

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,  
CULTURAL RESOURCES, PARTNERSHIPS AND SCIENCE, NATIONAL PARK  
SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON  
PUBLIC LANDS AND ENVIRONMENTAL REGULATION OF THE HOUSE  
NATURAL RESOURCES COMMITTEE CONCERNING H.R. 3687, TO AMEND THE  
NATIONAL HISTORIC PRESERVATION ACT TO PROVIDE THAT IF THE HEAD  
OF THE AGENCY MANAGING FEDERAL PROPERTY OBJECTS TO THE  
INCLUSION OF CERTAIN PROPERTY ON THE NATIONAL REGISTER OR ITS  
DESIGNATION AS A NATIONAL HISTORIC LANDMARK FOR REASONS OF  
NATIONAL SECURITY, THE FEDERAL PROPERTY SHALL BE NEITHER  
INCLUDED NOR DESIGNATED UNTIL THE OBJECTION IS WITHDRAWN, AND  
FOR OTHER PURPOSES.**

**April 29, 2014**

---

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to provide the views of the Department of the Interior (Department) on H.R. 3687, a bill to amend the National Historic Preservation Act to provide that if the head of the agency managing Federal property objects to the inclusion of certain property on the National Register of Historic Places or its designation as a National Historic Landmark for reasons of national security, the Federal property shall be neither included nor designated until the objection is withdrawn, and for other purposes.

The Department opposes this bill for the reasons explained in this statement.

H.R. 3687 would amend the National Historic Preservation Act (NHPA) to allow the head of any agency managing Federal property to object to the inclusion of certain property in the National Register of Historic Places (National Register) or its designation as a National Historic Landmark (NHL) for reasons of national security, such as impacting the use of a property for military training or readiness purposes. Such an objection would prevent the property from being included or designated until that objection is withdrawn. The bill includes additional provisions allowing the expedited delisting of Federal properties if the agency submits a written request to the Secretary of the Interior (Secretary) for reasons of national security. The bill would also require that notice be provided to the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources if a property is owned by a Federal agency and is being considered for inclusion in the National Register, designation as a NHL, or proposed for the World Heritage List.

The NHPA has been used by Federal, State, and local governmental agencies as an instrument to identify, preserve, and protect, our historical, architectural, archeological and cultural resources for the benefit of present and future generations. The NHPA directs the Secretary to expand and maintain a list of districts, sites, buildings, structures and objects significant to American history, architecture, archeology, and culture that are worthy of preservation. The National Register is our Nation's official list of these properties, and currently comprises over 88,000 total listings, representing approximately 1.7 million contributing resources across the country. Through the

issuance of Executive Order 11593 in 1971, and the addition of Section 110 in 1980, both the executive branch of government and Congress have recognized the importance of federal agency stewardship in preserving our shared heritage. Implementation of Section 110 of the NHPA, which requires Federal agencies to establish an historic preservation program for their historic property assets, has been critically important for the protection of the special qualities of Federal lands. These resources constitute some of the most important elements of our nation's heritage.

As has been affirmed in legal review of federal actions affecting historic properties, the NHPA is a procedural act. Beyond the value of knowing the properties that are important links to our past, and worthy of preservation, listing a property in, or determining the eligibility of a property for, the National Register does not limit a Federal agency's decision-making authority. It does require the Federal agency to consider, in consultation with interested parties, the effect of a proposed action on a listed or eligible property before making a final decision. Incorporating this information into the Federal decision-making and project-planning process has been critical over the past 45 years in preserving our historic and archeological resources. While recognizing that the planning process has been contentious at times, the Department is unaware of specific cases where National Register, NHL, or World Heritage List designations have adversely affected national security.

Properties under the jurisdiction of the Department of Defense (DOD) and its three subordinate military departments, the Department of the Army, the Department of the Navy, and the Department of the Air Force, account for approximately 415 National Register listings, encompassing well over 17,000 contributing buildings, sites, structures, and objects. Some prominent examples of DOD properties are Fort Leavenworth in Kansas; the Washington Navy Yard; Pearl Harbor; the Pensacola Naval Station; and the U.S. Air Force Academy in Colorado Springs.

Most Federal properties listed in the National Register are submitted for consideration by the Federal Preservation Officer (FPO) of their respective Federal agency, under the provisions of Section 110 of the NHPA, and its implementing regulations. As the nominating authority, the FPO significantly controls the National Register nomination process, factoring in agency concerns and mandates. In very few cases are outside groups responsible for initiating the nomination of Federal property for listing in the National Register.

When a property is being considered for inclusion in the National Register, for designation as a National Historic Landmark, or for nomination to the World Heritage List, the Secretary notifies the owner(s) of the property, any appropriate local governments, and the general public. This is accomplished by the publication of an official notice in the *Federal Register* of all nominations received by the National Park Service, with electronic notification to all FPOs, State Historic Preservation Officers, Tribal Historic Preservation Officers, and other interested parties upon request.

The ability to objectively evaluate the National Register eligibility, without consideration of future use, has been, and is essential to, the consistent application of the National Register and National Historic Landmark Criteria for Evaluation. Decisions on how to manage the property, informed by the evaluation of its significance and integrity, remain the responsibility of the

Federal agency with jurisdiction over that property. When these roles and responsibilities are recognized and carried out in accordance with the provisions of current laws and regulations, the planning processes of DOD and other Federal agencies are informed, not constricted, by an understanding of the potential effects of proposed actions on properties considered worthy of preservation by the American people.

The Department is concerned that H.R. 3687 does not make clear how a threat to national security by listing would be defined and at what level a decision about national security impacts would be made. The Department is further concerned that the bill's provisions would open the door for all Federal agencies, not just the DOD, to seek similar exceptions for both National Register and NHL designations and removals. Approval of H.R. 3687 could lead to a fundamental weakening of these successful and widely admired programs that Congress intended to help recognize and protect our shared heritage.

The NHPA, through the efforts of the National Register and the NHL programs, and our Federal, State, Tribal, public and private partners, has a proven track record of protecting our cultural resources through their identification and documentation. Designated sites have been widely revered and cherished symbols of America's history, beauty, and achievements. They speak eloquently to the wisdom of retaining the National Register as the list of all places worthy of preservation.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or the other members may have.