public Administration; The Honorable Ellen O. Moyer, Mayor, City of Annapolis; Theresa Pasqual, Director, Acoma Historic

endorsed. Among these was fully funding the HPF. AS the panel pointed out, the current funding level precludes use of the HPF for acquisition and development projects as originally envisioned and authorized in the NHPA. It also fails to provide adequate resources to fully address the responsibilities and mandates that the NHPA places on SHPOs and THPOs, an ongoing challenge that has become particularly acute as States and tribes have struggled to weather the recent economic downturn. The panel particularly noted the relative lack of funding for THPOs. Each year sees the recognition of new THPOs under the provisions of the NHPA, and currently over 80 THPOs are sharing an HPF appropriation of only \$8 million.

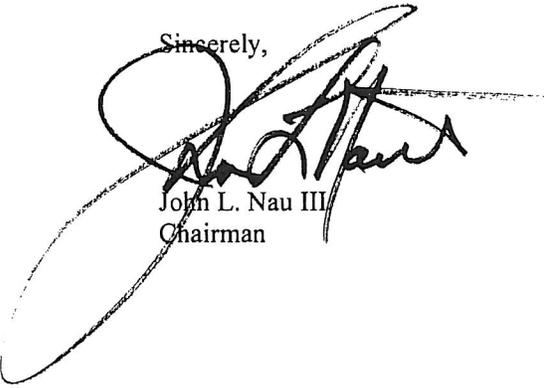
The recent National Parks Second Century Commission also recommended fully funding the HPF as well as the LWCF. Charged with developing a 21st century vision for the National Park Service, the commission was led by former Senators Howard Baker and Bennett Johnson and comprised of nearly 30 national leaders and experts, including scientists, historians, conservationists, academics, business leaders, policy experts, and retired National Park Service executives. In September 2009, the commission submitted its report to the Secretary of the Interior. The report states:

*A permanent appropriation for the Historic Preservation Fund at the full authorized level is vitally important so that the National Park Service can provide financial and technical assistance to state, tribal, and local governments, and other preservation organizations, and ensure that America's prehistoric and historic resources are protected within and beyond park boundaries.*

Increased resources could strengthen the current activities supported by the HPF and, importantly, enable the HPF to be used to support hands-on preservation activities across the Nation. However, unless the cultural environment is brought into the equation by including the HPF on the same basis as the LWCF, this opportunity is likely to be lost, along with much of America's heritage, for years to come.

The ACHP welcomes this opportunity to share its views and would be pleased to provide further information or assistance on this issue of critical importance to historic preservation.

Sincerely,

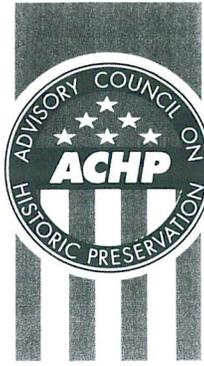


John L. Nau III  
Chairman

John L. Nau, III  
Chairman

Susan S. Barnes  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

May 7, 2010

Honorable Jeff Bingaman  
Chairman, Energy and Natural Resources Committee  
U.S. Senate  
304 Dirksen Senate Building  
Washington, DC 20510

Dear Chairman Bingaman:

At its quarterly meeting on April 9, 2010, the Advisory Council on Historic Preservation reviewed the status of the proposed Public Lands Service Corps Act of 2010 (H.R. 1612) which has passed the House of Representatives, been transmitted to the Senate, and referred to the Senate Committee on Energy and Natural Resources (a second somewhat different Senate version, S. 1442, is also under consideration). The bill would expand the current Public Lands Corps under legislation passed in 1993, and extend the authorized program beyond the Departments of Agriculture and Interior to the National Oceanic and Atmospheric Administration (NOAA) in the Department of Commerce.

The ACHP supports the goals and objectives of the Public Lands Service Corps Act and applauds the inclusion of the National Marine Sanctuaries administered by NOAA in the revised definition of "public lands" covered by the provisions of H.R. 1612. The proposed bill supports many ideas and goals that the ACHP has been promoting for some time, including service-learning opportunities, heritage education and youth engagement, and better integration of cultural and natural resource conservation programs and results.

We thank you and the other members of Congress who have worked on and reviewed this bill, particularly Chairman Raul Grijalva in the House of Representatives. We understand that some differences remain between the House and Senate versions of the bill, but that the Departments of Interior, Agriculture, and Commerce have participated along with OMB in seeking changes to the House version of the bill to address specific concerns about administration and operation of the program. We hope that the various parties will consider retaining special opportunities for Indian Youth employment and education in any final version of the bill, as currently included in Senate version S. 1442, and we

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would be happy to provide advice and assistance on future implementation of the Public Lands Service Corps once the amended program is fully authorized.

Thank you for considering these views. If questions arise, please feel free to contact Executive Director John Fowler at (202) 606-8503.

Sincerely,

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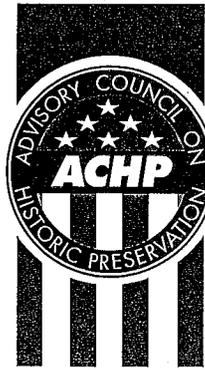
John L. Nau, III  
Chairman

cc: Sen. Lisa Murkowski, Ranking Member, Energy and Natural Resources Committee  
Chairman Raul Grijalva, Subcommittee on National Parks, Forests, and Public Lands, Committee on  
Natural Resources, U.S. House of Representatives

Milford Wayne Donaldson, FAIA  
Chairman

Clement A. Price, Ph.D.  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

March 5, 2012

The Honorable Max Baucus  
Chairman, Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senator Baucus:

The Advisory Council on Historic Preservation (ACHP) wishes to express its continued support for appropriate modifications to the historic preservation tax credit to improve its effectiveness and efficiency. Established by the National Historic Preservation Act of 1966, the ACHP is the independent Federal agency charged with advising the President and Congress on matters relating to historic preservation. The ACHP consistently has encouraged measures to ensure the continued use of the historic preservation tax credit program as an excellent tool for integrating historic preservation and development investment, creating jobs, and for improving the economic vitality of America's communities. Thus, the ACHP supports the approach embodied in the proposed Creating American Prosperity through Preservation Act (S. 2074).

The Federal tax credit for rehabilitation of historic buildings has been one of the most successful revitalization programs ever created by the Federal government. Since 1978, the credit has sparked nearly \$100 billion in private investment, leading to the creation of 2.2 million jobs. The Creating American Prosperity through Preservation Act would build upon this success by making the historic preservation tax credit easier to use, especially by non-profits – which are often serving low-income areas – and for smaller projects designed to reinvigorate America's Main Streets.

S. 2074 also would promote energy efficient retrofitting of historic buildings through the creation of an energy efficiency supplement. Since it is estimated that the operation of existing buildings accounts for approximately 41% of America's energy consumption, providing incentives to improve historic building energy efficiency is critical. Thus, the Creating American Prosperity through Preservation Act would not only help promote economic vitality but also support environmental sustainability.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of S. 2074 or companion legislation. Our Executive Director, John Fowler, can be reached at (202) 606-8503.

Sincerely,

Milford Wayne Donaldson, FAIA  
Chairman

ADVISORY COUNCIL ON HISTORIC PRESERVATION

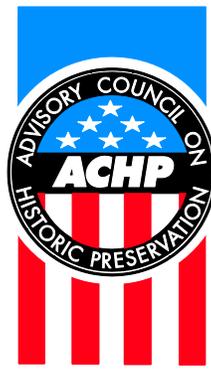
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Milford Wayne Donaldson, FAIA  
Chairman

Clement A. Price, Ph.D.  
Vice Chairman

John M. Fowler  
Executive Director



Preserving America's Heritage

July 12, 2012

Hon. Mark Udall, Chairman  
Subcommittee on National Parks  
Committee on Energy and Natural  
Resources  
United States Senate  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510-6150

Hon. Rand Paul, Ranking Member  
Subcommittee on National Parks  
Committee on Energy and Natural  
Resources  
United States Senate  
Dirksen Senate Office Building, SD-304  
Washington, DC 20510-6150

Dear Chairman Udall and Senator Paul:

The Advisory Council on Historic Preservation (ACHP) would like to convey to the Senate Subcommittee on National Parks its support for S. 3300, the "Manhattan Project National Historical Park Act." The ACHP was established by the National Historic Preservation Act of 1966 (NHPA) to promote the preservation, enhancement, and productive use of the nation's historic resources. It provides a forum for influencing federal activities, programs, and policies that affect historic properties. The NHPA specifically charges the ACHP to advise the President and Congress on historic preservation matters.

The properties associated with the Manhattan Project rank among the most significant historic resources of the last century. They give testimony to the overarching achievement of the nation in bringing World War II to a close and ushering in the era of nuclear energy for both military and peaceful purposes. We agree that the creation of a new National Park is an appropriate means to both commemorate and interpret these facilities, and we believe enactment of this bill will ensure that this important legacy is not lost to future generations of Americans.

The ACHP has had longstanding experience with the Manhattan Project facilities across the nation over the past decade and a half. The ACHP membership has held two of its regular business meetings at Oak Ridge and Los Alamos, gaining a first-hand appreciation for the properties that would become components of the park. As noted in the preamble to S. 3300, the ACHP produced a 2001 study in partnership with the Department of Energy (DOE) that called for the signature facilities to be preserved for the benefit of generations to come.

The "*Manhattan Project National Historical Park Study Act*," signed into law in 2004, designated the ACHP as one of the agencies the Secretary of the Interior was required to consult in conducting the park study. Soon after that law was enacted, the ACHP entered into a formal interagency partnership with DOE to assist them in considering the preservation and access implications of this park proposal for the continued operation of their facilities.

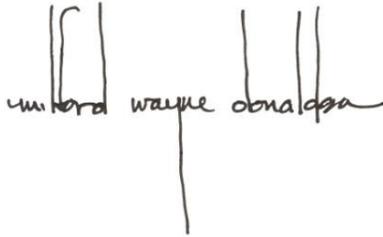
In closing, we are delighted that this bipartisan legislation is being actively considered by the Congress. In a national survey by the Gannett Corporation's Newseum, a poll of journalists and the public both ranked

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the atomic bombs ending World War II as the top story of the 20<sup>th</sup> century, ahead of even the invention of the airplane, the Great Depression, and the first walk on the moon. We believe that creation of a “Manhattan Project National Historical Park” will greatly assist in telling this story of American ingenuity and scientific discoveries to future generations of Americans. We urge the Subcommittee to act favorably on this bill and make the park a reality.

Sincerely,

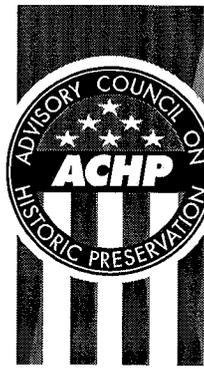
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Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman

Clement A. Price, Ph.D.  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

August 31, 2012

The Honorable Joseph R. Biden, Jr.  
President of the Senate  
Washington, DC 20510

Dear Mr. President:

Enclosed is a draft of a bill, the "National Historic Preservation Act Amendments of 2012." Also enclosed is a section-by-section analysis of the bill.

We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

This bill would grant membership in the Advisory Council on Historic Preservation (ACHP) to the general chairman of the National Association of Tribal Historic Preservation Officers, the functional equivalent of the chairman of the National Trust for Historic Preservation and the president of the National Conference of State Historic Preservation Officers. The bill would make technical amendments that relate to a quorum of the ACHP and designation of an alternate representative for the organization, consistent with the current treatment of other non-federal organizational members and provide a clarification of a technical legal matter.

The ACHP was established by the National Historic Preservation Act of 1966 (NHPA) as an independent federal agency charged with advising the President and the Congress on historic preservation matters. The ACHP also oversees the federal process for protecting historic properties, found in Section 106 of the NHPA. Membership in the ACHP includes the heads of nine federal agencies, four members of the general public, four expert members, a mayor, a governor, the Architect of the Capitol, the chairman of the National Trust for Historic Preservation, the president of the National Conference of State Historic Preservation Officers, and a member of an Indian tribe or Native Hawaiian organization.

The role of tribes in the national historic preservation program has taken on great significance, and the Section 106 process is often the only federal law that affords protection to historic properties of importance to the tribes. Recognizing this, the ACHP invited the general chairman of the National Association of Tribal Historic Preservation Officers, the national non-profit organization that is comprised of Tribal Historic Preservation Officers, to become an observer to the ACHP in 1998.

Tribal Historic Preservation Officers have a function that is parallel to that of State Historic Preservation Officers. Both State Historic Preservation Officers and Tribal Historic Preservation Officers are responsible for coordinating state and tribal preservation programs in accordance with federal standards and with federal matching grant support. Recognizing the importance of State Historic Preservation

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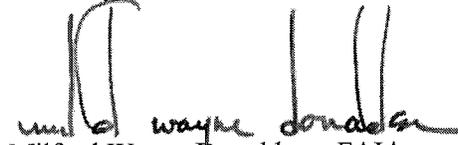
Officers in the national program, Congress added the president of National Conference of State Historic Preservation Officers, an organization comparable to the National Association of Tribal Historic Preservation Officers, as a member of the ACHP in 1980.

The growing importance of Tribal Historic Preservation Officers now justifies providing the National Association of Tribal Historic Preservation Officers with full membership on the ACHP, comparable to its state counterpart.

Accompanying the amendment is a clarification that would substitute the chairman of the ACHP for the Council in certain provisions pertaining to the ACHP's role in the Preserve America program. This clarification is intended to address concerns brought to the ACHP's attention during the development of this legislative proposal by the Department of Justice regarding conformance of the ACHP's authorizing legislation to the Appointments Clause of the U.S. Constitution.

The ACHP is submitting this bill in accordance with the provisions of Section 210 of the Act (16 U.S.C. §470r). The ACHP consulted with the Department of the Interior on the development of the legislation and sought comments from interested federal agencies.

Sincerely,

A handwritten signature in cursive script that reads "Milford Wayne Donaldson". The signature is written in dark ink and is positioned above the typed name.

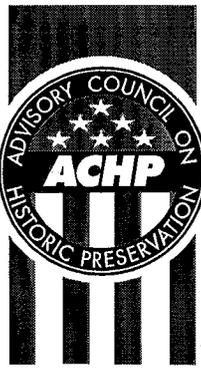
Milford Wayne Donaldson, FAIA  
Chairman

Enclosures

Milford Wayne Donaldson, FAIA  
Chairman

Clement A. Price, Ph.D.  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

April 15, 2013

The Honorable Sam Johnson  
1211 Longworth House Office Building  
United States House of Representatives  
Washington, DC 20515

The Honorable Bill Pascrell  
2370 Russell House Office Building  
United States House of Representatives  
Washington, DC 20515

REF: Federal Historic Rehabilitation Tax Credit

Dear Representatives Johnson and Pascrell:

As the Real Estate Tax Reform Working Group pursues its work, I would like to take this opportunity to commend to you an important tax incentive program that has an outstanding record of past success and great future potential to create jobs, grow the economy, and support community vitality – the federal historic rehabilitation tax credit, also known as the historic tax credit. Administered by the Department of the Interior and the Internal Revenue Service, this credit is provided to projects that rehabilitate income-producing historic buildings while maintaining their historic character. The Advisory Council on Historic Preservation (ACHP) wishes to express its full support for maintaining the historic tax credit as a component of a reformed tax code.

The ACHP is an independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's historic resources. Created by act of Congress in 1966, the ACHP is charged with advising the President and Congress on national historic preservation policy and specifically the impact of tax policies upon historic preservation. We consistently have encouraged measures to ensure the continued use of the historic tax credit as a valuable tool for integrating historic preservation and development investment, and for improving the economic vitality of America's communities. The credit has evolved to become one of the federal government's most successful initiatives to promote the preservation of historic properties and the revitalization of our nation's older cities and towns.

As a catalyst for private investment, the historic tax credit has had a substantial impact on communities. Since its inception in 1981, more than 38,700 tax credit projects have been approved, representing over \$106 billion in private investment. Tax credit use not only has preserved important historic resources, but has created nearly 2.4 million jobs, enhanced property values, increased the availability of affordable rental housing, removed blighted conditions, and promoted sustainable reuse of resources.

While the historic tax credit is helping to revitalize communities across the country, it is a particularly important tool for cities struggling to adapt to shrinking populations. A special Rightsizing Task Force recently created by the ACHP has seen how the federal rehabilitation tax credit plays a critical role in the revitalization of cities and their traditional neighborhoods. In each of the cities visited by the task force – Buffalo, Cleveland, Detroit, Newark, and Saginaw – local officials shared examples of tax credit projects that are helping to stabilize and reshape neighborhoods. Under the leadership of former Secretary of the

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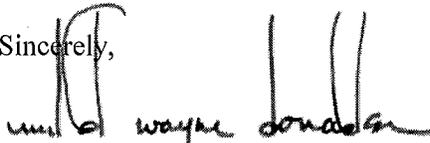
Interior Ken Salazar, the National Park Service recently developed a series of recommendations on how to further maximize use of the historic tax credit to promote economic development and community revitalization, especially in urban and economically depressed areas.

The success of the historic tax credit as a catalyst for community revitalization is reflected in recent legislative efforts to maintain and improve upon the credit. The Creating American Prosperity Through Preservation Act, which was introduced in the 112<sup>th</sup> Congress and is pending reintroduction in the current Congress, would build upon the success of the historic tax credit by making it easier to use, especially for non-profit organizations – which are often serving low-income areas – and for smaller projects designed to reinvigorate America's Main Streets.

As the country continues its economic recovery, the historic tax credit has a critically important role to play in restoring buildings and bringing renewed vitality to America's city centers and Main Street corridors. We respectfully request that you carefully consider the effectiveness, value, and reach of the historic tax credit, and its impact on American communities as you proceed with your assessment of tax code reform priorities. We are confident that your examination will conclude that this valuable tax credit is a cost-effective way to encourage private sector investment in our nation's cities and towns, building a strong future on the foundations of our past.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance. Our Executive Director, John Fowler, can be reached at (202) 606-8503.

Sincerely,

A handwritten signature in black ink that reads "Milford Wayne Donaldson". The signature is written in a cursive style with a vertical line extending downwards from the end of the name.

Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson,  
FAIA  
Chairman  
Sacramento, CA

Clement A. Price, Ph.D.  
Vice Chairman  
Newark, NJ

Teresa Leger de  
Fernandez  
Santa Fe, NM

Bradford J. White  
Evanston, IL

Lynne Sebastian, Ph.D.  
Rio Rancho, NM

Horace H. Foxall, Jr.  
Seattle, WA

Dorothy Lippert, Ph.D.  
Washington, DC

Terry Guen, FASLA  
Chicago, IL

Leonard A. Forsman  
Chairman  
Suquamish Tribe  
Suquamish, WA

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Columbus, OH

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Architect of the Capitol

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Secretary of Agriculture

Hon. Penny Pritzker  
Secretary of Commerce

Hon. Charles T. Hagel  
Secretary of Defense

Hon. Arne Duncan  
Secretary of Education

Hon. Shaun Donovan  
Secretary of Housing &  
Urban Development

Hon. Sally R. Jewell  
Secretary of the  
Interior

Hon. Anthony Foxx  
Secretary of  
Transportation

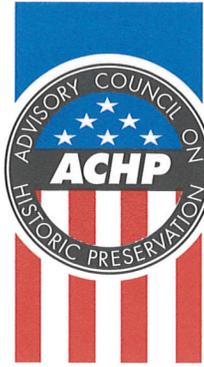
Hon. Eric K. Shinseki  
Secretary of Veterans  
Affairs

Hon. Daniel M.  
Tangherlini  
Administrator  
General Services  
Administration

Elizabeth Hughes  
President  
National Conference of  
State Historic  
Preservation Officers

Carolyn S. Brody  
Chairman, National  
Trust for Historic  
Preservation

John M. Fowler  
Executive Director



Preserving America's Heritage

December 17, 2013

The Honorable John A. Boehner  
Speaker of the House of Representatives  
U. S. House of Representatives  
1011 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Nancy Pelosi  
Democratic Leader  
U. S. House of Representatives  
235 Cannon House Office Building  
Washington, D.C. 20515

Dear Mr. Speaker and Leader Pelosi:

The Advisory Council on Historic Preservation (ACHP) would like to express its opposition to the Ensuring Public Involvement in the Creation of National Monuments Act (H.R. 1459), which was reported out of committee in September. Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, we offer the following observations on the importance of national monument designation and the unwarranted provisions embodied in H.R. 1459.

H.R. 1459 would amend the Antiquities Act of 1906, America's first federal law designed to protect historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest. Section 2 of the law permits the President to designate important cultural and natural resources on federal lands as national monuments, thus ensuring their continued preservation for future generations. Several major national parks were first national monuments, including Grand Canyon, Petrified Forest, Olympic, and Acadia. Just a few of the other significant sites that have been designated national monuments by presidential proclamation include the Statue of Liberty, Devils Tower, Canyon of the Ancients, and Muir Woods.

We must beg to differ with the Report of the Committee on Natural Resources (Report 113-221), which characterizes the Antiquities Act as "outdated." While other protective environmental laws have been passed since enactment of the Antiquities Act, none make Section 2 of the Act redundant. The ability of the President to protect resources on federal land through direct executive action is important and has been utilized by most presidents since passage of the Act in 1906. While some past designations have engendered controversy, the majority have not been contentious. In every case, important federally-owned cultural and natural resources have benefitted from the proactive and expeditious action of national monument designation. Limiting Presidential proclamations of national monuments to one per state per four-year term, as called for in H.R. 1459, runs counter to the purposes of the Act and seemingly is arbitrary.

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H.R. 1459 would require Presidential creation of national monuments to undergo review under the National Environmental Policy Act (NEPA). NEPA requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. Applying NEPA to a discretionary presidential decision such as national monument designation would be unprecedented. In our opinion, such an extraordinary measure is not warranted given that the purpose of national monument designation is to ensure the long-term preservation of significant environmental resources.

That is not to say that national monument designation should be undertaken in a vacuum. President Obama's recent designation of five national monuments took place only after outreach and dialogue with local, state, tribal, and national stakeholders. As a result, designation of these new monuments enjoys wide support. Thus, we do not believe that the Committee Report is accurate when it maintains that national monument designations are "done in secret."

The ACHP's position on H.R. 1459 mirrors that of the Department of the Interior, which administers the vast majority of national monuments. The Department's statement for the record before the Natural Resources Subcommittee on Public Lands and Environmental Regulations expresses the Department's strong opposition to the bill. The views of the Department derive from over 100 years of experience with the creation and administration of national monuments, and we urge you to give them great weight in addressing H.R. 1459.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of H.R. 1459. Our Executive Director, John Fowler, may be reached at (202) 606-8503.

Sincerely,

A handwritten signature in cursive script that reads "Milford Wayne Donaldson". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Milford Wayne Donaldson, FAIA  
Chairman

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Sacramento, CA

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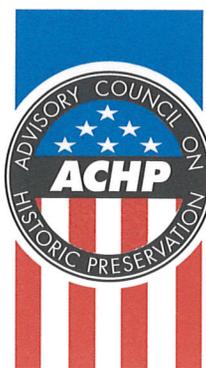
Hon. Eric K. Shinseki  
Secretary of Veterans  
Affairs

Hon. Daniel M.  
Tangherlini  
Administrator  
General Services  
Administration

Elizabeth Hughes  
President  
National Conference of  
State Historic  
Preservation Officers

Carolyn S. Brody  
Chairman, National  
Trust for Historic  
Preservation

John M. Fowler  
Executive Director



Preserving America's Heritage

December 23, 2013

The Honorable Rob Bishop, Chairman  
Subcommittee on Public Lands and Environmental Regulation  
Committee on Natural Resources  
U. S. House of Representatives  
Longworth House Office Building, Room 1324  
Washington, DC 20515

Dear Chairman Bishop:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for the United States Civil Rights Trail Special Resource Study Act (H.R. 2416). Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, we offer the following observations on the importance of protecting and interpreting sites associated with the struggle for civil rights in the United States.

H.R. 2416 would require the Department of the Interior to study how best to identify, protect, and interpret historic sites associated with the civil rights movement of the 1950s and 1960s to secure racial equality for African Americans. The study would address potential inclusion of some or all of the sites in a National Civil Rights Trail. It is our understanding that the Department of the Interior supports the proposed bill.

The special resource study called for in H.R. 2416 would be an important tool for identifying and protecting historic properties of importance to the African American community and to the country at large. The struggle to end legal racial discrimination and segregation had a profound influence on the course of American history and continues to shape our society today. The physical places associated with the people and events of the civil rights movement help us both to understand and to celebrate what took place fifty years ago.

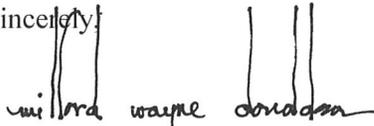
The ACHP currently is working to reach out to the full range of cultures and communities that make up today's America in order to help build a more inclusive national historic preservation program. Our objective is to encourage wider involvement and representation in determining what historic places are important, how they are preserved and interpreted, and how they contribute to portraying a more complete story of the nation's heritage. In keeping with that goal, we support H.R. 2416.

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Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of H.R. 2416. Our Executive Director, John Fowler, may be reached at (202) 606-8503.

Sincerely,

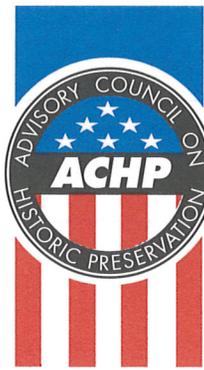
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Milford Wayne Donaldson, FAIA  
Chairman

Milford Wayne Donaldson, FAIA  
Chairman

Clement A. Price, Ph.D.  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

May 2, 2014

The Honorable Rob Bishop  
Chairman, Subcommittee on  
Public Lands and Environmental Regulation  
U.S. House of Representatives  
123 Cannon Building  
Washington, DC 20515

The Honorable Raúl M. Grijalva  
Ranking Member, Subcommittee on  
Public Lands and Environmental Regulation  
U.S. House of Representatives  
1511 Longworth Building  
Washington, DC 20515

Dear Chairman Bishop and Ranking Member Grijalva:

The Advisory Council on Historic Preservation (ACHP) would like to express its strong opposition to the Military Land and National Defense Act (H.R. 3687). The bill is unnecessary and an unwarranted departure from an established system that has served historic preservation and federal agency programs well for nearly half a century. H.R. 3687, also known as the Military LAND Act, would amend Section 101 of the National Historic Preservation Act (NHPA) to allow federal agencies to prevent designation of federal properties as historic (and reverse existing designations) based on agency interpretations of national security needs. The bill's apparent intent is to permit federal agencies to avoid addressing historic properties under environmental protection legislation, including Section 106 of the NHPA. The ACHP, the independent federal agency responsible for advising the President and Congress on national historic preservation policy, administers the historic preservation review process that agencies follow to comply with Section 106.

Although H.R. 3687 is titled the Military LAND Act [emphasis added], the bill would permit any federal property-managing agency to object to the historic designation of its properties (or revoke such designation) for "reasons of national security." This fact, coupled with the absence of a definition in the bill for "reasons of national security," suggests that H.R. 3687 could be widely invoked. Such authority is simply not necessary in order to balance preservation of historic properties with national security needs, as the Section 106 review process has been specifically designed to do just that.

Under the NHPA, designation of federal properties as historic does not mean that they must be preserved. It does mean that agencies need to proceed with the historic preservation review process when the historic properties may be affected by agency actions. Through the review process, agencies determine whether they can avoid, minimize, or mitigate any adverse effects on the historic properties. The process fosters creativity and a common-sense approach to problem solving that usually results in agencies and local stakeholders reaching agreement on how to address conflicts between historic preservation objectives and agency mission requirements. But ultimately, whether agreement is reached or not, federal agencies always remain the final decision makers as to how projects affecting the property will proceed.

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The ACHP encourages agencies to address complex projects and continuing programs programmatically in order to streamline the historic preservation review process. The Defense agencies have used this tactic very effectively when addressing military training and readiness issues, which are specifically cited as a concern in H.R. 3687. The following examples highlight how the military has successfully used programmatic approaches to address historic properties while not compromising training and readiness.

- Last year, the Army worked with the ACHP and the Colorado State Historic Preservation Officer to develop two Programmatic Agreements to address operation of training areas and ranges on Fort Carson and the Pinon Canyon Maneuver Site. These agreements identify how historic properties will be managed through a comprehensive proactive strategy that replaces project-by-project review.
- Since 2008, Naval Base Coronado has been implementing a Programmatic Agreement to address the impact to historic properties from the Navy's operation of its Southern California on-shore and immediate off-shore ranges used to conduct readiness and other operational training activities. Training addressed by the Agreement includes air warfare, surface warfare, under-sea warfare, strike warfare, submarine and amphibious warfare, shore bombardment, aerial bombing, special warfare, research and development tests and evaluation, and Joint Task Force Exercises.
- In 2008, the Army entered into a Programmatic Agreement to address increased training requirements and construction at Fort A.P. Hill. A coalition of military officials, preservationists, conservationists, and Indian tribes came together and eventually reached a novel compromise: rather than excavate archeological sites on the base, they would use Army funds to protect more significant cultural and natural resources off the base through an Army Compatible Use Buffer easement. This innovative solution received the 2011 National Trust for Historic Preservation/ACHP Award for Federal Partnerships in Historic Preservation.

These and other examples underscore the Department of Defense's position, as articulated at the recent Subcommittee hearing, that compliance with the NHPA is not an impediment to meeting military readiness obligations and that H.R. 3687 is not needed to preserve access to testing and training lands. Indeed, the ACHP has reviewed its records and has been unable to find any examples where historic designation of properties and subsequent review of projects affecting them has compromised a federal agency's ability to address national security issues. The ACHP subscribes completely to the views of the Department of Defense on H.R. 3687.

Were H.R. 3687 to be enacted, the Congress would be abandoning a fundamental principle it established when it created the national historic preservation program in 1966. The basic premise of the historic designation process is the objective evaluation of properties against established criteria of significance without consideration of current use or future plans. When properties are demonstrably important historically, they are recognized as such so that their historic significance can then be factored in to management decisions. The ACHP knows of no instance where Congress has granted federal agencies authority to invert this process and allow an agency to assert that its mission needs override the objective professional review of whether properties are historically significant. Almost fifty years of practice has demonstrated the wisdom and workability of the current system.

The Department of the Interior's testimony at the recent hearing on H.R. 3687 explained in full the adverse implications of granting federal agencies authority to oppose historic designation of properties based on management issues rather than objective consideration of the historic importance of such properties. The ACHP urges the Subcommittee to heed the views of the Department of the Interior when considering H.R. 3687.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of H.R. 3687. I can be reached at (202) 606-8503.

Sincerely,

A handwritten signature in cursive script that reads "John M. Fowler". The signature is fluid and elegant, with the first letters of each name being capitalized and prominent.

John M. Fowler  
Executive Director

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Secretary of the Interior

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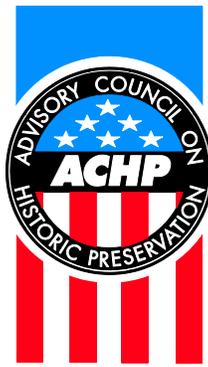
Hon. Eric K. Shinseki  
Secretary of Veterans Affairs

Hon. Daniel M. Tangherlini  
Administrator  
General Services Administration

Elizabeth Hughes  
President  
National Conference of State  
Historic Preservation Officers

Carolyn S. Brody  
Chairman, National Trust for  
Historic Preservation

John M. Fowler  
Executive Director



Preserving America's Heritage

May 20, 2014

The Honorable John A. Boehner  
Speaker of the House of Representatives  
U.S. House of Representatives  
1011 Longworth House Office Building  
Washington, DC 20515

The Honorable Nancy Pelosi  
Democratic Leader  
U.S. House of Representatives  
235 Cannon House Office Building  
Washington, DC 20515

Dear Mr. Speaker and Leader Pelosi:

The Advisory Council on Historic Preservation (ACHP) would like to provide its views on the Howard P. `Buck' McKeon National Defense Authorization Act (H.R. 4435). Established by the National Historic Preservation Act (NHPA), the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation. In that capacity, the ACHP would like to convey its: 1) strong opposition to Section 2816 of the bill, which would permit federal agencies to prevent designation of federal properties as historic (and reverse existing designations) based on agency interpretations of national security needs; and 2) strong support for establishment of the Manhattan Project National Historical Park as set forth in Section 2866.

### **Section 2816**

Section 2816 would amend Section 101 of the NHPA to allow federal agencies to prevent designation of federal properties as historic (and reverse existing designations) based on agency interpretations of national security needs. The apparent intent is to permit federal agencies to avoid addressing historic properties under environmental protection legislation, including Section 106 of the NHPA. This is unnecessary and an unwarranted departure from an established system that has served historic preservation and federal agency programs well for nearly half a century

Although concerns for military training and readiness are mentioned in Section 2816, it would permit any federal property-managing agency – not just Defense agencies – to object to the historic designation of its properties (or revoke such designation) for “reasons of national security.” This fact, coupled with the absence of a definition for “reasons of national security,” suggests that the provisions of Section 2816 could be widely invoked. Such authority is simply not necessary in order to balance preservation of historic properties with national security needs, as the Section 106 review process has been specifically designed to do just that.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Under the NHPA, designation of federal properties as historic does not mean that they must be preserved. It does mean that agencies need to proceed with the historic preservation review process when the historic properties may be affected by agency actions. Through the review process, agencies determine whether they can avoid, minimize, or mitigate any adverse effects on the historic properties. The process fosters creativity and a common-sense approach to problem solving that usually results in agencies and local stakeholders reaching agreement on how to address conflicts between historic preservation objectives and agency mission requirements. But ultimately, whether agreement is reached or not, federal agencies always remain the final decision makers as to how projects affecting the property will proceed.

The ACHP encourages agencies to address complex projects and continuing programs programmatically in order to streamline the historic preservation review process. The Defense agencies have used this tactic very effectively when addressing military training and readiness issues. The following examples highlight how the military has successfully used programmatic approaches to address historic properties while not compromising training and readiness.

- Last year, the Army worked with the ACHP and the Colorado State Historic Preservation Officer to develop two Programmatic Agreements to address operation of training areas and ranges on Fort Carson and the Pinon Canyon Maneuver Site. These agreements identify how historic properties will be managed through a comprehensive proactive strategy that replaces project-by-project review.
- Since 2008, Naval Base Coronado has been implementing a Programmatic Agreement to address the impact to historic properties from the Navy's operation of its Southern California on-shore and immediate off-shore ranges used to conduct readiness and other operational training activities. Training addressed by the Agreement includes air warfare, surface warfare, under-sea warfare, strike warfare, submarine and amphibious warfare, shore bombardment, aerial bombing, special warfare, research and development tests and evaluation, and Joint Task Force Exercises.
- In 2008, the Army entered into a Programmatic Agreement to address increased training requirements and construction at Fort A.P. Hill. A coalition of military officials, preservationists, conservationists, and Indian tribes came together and eventually reached a novel compromise: rather than excavate archeological sites on the base, they would use Army funds to protect more significant cultural and natural resources off the base through an Army Compatible Use Buffer easement. This innovative solution received the 2011 National Trust for Historic Preservation/ACHP Award for Federal Partnerships in Historic Preservation.

These and other examples underscore the Department of Defense's position as articulated at a recent hearing of the Natural Resources Subcommittee on Public Lands and Environmental Regulation regarding H.R. 3687, the bill from which the provisions of Section 2816 derive. The Defense representative testified that compliance with the NHPA is not an impediment to meeting military readiness obligations and that the provisions embodied in Section 2816 are not needed to preserve access to testing and training lands. Indeed, the ACHP has reviewed its records and has been unable to find any examples where historic designation of properties and subsequent review of projects affecting them has compromised a federal agency's ability to address national security issues. The ACHP subscribes completely to the views of the Department of Defense.

Were Section 2816 to be enacted, the Congress would be abandoning a fundamental principle it established when it created the national historic preservation program in 1966. The basic premise of the historic designation process is the objective evaluation of properties against established criteria of significance without consideration of current use or future plans. When properties are demonstrably important historically, they are recognized as such so that their historic significance can then be factored

in to management decisions. The ACHP knows of no instance where Congress has granted federal agencies authority to invert this process and allow an agency to assert that its mission needs override the objective professional review of whether properties are historically significant.

Almost fifty years of practice has demonstrated the wisdom and workability of the current system. The Department of the Interior's testimony at the recent Subcommittee hearing explained in full the adverse implications of granting federal agencies authority to oppose historic designation of properties based on management issues rather than objective consideration of the historic importance of such properties. The ACHP urges the House of Representatives to heed the views of the Department of the Interior and amend H.R. 4435 to delete Section 2816.

### **Section 2866**

The properties associated with the Manhattan Project rank among the most significant historic resources of the last century. They give testimony to the overarching achievement of the nation in bringing World War II to a close and ushering in the era of nuclear energy for both military and peaceful purposes. The ACHP agrees that the creation of a new National Park is an appropriate means to both commemorate and interpret these facilities, and we believe enactment of Section 2866 will ensure that this important legacy is not lost to future generations of Americans.

The ACHP has had longstanding experience with the Manhattan Project facilities across the nation over the past decade and a half. The ACHP membership has held two of its regular business meetings at Oak Ridge and Los Alamos, gaining a first-hand appreciation for the properties that would become components of the park. The ACHP produced a 2001 study in partnership with the Department of Energy that called for the signature facilities to be preserved for the benefit of generations to come. The "Manhattan Project National Historical Park Study Act," signed into law in 2004, designated the ACHP as one of the agencies the Secretary of the Interior was required to consult in conducting the park study. Soon after that law was enacted, the ACHP entered into a formal interagency partnership with the Department of Energy to assist them in considering the preservation and access implications of this park proposal for the continued operation of their facilities.

In a national survey by the Gannett Corporation's Newseum, a poll of journalists and the public both ranked the atomic bombs ending World War II as the top story of the 20th century, ahead of even the invention of the airplane, the Great Depression, and the first walk on the moon. We believe that creation of a Manhattan Project National Historical Park will greatly assist in telling this story of American ingenuity and scientific discovery. The ACHP urges the House of Representatives to support this goal by retaining Section 2866 in the final version of H.R. 4435.

Please feel free to contact us if you have any questions on our position or if the ACHP can be of any assistance during further consideration of H.R. 4435. Our Executive Director, John Fowler, may be reached at (202) 606-8503 or at [jfowler@achp.gov](mailto:jfowler@achp.gov).

Sincerely,



Milford Wayne Donaldson, FAIA  
Chairman

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Secretary of Housing & Urban  
Development

Hon. Sally R. Jewell  
Secretary of the Interior

Hon. Anthony Foxx  
Secretary of Transportation

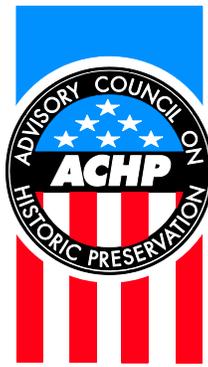
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Carolyn S. Brody  
Chairman, National Trust for  
Historic Preservation

John M. Fowler  
Executive Director



Preserving America's Heritage

August 4, 2014

The Honorable Harry Reid  
Senate Majority Leader  
United States Senate  
522 Hart Senate Office Building  
Washington, DC 20510

Dear Majority Leader Reid:

The Advisory Council on Historic Preservation (ACHP) would like to express its support for Senate consideration of the American Battlefield Protection Program Amendments Act (H.R. 1033), which currently is on the Senate Legislative Calendar. Established by the National Historic Preservation Act of 1966, the ACHP is the independent federal agency charged with advising the President and Congress on matters relating to historic preservation.

H.R. 1033 would change the current federal grant program for the acquisition of Civil War battlefield lands to also include Revolutionary War and War of 1812 sites. In March 2008, the National Park Service transmitted the *Report to Congress on the Historic Preservation of Revolutionary War and the War of 1812 Sites in the United States*. The report noted that half of the significant sites associated with these important chapters in our history already have been lost and many of the remaining properties face a variety of threats. Expanding the successful grant program for acquisition of Civil War battlefields would provide states and local communities with needed leverage to fund the preservation of Revolutionary War and War of 1812 sites.

In the 112<sup>th</sup> Congress, a similar bill also advanced to placement on the Senate legislative calendar but not taken up by the Senate before that Congress ended. Taking action now on H.R. 1033 would be particularly timely given that America is celebrating the bicentennial of the War of 1812. In little more than a month, our country will observe the 200<sup>th</sup> anniversary of the Battle of Baltimore and composition of the poem that would become our national anthem. Senate consideration – and hopefully passage – of H.R. 1033 certainly would be a fitting recognition of this important anniversary.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Please feel free to contact us if the ACHP can be of any assistance during further consideration of H.R. 1033. Our Executive Director, John Fowler, may be reached at (202) 517-0191.

Sincerely,



Milford Wayne Donaldson

Milford Wayne Donaldson, FAIA  
Chairman



## ACHP POLICY STATEMENTS

According to the ACHP's operating procedures, "policy and positions on legislative proposals shall be established by action of the Membership" (see briefing books, vol. 1). From time to time the ACHP prepares and issues policy statements based on identified needs to help guide its own work, the actions of federal agencies, and others in meeting historic preservation requirements and the policy and program goals laid out in the National Historic Preservation Act and related authorities. Such policy statements are usually developed through a task force or other working group of ACHP members, in cooperation with the ACHP staff. They are often informed by specific historic preservation cases, as well as site visits and other information gathering. Other federal and non-federal partners are invited to consult with the members and staff, and such policy statements may be published in the Federal Register or otherwise made available for public review and comment before being finalized.

Current policy statements address the following topics:

- ***ACHP's Interaction with Native Hawaiian Organizations***  
This policy statement sets forth the commitment of the ACHP to ensuring that Native Hawaiian organizations have the opportunities to which they are entitled under the NHPA to participate in the national historic preservation program.
- ***ACHP's Relationships with Indian Tribes***  
This policy statement establishes the framework by which the ACHP integrates the concepts of tribal sovereignty, government-to-government relations, trust responsibilities, tribal consultation, and respect for tribal religious and cultural values into its administration of Section 106 of the NHPA and its other activities.
- ***Affordable Housing and Historic Preservation***  
In this policy statement, the ACHP offers a flexible approach for housing providers and preservationists to use in meeting the requirements of Section 106 for affordable housing projects involving historic properties.
- ***Archaeology, Heritage Tourism, and Education***  
The principles and guidance in this policy statement are offered to assist decision makers in incorporating archaeology and archaeological resources into heritage tourism projects and programs as well as broader education initiatives.
- ***Balancing Cultural and Natural Values on Federal Lands***  
Through the principles in this policy statement, the ACHP seeks to promote an approach to resource management and conflict resolution on federally owned public lands that achieves balance between natural and cultural values.

- ***Controversial Commemorative Works***

The guiding principles set forth in this policy statement are designed to assist federal, state, and local governments facing decisions about the management or disposition of controversial commemorative works honoring divisive historical figures or events.

- ***Federal Relationships with Tribal Historic Preservation Officers***

This policy statement sets forth actions the ACHP will take to clarify federal agency responsibilities under the NHPA and the Section 106 regulations with respect to Tribal Historic Preservation Officers (THPOs) and the steps the ACHP will take to promote the full participation of THPOs in the national preservation program.

- ***Historic Preservation and Community Revitalization***

The goal of this policy statement is to outline a flexible and creative approach to developing local community revitalization plans that involve historic properties, and assist residents and community organizations in creating realistic strategies to integrate into such plans the conservation and rejuvenation of the places and properties that define their neighborhoods.

- ***Promotion and Value of Traditional Trades Training***

The discussion and recommendations for action in this policy statement address the current shortage of skilled preservation craft workers and the need to make the training of new craftspeople a critical priority.

- ***Treatment of Burial Sites, Human Remains, and Funerary Objects***

This policy statement offers guidance on resolving how to treat burial sites, human remains, and funerary objects in a respectful and sensitive manner, and is designed to guide federal agencies in making decisions about these sites and objects encountered during the Section 106 process (when other federal or state law does not prescribe a course of action).

*June 11, 2021*

Drive, Bethesda, MD 20892 (Video-Assisted Meeting).

**Contact Person:** Luis E. Dettin, Ph.D., M.S., M.A., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Rm. 2131B, Bethesda, MD 20892, (301) 827-8231, [luis\\_dettin@nih.gov](mailto:luis_dettin@nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: November 2, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-24671 Filed 11-5-20; 8:45 am]

BILLING CODE 4140-01-P

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### Notice of Adoption of Policy Statement on Promotion and Value of Traditional Trades Training

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Notice of adoption of policy statement on promotion and value of traditional trades training.

**SUMMARY:** The Advisory Council on Historic Preservation has adopted Policy Statement on Promotion and Value of Traditional Trades Training.

**DATES:** The policy statement was adopted on October 19, 2020.

**ADDRESSES:** Address any questions concerning the policy statement to Druscilla J. Null, Advisory Council on Historic Preservation, 401 F Street NW, Suite 308, Washington, DC 20001.

**FOR FURTHER INFORMATION CONTACT:** Druscilla J. Null, (202) 517-1487, [dnull@achp.gov](mailto:dnull@achp.gov).

**SUPPLEMENTARY INFORMATION:** The Advisory Council on Historic Preservation (ACHP), an independent federal agency created by the National Historic Preservation Act (NHPA), works to promote the preservation, enhancement, and sustainable use of our nation's diverse historic resources, and advises the President and the Congress on national historic preservation policy.

One of the ACHP's statutory duties under the NHPA is to encourage training and education in the field of historic preservation. In keeping with that mandate, at its November 7, 2019, business meeting, the ACHP initiated

discussions regarding traditional trades training. America is suffering from a shortage of skilled workers in the specialized traditional trades often required for historic preservation projects. Expanding opportunities for traditional trades training would be an important step in addressing this problem. Doing so is critical to the maintenance of our nation's historic places and to filling jobs that will help revitalize communities both physically and economically.

At its March 13, 2020, business meeting, the ACHP further explored traditional trades training and discussed the possibility of creating a task force to address the issue. The idea of developing a policy statement on the topic also was discussed. On May 28, 2020, ACHP Chairman Aimee Jorjani announced the creation of the ACHP Traditional Trades Training Task Force (Task Force). One of its stated goals was to develop recommendations for federal action that could be embodied in a formal ACHP policy statement.

The Task Force includes representatives of several federal agencies and individuals with historic preservation, education, and architecture expertise. In addition to ACHP Chairman Jorjani and ACHP Vice Chairman Rick Gonzalez, the following agencies and organizations are represented on the Task Force: The Department of the Interior; Department of Education; National Park Service Historic Preservation Training Center; National Park Service Western Center for Historic Preservation; National Center for Preservation Technology and Training; National Endowment for the Arts; National Trust for Historic Preservation; Preservation Maryland; Savannah Technical College; and Turner Restoration of Detroit.

Based on Task Force meeting discussions throughout the summer and fall, ACHP staff developed a draft policy statement that was reviewed by the Task Force. Based upon input on the outline, a draft of the policy statement was developed and provided to both the Task Force and the ACHP's standing Preservation Initiatives Committee for review. Following further refinement, the draft policy statement was sent to the full ACHP membership for review. The final version of the policy statement was adopted by vote of the ACHP members on October 19, 2020.

The ACHP Policy Statement on Promotion and Value of Traditional Trades Training discusses the need for and the benefits of expanded traditional trades training; suggests key principles that should guide federal, state, and local workforce development and

training efforts; and offers recommendations for action.

### Text of the Policy Statement on Promotion and Value of Traditional Trades Training

What follows is the text of the adopted policy statement:

#### ACHP Policy Statement on Promotion and Value of Traditional Trades Training

Quality restoration work on historic buildings requires skilled workers in the traditional trades. Masons, carpenters, painters, plasterers, and others in the construction trades who know how to—and why we should—preserve, repair, replicate, and maintain historic materials and finishes are essential to historic preservation projects. However, the unfortunate reality is that there is an increasingly short supply of such craftspeople. More recognizable opportunities for workforce development and training in the traditional trades not only would help address this problem critical to the maintenance of our nation's historic places, but also would contribute to economic recovery and wellbeing through career pathways that benefit local communities.

The importance and value of the skilled craftworker and the need to support traditional trades training has been recognized in the historic preservation field for many years. The National Trust for Historic Preservation addressed the issue in its 1968 *Whitehill Report on Professional and Public Education for Historic Preservation* and revisited it almost 40 years later in a 2005 issue of its *Forum Journal* titled "Building Trades Education in the 21st Century." The National Park Service (NPS) also addressed the importance of traditional trades training in a 1997 issue of its publication *Cultural Resource Management* titled "Preservation Trades and Crafts: Working in Preservation and Fostering the Trades." In the years since these publications were issued, with an aging workforce and building stock, the need to increase the number of skilled craftspeople has only become more acute.

The federal government can play an important role in promoting traditional trades training. NPS already makes a significant contribution through the work of the agency's Historic Preservation Training Center, Western Center for Historic Preservation, and National Center for Preservation Technology and Training. Expanding the scope and scale of traditional trades

training in America will require broadening federal engagement.

The Advisory Council on Historic Preservation (ACHP), an independent federal agency created by the National Historic Preservation Act (NHPA), works to promote the preservation, enhancement, and sustainable use of our nation's diverse historic resources, and advises the President and the Congress on national historic preservation policy. One of the ACHP's stated duties in the NHPA is to encourage training and education in the field of historic preservation. In this policy statement, the ACHP discusses the need for and the benefits of expanded traditional trades training; suggests key principles that should guide federal, state, and local workforce development and training efforts; and offers recommendations for action.

#### *Scope of Need and Potential Benefits of Expanded Training*

The recent societal trend to devalue the skilled trades as an alternative to college and a worthwhile career path has led to a shortage of new workers entering the construction trades. This is occurring at the same time that many in the existing workforce are retiring. According to a 2019 survey by the Associated General Contractors of America, 80 percent of construction firms reported having difficulty in filling craft positions that represent the bulk of the construction workforce. Similarly, a survey by the National Association of Home Builders found 82 percent of respondents expected labor shortages to be their top issue in 2019. This lack of skilled workers is further magnified for the specialized traditional trades often needed for historic preservation projects.

The relative scarcity of skilled workers in the traditional trades is brought into sharp relief in the wake of natural disasters. After addressing immediate emergency issues, full rehabilitation of damaged historic buildings is often delayed or compromised because of a lack of craftspeople who have expertise working with historic building materials.

Despite this shortage, various public policies promote historic preservation projects that require skilled traditional trades craftspeople. For instance, the Great American Outdoors Act signed into law in 2020 will provide up to \$9.5 billion in funding for deferred maintenance within NPS and at other federal facilities. Historic buildings make up about 46 percent of the NPS deferred maintenance backlog, and their repair will boost the demand for skilled

workers in the traditional trades. Another relevant policy example is incentivizing preservation through tax credits. The federal Historic Tax Credit for rehabilitation of income-producing historic properties and similar historic tax credits in 37 states require that projects meet quality standards (generally the Secretary of the Interior's Standards for Rehabilitation). Meeting such standards often requires work by craftspeople trained in the traditional trades.

Growing the ranks of skilled traditional trades workers would help to build preservation capacity in the construction trades and ensure that precious historic resources are preserved for future generations. Expanded traditional trades training also would bolster local economies, helping to fill vacant jobs. Enhancing traditional trades training opportunities—notably for youth and veterans—would allow people to acquire marketable knowledge, skills, and abilities that employers are seeking. Resulting jobs often are well-paid and secure. Median wages in construction have been outpacing the national median wage, according to the National Association of Home Builders. Additionally, the current shortage of traditional trades workers coupled with projected continued demand will provide new entrants into those trades with considerable job security.

#### *Framework for Expanding Traditional Trades Training*

The effectiveness of efforts to expand training opportunities in the traditional trades will be maximized if grounded upon the following key concepts.

—*Training opportunities in the traditional trades should be widely available.* There should be national and regional traditional trades training opportunities with a variety of options and pathways of different durations (immersion, apprenticeships, degree programs) and educational levels (high school, vocational school, community college, college) in order to maximize the number of new workers entering the field. Tradespeople already working in related fields also should have opportunities to add traditional trades expertise to their skill set. Likewise, craftspeople already in the traditional trades would benefit from continuing education opportunities.

—*Importance of open-source training curriculum.* Each traditional trades training program currently has to create its own curriculum. This problem of reinventing the wheel would be minimized if open-source

curriculum options were available. Standardized programs of study that could be tailored to unique local needs would ease creation of training programs, make them more sustainable, and encourage the growth of a community of instructors in such programs.

—*Apprenticeship programs are essential.* By its very nature, traditional trades training requires hands-on instruction and mentoring. Apprenticeships provide that gateway for entry-level students to learn from experienced craftspeople. They can alleviate the burden of student loans. Apprenticeships also are a key way of matching students with the companies that need their services for direct job placement.

—*Importance of industry-recognized credentials and/or qualification standards.* Currently, there are no third-party credentialing organizations bestowing credentials for the traditional trades and no specific qualification standards that must be met in order to claim proficiency. Such formal recognition verifies a person's competence in their chosen skill, is sought after by employers, and would be advantageous for traditional trades craftspeople seeking to document their expertise. Credentialing would be a significant step toward enhancing the stature of traditional trades craftspeople relative to the other professionals (architectural historians, architects, engineers, etc.) who collaborate to restore and rehabilitate historic properties.

#### *Recommendations for Federal Action*

The federal government can play an important role in promoting traditional trades training and workforce development. The following recommendations address both use of existing federal programs and consideration of new policies and programs.

—*Integrate traditional trades into existing Department of Labor (DOL) apprenticeship programs.* DOL oversees the National Apprenticeship Program, a system of registered apprenticeships implemented by DOL and state apprenticeship agencies that in 2020 was supplemented with a new model of industry-recognized apprenticeships. There are significant untapped opportunities to accommodate and encourage traditional trades apprenticeships in this national apprenticeship framework. DOL should include traditional trades in its Occupational Information Network Program and the

- Standard Occupational Classification Codes upon which that program is based.
- Encourage states to use existing Department of Education (ED) career and technical education funding for traditional trades training in state Perkins plans.* Under the Carl D. Perkins Career and Technical Education Act, ED awards more than \$1 billion a year in state formula grants and competitive discretionary grants for the improvement of career and technical education programs across the nation. While decisions about how the money is spent rests at the state and local level, there is ED oversight of state plans and implementation. In that context, ED should pursue opportunities to advise states on the potential benefits of traditional trades training in meeting the labor market need for such craftspeople.
  - Encourage recipients of existing Department of Housing and Urban Development (HUD) funding to address traditional trades training when meeting workforce development requirements.* Under Section 3 of the Housing and Urban Development Act, recipients of certain HUD financial assistance must, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods. To meet Section 3 requirements, HUD grantees and their contractors sometimes run or participate in training and apprenticeship programs that prepare community residents for jobs. HUD should pursue opportunities to encourage addressing the traditional trades, particularly for projects involving historic properties and the rehabilitation of affordable housing.
  - Consider options for federal support in development of open-source traditional trades training curriculum.* NPS's Historic Preservation Training Center, Western Center for Historic Preservation, and National Center for Preservation Technology and Training are logical focal points for a federal response to the need for traditional trades training curriculum, with development work either being done in-house or through contracts. As a first step, there should be a review of existing programs and curriculum to serve as a baseline for next steps in curriculum development. Once curriculum is developed, federal support might also assist in "training the trainers" to help institutions and individuals become familiar with the curriculum.
  - Develop federal qualification standards for the traditional trades.* As directed by the NHPA, the Secretary of the Interior has developed advisory Historic Preservation Professional Qualification Standards (Qualification Standards). The intent is to assist federal agencies in ensuring that the employees and contractors responsible for preservation of federally managed historic properties have the knowledge, skills, and abilities to do so effectively. Published in 1983, the Qualification Standards focus on the academic disciplines of history, archaeology, architectural history, architecture, and historic architecture, as identified in the NHPA. Left unaddressed is the competency of the craftspeople in the traditional trades performing the work of applying the preservation treatments. NPS should include the traditional trades in any future revision of the Secretary's Qualification Standards or should explore development of a parallel set of standards that could be used to assess and document proficiency in the traditional trades.
  - Include traditional trades training in implementation of the Great American Outdoors Act.* The passage of the Great American Outdoors Act is anticipated to create a significant demand for skilled workers in the traditional trades to address deferred maintenance at properties managed by NPS (principally) and also the USDA Forest Service, Fish and Wildlife Service, Bureau of Land Management, and Bureau of Indian Education. Using a small portion of the billions of dollars that will become available under the law for traditional trades training would be a strategic investment to address an immediate need as well as a way of having a lasting positive impact on the current shortage of traditional trades craftspeople.
  - Promote traditional trades training in the work of conservation corps.* Used by federal agencies, Indian tribes, states, and local communities, conservation corps engage young adults and veterans in service projects addressing recreation, conservation, disaster response, and other needs. While many corps focus principally on natural resources, conservation corps also assist in the preservation of historic properties, with a few focusing solely on historic preservation projects. Such projects offer important opportunities to introduce corps members to the traditional trades and provide training. Federal land-managing agencies should set an example by maximizing use of conservation corps to address historic preservation needs on public lands.
  - Explore use of COVID-19 recovery/stimulus funding to create jobs and job training in the traditional trades.* Much of COVID-19 recovery funding to date has focused on direct aid for individuals, businesses, organizations, and institutions (including museums and non-profits), and funding for agencies to directly respond to the pandemic. If future legislation is passed that addresses economic recovery from COVID-19 more broadly, there may be opportunities to support traditional trades training as part of enhanced funding for existing programs or creation of new programs. For instance, any new or augmented programs to create affordable housing might incorporate job training for local residents in the rehabilitation of existing older housing stock. New programs might build—both literally and figuratively—upon the example of Depression-era public works programs. Buildings and structures created by the Works Progress Administration and Civilian Conservation Corps are now historic properties, and a program to train youth in restoring those properties would be one economic stimulus program restoring the work of another.
  - Utilize the Historic Preservation Fund (HPF) for traditional trades training grants, as authorized by the NHPA.* The NHPA authorizes the Department of the Interior (DOI) to administer a grants program for "the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation" (54 U.S.C. 302904). The funding source is the HPF. This skilled labor component of the HPF remains to be funded. DOI should seek funding to support this grants program in future fiscal year budget requests.
  - Explore development of sustainable, dedicated funding that would be a continuing source of revenue for traditional trades training.* While funding from the HPF for traditional trades training already is authorized and would help in combatting the current shortage of craftspeople, there are other important programs competing for HPF dollars. Creation of dedicated, sustainable sources of funding specifically for traditional

trades training would be a significant step forward. Such funding should be established not only at the federal level but also through state and local government action. The shape that such funding might take and the ways in which the federal government might support it merit further development and consideration. The ACHP should promote a dialogue on the issue with key partners, including DOI, the National Conference of State Historic Preservation Officers, the National Association of State Workforce Agencies, Certified Local Governments, the National Alliance of Preservation Commissions, and the National Trust for Historic Preservation.

Traditional trades are critically important to preserving the heritage of our historic built environment for future generations. They also can translate into secure, well-paying jobs that help revitalize communities both physically and economically. Expanding training opportunities and networks in the traditional trades is essential. It is critical to do what we can to enable this important field to expand into pathways that are available to the American worker.

Wide ranging in lines of expertise, it is the skilled craftworker who is making preservation happen through hands-on and on-site work. The connection to preservation is the central theme that brings many different skill sets together. It is the contract worker, the stone mason, the woodcrafter, the conservator, the trade union member, the craft guild member, maintenance crews, and building managers—all preserving on a daily basis.

Placing trust with the decision making on the qualified tradesperson or providing the opportunity to share the responsibility at the preservation job site with both the preservation professional and the skilled tradesperson empowers this field. By broadening this vision of the preservation expert—the skilled craftworker—the ACHP has adopted this policy statement to encourage and help guide efforts and partnerships to address this urgent need while offering rewarding careers and professional fulfillment.

**Authority:** 54 U.S.C. 304102.  
**Dated:** November 2, 2020.  
**Javier Marqués,**  
*General Counsel.*  
 [FR Doc. 2020-24645 Filed 11-5-20; 8:45 am]  
**BILLING CODE 4310-K6-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-7024-N-47]

**30-Day Notice of Proposed Information Collection: Family Self-Sufficiency (FSS) Program; OMB Control No.: 2577-0178**

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment. **DATES: Comments Due Date:** December 7, 2020.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/StartPrintedPage15501PRAMain](http://www.reginfo.gov/public/do/StartPrintedPage15501PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) or telephone 202-402-3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has

submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 30, 2020 at 85 FR 45917.

**A. Overview of Information Collection**

*Title of Information Collection:* Family Self-Sufficiency (FSS) Program.  
*OMB Control Number:* 2577-0178.

*Type of Request:* Revision of currently approved collection.

*Agency Form Numbers:* HUD-52650, HUD-52651, HUD-52652, HUD-50058, HUD-2880, HUD 52755, SF-424, SF-LLL, HUD-1044.

*Description of the Need for the Information and Proposed Use:* The FSS program, which was established in the National Affordable Housing Act of 1990, promotes the development of local strategies that coordinate the use of public housing assistance and assistance under the Section 8 rental certificate and voucher programs (now known as the Housing Choice Voucher Program) with public and private resources to enable eligible families to increase earned income and financial literacy, reduce or eliminate the need for welfare assistance, and make progress toward economic independence and self-sufficiency. Public Housing Agencies consult with local officials to develop an Action Plan, enter into a Contract of Participation with each eligible family that opts to participate in the program, compute an escrow credit for the family, report annually to HUD on implementation of the FSS program, and complete a funding application for the salary of an FSS program coordinator. This Revision represents a revision under the current FSS statute. There will be a further revision of this Collection concurrent with the promulgation of new Regulations pursuant to the new FSS statute established as Section 306 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (Pub. L. 115-174) on May 24, 2018.

*Respondents (i.e., affected public):* Public Housing Agencies, State or Local Governments.

*Estimated Annual Reporting and Recordkeeping Burden:*

Information collection	Number of respondents	Number of responses per respondents	Total annual responses	Burden hours/minutes per response	Total burden hours
SF424—Application for Federal Assistance .....	800	1	800	0	0
SF LLL—Disclosure of Lobbying Activities .....	40	1	40	0	0
HUD-2880—Applicant/Recipient/Disclosure/Update Form (OMB No. 2510-0011) .....	800	1	800	0	0



*Preserving America's Heritage*

## **ACHP POLICY STATEMENT ON CONTROVERSIAL COMMEMORATIVE WORKS**

The National Historic Preservation Act (NHPA) of 1966 states as policy that “the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people.” Achieving this balance of past, present, and future can be challenging in the case of commemorative works—memorials, statues, markers, or other landscape features erected to honor, recognize, or memorialize individuals, groups, or events that played a prominent role in U.S. history.

In recent years, increasing numbers of Americans have raised concerns or objections regarding the display of various commemorative works in public spaces in their communities. Monuments commemorating the Confederacy, including prominent generals and leaders of the Confederate States of America, have been opposed for their associations with Civil War era and post-war institutional support for slavery, segregation, and white supremacy. Controversy has also arisen regarding memorials to early European explorers, colonists, and religious leaders, who are viewed by many Native Americans and others as representing the subjugation and genocide of indigenous peoples in the New World. These and other examples of commemorative works associated with controversial periods, events, and individuals raise complex issues for governments, communities, and preservationists.

The Advisory Council on Historic Preservation (ACHP), an independent federal agency created by the NHPA, has as its mission to promote the preservation, enhancement, and sustainable use of our nation’s diverse historic resources, and to advise the President and the Congress on national historic preservation policy. Through this policy statement, the ACHP seeks to promote informed decision making and responsible stewardship of potentially controversial but nevertheless historically significant commemorative works. In doing so, the ACHP acknowledges it is essential for decision makers to: directly confront history’s difficult chapters; consult broadly with the public to ascertain contemporary community views; consider a range of management alternatives; and promote public education regarding all aspects (positive and negative) of the nation’s history.

### **GUIDING PRINCIPLES**

The following guiding principles have been adopted by the ACHP to assist federal, state, and local government entities facing decisions about the management or disposition of controversial commemorative works. This includes federal agencies complying with the review requirements of Section 106 of the NHPA (54 U.S.C § 306108).

1. **Stewardship.** The fundamental goal of decision making about historically significant commemorative works should be to balance stewardship responsibilities for publicly-owned

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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commemorative works with recognition of the sensibilities, cultural responses, and emotions over memorialization and remembrance of difficult chapters in the nation's history.

2. **Changing values.** It is essential to acknowledge that societal values are fluid, and such values, particularly those associated with a memorial or monument, may be very different today from when it was created. Management decisions must necessarily take into account the views and needs of the contemporary community. For example, when the Congress created Custer Battlefield National Monument in 1946, it honored only the U.S. Army soldiers who died there. However, 45 years later, Congress renamed the site (which is within or adjacent to two large Indian reservations) as the Little Bighorn Battlefield National Monument, and memorials commemorating the Native American combatants began to be added to the battlefield landscape.
3. **Historical context.** The historical context shaping the original decision to erect a commemorative work needs to be carefully considered in evaluating its significance and deciding its future. For instance, late-19th century monuments on Civil War battlefields commemorating Confederate soldiers' battle actions generally have a different context than memorials to the Confederacy constructed in local public squares during the early 20th century when Jim Crow segregation laws flourished. Decision makers should bear in mind the extent to which the historical context for the placement of the commemorative work is—or is not—understood and supported within the contemporary community.
4. **Historic significance.** It is important to determine whether a commemorative work is “historic” in order to properly assess the overall public interest when making management decisions. The fact that a commemorative work celebrates a historic event or the historic accomplishments of an individual does not necessarily render the commemorative work itself historic. For instance, a Confederate memorial erected during the recent 150th anniversary of the Civil War is likely far too new to be considered historic on its own merit. Likewise, not every older commemorative work is historic. It may have lost its physical integrity over time, be located away from the site of any historic events being commemorated, or simply not be sufficiently significant in terms of its artistic design or the event/person(s) that it is memorializing. Establishing the historic significance of a commemorative work is also essential to determine whether various federal, state, and local environmental review laws would apply during decision making. For example, in the context of Section 106 of the NHPA, a property must be listed in or eligible for listing in the National Register of Historic Places in order to be considered historic, or be a contributing element to a historic district or historic landscape, such as a battlefield or cemetery.
5. **Consultation.** Consulting with affected parties and actively seeking broad public input is critical to reach a responsible stewardship decision. Such consultation is required under many historic preservation laws, including the NHPA, and the public should be made aware of what legal protections apply in those instances. However, regardless of whether historic preservation laws apply, consultation and public involvement in deciding a course of action are essential to a successful outcome. Broad civic involvement and public engagement should be pursued. Parties on all sides, especially those with historic ties to the issue, should be given the opportunity to participate in discussions, provide information, express concerns, and propose alternatives for consideration. Such input should be considered as objectively as possible by decision makers (although admittedly maintaining objectivity can be difficult when discussions are highly charged).
6. **Inclusion.** It is important to be inclusive, to hear the views of all interested groups and individuals, and consider the relationship of their history, heritage, and values to the commemorative work in the decision-making process. For example, decision makers considering the future of a statue to Christopher Columbus need to hear from both Native Americans—who generally view Columbus as a

symbol of European conquest—and Italian Americans—who frequently view him as a hero and symbol of Italian American contributions to American history.

7. **Treatment alternatives.** A broad range of alternatives should be considered in determining the future of a historically significant commemorative work that is publicly owned. Generally, commemorative works should not be destroyed since they have lessons to teach about difficult issues in the country's history. Reviewing the experiences of other agencies and communities can provide important examples of other possible outcomes. Some typical alternatives to consider include the following:
  - a. Retaining the commemorative work unchanged on its site. This alternative might be warranted where the work is of such exceptional historical significance that alteration or relocation is inappropriate, in which case off-site interpretation might be pursued.
  - b. Retaining the commemorative work on its site and providing context through on-site interpretation. One example is the interpretive plaque placed at the Confederate monument on the campus of the University of Mississippi in 2016. Such interpretation must be handled sensitively given the painful or emotional chapters of history being addressed. Context might also be achieved by adding an accompanying commemorative work to balance the story told by the original memorial. This was done when Congress passed legislation to add the Vietnam Women's Memorial to the Vietnam Veterans Memorial on the National Mall after objections that the original memorial did not acknowledge the service and sacrifices of women who served during the war. Similarly, concerns from disability rights advocates led Congress to approve adding a statue of Franklin Delano Roosevelt in a wheelchair to the Franklin Delano Roosevelt Memorial in Washington, D.C.
  - c. Modifying the commemorative work to address community concerns while maintaining the overall integrity of it or its historic environs. Illustrative of this approach, the City of San Francisco is considering removing one of five statues that comprise its Pioneer Monument, since the statue depicts a Native American in a demeaning manner.
  - d. Preserving the commemorative work, but removing it from prominent display in a public space. Relocated commemorative works can be preserved through appropriate curation, display, and interpretation in a museum setting, or re-erection in a non-public venue. One example is the relocation of a statue of Confederate President Jefferson Davis from the grounds of the University of Texas to the university's Briscoe Center for American History.
8. **Public education.** Controversy over a commemorative work offers significant opportunities to increase public understanding of American history and the complexities of its more difficult aspects. This can be important given the sometimes limited public knowledge of and appreciation for U.S. history and its lessons. The public involvement process is a platform for providing information on the history of the commemorative work in question and for having advocates and opponents hear their differing perspectives. More informed public participation will pay dividends for decision makers in exploring various alternatives. Likewise, any interpretation proposed for commemorative works is a chance for further public education.

*Adopted March 22, 2018*

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**Notice of Adoption of Policy Statement on Historic Preservation and Community Revitalization**

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Adoption of Policy Statement on Historic Preservation and Community Revitalization.

**SUMMARY:** The Advisory Council on Historic Preservation (ACHP) adopted a Policy Statement on Historic Preservation and Community Revitalization.

**DATES:** The final policy was adopted, and went into effect, on October 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Charlene Dwin Vaughn, AICP, Assistant Director, Office of Federal Agency Programs, ACHP, at 202-517-0207, or [cvaughn@achp.gov](mailto:cvaughn@achp.gov).

**SUPPLEMENTARY INFORMATION:** The Advisory Council on Historic Preservation (ACHP) is an independent agency, created by the National Historic Preservation Act (54 U.S.C. 300101 et seq), that promotes the preservation, enhancement, and productive use of our Nation's historic resources, and advises the President and Congress on national preservation policy.

Section 106 of the National Historic Preservation Act (Section 106), 54 U.S.C. 306108), requires Federal agencies to consider the effects of projects that require federal approval, that receive federal financial assistance, or that are carried out by federal agencies, on historic properties and provide the ACHP a reasonable opportunity to comment with regard to such projects. ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800.

**I. Background**

In March 2014, the ACHP issued the report entitled *Managing Change: Preservation and Rightsizing in America*, which can be accessed at <http://www.achp.gov//RightsizingReport.pdf>. This report focused on communities that were addressing rightsizing. The concept of rightsizing applies to communities undergoing substantial change due to economic decline population loss, increased amounts of vacancy and abandonment, decline in local services, increased homelessness and poverty, declining educational opportunities,

and systemic blight. Rightsizing has been occurring in communities around the Nation for several decades as they respond to transformative events. The report contained the findings and recommendations of extensive research, on-site visits, and ACHP participation in panels and seminars during which diverse stakeholders shared their views regarding the effect on rightsizing in the community.

As the ACHP explored options to implement the recommendations in the report, it was concluded in 2015 that the development of a policy statement would be appropriate to advance historic preservation principles. Therefore, the purpose of developing the Policy Statement on Historic Preservation and Community Revitalization is to ensure that preservation is considered as a tool that will assist federal, state, and local governments plan and implement revitalization projects and programs in a manner that will consider the reuse and rehabilitation of historic properties.

In 2014, the Chairman of the ACHP convened a Working Group to assist in developing a draft policy statement. Representatives of the Working Group included the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Agriculture, U.S. Department of Health and Human Services, the National Park Service, the National Trust for Historic Preservation, the American Assembly, the Cleveland Restoration Society, Preservation Research Office, Historic Districts Council, Preservation Rightsizing Network, the Michigan State Historic Preservation Officer, and ACHP expert member Bradford White, Chair of the Working Group.

Following the development of the draft, the ACHP posted the proposed draft in the *Federal Register* on March 3, 2016, and comments from the public were accepted through April 4, 2016. Information regarding the March 3, 2016, *Federal Register* notice, was posted on the ACHP Web site. It was widely distributed by members of the Working Group to their respective constituencies through broadcast emails and electronic LISTSERVs including communities receiving Community Block Grant funds from HUD, the National Trust for Historic Preservation's Forum, the Preservation Rightsizing Network members, and the National Conference of State Historic Preservation Officers (NCSHPO). In addition, a broadcast email was sent to Tribal Historic Preservation Officers for their review. To ensure that all local communities received the draft, it was sent to organizations actively involved

in Legacy Cities and rightsizing activities.

Only thirteen (13) comments were submitted by the public on the draft policy statement. The majority of these commenters supported the draft and were eager for the ACHP to adopt the policy statement so that it could be implemented to advance local historic preservation. Four commenters, however, expressed concerns regarding a number of substantive issues and were basically critical about the ACHP's development of the draft policy. Major issues expressed by the four commenters included recommendations that the document should be revised to improve grammar and tone and references to the Section 106 process. They also took exception to the ACHP's use of flexible and programmatic solutions given their opinion that the ACHP had approved many contradictory systems over the years.

Other noteworthy comments made by the objectors to the draft policy statement included the following: (1) The sequencing of the principles needed to be changed; (2) best practices and case studies needed to be incorporated in the draft to illustrate the principles; (3) failure to encourage flexibility when applying the Secretary of Interior's Standards for Rehabilitation (Secretary Standards); (4) more communities needed to be encouraged to become Certified Local Governments (CLGs); (5) allow CLGs to determine the National Register eligibility of properties; (6) educate stakeholders about how to apply the principles in the policy statement; (7) revise the ACHP's regulations as they include a dated framework for problem-solving; (8) acknowledge the benefits of state and local tax credits to communities; (9) public-private partnerships should be creative and incentivize the revitalization of neighborhoods; (10) allow residents to identify the resources they care about; (11) the policy is overly concerned with buildings and properties instead of concepts of place and landscapes; (12) acknowledge the immense scale of challenges for vacant and distressed buildings nationwide; (13) present the principles in the format of a Section 106 document; (14) public subsidy of historic preservation projects must avoid reinvestment in unsustainable areas; (15) all mitigation should be creative; and (16) change the title to "Community Revitalization and Historic Preservation."

ACHP staff developed a Comment Matrix of the 104 substantive comments submitted by the 13 commenters. In addition to summarizing the comments and clarifying the ACHP's response, the

draft Policy Statement was extensively revised to incorporate all pertinent recommendations. The title of the Policy Statement was retained as it ensured that the document would be used as a historic preservation tool. Further, the number of principles were increased from ten (10) to 13 and the sequencing was modified to ensure that the principles addressed the comments received from the public. The Working Group was advised that the policy statement should be inclusive and applicable to all communities. As such, it does not have the urban focus that was recommended. Principle III of the draft became Principle IV in the final policy. It recognizes the importance of technology and community input in the preparation of local inventories and surveys. Principle IX was revised to acknowledge that tax credits benefit small as well as large projects, and that beyond financial benefits in the form of equity, social and other economic benefits may also be accrued.

While Section 106 applies to most projects that meet the definition of undertaking as outlined in 36 CFR 800.16(y), "when the agency determines that the undertaking is a type of activity that does not have the potential to cause effects on historic properties, assuming such historic properties were present, the official has no further obligations under section 106." 36 CFR 800.3(a)(1). Therefore, the commenter that suggested that the use of all federal dollars should require compliance with Section 106 did not consider this provision or the fact that a Section 106 program alternative may also exclude certain federal activities. Likewise, the recommendation that federal funds must be allocated to support the development of comprehensive planning and revitalization strategies is incorrect. While the ACHP agrees with this recommendation in theory, a federal agency like HUD or the Rural Development under the Department of Agriculture would have to adopt this concept into their grant programs.

The inclusion of references to Indian tribes in the policy statement was specifically requested by ACHP members. If they were excluded, the perspectives and concerns of Indian tribes would be minimized. Since Indian tribes are participants in the Section 106 consultations and provide expertise on the importance and significance of historic properties on tribal lands as well as historic properties located off-tribal lands which have religious and cultural significance to them, it is important that they be involved in the development of community revitalization strategies for

communities located throughout the Nation.

Comments submitted asserting that the National Register criteria are viewed as an impediment, and restrict effective citizen engagement were not specifically addressed in the final policy statement. These comments and the related suggestions argue that Section 106 of the NHPA is a dated framework. This is beyond the scope of the development of this policy statement. However, it should be noted that Principle V is revised to allow communities to recognize the value of places that are important to local residents. In addition, Principle VII emphasizes the need for diverse citizen engagement, which encourages that all residents should participate in the identification of historic properties.

The Working Group determined that it was important to publish a current policy statement that reaffirmed the importance of historic preservation to the revitalization of all communities that must adapt to changing physical, social, and economic conditions. Federal urban policies disseminated since 2008 have not always consistently endorsed the importance of historic preservation in assistance programs. This policy statement will continue to promote the importance of federal leadership in historic preservation. Further, the policy statement will be continually updated to illustrate for stakeholders the application of the principles, and to educate citizens about the benefits of historic preservation as part of the revitalization of their communities. In collaboration with federal agencies and preservation organizations, the policy statement will be distributed to local, area, field, and regional staff so that the principles assist staff in planning and reviewing projects and developing new programs to help reverse the loss of historic properties as cities implement public-private programs throughout the community.

The policy statement, which represents the conclusion of the research and public outreach efforts of the Working Group, ACHP staff, and deliberation of its members, was adopted by the ACHP by an unasssembled meeting vote on October 26, 2016. The final text of the policy statement is provided in Section II of this notice.

## II. Text of the Policy

This is the final text of the policy, as adopted by the ACHP on October 26, 2016:

## Advisory Council on Historic Preservation (ACHP) Policy Statement on Historic Preservation and Community Revitalization

### Introduction

The 2010 U.S. Census revealed that, as a result of the significant decline in the economy beginning in 2008, an estimated 19 million properties were abandoned throughout the nation. As a result of the economic downturn, many buildings, in particular older and often historic properties, became vacant and abandoned. This has led to blighted conditions in many communities around the nation. Economists have compared the impacts of the economic downturn in 2008 to that of the Great Depression in the 1930s. Natural disasters, economic downturns, and the mortgage foreclosure crisis all occurred at the beginning of the 21st century, collectively eroding urban, rural, and tribal communities.

While these events resulted in significant economic impacts across the country, they accelerated declines in population, tax base, industry, jobs, and housing markets caused by structural changes to the economy. Impacts were most severe in the Midwest, Northeast, Mid-Atlantic, and the South. The estimated demolition of 200,000 properties exemplifies the extreme actions taken by many communities, resulting in the loss of residences, commercial buildings, and even entire neighborhoods. Many of the properties that were lost included historic buildings that were listed in or eligible for listing on the National Register of Historic Places. The focus of media attention on these issues centered on "legacy cities," the term used to describe older, industrial communities. But research has revealed that suburban, rural, and tribal communities also have dealt with similar problems.

Communities identified as industrial centers were hit particularly hard and continue to struggle. These communities experienced shrinking population, declining property values, and high rates of residential vacancies and abandonments and required a holistic approach to bring about their revitalization.

In 1966, Congress passed the National Historic Preservation Act (NHPA) and declared that "the historical and cultural foundations of the nation should be preserved in order to give a sense of orientation to the American people." It further stated that "in the face of ever increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental

and nongovernmental historic preservation programs are inadequate to ensure future generations a genuine opportunity to appreciate and enjoy the nation's rich heritage."

The congressional findings in the NHPA remain applicable today, particularly since the economic crisis of 2008. The Advisory Council on Historic Preservation (ACHP), established by the NHPA to advise the President and Congress on matters relating to historic preservation, considers local community revitalization critical to stabilizing these economically depressed communities. In overseeing federal project reviews required by Section 106 of the NHPA, the ACHP has seen that historic preservation reviews are often not completed before federal funds are allocated. Further, the funds are often ineffectively or inappropriately used to manage redevelopment in struggling communities. Preservation options are not considered, and opportunities to reuse existing assets are missed because of the severity of the issues confronted by communities.

The ACHP sees a need to raise awareness of the potential community revitalization benefits from programs authorized by the NHPA and to provide an alternative framework for communities that have needs beyond the traditional historic preservation practices. To confront the challenge, community revitalization plans must be developed that address the disposition of vacant and abandoned properties, promote rehabilitation, create affordable housing, direct growth to target areas that have the infrastructure, and utilize new infill construction to stabilize neighborhoods or develop mixed use projects. Such plans can benefit from using the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995) (Secretary's Standards), as appropriate, as the framework for revitalizing housing, infrastructure, and commercial facilities. Further, involving historic preservation professionals who meet the Secretary's Standards as employees or contractors of local, regional, and state agencies can aid in developing and implementing effective community revitalization plans that build on historic assets.

In March 2014, the ACHP issued a report entitled *Managing Change: Preservation and Rightsizing in America*, which focused on communities addressing "rightsizing." Rightsizing applies when communities have shrinking populations, rising vacancy and abandonment, and systemic blight issues. The report clarified the role of historic preservation

in rightsizing as well as noting relevant existing federal programs and policies. Reviewing extensive research, newspaper and journal articles, and organizational and institutional reports on rightsizing revealed that consideration of historic preservation issues in rightsizing decisions was often the exception. The ACHP report noted that rightsizing should include revitalization of historic fabric. Likewise, it noted that rightsizing is not uniquely an urban phenomenon. Rather, it encompasses a variety of communities, including older suburbs and rural and tribal communities. All are in need of technical assistance, education, and outreach to help residents, developers, and local officials approach revitalization using historic preservation tools that can be adapted to the 21st century.

#### Purpose

In accordance with Section 202 of the NHPA, the ACHP is issuing this Policy Statement to provide federal agencies; the individuals, organizations, and governments that apply for federal assistance; and their public and private partners with a flexible and creative approach to developing local community revitalization plans that involve historic properties. Likewise, the Policy Statement is intended to equip residents and community organizations with information on available tools and assist them in creating realistic strategies to integrate into revitalization plans the conservation and rejuvenation of the places and properties that define their neighborhoods.

A major goal of the Policy Statement is assisting federal agencies and their grantees and applicants, State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), Certified Local Governments (CLGs), and state and local governments in complying with the requirements of Section 106 of the NHPA. Section 106 requires federal agencies to take into account the effects of their undertakings on historic properties and afford the ACHP a reasonable opportunity to comment. With a predictable and consistent policy framework, or an alternative framework developed to address the unique circumstances faced by a community, federal agencies and applicants will be encouraged to integrate historic preservation principles in holistic community revitalization strategies. The policy acknowledges that consideration of alternatives to avoid or minimize harm to historic properties is essential when planning community revitalization

projects. Further, by engaging varied stakeholders in the early stages of project planning, community revitalization projects can achieve multiple community goals.

This Policy Statement builds on an earlier ACHP Policy Statement on Affordable Housing issued in 2006 ([www.achp.gov/polstatements.html](http://www.achp.gov/polstatements.html)), continuing the ACHP's efforts to promote historic preservation in community revitalization and encourage the use of it as a tool to stabilize and enhance communities that have suffered from massive structural changes to their economy. It also recognizes that other communities, under less severe economic distress, could benefit from implementing the strategies described in the principles below.

An underlying premise of the Policy Statement is the essential need for and value of local inventories and surveys, particularly in older neighborhoods that may be listed in or eligible for listing in the National Register of Historic Places (National Register) as historic districts. Only when local officials and the public are aware of the historic properties in their communities can they make informed decisions about treatment and reuse of these assets. Likewise, the National Register status also determines whether proposals must be afforded consideration in federal project planning under Section 106, or whether historic properties can qualify as "certified historic structures" eligible to receive the 20 percent Federal Historic Preservation Tax Credit (FHPTC) for the rehabilitation of historic, income-producing buildings. Other tax incentives are often coupled with this credit to revitalize historic neighborhoods, such as the Federal Low-Income Housing Tax Credit and state and local historic preservation tax incentives. Recent studies have documented that these tax incentive programs contribute to economic development and job production, making them a primary tool for revitalizing neighborhoods that were once considered blighted.

The principles outlined below offer useful guidance that can assist communities in their efforts to incorporate historic preservation into planning revitalization efforts. Collaboration among federal, state, and local officials, SHPOs, THPOs, developers, residents, and other stakeholders is essential to successfully implement these principles. To foster such collaboration, this Policy Statement provides a framework that departs from traditional preservation doctrine in order to promote the effective contribution of historic assets

to achieving community revitalization goals.

### Implementation Principles

These principles are interpreted below to provide context for stakeholders who may consider applying them to their communities.

I. Historic preservation principles should guide the preservation and reuse of older community assets.

II. Historic preservation should be incorporated in local planning efforts that focus on sustainability and smart growth.

III. Historic preservation should be incorporated into plans prepared by local governments that receive financial and technical assistance to build resilient communities.

IV. Historic property inventories and surveys prepared by digital mapping and other traditional methods are tools that can assist communities seeking federal, state, and local resources for planning and revitalization projects.

V. The flexibility inherent in the National Register criteria should be recognized by state and local governments when considering the significance of resources within distressed communities.

VI. Early consideration of alternatives to avoid or minimize adverse effects of projects involving historic properties is essential to ensure the proper integration of historic properties in community revitalization plans.

VII. Effective citizen engagement that reflects the diversity of the community can assist in identifying historic properties and cultural resources that should be recommended for preservation.

VIII. Indian tribes may have an interest in urban and rural community revitalization projects and the effects they may have on historic properties to which they attach religious and cultural significance.

IX. Tax credits and tax incentives can be used to promote historic preservation projects that preserve local assets.

X. Flexibility in the treatment of some historic buildings in Section 106 reviews can help achieve broader neighborhood preservation goals.

XI. Private resources can contribute to local revitalization efforts and also leverage public funds.

XII. Flexible and programmatic solutions developed as part of Section 106 reviews can expedite historic preservation reviews as well as more effectively address the chronic demolition of historic properties.

XIII. Creative mitigation that balances historic preservation values and program goals should be explored by

stakeholders and incorporated into Section 106 outcomes.

### *I. Historic preservation principles should guide the preservation and reuse of older community assets.*

Responding to the widespread destruction of historic resources during the urban renewal programs of the 1950s and 1960s, the NHPA was established to ensure local community revitalization and economic development projects were responsive to historic preservation principles. Unfortunately, 50 years later, the provisions of the NHPA requiring consideration of historic properties in project planning are not applied consistently by federal, state, and local governments. This is particularly the case when federal funds are allocated to local communities to address substantial amounts of vacant and abandoned buildings. Historic properties should be considered and evaluated as community assets because of their ability to endure cyclical changes and continue to provide shelter and economic development to residents of all incomes. Their treatment should be informed by an analysis of alternatives, including stabilization, rehabilitation, new infill construction, and, in certain cases, demolition. When integrated into project planning as prescribed by Section 106 of the NHPA, historic preservation tools can be beneficial to achieving local revitalization goals. Rather than being viewed as part of the problem, historic properties can be adapted and reused as a viable alternative. They should be given due consideration by federal, state, and local officials when developing comprehensive and small area plans and neighborhood vision frameworks. Although historic preservation is often ignored by stakeholders who express a desire for new construction, decades of successful historic preservation projects affirm that renewed historic assets can meet community expectations for modern uses while maintaining the character that traditionally defined the area.

### *II. Historic preservation should be incorporated in local planning efforts that focus on sustainability and smart growth.*

The core principles in sustainability and smart growth have been embraced by urban and rural communities nationwide during the past decades. Smart growth is a cohesive group of planning principles that are focused on creating sustainable development patterns. Sustainable communities are focused on conserving and improving

existing resources, including making historic assets such as buildings, neighborhoods, and communities greener, stronger, and more livable. Both smart growth and sustainability can foster historic preservation, emphasizing the value in preserving and reusing historic properties that illustrate the character of communities rather than filling up landfills with building materials. Successful historic preservation techniques often bring together both historic properties and compatible new construction to create a dynamic and attractive environment. Preserving historic properties not only retains streetscapes and original settings but also can create a focal point for a community to embrace its history, culture, and sense of place. This can be a major contribution to achieving community revitalization goals to stabilize distressed communities and to promote long-term viability.

### *III. Historic preservation should be incorporated into plans prepared by local governments that receive financial and technical assistance to build resilient communities.*

In the aftermath of natural disasters, climate change events, and unanticipated emergencies, disaster recovery projects are often designed to revitalize and rebuild resilient communities. Communities also adopt practices before disasters strike to make them more resilient. Resilient communities are better able to recover from disasters and disruptions in a sustainable way and maintain their vitality and viability. Achieving community resiliency goals consistent with local historic preservation priorities requires aligning federal funding with local rebuilding visions, cutting red tape for obtaining assistance, developing region-wide plans for rebuilding, and ensuring that communities are rebuilt to better withstand future threats. Maintaining, rehabilitating, and reusing existing historic buildings can contribute to stabilizing and revitalizing neighborhoods. Community recovery and revitalization plans should be specific in their use and treatment of historic properties and coordinated with plans for new construction and infrastructure. Recognizing that historic preservation strategies are compatible with resilient community goals will enable planners to create housing choices, foster a sense of place, generate jobs, maintain walkable neighborhoods, and preserve open spaces. All these factors are critical to promoting resilient communities that include integration of historic properties.

*IV. Historic property inventories and surveys prepared by digital mapping and other traditional methods are tools that can assist communities seeking federal, state, and local resources for planning and revitalization projects.*

Historic property inventories and surveys developed by qualified professionals documenting historic properties within a local community are frequently incomplete and dated or too often completely lacking. The absence of this basic information can result in the inadvertent loss of historic properties as well as delays in project planning and implementation. Without the historical context explaining the evolution of neighborhoods and the significance of existing building stock, decision making is uninformed. In contrast, communities that have current, up to date historic property inventories and surveys which provide historic context; identify architecture, archaeological sites, and cultural resources; and define historic districts are able to assist local officials and developers in preparing effective revitalization strategies. When local governments use this tool in advance of applying for grants and loans, they can identify areas that should be given special attention in project planning and gather input from residents on what is important to them about their neighborhoods. Also, inventory and survey information allows local officials the flexibility of de-listing National Register properties when the integrity is lost due to neglect and extensive amounts of abandonment of historic properties.

*V. The flexibility inherent in the National Register criteria should be recognized by state and local governments when considering the significance of resources within distressed communities.*

The National Register is broad enough to recognize and include under-represented communities and find creative approaches to recognize the history and culture of areas and resources preserved against tremendous odds. It should be recognized that as communities have aged and assets have been neglected, particularly in distressed communities, physical integrity may suffer. However, such resources may still possess cultural and social significance that may qualify them nonetheless for their associative value to the community and as embodiment of broad patterns of history. Where local communities have prepared lists of local landmarks unique to the city, those resources may very

well meet the National Register criteria for eligibility on the local level. Section 106 reviews can factor in this information when considering alternatives and mitigation. Federal and state agencies that prepare National Environmental Policy Act documents should already be including local heritage and culture under chapters on Social and Economic Conditions and Cultural Resources.

*VI. Early consideration of alternatives to avoid or minimize adverse effects of projects involving historic properties is essential to ensure the proper integration of historic properties in community revitalization plans.*

Effective utilization of historic properties to support community revitalization goals requires that preservation be an integral part of local planning from the outset. Strategic efforts to stabilize local neighborhoods in communities experiencing unprecedented amounts of vacancies and abandonment and substantial population loss should consider alternatives that can have a positive impact. Comprehensive neighborhood plans, small area plans, and more targeted vision frameworks should disclose the criteria and processes local officials use to determine specific treatment for buildings and sites. SHPOs can also provide technical assistance when resources are available. Likewise, communities with CLGs that work closely with SHPOs can participate in local administrative reviews and provide advice regarding how historic properties may be affected by community revitalization plans. SHPOs and CLGs can work with the local community development agencies and land banks to determine how they can facilitate building preservation, rehabilitation, and revitalization, as well as plans proposed for substantial demolitions in target areas or on a community-wide basis. Essential to effective early planning is the engagement of the local community that is affected by the proposed action.

*VII. Effective citizen engagement that reflects the diversity of the community can assist in identifying historic properties and cultural resources that should be recommended for preservation.*

The consultation process carried out under Section 106 is designed to elicit effective and informed citizen engagement. Public participation will help to identify places and historic properties important to the community early in the consultation process and foster creative solutions that

accommodate the community's heritage with revitalization. Special attention should be given to including diverse residents in communities that have been overlooked in prior identification efforts. Places associated with under-represented communities are not broadly listed on the National Register, so it is important that local officials make citizen engagement a priority when evaluating properties for National Register eligibility in the Section 106 process or developing surveys and inventories. SHPOs can often assist local officials in providing historic context statements for such properties and existing information on community resources. Involving local academic institutions, civic organizations, professional associations, neighborhood associations, and tribal representatives in the work of local preservation commissions and architectural review boards can help ensure that the views of all segments of the community inform the identification and evaluation of historic properties. Citizen engagement also is critical in the analysis of project alternatives to deal with adverse effects of revitalization projects on historic properties. Many of the outcomes from Section 106 reviews are shaped by recommendations from citizens who participate as consulting parties in the process. Federal and local officials provide guidance and technical assistance to facilitate citizen engagement in completing inventories and surveys, developing local project plans, and participating in the required project review processes.

*VIII. Indian tribes may have an interest in urban and rural community revitalization projects and the effects they may have on historic properties to which they attach religious and cultural significance.*

It is important to involve Indian tribes in Section 106 reviews, particularly in the identification and evaluation of historic properties and assessment of effects. Since THPOs and Indian tribes are required to be invited to participate in Section 106 as consulting parties, federal and local officials should become familiar with those Indian tribes that have ancestral and historic associations with their communities. It is important that planners look beyond archaeologists in assessing the significance of sites, as these resources often have traditional cultural or religious value to Native Americans. Indian tribes can also contribute to local sustainability efforts based on their ecological and environmental knowledge of geographic areas to which they have traditional ties. Involving

THPOS and Indian tribes early in Section 106 consultations allows them to advise the federal agency of protocols that should be followed in the event of unanticipated discoveries of sites. Finally, Indian tribes can provide relevant input to the agency officials in developing mitigation measures when sites cannot be avoided.

*IX. Tax credits and tax incentives can be used to promote historic preservation projects that preserve local assets.*

Recent research conducted on the impacts of using Federal Historic Preservation Tax Credits (FHPTC) have revealed that investments in historic rehabilitation have greater positive impact on employment, state and local taxes, and the financial strength of the state than new construction. The use of FHPTCs, Low Income Housing Tax Credits, state historic tax credits, and local historic tax credits can often be combined to provide neighborhoods with financial, social, and economic benefits. Local governments should consider how these incentives can be used to fund not only major projects but also small and mid-size neighborhood projects that involve local historic properties. SHPOs are uniquely situated to leverage FHPTC projects, having worked closely with the National Park Service and developers on previous projects. Further, local officials can collaborate with federal regional and field offices, land banks, SHPOs, and local real estate agents to identify vacant and abandoned buildings that are candidates for rehabilitation. By focusing on stabilizing anchor buildings in a neighborhood, local governments can protect these sites and make them available to developers who intend to revitalize target areas with major projects such as those for affordable housing and transit-oriented development.

*X. Flexibility in the treatment of some historic buildings in Section 106 reviews can help achieve broader neighborhood preservation goals.*

Sometimes historic neighborhoods confront significant abandonment and serious deterioration of building stock, such that rehabilitation and reuse becomes an overwhelming challenge. Participants in Section 106 consultations should be receptive to considering different treatment measures, including new infill construction meeting the Secretary's Standards, substitute materials, and strategic demolition, when there is concurrence that such an approach is the best approach to achieving broader community revitalization and

preservation goals. It is strongly encouraged that federal agencies and applicants utilize historic preservation professionals to help determine when and how it may be appropriate to apply flexibility in the treatment of individual buildings.

*XI. Private resources can contribute to local revitalization efforts and also leverage public funds.*

Private resources are instrumental in ensuring most community revitalization efforts are successful and transformative. Examples of federal grant and loan programs used in conjunction with private resources for local revitalization efforts include the Department of Transportation's TIGER Program and the Environmental Protection Agency's Brownfield Grants. These programs require local communities to provide matching funds, which are often solicited from the private sector. Local institutions such as universities, hospitals, foundations, banks, land banks, and local businesses are frequently the source for matching funds. In addition, they often partner with developers on multi-use projects that benefit the community as a whole. Banking institutions are able to get credit under the federal Community Reinvestment Act (CRA) program when they contribute to local revitalization efforts. A bank's CRA performance record is taken into account when evaluating its overall performance. Therefore, project proponents and local officials should reach out to local banking institutions to discuss strategies regarding loans for commercial and residential community revitalization projects. When using private resources to assist with revitalization projects, local officials should inform the funding entity of the importance of the local historic preservation principles to the community to ensure they are not inadvertently compromised.

*XII. Flexible and programmatic solutions developed as part of Section 106 reviews can expedite historic preservation reviews as well as more effectively address the chronic demolition of historic properties.*

Community revitalization projects with federal involvement require compliance with Section 106 and other federal environmental laws. Frequently, programmatic solutions that address the broad effects resulting from the implementation of multiple projects can expedite compliance with regulatory requirements, improving the efficiency of project delivery. Section 106 Programmatic Agreements, which are

quite varied, are intended to manage multiple projects that result in similar types of effects, can respond to local conditions, foster community preservation goals, and expedite project reviews. Such agreements often clarify that plans and specifications developed for local community revitalization projects should adhere to the recommended approaches in the Secretary's Standards, when feasible, and qualify for simplified reviews. When communities cannot consistently adhere to the Secretary's Standards, they should consider developing project plans that are based largely on the Secretary's Standards but provide greater flexibility. The public interest in preservation should guide planning, such as focusing reviews on exterior features and limiting reviews of interior spaces to those areas open to the public. Planning for larger scale revitalization projects should occur in advance of submitting applications for federal monies, and allow local officials to target any grants received into grants and loans to areas that can be stabilized. Given the often changing financial market and the passage of time in many communities where revitalization activities are limited, securing and stabilizing buildings may be a useful interim measure. It can avoid the loss of substantial numbers of historic properties in areas that may ultimately rebound.

*XIII. Creative mitigation that balances historic preservation values and program goals should be explored by stakeholders and incorporated into Section 106 outcomes.*

"Creative mitigation" is a concept that allows federal agencies, in consultation with stakeholders, to use non-traditional approaches to compensate for adverse effects that cannot be avoided or offset by using standard mitigation techniques. In Section 106 reviews, standard mitigation measures are customarily directed at the affected historic property and may include recordation, data recovery, or curation. Sometimes the public benefit of using these standard measures is minimal, and allocation of funds for other preservation activities would be prudent. Federal agencies, SHPOs, CLGs, and other consulting parties are encouraged to be open to creative mitigation when consulting to resolve adverse effects on historic properties. Any mitigation for the loss of historic properties or materials should both provide public benefit and be commensurate with the extent of loss. The activities proposed in creative mitigation measures also should

leverage the federal assistance in a manner that produces broader public benefits. Discussions about creative mitigation should be initiated early in the Section 106 review process when options can be objectively evaluated and before project plans and commitments become firm. Creative mitigation measures ultimately should advance community-wide preservation goals discussed during Section 106 reviews. Examples of creative mitigation that have been successful include the development of local historic preservation ordinances; acquisition and relocation of historic properties to alternate sites in a historic district; funding for landscaping and streetscape improvements in a district; and guidance on managing vacant and abandoned properties in the community.

### Conclusion

Federal, state, and local officials; applicants; residents; and preservationists are encouraged to use the above principles when developing community revitalization plans and coordinating Section 106 reviews. Please visit the ACHP's Web site, [www.achp.gov](http://www.achp.gov), to view helpful case studies and best management practices and to learn about webinars that can further expand knowledge of these historic preservation tools and how they are being used throughout the nation.

Authority: 54 U.S.C. 304102

Dated: November 9, 2016.

John M. Fowler,  
Executive Director.

[FR Doc. 2016-27536 Filed 11-15-16; 8:45 am]

BILLING CODE 4310-K6-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2016-0021; OMB No. 1660-0110]

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request; FEMA Preparedness Grants: Urban Areas Security Initiative (UASI) Nonprofit Security Grant Program (NSGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of

Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

**DATES:** Comments must be submitted on or before December 16, 2016.

**ADDRESSES:** Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to [oir.submission@omb.eop.gov](mailto:oir.submission@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472-3100, or email address [FEMA-Information-Collections-Management@fema.dhs.gov](mailto:FEMA-Information-Collections-Management@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** This information collection previously published in the *Federal Register* on August 22, 2016, 81 FR 56679 with a 60 day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

#### Collection of Information

**Title:** FEMA Preparedness Grants: Urban Areas Security Initiative (UASI) Nonprofit Security Grant Program (NSGP).

**Type of information collection:** Revision of a currently approved information collection.

**OMB Number:** 1660-0110.

**Form Titles and Numbers:** FEMA Form 089-25, NSGP Investment Justification Template; FEMA Form 089-24, NSGP Prioritization of the Investment Justifications.

**Abstract:** The NSGP is an important tool among a comprehensive set of measures to help strengthen the Nation against risks associated with potential terrorist attacks. FEMA uses the information to evaluate applicants' familiarity with the national preparedness architecture and identify how elements of this architecture have been incorporated into regional/state/

local planning, operations, and investments. Information collected provides narrative details on proposed activities (Investments) that will be accomplished with grant funds and prioritizes the list of applicants from each requesting State. This program is designed to promote coordination and collaboration in emergency preparedness activities among public and private community representatives, State and local government agencies, and Citizen Corps Councils.

**Affected Public:** Not-for-profit Institutions; State, Local or Tribal Government.

**Estimated Number of Respondents:** 1,129.

**Estimated Total Annual Burden Hours:** 94,575 hours.

**Estimated Cost:** The estimated annual cost to respondents for the hour burden is \$3,380,775. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is \$258,006.

Dated: November 9, 2016.

Richard W. Mattison,  
Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2016-27554 Filed 11-15-16; 8:45 am]

BILLING CODE 9111-46-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID: FEMA-2016-0020; OMB No. 1660-0113]

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request; FEMA Preparedness Grants: Tribal Homeland Security Grant Program (THSGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and



*Preserving America's Heritage*

## **STATEMENT OF POLICY ON DIVERSITY AND INCLUSIVENESS**

The changing demographics of America pose opportunities as well as challenges for the national historic preservation program. The diversity of cultures in our country shape and enrich the American experience, and the federal government can continue to encourage wider involvement and representation in the program. This includes determining what historic sites are worthy of recognition and preservation; how history and cultural heritage should be valued, interpreted, and preserved; and how we can ensure the American public as a whole can take advantage of the programs and tools created under the National Historic Preservation Act. The ACHP is pursuing efforts in all aspects of its work to build a more inclusive preservation program to further these goals.

### **Pursuing the ACHP's Programs and Goals**

The ACHP is committed to using the tools provided to it by the National Historic Preservation Act and other authorities to advance diversity and inclusiveness in its daily work. This commitment is reflected in the ACHP's development of national preservation policies, its administration of the Section 106 process, and the great variety of interagency and public-private initiatives it undertakes.

The ACHP respects the diverse cultures that make up the national heritage. In that spirit, it seeks and considers the views and values of all Americans as it conducts its authorized activities. The ACHP is committed to providing a consistent voice for diversity and inclusiveness in all aspects of the national historic preservation program and to encouraging federal agencies and the ACHP's non-federal partners to pursue the same goals in their work concerning cultural heritage.

### **Maintaining a Diverse and Inclusive Membership and Staff**

In order to successfully achieve goals of diversity and inclusiveness in its work, the ACHP must promote the diversity and inclusiveness in its human resources, existing in the membership and staff of the agency. Recognizing that the President appoints the non-ex officio membership of the ACHP, the ACHP will recommend to the President candidates that reflect the diversity of the nation. Acknowledging that the ex officio members designate their representatives to the ACHP, the ACHP encourages those members to consider and promote the goals of the ACHP's diversity policy in their designations.

Diversity in the ACHP staff means valuing employees in all occupations, at all levels, and providing opportunities for them to work at their full potential, making maximum contributions toward achieving the agency's mission and goals. Diversity encompasses more than the differences in race, religion, national origin, disabilities, age, gender, or sexual orientation. It includes the following:

- respecting and appreciating individual differences, empowering and motivating staff, and ensuring all employees are included as fully contributing and influential team members
- creating and maintaining an inclusive approach to all systems, policies, and practices
- providing equitable treatment and opportunities
- educating the workforce on the benefits of diversity

ADVISORY COUNCIL ON HISTORIC PRESERVATION

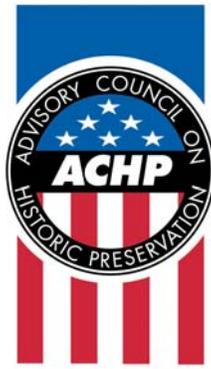
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Inclusiveness involves bringing people together to draw upon their varied skills, perspectives, and resources in a way that is beneficial to all. Inclusiveness puts the concept and practice of diversity into action by creating an environment of involvement, respect, and connection—where the richness of ideas, backgrounds, and perspectives are harnessed to accomplish goals.

The ACHP supports a diverse and inclusive workplace that uses the skills, abilities, and talents of each employee, volunteer, and intern to effectively accomplish its goals and mission. To further that goal, the ACHP is committed to recruiting, selecting, developing, promoting, and retaining employees of differing viewpoints, backgrounds, experience, education, socioeconomic status, occupations, and geographic locations. To maximize the contributions of a diverse membership and staff, the ACHP strives to maintain a workplace where the views and perspectives of all members and employees are welcome and their talents, skills, and abilities are recognized and appreciated.

### **Conclusion**

The ACHP's ongoing commitment to achieving the goals of this policy statement enables it to continue to be a vibrant and meaningful leader of the national historic preservation program and an effective advocate for the recognition and preservation of the heritage of all Americans in the years to come.



*Preserving America's Heritage*

## **ACHP Policy Statement:**

### **Archaeology, Heritage Tourism, and Education**

#### **Introduction**

The National Historic Preservation Act of 1966 (NHPA) aims, among other things, “to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our nation” (16 U.S.C. 470(b)(5)). The NHPA goes on to state that “it shall be the policy of the federal government, in cooperation with other nations and in partnership with the states, local governments, Indian tribes, and private organizations and individuals to - (1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations” (16 U.S.C. 470-1).

Executive Order 13287, “Preserve America,” signed by President George W. Bush on March 3, 2003, builds on this mandate, stating that “it is the policy of the federal government to provide leadership in preserving America’s heritage by actively advancing the protection, enhancement, and contemporary use of the historic properties owned by the federal government, and by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties.” Executive Order 13287 recognizes the importance of preserving “the unique cultural heritage of communities and of the nation, and to realize the economic benefit that these properties can provide.”

#### **The value of archaeological resources**

As used in this policy, the term “archaeological resources” includes archaeological sites (properties or districts), material collections derived from field investigations, related records and data, and results of archaeological investigations. This definition of “archaeological resources” is consistent with the definition used in the Archaeological Resources Protection Act (16 U.S.C. 470aa-mm) and its implementing regulations: “any material remains [including physical evidence] of human life and activities ... which are of archaeological interest” (43 CFR 7.3(a)). “Of archaeological interest” is defined in those regulations as being “capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation.”

Many archaeological resources have significant value and benefits as part of our common heritage, and can contribute to public understanding and appreciation of the past through heritage education programs and heritage tourism initiatives at a local, statewide, or regional level. Archaeological resources can have many associated values, including research, cultural, spiritual, aesthetic, and economic values, among

others. Some of these values can support heritage tourism uses, as well as a broader public education component. As demonstrated in a public opinion poll conducted in 2000 by Harris Interactive for the Society for American Archaeology, archaeological resources and the archaeological process hold particular fascination and interest for many members of the public. The Harris Poll found that most Americans “support the goals and practice of archaeology, endorse laws protecting archaeological sites and artifacts, and think archaeology is important to today’s society.” Many of these same individuals are likely to be active heritage tourists.

### **Heritage tourism, education, and archaeology**

Heritage tourism is a component of heritage education, a way to augment the learning experience through onsite visitation and appreciation of archaeological resources and what they tell us. A major goal of visitation and education is to create informed advocates and stewards for such resources and their preservation. Heritage tourism programs and projects also include actively attracting visitors as a form of local or regional economic development. Heritage tourism is defined in Executive Order 13287 as “the business and practice of attracting and accommodating visitors to a place or area based especially on the unique or special aspects of that locale’s history, landscape, and culture.” The National Trust for Historic Preservation further defines cultural heritage tourism as “travel to experience the places and activities that authentically represent the stories and people of the past and present” (*Getting Started: How to Succeed in Cultural Heritage Tourism*, <http://www.culturalheritagetourism.org/howToGetStarted.htm>).

The practice of archaeology, its potential to generate public appreciation of the stories about the past, and public access to interpreted sites and archaeological collections have long been recognized internationally as subjects worthy of educational programs as well as tourism development. Opportunities abound for using archaeological resources in both K-12 and higher education programs, as well as for informal or continuing heritage education activities for the broader public. A number of popular tourism destinations in the United States, such as Mesa Verde or Jamestown, are significant archaeological resources that provide visitors an opportunity to view visible remains in their original context, see collections in museum exhibits, and read, hear, and see interpretations of what has been learned.

At other locations, engaging visitors to actively participate in archaeology under controlled and limited conditions may also be appropriate. Such “participatory archaeology” can offer an excellent opportunity for educating a segment of the public about archaeology and resource stewardship, as well as providing a rewarding leisure activity. While an “admission” or other fee may be charged in order to defray the costs of operating such programs, rarely is this considered a business development activity in its own right capable of returning a profit for commercial investment.

### **Stewardship of archaeological resources**

Legitimate concerns have been raised about tourism development in general, the visitor experience, and the potential impact of visitors and related development on the archaeological record. Such issues may include the adequacy of resource conservation, sustainability, and management; the appropriateness of public access and associated site improvements at a particular location; the cultural sensitivity of some remains as well as their interpretation; and the economic viability of open sites and necessary visitor facilities. Careful consideration of these issues, either informally or more formally through consultation called for under applicable law, may conclude that it is appropriate to use archaeological collections and the results of archaeological research in heritage tourism projects and programs, but not to engage the public at the physical “site.” In such cases, other means of interpreting and presenting the results of archaeological study should be considered, including, but not limited to, electronic “virtual” tours, exhibits, film, and offsite interpretation. Presentations such as these, made available in several languages

where warranted, can foster broad understanding and support heritage tourism initiatives. In other cases, the conclusion may be that a site should not be used for heritage tourism.

Management and economic issues also need to be assessed in reaching decisions about the longer-term viability and sustainability of archaeological heritage tourism. Just because an archaeological site is opened and presented to the public does not mean it will be visited or appreciated, or that visitor use can be supported financially. A sound and realistic business plan is necessary. Issues to consider here include the potential market and audience for this form of tourism; whether site development is an appropriate use of the resources; the impact of a site's location and ownership on public access; immediate and long-term financial and management needs; and the ability and willingness of responsible parties to prepare and implement necessary development, interpretive, and public use plans.

## **PRINCIPLES**

It is the policy of the Advisory Council on Historic Preservation (ACHP) to foster public understanding and appreciation of archaeological resources through heritage education programs and, where appropriate, heritage tourism initiatives while encouraging their conservation for future generations in a spirit of stewardship.

The following principles and accompanying guidance have been adopted by the ACHP to assist ACHP staff, federal agency decision-makers, and other parties when, in the effort to foster a greater appreciation and understanding of the American past, they are or will be making decisions about incorporating archaeology and archaeological resources into heritage tourism projects and programs as well as broader education initiatives.

These principles and guidance should also be useful for State and Tribal Historic Preservation Officers, local communities with significant archaeological resources that may be of public interest (including, but not limited to, Preserve America and Main Street communities), tourism industry professionals, businesses, not-for-profit organizations, and private individuals involved in heritage development projects.

1. *The public interest in archaeological resources and their interpretation makes them an excellent focus for heritage tourism and related public education efforts.*
2. *While some archaeological resources may be especially appropriate and even desirable for public heritage tourism and education programs, other resources may not.*
3. *Decisions about when, where, how, and even whether to interpret and present archaeological resources to the public should be made in consultation with a broad range of parties. Parties to be consulted include those with particular legal interests or ties to the place or resources that would be interpreted, as well as those with interests in heritage tourism, public education, historical and scientific research, and natural as well as cultural resource conservation*
4. *Responsible public interpretation for heritage tourism initiatives should include current scholarship and findings from archaeological study and other forms of knowledge to bring the past and its investigation to life for the general public.*
5. *Archaeological resources that are made part of public education programs and/or heritage tourism initiatives should be supportable and sustainable through professional, adequately funded, and well-developed and -executed management programs.*

## GUIDANCE

### ***1. The public interest in archaeological resources and their interpretation makes them an excellent focus for heritage tourism and related public education efforts.***

- a. The Society for American Archaeology's public opinion poll has demonstrated the strong public interest in and appreciation for archaeological knowledge, archaeological resources, and the archaeological discovery process.
- b. There is often great interest in the process of interpreting the lives of people, places, and events of the past, especially those that are reconstructed as a result of archaeological research or are presented in museum contexts.
- c. The discipline of archaeology can foster a greater understanding of and appreciation for peoples and cultures of the past as well as the traditions, events, and places valued by living peoples today.
- d. Through tourism projects, public education programs can assist in mutual understanding and respect between peoples and societies, and between the present and the past.
- e. Tourism can serve to educate the public through both short-term archaeology projects that are open for visitation and long-term archaeology interpretive programs.
- f. Public awareness and appreciation of the value of archaeology and its contribution to our knowledge about both past and living cultures is an important goal consistent with the National Historic Preservation Act and other national heritage policies.

### ***2. While some archaeological resources may be especially appropriate and even desirable for public heritage tourism and education programs, other resources may not.***

- a. In making decisions about whether a given archaeological resource's preservation and use is the best and most appropriate way to tell this story to the public, the physical manifestations of the archaeological resources, and how their physical features lend themselves to being viewed and understood, need to be carefully considered.
- b. Many archaeological resources are valued for religious or cultural reasons by Indian tribes (including Alaska Native Villages, Regional and Village Corporations), Native Hawaiian organizations, or other cultural and lineal descendants of the site's creators. Although these uses may be of interest to the public, such ascribed religious or cultural values associated with the archaeological resources may ultimately be in conflict with public access or display. Cultural or lineal descendants should be consulted early about potential public uses of such resources to ensure their views and perspectives are fully considered.
- c. Archaeological resources are fragile and non-renewable, and their conservation and long-term preservation must be considered when weighing plans for increased public access. In addition, some resources may be physically inaccessible to the public, such as those located on a military reservation, on tribal lands, or in difficult terrain. This ability to manage visitation should be considered in reaching decisions about appropriate uses of archaeological resources for tourism.
- d. Where public access is inappropriate or difficult, or cannot be effectively managed, alternative means of presenting archaeological resources and information to the public for both educational and tourism purposes may be desirable. Such alternatives may include offsite videos, Web sites, interactive interpretation and exhibits, and "virtual" tours.
- e. If present, and when properly researched and presented, archaeological resources associated with a standing historic property or location of a past historic event can add considerably to the interpretation and appreciation of that property. An archaeological resource does not have to be listed on or meet the criteria for listing on the National Register of Historic Places in order to be a candidate for heritage tourism or public education if it has a compelling story to tell and is interpretable.

- f. The issue of human remains is particularly sensitive; decisions should consider the potential for encountering human remains and associated grave goods and have plans in place to deal with the discovery, care, and treatment of any such remains that may be encountered. In all cases, human remains and associated grave goods should be treated with respect and dignity and in accordance with applicable laws and regulations.
- g. In some cases, archaeological heritage tourism or public interpretation of archaeological resources may not be appropriate. This can be a valid decision to make after considering all perspectives.

**3. *Decisions about when, where, how, and even whether to interpret and present archaeological resources to the public should be made in consultation with a broad range of parties. Parties to be consulted include those with particular legal interests or ties to the place or resources that would be interpreted, as well as those with interests in heritage tourism, public education, historical and scientific research, and natural as well as cultural resource conservation.***

- a. Decisions should also consider knowledge of the values placed on the resources by living groups, and any associated concerns about privacy, preservation, interpretability, and appropriate uses of the resources.
- b. If a site proposed for tourism is of significance to an Indian tribe or Native Hawaiian organization, their views and perspective on the proposed project should be sought and considered at the earliest possible time in the planning process.
- c. Any ascribed spiritual or cultural values associated with the archaeological resources should be fully and carefully considered in making decisions about appropriate public visitation. Whether or how such associated values are interpreted and presented to the broader public should be determined in consultation with those who ascribe such significance to the archaeological resources.
- d. Decisions should be based on a broad understanding of historical and cultural context. This should include the rarity, state of preservation, and current state of knowledge about the resources.
- e. There should be an appropriate consideration of protection and access. Such consideration should include a weighing of current or anticipated long-term threats, and adequate provision for the maintenance and sustainability of any archaeological resources that are used for tourism or other educational purposes.

**4. *Responsible public interpretation for heritage tourism initiatives should include current scholarship and findings from archaeological study and other forms of knowledge to bring the past and its investigation to life for the general public.***

- a. Scholarship includes sufficient and accurate professional research, including, when appropriate, reference to oral histories and traditional knowledge provided by cultural or lineal descendants, and the results of avocational archaeological studies.
- b. There needs to be reliable and accurate information about the resources in order to present the relevant facts and tell a compelling story.
- c. Archaeological resources as interpreted today are the end results of physical and cultural processes in operation over long periods of time. Heritage tourists and other students of archaeology will benefit from an understanding of the process of formation, discovery, and interpretation.
- d. Public interpretation for heritage tourism should be germane to the particular archaeological resource as well as broader educational goals. Information should illuminate not only the specific archaeological site and its remains but also past lifeways, cultural practices, and development patterns.

- e. Archaeological resources used for heritage tourism should also, as practicable, provide a context that helps visitors appreciate a site's value to any cultural and lineal descendants living today.

**5. *Archaeological resources that are made part of public education programs and/or heritage tourism initiatives should be supportable and sustainable through professional, adequately funded, and well-developed and -executed management programs.***

- a. A broad range of governmental and non-governmental organizations can and should participate in decisions about the uses of archaeological resources for heritage tourism or educational purposes, to ensure these projects combine excellent scholarship, responsible stewardship, and sustainable development and management.
- b. Developing partnerships with others who may have a stake in the success of the venture can be very important in the development and the sustainability of heritage tourism or public education that focuses on archaeological resources.
- c. Governmental entities, non-governmental organizations, private non-profit, and business enterprises that control archaeological resources should include archaeological interpretation and public access where appropriate as part of project planning and mitigation programs (such as those negotiated through Section 106 of the NHPA).
- d. In some cases, publicly owned archaeological resources may best be protected and managed through public interpretation and controlled public access. In other cases, threatened archaeological resources should be considered for more formal public interpretive development and/or control of public access in order to help protect them.
- e. Archaeological resources with active non-managed visitation will need to be carefully monitored to ensure that resulting impacts (including looting, vandalism, erosion, or over-use) are controlled and managed.
- f. The appropriateness of archaeological excavation in the first place, and the future care of archaeological resources (including any resulting collections), should be determined prior to a decision about whether and under what circumstances to excavate a site for tourism or public education purposes.
- g. With adequate professional supervision and support, members of the public, including volunteers and cultural and lineal descendants, can all play a role in "participatory archaeology" at certain sites. This participation could involve all phases of archaeological research (as appropriate, background research, oral histories, field investigation, artifact preparation, cataloging, analysis, description, and site monitoring) so that participants gain an understanding of the range of activities that encompass archaeology.

*[The members of the Advisory Council on Historic Preservation unanimously adopted this policy on August 15, 2008]*



*Preserving America's Heritage*

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### POLICY STATEMENT REGARDING

### TREATMENT OF BURIAL SITES, HUMAN REMAINS AND FUNERARY OBJECTS

**Preamble:** This policy offers leadership in resolving how to treat burial sites, human remains, and funerary objects in a respectful and sensitive manner while acknowledging public interest in the past. As such, this policy is designed to guide federal agencies in making decisions about the identification and treatment of burial sites, human remains, and funerary objects encountered in the Section 106 process, in those instances where federal or state law **does not prescribe a course of action**.

This policy applies to all federal agencies with undertakings that are subject to review under Section 106 of the National Historic Preservation Act (NHPA; 16 U.S.C. § 470f), and its implementing regulations (36 CFR Part 800). To be considered under Section 106, the burial site must be or be a part of a historic property, meaning that it is listed, or eligible for listing, in the National Register of Historic Places.

The Advisory Council on Historic Preservation (ACHP) encourages federal agencies to apply this policy throughout the Section 106 process, including during the identification of those historic properties. In order to identify historic properties, federal agencies must assess the historic significance of burial sites and apply the National Register criteria to determine whether a property is eligible. Burial sites may have several possible areas of significance, such as those that relate to religious and cultural significance, as well as those that relate to scientific significance that can provide important information about the past. This policy does not proscribe any area of significance for burial sites and recognizes that the assessment must be completed on a case-by-case basis through consultation.

The policy is not bound by geography, ethnicity, nationality, or religious belief, but applies to the treatment of all burial sites, human remains, and funerary objects encountered in the Section 106 process, as the treatment and disposition of these sites, remains, and objects are a human rights concern shared by all.

This policy also recognizes the unique legal relationship between the federal government and tribal governments as set forth in the Constitution of the United States, treaties, statutes and court decisions, and acknowledges that, frequently, the remains encountered in Section 106 review are of significance to Indian tribes.

Section 106 requires agencies to seek agreement with consulting parties on measures to avoid, minimize, or mitigate adverse effects to historic properties. Accordingly, and consistent with Section 106, this policy does not recommend a specific outcome from the consultation process. Rather, it focuses on issues and perspectives that federal agencies ought to consider when making their Section 106 decisions. In many cases, federal agencies will be bound by other applicable federal, tribal, state, or local laws that do

prescribe a specific outcome, such as the Native American Graves Protection and Repatriation Act (NAGPRA). The federal agency must identify and follow applicable laws and implement any prescribed outcomes.

For undertakings on federal and tribal land that encounter Native American or Native Hawaiian human remains and funerary objects, NAGPRA applies. NHPA and NAGPRA are separate and distinct laws, with separate and distinct implementing regulations and categories of parties that must be consulted.<sup>1</sup> Compliance with one of these laws does not mean or equal compliance with the other. Implementation of this policy and its principles does not, in any way, change, modify, detract or add to NAGPRA or other applicable laws.

**Principles:** When burial sites, human remains, or funerary objects will be or are likely to be encountered in the course of Section 106 review, a federal agency should adhere to the following principles:

**Principle 1:** Participants in the Section 106 process should treat all burial sites, human remains and funerary objects with dignity and respect.

**Principle 2:** Only through consultation, which is the early and meaningful exchange of information, can a federal agency make an informed and defensible decision about the treatment of burial sites, human remains, and funerary objects.

**Principle 3:** Native Americans are descendants of original occupants of this country. Accordingly, in making decisions, federal agencies should be informed by and utilize the special expertise of Indian tribes and Native Hawaiian organizations in the documentation and treatment of their ancestors.

**Principle 4:** Burial sites, human remains and funerary objects should not be knowingly disturbed unless absolutely necessary, and only after the federal agency has consulted and fully considered avoidance of impact and whether it is feasible to preserve them in place.

**Principle 5:** When human remains or funerary objects must be disinterred, they should be removed carefully, respectfully, and in a manner developed in consultation.

**Principle 6:** The federal agency is ultimately responsible for making decisions regarding avoidance of impact to or treatment of burial sites, human remains, and funerary objects. In reaching its decisions, the federal agency must comply with applicable federal, tribal, state, or local laws.

**Principle 7:** Through consultation, federal agencies should develop and implement plans for the treatment of burial sites, human remains, and funerary objects that may be inadvertently discovered.

**Principle 8:** In cases where the disposition of human remains and funerary objects is not legally prescribed, federal agencies should proceed following a hierarchy that begins with the rights of lineal descendants, and if none, then the descendant community, which may include Indian tribes and Native Hawaiian organizations.

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<sup>1</sup> The ACHP's publication *Consulting with Indian Tribes in the Section 106 Process* and the National Association of Tribal Historic Preservation Officers' publication *Tribal Consultation: Best Practices in Historic Preservation* provide additional guidance on this matter.

**DISCUSSION:**

**Principle 1: Participants in the Section 106 process should treat all burial sites, human remains and funerary objects with dignity and respect.**

Because the presence of human remains and funerary objects gives a historic property special importance as a burial site or cemetery, federal agencies need to consider fully the values associated with such sites. When working with human remains, the federal agency should maintain an appropriate deference for the dead and the funerary objects associated with them, and demonstrate respect for the customs and beliefs of those who may be descended from them.

Through consultation with descendants, culturally affiliated groups, descendant communities, and other parties, federal agencies should discuss and reach agreement on what constitutes respectful treatment.

**Principle 2: Only through consultation, which is the early and meaningful exchange of information, can a federal agency make an informed and defensible decision about the treatment of burial sites, human remains, and funerary objects.**

Consultation is the hallmark of the Section 106 process. Federal agencies must make a “reasonable and good faith” effort to identify consulting parties and begin consultation early in project planning, after the federal agency determines it has an undertaking and prior to making decisions about project design, location, or scope.

The NHPA, the ACHP’s regulations, and Presidential Executive Orders set out basic steps, standards, and criteria in the consultation process, including:

- Federal agencies have an obligation to seek out all consulting parties [36 CFR § 800.2(a)(4)], including the State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO) [36 CFR § 800.3(c)].
- Federal agencies must acknowledge the sovereign status of Indian tribes [36 CFR § 800.2(c)(2)(ii)]. Federal agencies are required to consult with Indian tribes on a government-to-government basis in recognition of the unique legal relationship between federal and tribal governments, as set forth in the Constitution of the United States, treaties, statutes, court decisions, and executive orders and memoranda.
- Consultation on a government-to-government level with Indian tribes cannot be delegated to non-federal entities, such as applicants and contractors.
- Federal agencies should solicit tribal views in a manner that is sensitive to the governmental structures of the tribes, recognizing their desire to keep certain kinds of information confidential, and that tribal lines of communication may argue for federal agencies to provide extra time for the exchange of information.

- Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined eligible for inclusion on the National Register [16 U.S.C. § 470a(d)(6)(A)], and federal agencies must consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to such historic properties [16 U.S.C. § 470a(d)(6)(B) and 36 CFR § 800.2(c)(2)(ii)(D)].

**Principle 3: Native Americans are descendants of original occupants of this country. Accordingly, in making decisions, federal agencies should be informed by and utilize the special expertise of Indian tribes and Native Hawaiian organizations in the documentation and treatment of their ancestors.**

This principle reiterates existing legal requirements found in federal law, regulation and executive orders, and is consistent with positions that the ACHP has taken over the years to facilitate enfranchisement and promote broad participation in the Section 106 process. Federal agencies must consult with Indian tribes on a government-to-government basis because they are sovereign nations.

Indian tribes and Native Hawaiian organizations bring a special perspective on how a property possesses religious and cultural significance to them. Accordingly, federal agencies should utilize their expertise about, and religious and cultural connection to, burial sites, human remains, and associated funerary objects to inform decision-making in the Section 106 process.

**Principle 4: Burial sites, human remains and funerary objects should not be knowingly disturbed unless absolutely necessary, and only after the federal agency has consulted and fully considered avoidance of impact and whether it is feasible to preserve them in place.**

As a matter of practice, federal agencies should avoid impacting burial sites, human remains, and funerary objects as they carry out their undertakings. If impact to the burial site can be avoided, this policy does not compel federal agencies to remove human remains or funerary objects just so they can be documented.

As this policy advocates, federal agencies should always plan to avoid burial sites, human remains, and funerary objects altogether. When a federal agency determines, based on consultation with Section 106 participants, that avoidance of impact is not appropriate, the agency should minimize disturbance to such sites, remains, and objects. Accordingly, removal of human remains or funerary objects should occur only when other alternatives have been considered and rejected.

When a federal agency determines, based on consultation with Section 106 participants, that avoidance of impact is not appropriate, the agency should then consider any active steps it may take to preserve the burial site in place, perhaps through the intentional covering of the affected area, placement of markers, or granting of restrictive or other legal protections. In many cases, preservation in place may mean that, to the extent allowed by law, the locations of burial sites, human remains, and funerary objects should not be disclosed publicly. Alternatively and consistent with the Section 106 regulations [36 CFR § 800.5(a)(2)(vi)], natural deterioration of the remains may be the acceptable or preferred outcome of the consultation process.

**Principle 5: When human remains or funerary objects must be disinterred, they should be removed carefully, respectfully, and in a manner developed in consultation.**

When the federal agency decides that human remains or funerary objects must be disturbed, they should be removed respectfully and dealt with according to the plan developed by the federal agency in consultation. “Careful” disinterment means that those doing the work should have, or be supervised by people having, appropriate expertise in techniques for recognizing and disinterring human remains.

This policy does not endorse any specific treatment. However, federal agencies must make a reasonable and good faith effort to seek agreement through consultation before making its decision about how human remains and/or funerary objects shall be treated.

The plan for the disinterment and treatment of human remains and/or funerary objects should be negotiated by the federal agency during consultation on a case-by-case basis. However, the plan should provide for an accurate accounting of federal implementation. Depending on agreements reached through the Section 106 consultation process, disinterment may or may not include field recordation. In some instances, such recordation may be so abhorrent to consulting parties that the federal agency may decide it is inappropriate to carry it out. When dealing with Indian tribes, the federal agency must comply with its legal responsibilities regarding tribal consultation, including government-to-government and trust responsibilities, before concluding that human remains or funerary objects must be disinterred.

**Principle 6: The federal agency is ultimately responsible for making decisions regarding avoidance of impact to or treatment of burial sites, human remains, and funerary objects. In reaching its decisions, the federal agency must comply with applicable federal, tribal, state, or local laws.**

Federal agencies are responsible for making final decisions in the Section 106 process [36 CFR § 800.2(a)]. The consultation and documentation that are appropriate and necessary to inform and support federal agency decisions in the Section 106 process are set forth in the ACHP’s regulations [36 CFR Part 800].

Other laws, however, may affect federal decision-making regarding the treatment of burial sites human remains, and funerary objects. Undertakings located on federal or tribal lands, for example, are subject to the provisions of NAGPRA and the Archaeological Resources Protection Act (ARPA). When burial sites, human remains, or funerary objects are encountered on state and private lands, federal agencies must identify and follow state law when it applies. Section 106 agreement documents should take into account the requirements of any of these applicable laws.

**Principle 7: Through consultation, federal agencies should develop and implement plans for the treatment of burial sites, human remains, and funerary objects that may be inadvertently discovered.**

Encountering burial sites, human remains, or funerary objects during the initial efforts to identify historic properties is not unheard of. Accordingly, the federal agency must determine the scope of the identification effort in consultation with the SHPO/THPO, Indian tribes and Native Hawaiian

organizations, and others before any archaeological testing has begun [36 CFR § 800.4(a)] to ensure the full consideration of avoidance of impact to burial sites, human remains, and funerary objects.

The ACHP's regulations provide federal agencies with the preferred option of reaching an agreement ahead of time to govern the actions to be taken when historic properties are discovered during the implementation of an undertaking. In the absence of prior planning, when the undertaking has been approved and construction has begun, the ACHP's post-review discovery provision [36 CFR § 800.13] requires the federal agency to carry out several actions:

- (1) make reasonable efforts to avoid, minimize, or mitigate adverse effects to such discovered historic properties;
- (2) notify consulting parties (including Indian tribes and Native Hawaiian organizations that might attach religious and cultural significance to the affected property) and the ACHP within 48 hours of the agency's proposed course of action;
- (3) take into account the recommendations received; and then
- (4) carry out appropriate actions.

NAGPRA prescribes a specific course of action when Native American and Native Hawaiian human remains and funerary objects are discovered on federal or tribal lands in the absence of a plan—cessation of the activity, protection of the material, notification of various parties, consultation on a course of action and its implementation, and then continuation of the activity. However, adherence to the plan under Principle 5 would cause new discoveries to be considered “intentional excavations” under NAGPRA because a plan has already been developed, and can be immediately implemented. Agencies then could avoid the otherwise mandated 30 day cessation of work for “inadvertent discoveries.”

**Principle 8: In cases where the disposition of human remains and funerary objects is not legally prescribed, federal agencies should proceed following a hierarchy that begins with the rights of lineal descendants, and if none, then the descendant community, which may include Indian tribes and Native Hawaiian organizations.**

Under the ACHP's regulations, “descendants” are not identified as consulting parties by right. However, federal agencies shall consult with Indian tribes and Native Hawaiian organizations that attach religious and cultural significance to burial sites, human remains and associated funerary objects, and be cognizant of their expertise in, and religious and cultural connection to, them. In addition, federal agencies should recognize a biological or cultural relationship and invite that individual or community to be a consulting party [36 CFR § 800.3(f)(3)].

When federal or state law does not direct disposition of human remains or funerary objects, or when there is disagreement among claimants, the process set out in NAGPRA may be instructive. In NAGPRA, the “ownership or control” of human remains and associated funerary objects lies with the following in descending order: specific lineal descendants; then tribe on whose tribal lands the items were discovered; then tribe with the closest cultural affiliation; and then tribe aboriginally occupying the land, or with the closest “cultural relationship” to the material.

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## Definitions Used for the Principles

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- **Burial Site:** Any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited [25 U.S.C. 3001.2(1)].
- **Consultation:** The process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 review process [36 CFR § 800.16(f)].
- **Consulting parties:** Persons or groups the federal agency consults with during the Section 106 process. They may include the State Historic Preservation Officer; the Tribal Historic Preservation Officer; Indian tribes and Native Hawaiian organizations; representatives of local governments; applicants for federal assistance, permits, licenses, and other approvals; and/or any additional consulting parties [based on 36 CFR § 800.2(c)]. Additional consulting parties may include individuals and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties [36 CFR § 800.2(c)(6)].
- **Disturbance:** Disturbance of burial sites that are listed in or eligible for listing in the National Register of Historic Places will constitute an adverse effect under Section 106. An adverse effect occurs when "an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, setting, materials, workmanship, feeling, or association" [36 CFR § 800.5(a)(1)].
- **Federal land:** Lands under a federal agency's control. Mere federal funding or permitting of a project does not turn an otherwise non-federal land into federal land (see *Abenaki Nation of Mississquoi v. Hughes*, 805 F. Supp. 234 (D. Vt. 1992), *aff'd*, 990 F. 2d 729 (2d Cir. 1993) (where the court found that a Clean Water Act permit issued by the US Army Corps of Engineers did not place the relevant land under federal "control" for NAGPRA purposes).
- **Funerary objects:** "items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains" [25 U.S.C. 3001(3)(B)].
- **Historic property:** "Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. It includes artifacts, records, and remains that are related to and located within such properties, and it includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register of Historic Places criteria" [36 CFR § 800.16(1)].
- **Human remains:** The physical remains of a human body. The term does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained, such as hair made into ropes or nets [see 43 CFR § 10.2(d)(1)].
- **Indian Tribe:** "An Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in Section 3 of the Alaska Native Claims Settlement Act [43 U.S.C. 1602], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians" [36 CFR § 800.16(m)].
- **Native American:** Of, or relating to, a tribe, people, or culture that is indigenous to the United States [25 U.S.C. 3001 (9)]. Of, or relating to, a tribe, people, or culture indigenous to the United States, including Alaska and Hawaii [43 CFR 10.2(d)].

- **Native Hawaiian:** Any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the state of Hawaii [36 CFR § 800.16(s)(2)].
- **Native Hawaiian Organization:** Any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians [36 CFR § 800.16(s)].
- **Policy statement:** A formal statement, endorsed by the full ACHP membership, representing the membership's collective thinking about what to consider in reaching decisions about select issues, in this case, human remains and funerary objects encountered in undertakings on federal, tribal, state, or private lands. Such statements do not have the binding force of law.
- **Preservation in place:** Taking active steps to ensure the preservation of a property.
- **Protection of Historic Properties:** Regulations [36 CFR Part 800] implementing Section 106 of the National Historic Preservation Act.
- **Section 106:** That part of the National Historic Preservation Act which establishes a federal responsibility to take into account the effects of undertakings on historic properties and to provide the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such action.
- **State Historic Preservation Officer:** The official appointed or designated pursuant to Section 101(b)(1) of NHPA to administer the state historic preservation program.
- **Tribal Historic Preservation Officer:** The official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of Section 106 compliance on tribal lands in accordance with Section 101(d)(2) of NHPA.
- **Treatment:** Under Section 106, "treatments" are measures developed and implemented through Section 106 agreement documents to avoid, minimize, or mitigate adverse effects to historic properties.

#### **Acronyms Used for the Policy Statement**

- **ACHP:** Advisory Council on Historic Preservation.
- **ARPA:** Archaeological Resources Protection Act [16 U.S.C. 470aa-mm].
- **NHPA:** National Historic Preservation Act [16 U.S.C. § 470f].
- **NAGPRA:** The Native American Graves Protection and Repatriation Act [25 U.S.C. 3001 et seq].
- **SHPO:** State Historic Preservation Officer
- **THPO:** Tribal Historic Preservation Officer

*[The members of the Advisory Council on Historic Preservation unanimously adopted this policy on February 23, 2007]*

# Notices

Federal Register

Vol. 72, No. 31

Thursday, February 15, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### Final Advisory Council on Historic Preservation Policy Statement on Affordable Housing and Historic Preservation

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Notice of Final Policy Statement on Affordable Housing and Historic Preservation.

**SUMMARY:** The Advisory Council on Historic Preservation (ACHP) adopted a "Policy Statement on Affordable Housing and Historic Preservation," on November 9, 2006.

**DATES:** The final policy went into effect upon adoption on November 9, 2006.

**FOR FURTHER INFORMATION CONTACT:** Blythe Semmer, 202-606-8505. Electronic mail: [affordablehousing@achp.gov](mailto:affordablehousing@achp.gov)

**SUPPLEMENTARY INFORMATION:** The Advisory Council on Historic Preservation (ACHP) is an independent Federal agency, created by the National Historic Preservation Act, that promotes the preservation, enhancement, and productive use of our Nation's historic resources, and advises the President and Congress on national historic preservation policy.

Section 106 of the National Historic Preservation Act (Section 106), 16 U.S.C. 470f, requires Federal agencies to consider the effects of their undertakings on historic properties and provide the ACHP a reasonable opportunity to comment with regard to such undertakings. ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800.

#### I. Background

In 1995, the ACHP adopted its first "Policy Statement on Affordable

Housing and Historic Preservation" (1995 Policy) to serve as a guide for federal agencies and State Historic Preservation Offices (SHPOs) when making decisions about affordable housing projects during review of federal undertakings under Section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. 470f (Section 106), and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800). The ACHP adopted the policy to guide federal agencies and SHPOs at a time when conflicts between the dual goals of providing affordable housing and preserving historic properties was making the achievement either more difficult. After a decade, the provision of affordable housing has developed into an even more pressing national concern, prompting a reconsideration of the principles in the policy statement.

In 2005, the ACHP Chairman convened an Affordable Housing Task Force to review this policy statement in light of changes to the Section 106 regulations in 2001 and 2004 and other ACHP initiatives. Members of the Task Force included the U.S. Department of Agriculture, U.S. Department of the Interior, the National Conference of State Historic Preservation Officers (NCSHPO), the National Trust for Historic Preservation, citizen member, Emily Summers, and expert member, John G. Williams, III, Chair. The U.S. Department of Housing and Urban Development (HUD) participated as an ACHP observer.

The Task Force developed the Policy Statement with input from the public. An online survey of state and local government officials and affordable housing providers about their awareness of and use of the 1995 Policy was conducted in August-September 2005. Links to the survey were distributed to approximately 12,000 individuals representing State and Tribal Historic Preservation Officers, local historic preservation commission members, Certified Local Government staff, HUD staff and grantees, state community development agency staffs, and affordable housing providers.

Following development of a draft, the ACHP posted the proposed revised draft policy statement in the **Federal Register** on July 17, 2006 (71 FR 40522), and comments from the public were accepted through August 16, 2006.

Information about the July 17, 2006, **Federal Register** notice was distributed by members of the Task Force to their respective constituencies through electronic LISTSERVs including communities receiving HOME program and Community Development Block Grant funds from HUD, members of the National Trust for Historic Preservation's Forum, and members of the NCSHPO. Additionally, the ACHP provided information about the comment period directly to Tribal Historic Preservation Officers, the National Alliance of Tribal Historic Preservation Officers, and over a dozen organizations with an interest in local community development activities and the provision of affordable housing, as well as on the ACHP Web site.

Comments on the new policy statement generally supported the revision effort. Specific comments frequently requested detailed guidance on applying the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Secretary's Standards) to affordable housing projects. While the Task Force recognized that specific comments on the application of the Secretary's Standards were outside the scope of its mandate, additional language highlighting the distinction between review for the Historic Rehabilitation Tax Credit and Section 106 compliance was included in the policy statement. Commenters further requested the development of case studies that would illustrate the successful integration of historic preservation and affordable housing on a variety of topics including accessibility, use of modern building materials, and lead paint abatement requirements. It is anticipated that such case studies will become an important component of materials developed by the ACHP and Task Force in implementing the revised policy statement.

Responsiveness to local conditions emerged as a recurring theme in the Task Force's deliberations. Members recognized that affordable housing can include housing for a specific constituency, such as Native American housing programs. Federal assistance for affordable housing can also be directed to specific geographic areas with distinctive physical characteristics. Just as affordable housing programs serve

unique local needs, so should historical preservation reviews, since “one-size-fits-all” approaches are unlikely to produce a successful balance for these projects. Given our national diversity, the majority of Task Force members embraced and encouraged creativity in local solutions while federal agency members emphasized the value of consistency and predictability.

The importance of developing and utilizing tailored guidance also shaped the Task Force’s deliberations and its preparation of a set of recommendations for how the policy statement can be put into practice. Direction from both the ACHP and federal agencies was seen as critical to achieving the goals of the Task Force, but members recognized that private and non-profit partners with experience piecing together the resources required for planning and funding affordable housing projects could provide examples of success stories and best practices.

The policy statement, which represents the conclusion of the research and public outreach efforts of the Affordable Housing Task Force and the deliberation of its members, was adopted by the ACHP on November 9, 2006. The final text of the policy statement is provided in Section II of this notice.

## II. Text of the Policy

The following is the text of the final policy statement:

### **Advisory Council on Historic Preservation (ACHP) Policy Statement on Affordable Housing and Historic Preservation**

Historic buildings provide affordable housing to many American families. Affordable housing rehabilitation can contribute to the ongoing vitality of historic neighborhoods as well as of the businesses and institutions that serve them. Rehabilitation can be an important historic preservation strategy. Federal agencies that help America meet its need for safe, decent, and affordable housing, most notably the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture’s (USDA’s) Rural Development agency, often work with or near historic properties.

The ACHP considers affordable housing for the purposes of this policy to be Federally-subsidized, single- and multi-family housing for individuals and families that make less than 80% of the area median income. It includes, but is not limited to, Federal assistance for new construction, rehabilitation, mortgage insurance, and loan guarantees.

National policy encompasses both preserving historic resources and providing affordable housing. The National Historic Preservation Act (NHPA) of 1966, as amended, directs the Federal government to foster conditions under which modern society and prehistoric and historic resources can exist in productive harmony and “fulfill the social, economic, and other requirements of present and future generations.” Similarly, affordable housing legislation like the Cranston-Gonzalez Act of 1990, which aims to “expand the supply of decent, safe, sanitary, and affordable housing,” anticipates historic preservation as a tool for meeting its goals. Actively seeking ways to reconcile historic preservation goals with the special economic and social needs associated with affordable housing is critical in addressing one of the nation’s most pressing challenges.

Providing affordable housing is a growing national need that continues to challenge housing providers and preservationists.

In issuing this policy statement, the ACHP, consistent with Section 202 of the NHPA, offers a flexible approach for affordable housing projects involving historic properties. Section 106 of the National Historic Preservation Act Section 106 requires Federal agencies to take into account the effects of their actions on historic properties and afford the ACHP a reasonable opportunity to comment. This policy provides a framework for meeting these requirements for affordable housing.

Federal tax incentives provide opportunities for historic preservation and affordable housing to work together, including the Low-Income Housing Tax Credit and the Historic Rehabilitation Tax Credit. Projects taking advantage of the Historic Rehabilitation Tax Credit must be reviewed by the National Park Service (NPS) for adherence to the *Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Secretary’s Standards) in a separate and distinct process. Review of these projects is more comprehensive than Section 106 review and necessitates early coordination with NPS and the State Historic Preservation Officer (SHPO) since work must adhere to the Secretary’s Standards to obtain the tax credit. Nonetheless, coordination with Section 106 consultation and these reviews frequently occurs.

In an effort to better focus Section 106 reviews for affordable housing, the ACHP encourages Federal and State agencies, SHPOs, Tribal Historic Preservation Officers (THPOs), local

governments, housing providers, and other consulting parties to use the following principles in Section 106 consultation.

### **Implementation Principles**

- I. Rehabilitating historic properties to provide affordable housing is a sound historic preservation strategy.
- II. Federal agencies and State and local government entities assuming HUD’s environmental review requirements are responsible for ensuring compliance with Section 106.
- III. Review of effects in historic districts should focus on exterior features.
- IV. Consultation should consider the overall preservation goals of the community.
- V. Plans and specifications should adhere to the Secretary’s Standards when possible and practical.
- VI. Section 106 consultation should emphasize consensus building.
- VII. The ACHP encourages streamlining the Section 106 process to respond to local conditions.
- VIII. The need for archeological investigations should be avoided.

### **I. Rehabilitating Historic Properties to Provide Affordable is a Sound Historic Preservation Strategy.**

Continued investment in historic buildings through rehabilitation and repair for affordable housing purposes and stabilization of historic districts through the construction of infill housing should be recognized as contributing to the broad historic preservation goals of neighborhood revitalization and retention.

### **II. Federal Agencies and State and Local Government Entities Assuming HUD’s Environmental Review Requirements Are Responsible for Ensuring Compliance With Section 106.**

Federal agencies, notably USDA Rural Development and HUD, provide important funding for affordable housing. These Federal agencies, and funding recipients assuming HUD’s environmental review requirements, must comply with Section 106. SHPOs, THPOs, and local historic preservation commissions provide expert opinions and advice during consultation. Consultation should be concluded and outcomes recorded prior to the expenditure of funds.

### **III. Review of Effects in Historic Districts Should Focus on Exterior Features.**

Section 106 review of effects focuses on the characteristics that qualify a property for listing in the National Register of Historic Places. The significance of historic districts is typically associated with exterior features. Accordingly, unless a building

is listed or considered eligible for listing in the National Register as an individual property or specific interior elements contribute to maintaining a district's character, review under Section 106 should focus on proposed changes to the exterior. In all cases, identifying the features that qualify a property for inclusion in the National Register defines the scope of Section 106 review.

#### **IV. Consultation Should Consider the Overall Preservation Goals of the Community.**

When assessing, and negotiating the resolution of, the effects of affordable housing projects on historic properties, consultation should focus not simply on individual buildings but on the historic preservation goals of the broader neighborhood or community. If the affected historic property is a historic district, the agency official should assess effects on the historic district as a whole. Proposals to demolish historic properties for new replacement housing should be based on background documentation that addresses the broader context of the historic district and evaluates the economic and structural feasibility of rehabilitation that advances affordable housing.

#### **V. Plans and Specifications Should Adhere to the Secretary's Standards When Possible and Practical.**

Secretary's Standards outline a consistent national approach to the treatment of historic properties that can be applied flexibly in a way that relates to local character and needs. Plans and specifications for rehabilitation, new construction, and abatement of hazardous conditions in affordable housing projects associated with historic properties should adhere to the recommended approaches in the Secretary's Standards when possible and practical.

Projects taking advantage of the Historic Rehabilitation Tax Credit must be reviewed by the National Park Service for adherence to the Secretary's Standards in a separate and distinct process that benefits from early coordination. The ACHP recognizes that there are instances when the Secretary's Standards cannot be followed and that Section 106 allows for the negotiation of other outcomes.

#### **VI. Section 106 Consultation Should Emphasize Consensus Building.**

Section 106 review strives to build consensus with affected communities in all phases of the process. Consultation with affected communities should be on a scale appropriate to that of the undertaking. Various stakeholders,

including community members and neighborhood residents, should be included in the Section 106 review process as consulting parties so that the full range of issues can be addressed in developing a balance between historic preservation and affordable housing goals.

#### **VII. The ACHP Encourages Streamlining the Section 106 Process To Respond to Local Conditions.**

The ACHP encourages participants to seek innovative and practical ways to streamline the Section 106 process that respond to unique local conditions related to the delivery of affordable housing. Programmatic Agreements often delegate the Section 106 review role of the SHPO to local governments, particularly where local preservation ordinances exist and/or where qualified preservation professionals are employed to improve the efficiency of historic preservation reviews. Such agreements may also target the Section 106 review process to local circumstances that warrant the creation of exempt categories for routine activities, the adoption of "treatment and design protocols" for rehabilitation and new infill construction, and the development of design guidelines tailored to a specific historic district and/or neighborhood.

#### **VIII. The Need for Archaeological Investigations Should Be Avoided.**

Archaeological investigations should be avoided for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance.

**Authority:** 16 U.S.C. 470j

Dated: February 12, 2007.

**Ralston Cox,**

*Acting Executive Director.*

[FR Doc. 07-703 Filed 2-14-07; 8:45 am]

**BILLING CODE 4310-K6-M**

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## **DEPARTMENT OF AGRICULTURE**

### **Office of the Secretary**

#### **Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting**

**AGENCY:** Research, Education, and Economics, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the United States Department of Agriculture announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory

Board. This meeting is open to the general public.

**DATES:** The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet March 7-9, 2007.

The public may file written comments before or up to two weeks after the meeting with the contact person.

**ADDRESSES:** The meeting will take place at the Mandarin Oriental Hotel, 1330 Maryland Avenue, SW., Washington, DC 20024. Written comments from the public may be sent to the Contact Person identified in this notice at: The National Agricultural Research, Extension, Education, and Economics Advisory Board; Research, Education, and Economics Advisory Board Office, Room 344-A, Jamie L. Whitten Building, United States Department of Agriculture, STOP 2255, 1400 Independence Avenue, SW., Washington, DC 20250-2255.

**FOR FURTHER INFORMATION CONTACT:**

Joseph A. Dunn, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720-3684; fax: (202) 720-6199; or e-mail: [JADunn@csrees.usda.gov](mailto:JADunn@csrees.usda.gov).

**SUPPLEMENTARY INFORMATION:** On Thursday, March 8, 2007, from 8 a.m.-5:30 p.m. the full Advisory Board Meeting will meet beginning with introductory remarks provided by the Chair of the Advisory Board, and the Under Secretary for Research, Education, and Economics (REE), USDA. This meeting will have two focus sessions, one on "Farm Bill" topics and the other on the subject of "Food Safety and Human Health". An evening session beginning at 6:30 p.m., and adjourning at 8:30 p.m. with a guest speaker who will present remarks on food safety. On Friday, February 9, 2006, the meeting will reconvene at 9 a.m. to hear recap highlights from the previous day's focus sessions followed by overall Board discussions. You will hear remarks from within and outside the USDA pertaining to the agency prospective on the individual topics. An opportunity for public comment will be offered after the meeting wrap-up. The Advisory Board Meeting will adjourn by 12 (noon).

Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by close of business Friday, March 21, 2007). All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file

# ACHP Policy Statement on Balancing Cultural and Natural Values on Federal Lands

December 20, 2002

## Synopsis

The ACHP seeks to promote an approach to resource management and conflict resolution on Federally owned public lands that achieves balance between natural and cultural values. ACHP affirms the importance of responsible Federal stewardship of historic properties located within natural areas.

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## STATEMENT OF POLICY

ACHP [Advisory Council on Historic Preservation] seeks to promote an approach to resource management and conflict resolution on Federally owned public lands that achieves balance between natural and cultural values. ACHP affirms the importance of responsible Federal stewardship of historic properties located within natural areas; and encourages Federal land managers to recognize that cultural and natural values are often interrelated and should therefore be considered in an integrated manner, to ensure that cultural values are afforded equal consideration.

State and Tribal Historic Preservation Officers, Federal Agencies, and others who participate in the Section 106 consultation process, Federal Agency planning processes and National Environmental Policy Act compliance process are encouraged to use these principles as a framework for Section 106 and Section 110 consultation.

## PRINCIPLES

ACHP will, and other participants in the Section 106 review process for Federal agency resource management should, be guided by the following principles in applying the policy set forth:

- I. Identify potential conflicts early.
  - Where potential conflicts are deemed to exist, early attention to such problems is essential. Full study of the potentially competing resources through land management planning processes or other land management initiatives can lead to improved outcomes before damage to the resources becomes irreparable.
  - Demolition by neglect should be discouraged and should occur only as a direct result of management decisions made in the context of long-range planning with full public

involvement. Such planning initiatives should be coordinated so that impacts to the environment and to historic properties can be addressed comprehensively.

## II. Differentiate between real and perceived conflicts.

- Assumptions are often made about conflicts among competing resource values without adequate analysis of the actual effects of such resources on one another. Is the ecosystem or natural area in fact threatened by the presence of historic properties?
- To confront this question in the context of Section 106 consultation, a full understanding of the resources is needed before practical considerations can be realistically evaluated. How are the historic areas to be used? How will they be accessed? What infrastructure is necessary for continued use? Within the range of feasible alternatives, is it possible to preserve resource values intact?

## III. Recognize that competing values involve competing constituencies.

- Consultation with both environmental advocates and historic preservationists should be integrated rather than divided by resource type.
- While planning initiatives may legitimately focus on subjects of interest only to one of these advocacy categories, scheduling separate planning initiatives should take into consideration the interrelatedness of natural and cultural values as represented in a given area of consideration.
- Where values are in conflict, natural and cultural resource planning should be undertaken in concert.

## IV. Broaden understanding of all affected resources.

- When approaching questions of historical significance, build upon National Register criteria as commonly applied to historic properties by drawing upon a wide range of scholarship in the agency's evaluative and interpretive frameworks. How do the agency's cultural landscapes illustrate the continuum of human life? To what degree does the potentially affected area itself embody the qualities of a heritage resource? Would interpretation of the area's associated cultural traditions enrich understanding of the values inherent in the area?
- Consideration should be given to the changing demographics of visitorship to public lands in the new millennium, and the likelihood that new visitors will bring different interests and perspectives to their public land visitation experience.

## V. Recognize that acknowledgment of barriers is a first step toward problem-solving when cultural and natural values compete.

- A host of real-world problems often contributes to a perception that natural and cultural values cannot be reconciled. For instance, the presence of private in-holdings or leaseholds within Federal land boundaries may result in high sensitivity and strained relations between the agency and the private property owner. Often, these retained private property rights differ substantially from those of the average user.
- Another commonly cited barrier is that requirements of the Wilderness Act, which are recognized to be quite prescriptive, are used for management of many ecologically significant areas within the Federal inventory, whether or not these lands are formally designated as wilderness. A common belief that the legal mandates of wilderness protection supersede those of the National Historic Preservation Act (NHPA) is often contradicted by Federal agency management policies that allow a more balanced approach, while still adhering to the mandates of the Wilderness Act.
- A final barrier to full consideration of historic preservation options is a perception that preserving the natural environment is more cost effective than preserving historic properties. Yet costs should be viewed in the context of a multitude of factors and with recognition that costs may be greater if neglect has already occurred, or if labor-intensive methods must be relied upon due to restricted access.

VI. Consider full range of feasible alternatives when cultural and natural values interrelate.

- Section 106 review and NEPA are both intended to be used as decision-making processes. All too often, however, managers view these procedures as a method for seeking approval for a planning direction rather than a mechanism for formulating one. The consultation process breaks down quickly when decisions have been resolved in favor of a particular course of action prior to conducting a more comprehensive discussion.
- Paramount to the successful resolution of competing interests between natural and cultural resources is the commitment to examine alternate methods for implementing an undertaking. The stronger the ability of a land manager to consider a full range of alternatives to a proposed action, the greater the chances will be of discovering a resolution that addresses both cultural and natural concerns.

VII. Use an integrated approach to Section 106 review, Section 110, NEPA, land management planning, and other authorities (such as the Wild and Scenic Rivers Act, Native American Graves Protection and Repatriation Act, American Indian Religious Freedom Act, Archaeological Resources Protection Act, Section 4(f) of the Department of Transportation Act), as a method of reaching the broadest range of the interested public.

- Planning for a wide range of resources in consultation with the interested public can lead to conflicts among the respective constituencies unless all such processes are interconnected. For instance, once a land management plan is completed, the interested public considers the Federal government to have a "contract" with those whose views informed it. If Section 106 issues are not adequately addressed at this stage, not only would amendments be called for, but any necessary departure from the plan may be perceived as a broken promise, regardless of the merits of the decision.

#### VIII. Consult with Indian Tribes and Native Hawaiian organizations on the full range of cultural and natural values.

- Federal agencies are required to ensure adequate awareness and consideration of the interest of Indian tribes or Native Hawaiian organizations in Federally owned resources or areas they deem of religious or cultural significance. In doing so, agencies must adequately recognize tribes' status as sovereign nations.
- Many times the interests of tribes do not focus merely on cultural resources as defined by the National Register of Historic Places but include a broad array of issues including natural and cultural values. In fact, the very concept of separating out cultural concerns from natural interests when assessing the merits of a particular action is unconscionable to many tribes and Native Hawaiians. Since Indian tribes tend to view cultural and natural resource values as inextricably linked, rather than in conflict, land managers should pay particular attention to their views when considering these issues.

#### IX. Consider historic values when planning for the unexpected.

- Natural disasters should be planned for to ensure that damage to both cultural and natural resources is minimized when disaster strikes.
- Advance preparation for unanticipated effects to known historic properties and discoveries of previously unknown historic properties during the course of implementing project or routine management activities allows for timely consideration of any such effects. When considered in the course of routine land management planning, future emergency actions will not only be consistent with principles of sound management but will also reflect the outcome of consultation with the interested public.
- Because actions taken to respond to disasters or emergencies can be as destructive as the disaster itself, planning for such situations can mitigate damage and thereby achieve outcomes that reinforce an agency's commitment to balanced stewardship at a time when values inherent in the land are most threatened.



Preserving America's Heritage

## **POLICY GUIDANCE FOR ACHP COMMENTS TO CONGRESS ON SITE-SPECIFIC LEGISLATION**

**Background.** When tracking pending legislation and providing advice to Congress on selected bills, the ACHP generally avoids addressing site-specific legislation. This is due both to the sheer volume of such bills and concern that lack of localized knowledge and insight could result in inadvertently overlooking controversial situations or relying on faulty second-hand information. Despite these problematic issues, however, there are scenarios where ACHP advice to Congress on site-specific legislation may be warranted.

**Factors to Consider in Decision Making.** The ACHP may choose to offer comments on site-specific legislation when one or more of the following criteria is met:

- **The legislation addresses a highly significant historic property.** The exceptional significance of the property may already be recognized, for example through its designation as a National Historic Landmark, as part of a National Park Service unit, or as a World Heritage Site. This criterion could also apply in cases involving a newly discovered or newly evaluated property that is of great significance.
- **The legislation is site-specific but also addresses a broader range of historic properties or advances an innovative preservation strategy.** Site-specific bills occasionally address the preservation or protection of multiple historic properties, often thematically related, making the impact of the legislation significantly broader than a single site. Likewise, the treatment of a specific historic property in a bill may provide an innovative model of a preservation approach that has broader applicability.
- **The legislation could advance an established ACHP policy goal.** Consistent with its strategic plan, the ACHP adopts various preservation policy goals, addressing issues such as heritage tourism, sustainability, building a more inclusive preservation program, and supporting the participation of Indian tribes in the national preservation program. Site-specific bills often can promote such goals.
- **The legislation would set a damaging precedent for treatment of historic properties.** Occasionally legislation is introduced that could negatively impact the preservation of specific historic properties or establish legal principles that are inconsistent with the policies of the National Historic Preservation Act.

*November 26, 2018*

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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## **The National Preservation Program at 50**

Preservationists marked the 50th anniversary of the National Historic Preservation Act (NHPA) in 2016 and took the opportunity to celebrate the accomplishments of the federal preservation program that was created by the NHPA. The ACHP was one of the official partners of a coalition effort known as [Preservation50](#).

As part of its contribution to the Preservation50 initiative, the ACHP analyzed the federal preservation program established by the NHPA and developed recommendations for actions that would improve the program to address current and future needs. The resulting report is *[The National Historic Preservation Program at 50: Priorities and Recommendations for the Future](#)*. An [executive summary](#) also is available.



Preserving America's Heritage

## **BUILDING A MORE INCLUSIVE PRESERVATION PROGRAM RECOMMENDATIONS** **Adopted July 14, 2016**

The Advisory Council on Historic Preservation (ACHP) has embraced the principles of inclusiveness in an initiative called Building a More Inclusive Preservation Program, which complements the ongoing work of other leaders in the national historic preservation community to help ensure the history of all Americans is recognized, appreciated, and preserved.

The recommendations relate directly to the report issued after the 2006 Preserve America Summit, which took place in New Orleans, Louisiana, to recognize the 40th anniversary of the National Historic Preservation Act (NHPA). The Summit report urged the preservation program to: *“Promote cultural diversity in the identification of historic properties by evaluating the National Register of Historic Places for its inclusiveness and encouraging local, state, and tribal governments to evaluate their own inventories.”*

The following recommendations were adopted by the ACHP at its July 14, 2016, business meeting. Those recommendations are the following:

### ***Actions for the ACHP:***

- **Federal agency guidance.** In consultation with federal members of the ACHP, create a fact sheet and website section that provide guidance on outreach to, and improved consultation with, underserved communities with regard to historic preservation. The outreach and literature would offer information about consultation during the Section 106 process, suggestions about how agencies, State Historic Preservation Officers, and Tribal Historic Preservation Officers can reach out to potential consulting parties, and information about how local communities can connect with federal agencies to find out about opportunities and resources.
- **Leadership.** Incorporate ongoing efforts to work with federal agency and private organization leadership to commit to engaging underserved audiences. Create a program in alliance with the ACHP Alumni Foundation, similar to the intern program, where alumni members are asked to mentor a student from an underserved community through a partner university or college as they pursue a career in historic preservation.
- **Partnerships.** Encourage partners, including State Historic Preservation Officers and Federal Preservation Officers, to offer technical assistance and develop training and guidance for diverse communities interested in preservation. Engage professional experts to offer known strategies so agencies and non-governmental organizations can implement the goal of reaching a more diverse audience themselves. Expand the universe of partnerships to engage with organizations and agencies which focus on the humanities. On a limited basis and within existing resources, offer to cooperate in developing such programs.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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- **Best practices and case studies.** Continue to develop and share existing web materials in collaboration with special interest groups such as Asian and Pacific Islander Americans in Historic Preservation (APIAHiP), the 1882 Foundation, Chinese American and Japanese American historical societies, Latinos in Heritage Conservation, and other preservation organizations.
- **Preservation toolkit resource.** To complement the work done by partners, create an accessible, web-based resource that brings together information on the national historic preservation program and facilitates online access and training for more detailed preservation information on the National Register of Historic Places, the Section 106 process, the Secretary of the Interior's Standards and Guidelines, historic preservation tax incentives, funding, the Preserve America program, local preservation review, and technical assistance on preservation matters, and offers general contact information and other materials potentially useful for communities.
- **Look outward.** Ensure that opening pages on the ACHP website containing contact information and basic explanation of historic preservation and Section 106 are available in at least one other language. Increase outreach with campaigns aimed at reaching more diverse communities, beginning with the communities that have participated in ACHP listening sessions. Create email databases of interested organizations and citizens who are committed to spreading the word about historic preservation.
- **Look inward.** Ensure that the same standards and commitment levels are met with regard to the ACHP's members and staff as well as the agency culture. Actively look for ways to bring members, staff, and interns onboard with a special interest in or representing more diverse communities. Ensure that ACHP members and staff are kept informed about efforts that exemplify work with more diverse communities.
- **Preservation funding.** Continue to support additional targeted funding for underserved communities to actively participate in the national historic preservation program while continuing to advocate for full funding for the Historic Preservation Fund.

*Actions for Others:*

- **Better consideration of historic properties important to diverse constituencies.** Encourage federal agencies to better integrate diverse communities in the Section 106 process at its earliest stages and to identify and interpret historic places under their jurisdiction that may be associated with those communities.
- **Eliminate barriers to the engagement of diverse communities.** Urge federal agencies to examine their policies, programs, and procedures to identify and modify existing impediments to the participation of under-represented communities in activities that affect their cultural heritage.
- **Community awareness.** Assist federal agencies in strategies to identify consulting parties and inform the public about proposed undertakings. Encourage agencies such as the Department of Housing and Urban Development to offer webinars or online information on community development and preservation, including issues of affordable housing, neighborhood financing, and tax incentives that can be shared with leaders in historic ethnic neighborhoods.

- **Public education.** Encourage recognition of and respect for the role and contributions of all Americans in telling the story of the nation and its historic places. Urge the Department of Education to promote place-based learning that reflects all of the nation's diverse cultures.
- **Create new stakeholders.** Continue to work with diverse constituencies using occasions to encourage their participation in the national historic preservation program. Utilize conferences and events to share information about engaging more diverse audiences, such as those sponsored by the Congressional Black Caucus or Latinos in Heritage Conservation.