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Testimony

before the

House of Representatives Committee on Resources

Subcommittee on National Parks, Recreation and Public Lands

The Honorable George Radanovich, Chairman

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Concerning Oversight of the National Historic Preservation Act

16 (U. S. C) 470

and the Reauthorization of the Advisory Council on Historic Preservation

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I. Introduction

The Subcommittee on National Parks, Recreation and Public Lands has asked the National Conference of State Historic Preservation Officers (NCSHPO) to testify on the following topics.

1. Reauthorization of the Advisory Council on Historic Preservation
2. Implementation of the National Historic Preservation Act

The National Conference of State Historic Preservation Officers is the professional association of the gubernatorially appointed State officials who carry out the National Historic Preservation Act (Act, 16 U.S.C. 470) for the Secretary of the Interior and the Advisory Council on Historic Preservation (ACHP). States pay for half of the cost of carrying out this federal program. State Historic Preservation Offices (SHPOs) have a direct, hands-on, daily involvement with the Act and are well suited to inform the Committee. (1)

II. Reauthorization of the Advisory Council on Historic Preservation

In general, the National Conference supports the reauthorization of the Advisory Council on Historic Preservation. As a statutory member of the ACHP, the National Conference was a part of the February 2003 meeting when the Council voted to propose legislative changes. We supported the amendments: chiefly, a permanent authorization with no appropriations ceiling and increasing the federal agency membership on the Council. We believe these changes are needed so that the ACHP can continue its excellent work and carry out the mandates of the President's Preserve America program and Executive Order 13278. However, since the National Conference of State Historic Preservation Officers has not seen the bill language, we are unable to comment on it specifically.

The National Conference has direct experience with the activities of the ACHP through the role of the SHPOs and the National Conference's seat on the Council. The ACHP regulations implementing Section 106 of the National Historic Preservation Act (36 CFR Part 800) set up a process for federal agencies to

identify areas that may be potentially impacted by federal projects, find the historic properties in those areas, and, should adverse impacts to historic properties exist, consider eliminating or mitigating those impacts. Federal agencies, under the ACHP regulations, must consult with State Historic Preservation Officers in making those decisions. (2)

III. Implementation of the National Historic Preservation Act

Secondly, the Committee has asked the National Conference of State Historic Preservation Officers to comment on the implementation of the National Historic Preservation Act. The following discusses the priority of historic preservation in the Administration, the successes of the program, the failures, and the relationship of private property rights and the National Register.

A. Historic Preservation: a Priority for the Bush Administration

Historic preservation is a national priority of the Bush Administration. On March 3, 2003, the President and the First Lady launched Preserve America, a multi-component program to improve federal stewardship of historic places (Executive Order 13287), to recognize achievement in historic preservation, to acknowledge and celebrate the historic preservation activities of communities across the country (Preserve America Communities), and to facilitate economic development through heritage tourism.

B. The Role of the State Historic Preservation Officers

The National Historic Preservation Act sets up the national historic preservation program. The Act charges the State Historic Preservation Officers with the following tasks.

1. find historic places and maintain information about them for future research and analysis,
2. working with private property owners, nominate significant places to the National Register,
3. work with local governments who are interested in historic preservation and help them receive the Secretary's certification,
4. help private owners seeking a federal rehabilitation tax credit,
5. consult with federal agencies on federal activities that may affect historic places, and
6. conduct planning and educational activities on historic preservation for interested parties in the private and public sectors.

C. Historic Preservation a National Success Story

1. Historic preservation stimulates the economy

The national historic preservation program, run by the SHPOs, stimulates the economy. The rehabilitation of National Register properties using the federal investment tax credit recently is generating \$3 billion in private investment annually. The owners of the 1,202 rehab tax credit projects undertaken in 2002 believe in and have benefitted economically from historic preservation and the National Register.

In 1993, the University of Rhode Island calculated that one dollar of Historic Preservation Fund expenditure generated \$63 dollars of investment. (3) Ten years later, the University of Florida and Rutgers University demonstrated that in Florida historic preservation created more than 123,000 jobs during 2002, spending on historic preservation activities generated more than \$657 million in state and local taxes in 2000, and, tourists who visited Florida's historic sites spent more than \$3.7 billion. The total annual impact of historic preservation in Florida is \$4.2 billion. (4)

In Colorado, the dollar value of federal investment tax credit rehabilitation projects certified in 1999 was \$28,265,017 more than Georgia's \$24,993,209 but not as much as Texas' \$89,622,748. Historic building rehabilitation creates 32 new jobs per \$1 million of direct impact, where as the figure for computer and data processing is 31, trucking is 30, manufacturing semiconductors is 20 and mining for petroleum and natural gas is 12. Heritage tourism in Colorado generated \$1.4 billion in direct tourist expenditures, generated \$1.0

billion in total household earnings and 55,300 jobs. After Denver's LoDo became a historic district the number of housing units increased by 1,260%, the average rental cost per square foot increased from \$7 to \$20/\$30, and the parking meter revenues increased from \$141,200 in 1989 to \$1,497,070 in 2000. Interestingly, the Colorado study looked closely at two residential historic districts, Potter Highlands in Denver and Fort Collins Midtown District and found that while quality of life and property values were increasing, the economic mix of the residents did not change dramatically. (5)

2. Historic preservation celebrates our history

In addition to being good for the economy, the historic preservation program also boasts successes in helping owners and residents seek recognition for the historic places where they live and work through the National Register nomination process. Nationally, in 2002, the Keeper of the National Register (Department of the Interior, National Park Service) made 1456 listings which include a total of 40,141 individual properties (one National Register historic district contains multiple individual, historic properties).

3. Historic preservation partners in local governments

The national historic preservation program has also "sold" well with local governments who have sought the Secretary of the Interior's designation as Certified Local Governments, formal partners with the SHPOs. In 2002, 58 city and county governments decided to enact a historic preservation ordinance and establish a historic preservation commission. As a CLG, the local government is eligible to apply for passthrough funding (10% of the State's Historic Preservation Fund allocation) from the SHPOs. In total, 1,384 local governments have opted to become Certified Local Governments. Each State establishes its own criteria for certification which allows for variation to reflect State by state differences.

4. Historic preservation is a "bargain" for the federal government

Finally, the national historic preservation program is a great value for the federal investment--States pay half the cost.

C. Historic Preservation Needs

The authorizing committees of the Congress have established a well-designed vehicle to deliver the national historic preservation program. Unfortunately, Administrations and Congresses have failed to provide the funding--the gas--necessary for the vehicle to operate. (6) The under funding of the national preservation program has several implications.

1. Where are the Nation's historic places?

The survey of historic sites across America is not finished. The nation lacks the base line data about where historic places are located. This lack of basic information makes it difficult to evaluate comprehensively the significance of an individual property. Further, without full information on historic places, federal agencies planning projects have no alternative but to conduct ad hoc historic site surveys for the potential impact area. If the inventory were complete and the information readily available by computer, federal agency planning would be substantially facilitated. Agencies would have the historic property information on hand at the earliest stages of project planning.

2. Lack of restoration grants

Second, two decades of "bare bones" funding have eliminated SHPOs ability to offer restoration matching grants to help restore threatened National Register properties. In the 1970's the State Historic Preservation Officers used half of their annual allocation to help owners restore National Register properties. These matching grants helped owners restore significant places and insured that state-of-the-art construction techniques were used. Further, the SHPOs' HPF grants were usually a small percentage of the total project cost. The federal funds were a catalyst for a larger private investment as well as a commitment from the owner to insure future maintenance. SHPOs made many small grants stretching the federal dollars further. Those financial incentives need to be reinstated by increased appropriations.

3. Federal costs transferred to the private sector

Third, continued reductions of Historic Preservation Fund appropriations to State Historic Preservation

Offices is adversely affecting the private sector, specifically applicants for federal assistance. If the SHPO comment process is a funnel, ongoing reductions have constricted that funnel opening slowing project response times from a stream to a trickle. North Carolina has kept records of the effect of federal budget cuts on response times. With fewer resources from the HPF available and an increasing work load, response times have doubled, not only in consultation in the Section 106 process but also in response to private sector requests related to National Register nominations and rehabilitation tax credits.

D. The National Register and Private Property Owners

The fundamental principle of the National Register and its implementation by SHPOs is cooperation and respect for and with private property owners.

The National Historic Preservation Act begins with the National Register. This is the Secretary of the Interior's list of America's historic properties. In the past 35 years more than 75,000 nominations have been listed on the National Register. Those listings represent over 1,000,000 private property owners: one nomination may cover a historic district with multiple owners. In fiscal year 2002, 1456 nominations were listed. In the last ten years less than one per cent of the total nominations submitted were the subject of owner objections.

National Register listing occurs only after notifying the private property owner and after a careful review of the background research on and the significance of the property. National Register listing conveys the honor of the Secretary's recognition, eligibility for federal benefits matching restoration grants (when sufficient funds are available) and for the 20% rehabilitation tax credit for work on commercial property, and consideration if a federal project might affect the property.

Listing places no restrictions on private property owners. Private owners may make any changes they wish to their property and may even demolish or destroy National Register listed places. (Subject, of course, to any locally enacted laws and restrictions.) Listing places controls only on the actions of the federal government -- the federal government must consider the impacts of its actions on National Register listed and eligible property and look for ways to minimize any adverse effects.

SHPOs carry out the National Register nomination process following the Act and the Interior regulations (36 CFR Part 60). The regulations are clear on the role of private property owners in the nomination process. Property owners are notified about nominations. Property owners have the right to file an objection directly with the Keeper of the National Register who is a federal employee of the National Park Service. In addition, the federal regulations set forth a uniform nomination process that all SHPOs must follow. The process offers little administrative discretion and requires that every nomination be evaluated and approved by an independent expert review board in addition to approval by the SHPO. Owners may appeal a SHPO's decision to the Keeper. Finally, the process provides federal oversight of the State's nomination process; nominations are subject to substantive and procedural review by the Keeper.

Most nominations come from property owners seeking the national recognition. Notice is provided to all owners prior to consideration of the nomination. Many States, for example, Georgia, Michigan, Ohio and Tennessee, have not seen any proposed nominations that lack the owner's knowledge and involvement.

If the owner objects, the property may not be listed on the National Register.

State Historic Preservation Officers often do more than the regulations require to involve private property owners in the nomination process. The New York State Historic Preservation Officer works with local communities in face-to-face meetings and discussions to insure that owners' questions are fully considered and addressed. In most States--Arizona, Idaho, Maryland, Mississippi and Montana, for example-- potential nomination proposals are not pursued if the owner objects.

The National Register program remains popular across the country. Register listing is sought for various reasons. Register listing is needed for developers to receive the 20% rehabilitation tax credit. Individuals and communities look to the National Register as official recognition of the historic significance of their home or neighborhood. Register listing is often an important catalyst for community pride leading to neighborhood revitalization. Convention and visitor bureaus see National Register sites as an attraction for visitors and new businesses. In North Carolina's Triad (Greensboro, High Point, Winston-Salem) the Welcome section of the Guest Guide in hotel rooms prominently displays National Register sites-Mendenhall Plantation, the Greensboro Woolworth's, and the Alamance County Historical Museum-to promote the area. (7)

IV. Conclusion

The National Historic Preservation Act and the National Register have been operational for more than 30 years. Private property rights are respected and protected within its provisions. The National Conference of State Historic Preservation Officers offers to work with the Chairman and the Committee, private property owners, federal preservation partners, and private sector partners on improving the Nation's historic preservation program in a way that respects the needs of this generation and bequeaths a proud legacy of America's heritage to the future.

1. 1The Act authorizes Indian tribes to choose to assume the responsibilities of State Historic Preservation Officers on tribal lands. The National Conference supports tribal involvement in the national preservation program; SHPOs work closely with tribes in their States. The National Conference respects the government-to-government relationship of tribes to the federal government. Therefore, our remarks represent the opinions of SHPOs only. The NCSHPO encourages the Committee to seek tribal views on the Act.

2. 2 The SHPOs conduct 99% of the preservation consultation work required by the ACHP regulations. Every year SHPOs review 100,000 federal undertakings for their potential impact on historic properties. In working with federal agencies, SHPOs agree that 90,000 of those undertakings have no effect on historic properties. Federal agencies and the SHPOs resolve the effects on historic properties in the remaining 10,000 projects. The Council staff, under the current regulations will be involved in a few hundred projects. The Presidentially appointed Council members consider approximately ten cases a year.

3. 3University of Rhode Island Intergovernmental Analysis Program, Economic Effects of the Rhode Island Historical Preservation Commission Program Expenditures from 1971 to 1993.

4. 4Center for Governmental Responsibility, University of Florida Levin College of Law, and Center for Urban Policy Research, Rutgers University, Executive Summary Economic Impacts of Historic Preservation in Florida. The foundation of the activities analyzed in the University of Florida report is the National Register process administered by the Florida State Historic Preservation Officer and the 1400 National Register listings (cumulative) and the over 135,000 historic structures and archeological sites in the Florida Master Site File inventory of historic sites.

5. 5Clarion Associates of Colorado, LLC, Economic Benefits of Historic Preservation in Colorado, Denver, January 2002.

6. 6Susan West Montgomery, "The Historic Preservation Fund and Why it Matters," Forum News, January/February 2003. This article outlines the history of the Historic Preservation Fund, how SHPOs match it and use it, and the effects of appropriations shortfalls.

7. Triad Guest Guide 2002-2003, Vol. XII, Raleigh: Lone Wolf Publishing, Inc., 2002, p. 8-9.