



A · M · E · R · I · C · A · N
A N T H R O P O L O G I C A L
A S S O C I A T I O N

DATE: April 21, 2005

TO: Members of the Subcommittee on National Parks, Recreation & Public Lands Committee on Resources, U.S. House of Representatives

FROM: Elizabeth M. Brumfiel, President
American Anthropological Association

Margaret W. Conkey, President – Archaeology Division
American Anthropological Association

SUBJECT: Testimony of the American Anthropological Association Concerning Proposed Amendments to the National Historic Preservation Act

On behalf of the American Anthropological Association, we write to express our deep concern and objection to the proposed Section 4 amendment to Section 106 of the National Historic Preservation Act (NHPA). Since the beginning of the 20th century, the United States federal government has been increasingly sensitive to and supportive of our national heritage, recognizing its importance and significance. They have shown how to exercise thoughtful responsibility for cultural and historical resources, especially since the enactment of the 1906 Antiquities Act, the 1935 Historic Sites Act, the 1966 National Historic Preservation Act and the Native American Graves Protection and Repatriation Act.

What is at issue now is one particular (4) amendment to the NHPA, which was last amended in 1972 by then-President Nixon. At that time, President Nixon recognized that the protection of historic places of cultural and national significance needed to be extended to include **potentially eligible** places, not only those that had already been accepted for a place on the National Register of Historic Places, which is a list maintained by the National Park Service. More than 30 years ago, it was clear, as is still the case today, that there are many hundreds if not thousands of places of enormous historical and cultural significance that have not yet been identified. A critical part of Section 106 of the NHPA has specified (since 1972) that we must take into consideration not just places that are already on the Register, but those yet-to-be identified places that could meet the criteria issued by the National Park Service for Register eligibility. That is, as specified in Section 106 today, Federal agencies must “take into account” the impacts of their actions (projects, assistance or permits) on places included in or eligible for the National Register of Historic Places.

The proposed amendment to Section 106 may appear to be one of minor wording, but to those of us who have experience with the Section 106 process, we are convinced that **the amendment would render this process more bureaucratic, time-consuming and expensive.**

The proposed change would state that the Section 106 review process (for historical or archaeological significance) would apply to properties “included in or **determined by the Secretary (of the Interior) to be eligible** for inclusion in the National Register”, rather than as presently worded: to “properties included in or eligible for inclusion in the National Register of Historic Places”.

There are several major concerns with the proposed new wording. From the point of view of the federal government, this would place the burden of work and consideration in the hands of the Secretary of the Interior, as Keeper of the National Register. By contrast, the current system works by local consensus, involving State and/or Tribal Historic Preservation Officers who more efficiently and with deeper knowledge of the site and circumstances provide the relevant information for consideration of eligibility that is reviewed by the experienced National Park Service. One might envision numerous scenarios that could result from the proposed revision: more likely destruction of unrecorded places and certainly more time-consuming work stoppages during construction, once historic places of significance were encountered. New bureaucratic processes would have to be developed because significant places will indeed continue to be encountered, but the burden of review would be shifted to the Secretary's office. This is again very likely to cause delays, work stoppages and/or destruction of significant places. In almost all instances of past identifications, satisfactory mitigation of such places has been effected, precisely because of the thorough knowledge of the process by relevant parties at all levels – from the contractors, to local constituencies, to the relevant historians and archaeologists, to the National Park Service.

Historic places, once damaged or destroyed, can never be recovered or re-created. We cannot jeopardize in any way, the processes whereby all parties work together to maximize the historical, cultural and scientific information that such places embody while at the same time allowing needed development and improvements to proceed in the most efficient and yet informed contexts as possible.

Section 4 of the National Historic Preservation Act Amendments of 2005 would clearly jeopardize the Section 106 processes, and we strongly object to its passage.

The American Anthropological Association (AAA) was founded in 1902 and is the world's largest organization of anthropologists. The mission of this organization is to pursue the science of humankind in all of its diverse aspects, and to disseminate anthropological knowledge in order to solve human problems. The Archaeology Division is comprised of some 1300 archaeologists, including many young people and graduate students, and we are part of the more than 11,000 members of the AAA.

Of particular concern to the Archaeology Division are the historical, cultural and archaeological resources that attest the many cultural and human successes and failures, to learn from these, and to understand how our different human histories are crucial to so many different groups as part of group and individual identity.