



NATIONAL CONFERENCE OF STATE
HISTORIC PRESERVATION OFFICERS



National
Association of
Tribal
Historic
Preservation
Officers



April 18, 2005

The Hon. Devin Nunes, Chairman
House Committee on Resources
Subcommittee on National Parks
186 Ford House Office Building
Washington, DC 20515

The Hon. Donna Christensen, Ranking Member
House Committee on Resources
Subcommittee on National Parks
187 Ford House Office Building
Washington, DC 20515

Dear Chairman Nunes and Ranking Member Christensen:

We are deeply concerned about changes to the National Historic Preservation Act (NHPA) proposed by the discussion draft entitled “National Historic Preservation Act Amendments of 2005” and urge you not to move forward with them. While we support the reauthorization of the Historic Preservation Fund (HPF) and we endorse the Advisory Council on Historic Preservation (ACHP) reauthorization as originally proposed by H.R. 3223 from the 108th Congress, we oppose any amendments that would substantially weaken current safeguards for our nation’s historic, cultural, and archeological treasures.

We work with the NHPA on a daily basis to preserve, use, and protect America’s historic heritage. The **National Conference of State Historic Preservation Officers** is the professional association of the state government officials (SHPOs) who carry out the national historic preservation program as delegates of the Secretary of the Interior pursuant to the NHPA. **Preservation Action**, founded in 1974, coordinates a national network of community activists, preservation professionals, historians, commercial investors, and civic leaders to advocate for our shared heritage. The **National Trust for Historic Preservation** was chartered by Congress in 1949 “to receive donations of sites, buildings and objects significant to American history and culture, [and] to preserve and administer them for public benefit.” The **American Cultural Resources Association** is the national trade association of the cultural resources consulting industry that conducts most of the actual research on historic properties in the United States. The **National Association of Tribal Historic Preservation Officers** provides a national perspective on Tribal historic preservation through its work with Tribal NHPA officials (THPOs) recognized by the Secretary of the Interior to assume the functions of SHPOs regarding Tribal lands and governments. The **Society for Historical Archaeology** is the largest scholarly group concerned with the archaeology of the modern world, its research, and conservation of sites and materials on land and under water. The **American Institute of Architects (AIA)** is the professional society representing 75,000 architects nationwide. The AIA has a long and abiding interest in the preservation of the historic and archeological resources of the United States."

Section Four of the discussion draft is most troubling to all of our members. It would limit a federal agency's consideration of "adverse effects" resulting from one of its projects only to those properties listed on the National Register and determined eligible by the Secretary. This would eliminate protection for millions of structures currently covered under Section 106 – more than three quarters of the present inventory. In addition, this would leave countless, unknown historic places in jeopardy of destruction. Successful examples include the first Spanish settlement in St. Augustine, Florida, and the African Burial Ground in New York, both uncovered as a part of a federal project. Since 1971, federal guidelines direct the potential destroyers of historic places – U.S. agencies – to "identify historic places, CONSIDER the project's effect on the historic places, and take appropriate action that balances the agency's mission, national need and historic preservation values." Section 4 would eliminate this most effective process and do irreparable harm to our heritage.

This proposal would also have a significant adverse effect on Tribal historic resources. Only a fraction of the traditional religious and cultural places that warrant Tribal protection – which NHPA's Section 101(d)(6) expressly recognizes as National Register-eligible – are so listed. Even fewer have been determined eligible by the Keeper, mostly due to a lack of money and support. The discussion draft proposal would place historic resources that Indian tribes most value at risk of destruction without any consideration during the federal planning process.

Section Two of the discussion draft raises additional concerns. It would prohibit eligibility determinations by the Keeper if the owner objects to listing the property on the Register. In historic districts, this provision would ban such determinations when more than 50 percent of the owners within a district object. As a result, everyone else would lose protection from a future federal project affecting their properties. Additionally, this change could mean that even resources previously deemed eligible for the Register by SHPOs, THPOs, and federal agencies would be disallowed such a determination by the Keeper.

This proposal would threaten the rights of owners who live in historic homes not already listed on the Register. In order to protect their property from a federal undertaking, owners would have to pay for preparing a nomination at their own expense. They would also bear the burden of having to complete it before the project planning process begins. Once the appropriate reviews start, it would be too late.

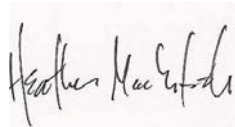
Finally, Section Three is structured in such a way that it would have a very limited application. No evidence has been presented that this change is needed or will provide additional due process protections. It is also inappropriate for federal laws to interfere with local land use laws by dictating to those governments how they may regulate their historic resources.

These days more and more Americans are turning to the very heart of our common experience, to the institutions, history, culture, and traditions that define us as a nation. As exemplified by the President's "Preserve America" Executive Order, it is a civic responsibility and our organizations' mission to ensure that these vital resources are preserved for generations to come. We hope that you will reauthorize the laws that underpin historic preservation without undermining their integrity. We appreciate the Subcommittee holding a hearing later this month to examine the proposals outlined in the "discussion draft," but ask you to oppose the provisions described above.

Sincerely,



Nancy Schamu
Executive Director
National Conference of
State Historic
Preservation Officers



Heather MacIntosh
President
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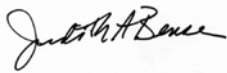
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