

My name's Tom King. In the late 1980s, Patricia Parker and I authored National Register Bulletin 38, the National Park Service's guidelines for evaluating what we called "traditional cultural properties" (TCPs) for inclusion in the National Register of Historic Places. Bulletin 38 has been used a good deal, particularly by Indian tribes and Native Hawaiians seeking to protect places important in their cultural traditions. It's featured in a number of court cases.

Now in 2013 the Park Service is re-thinking Bulletin 38, and asking for comments on it. I thought it might be helpful for me to make this recording so people can review the Bulletin without having to read it. I also want to explain some things the Bulletin says, that experience over the last twenty years suggests we maybe ought to have said differently.

For a lot more background on Bulletin 38 and its subject, let me refer you to my 2003 textbook – a second edition is underway now – called *Places That Count: Traditional Cultural Properties in Cultural Resource Management*, published in 2003 by Altamira Press.

Now, without further ado, let me read and comment on....

NATIONAL REGISTER BULLETIN 38: GUIDELINES FOR THE EVALUATION AND DOCUMENTATION OF TRADITIONAL CULTURAL PROPERTIES

I. INTRODUCTION

WHAT ARE TRADITIONAL CULTURAL PROPERTIES?

The National Register of Historic Places contains a wide range of historic property types, reflecting the diversity of the nation's history and culture. Buildings, structures, and sites; groups of buildings, structures or sites forming historic districts; landscapes; and individual objects are all included in the Register if they meet the criteria specified in the National Register's Criteria for Evaluation (36 CFR 60.4). Such properties reflect many kinds of significance in architecture, history, archeology, engineering, and culture.

Let me interject here that those areas of significance – architecture, etc., and CULTURE – are directly from the NHPA – Section 101(a)(1)(A). NPS has from the start emphasized architecture, history and archaeology, but the fact remains that cultural value has always been a rationale for National Register eligibility.

There are many definitions of the word "culture," but in the National Register programs the word is understood to mean the traditions, beliefs, practices, lifeways, arts, crafts, and social institutions of any community, be it an Indian tribe, a local ethnic group, or the people of the nation as a whole.'

One kind of cultural significance a property may possess, and that may make it eligible for inclusion in the Register, is traditional cultural significance. "Traditional" in this context refers to those beliefs, customs, and practices of a living community of people that have been passed down through the generations, usually orally or through practice. The traditional cultural significance of a historic property, then, is significance derived from the role the property plays in a community's historically rooted beliefs, customs, and practices. Examples of properties possessing such significance include:

- * a location associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world;
- * a rural community whose organization, buildings and structures, or patterns of land use reflect the cultural traditions valued by its long term residents;
- * an urban neighborhood that is the traditional home of a particular cultural group, and that reflects its beliefs and practices;
- * a location where Native American religious practitioners have historically gone, and are known or thought to go-today, to perform ceremonial activities in accordance with traditional cultural rules of practice; and
- * a location where a community has traditionally carried out economic, artistic, or other cultural practices important in maintaining its historic identity.

A traditional cultural property, then, can be defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community. Various kinds of traditional cultural properties will be discussed, illustrated, and related specifically to the National Register Criteria later in this bulletin.

Some comments on what I've just read.

First, the bulleted list of examples was just that – a list of examples. It wasn't meant to be exclusive – like a place can't be a TCP if it doesn't fit into one of these pigeonholes.

Second, the reference to “a location where Native American religious practitioners have historically gone, and are known or thought to go today...” There's a problem with that implication of continuity – they went there historically and are thought to go there today. That language can be -- and I think has been -- misinterpreted to mean that you **MUST** have some sort of continuity of use in order for a place to be a TCP. That's nonsense – there are plenty of cases in which for one reason or another a group can't continue to use a place, or hasn't continued to use a place, but the place remains important to them. Not many people go looking for burning bushes on Mt. Sinai, but that doesn't make the place insignificant in the eyes of Muslims, Christians, and Jews. So don't take that “known or thought to go” too literally.

On the other hand, that word “thought” is important; you don't necessarily have to research a place to death so as to know for certain whether it's used. Sometimes maybe you do; other times just thinking it happens may be enough – it depends on the circumstances.

I kind of regret the term “ceremonial activities,” too – it implies a lot of pomp and circumstance, which may not be at all what goes on. But it doesn't seem to have caused much misunderstanding.

Finally, we definitely made a mistake when we defined a TCP as something “that is eligible for inclusion in the National Register because of its association...” etc etc. That's led people to think that it's up to the Keeper of the Register to decide whether something is a TCP. The Keeper has no such authority. The Keeper's game is saying what's eligible for the Register, not whether something is a house or a neighborhood or an archaeological site or a TCP. It's up to the people of the community that values or doesn't value a place to decide whether it's a TCP.

PURPOSE OF THIS BULLETIN

Traditional cultural values are often central to the way a community or group defines itself, and maintaining such values is often vital to maintaining the group's sense of identity and self respect. Properties to which traditional cultural value is ascribed often take on this kind of vital significance, so that any damage to or infringement upon them is perceived to be deeply offensive to, and even destructive of, the group that values them. As a result, it is extremely important that traditional cultural properties be considered carefully in planning; hence it is

important that such properties, when they are eligible for inclusion in the National Register, be nominated to the Register or otherwise identified in inventories for planning purposes.

I have to interject here that – as some listeners know – I've come to detest the National Register, and really hate nominating things to it. My recommendation today is to stay as far away as you can from formally nominating anything to the Register. It's expensive, it gets you involved in all kinds of silly nit-picking arguments, and it seldom accomplishes anything. Recognize eligibility, yes, represent in inventories, sure, but nominate, no – unless there's a practical rationale for it.

Traditional cultural properties are often hard to recognize. A traditional ceremonial location may look like merely a mountaintop, a lake, or a stretch of river; a culturally important neighborhood may look like any other aggregation of houses, and an area where culturally important economic or artistic activities have been carried out may look like any other building, field of grass, or piece of forest in the area. As a result, such places may not necessarily come to light through the conduct of archeological, historical, or architectural surveys. The existence and significance of such locations often can be ascertained only through interviews with knowledgeable users of the area, or through other forms of ethnographic research. The subtlety with which the significance of such locations may be expressed makes it easy to ignore them; on the other hand it makes it difficult to distinguish between properties having real significance and those whose putative significance is spurious. As a result, clear guidelines for evaluation of such properties are needed.

Interjection here: this is a fundamental theme of Bulletin 38 – the only people who can judge a TCP's significance or integrity are those who know it, value it. The significance of the place, the character of the place, lies in THEIR heads. It follows that if you're an outsider, the only way to find out about them is to talk with people. Whether this requires formal ethnographic research is something else again, but the bottom line is, you've GOT to talk with people.

In the 1980 amendments to the National Historic Preservation Act, the Secretary of the Interior, with the American Folklife Center, was directed to study means of:

“preserving and conserving the intangible elements of our cultural heritage such as arts, skills, folklife, and folkways. . . and to recommend ways to:

preserve, conserve, and encourage the continuation of the diverse traditional prehistoric, historic, ethnic, and folk cultural traditions that underlie and are a living expression of our American heritage.” (NHPA Section 502; 16 U.S.C. 470a note)

The report that was prepared in response to **Section 502**, entitled *Cultural Conservation*, was submitted to the President and Congress on June 1, 1983, by the Secretary of the Interior. The report recommended in general that traditional cultural resources, both those that are associated with historic properties and those without specific property referents, be more systematically addressed in implementation of the National Historic Preservation Act and other historic preservation authorities. In transmitting the report, the Secretary directed the National Park Service to take several actions to implement its recommendations. Among other actions, the Service was directed to prepare guidelines to assist in the documentation of intangible cultural resources, to coordinate the incorporation of provisions for the consideration of such resources into Departmental planning documents and administrative manuals, and to encourage the identification and documentation of such resources by States and Federal agencies.

Interjection: obviously NPS totally dropped the ball on this direction. It has done nothing to advance consideration of “intangible cultural heritage;” indeed it can’t even seem to get it through its head that the significance of tangible places is inherently “intangible” – that is, in people’s perceptions. But at the time, the Cultural Conservation Report and the Secretary’s direction comprised one of the formal rationales for issuing Bulletin 38, so --

This bulletin has been developed as one aspect of the Service's response to the Cultural Conservation report and the Secretary's direction. It is intended to be an aid in determining whether properties thought or alleged to have traditional cultural significance are eligible for inclusion in the National Register. It is meant to assist Federal agencies, State Historic Preservation Officers (SHPOs), Certified Local Governments, Indian Tribes, and other historic preservation practitioners who need to evaluate such properties when nominating them for inclusion in the National Register or when considering their eligibility for the Register as part of the review process prescribed by the Advisory Council on Historic Preservation under 106 of the National Historic Preservation Act. It is designed to supplement other National Register guidance, particularly How to Apply the National Register Criteria for Evaluation and Guidelines for Completing National Register of Historic Places Forms. **(Those are Bulletins 15 and 16, I believe)** It should be used in conjunction with these two Bulletins and other applicable guidance

available from the National Register, when applying the National Register Criteria and preparing documentation to support nominations or determinations that a given property is or is not eligible for inclusion in the Register.

Quick interjection here: another piece of guidance developed a few years after Bulletin 38 is Preservation Brief 36, on cultural landscapes. Though it coined the unfortunate term “ethnographic landscape,” Brief 36 can be usefully referred to where you’re dealing with a landscape that may have traditional cultural significance. The Bulletin and the Brief describe overlapping property types: a TCP may or may not be a landscape; a landscape may or may not be a TCP.

This Bulletin is also responsive to the American Indian Religious Freedom Act (AIRFA) of 1978, which requires the National Park Service, like other Federal agencies, to evaluate its policies and procedures with the aim of protecting the religious freedoms of Native Americans (Pub. L. 95341 2). Examination of the policies and procedures of the National Register suggests that while they are in no way intended to be so interpreted, they can be interpreted by Federal agencies and others in a manner that excludes historic properties of religious significance to Native Americans from eligibility for inclusion in the National Register. This in turn may exclude such properties from the protections afforded by 106, which may result in their destruction, infringing upon the rights of Native Americans to use them in the free exercise of their religions. To minimize the likelihood of such misinterpretation, this Bulletin gives special attention to properties of traditional cultural significance to Native American groups, and to discussing the place of religion in the attribution of such significance.

Interjection: It’s notable that some federal agencies – and others – continue to infringe on tribal rights by focusing solely or primarily on places that archaeologists or architectural historians can recognize and value. At the same time, agencies and others sometimes take Bulletin 38’s attention to Native American properties as a basis for thinking that nobody else can have TCPs at all.

The fact that this Bulletin gives special emphasis to Native American properties should not be taken to imply that only Native Americans ascribe traditional cultural value to historic properties, or that such ascription is common only to ethnic minority groups in general. Americans of every ethnic origin have properties to which they ascribe traditional cultural value, and if such properties meet the National Register criteria, they can and should be nominated for inclusion in the Register.

The "should be nominated" stuff was, of course, a bow to the nomination fans who dominate the

Register's staff. Really, places should be nominated only where it's useful to do so; otherwise recognizing them as eligible will suffice.

This Bulletin does not address cultural resources that are purely "intangible"—i.e. those that have no property referents—except by exclusion. The Service is committed to ensuring that such resources are fully considered in planning and decision making by Federal agencies and others. Historic properties represent only some aspects of culture, and many other aspects, not necessarily reflected in properties as such, may be of vital importance in maintaining the integrity of a social group. However, the National Register is not the appropriate vehicle for recognizing cultural values that are purely intangible, nor is there legal authority to address them under 106 unless they are somehow related to a historic property.

Interjection: This bit of language has been widely misused as a basis for saying, in essence, that only physical stuff can be considered in historic property evaluation. This of course is nonsense. All cultural, and historic, and architectural, and archaeological, and even engineering significance is "intangible" – it resides in the heads of people with culture, of historians, architects, archaeologists and engineers. It is impossible to evaluate a historic property without considering "intangible" values. That's the only kind of value there is.

The language has also sometimes been quoted out of context to suggest that "intangible" values don't have to be considered under ANY law, and that's even more ridiculous. The fact that the National Register is about "places" doesn't mean that non-places having cultural value aren't parts of the cultural environment, and don't need to be considered under laws like the National Environmental Policy Act and the Religious Freedom Restoration Act.

The National Register lists, and 106 requires review of effects on, tangible cultural resources—that is, historic properties. However, the attributes that give such properties significance, such as their association with historical events, often are intangible in nature. Such attributes cannot be ignored in evaluating and managing historic properties; properties and their intangible attributes of significance must be considered together.

This Bulletin is meant to encourage its users to address the intangible cultural values that may make a property historic, and to do so in an evenhanded way that reflects solid research and not ethnocentric bias.

The "should be nominated" stuff was, of course, a bow to the nomination fans who dominate the

Finally, no one should regard this Bulletin as the only appropriate source of guidance on its subject, or interpret it rigidly. Although traditional cultural properties have been listed and recognized as eligible for inclusion in the National Register since the Register's inception, it is only in recent years that organized attention has been given to them. This Bulletin represents the best guidance the Register can provide as of the late 1980s, and the examples listed in the bibliography include the best known at this time.

It is to be expected that approaches to such properties will continue to evolve. This Bulletin also is meant to supplement, not substitute for, more specific guidelines, such as those used by the National Park Service with respect to units of the National Park System and those used by some other agencies, States, local governments, or Indian tribes with respect to their own lands and programs.

ETHNOGRAPHY, ETHNOHISTORY, ETHNOCENTRISM

Three words beginning with "ethno" will be used repeatedly in this Bulletin, and may not be familiar to all readers. All three are derived from the Greek *ethnos*, meaning "nation;" and are widely used in the study of anthropology and related disciplines.

Ethnography is the descriptive and analytic study of the culture of particular groups or communities. An ethnographer seeks to understand a community through interviews with its members and often through living in and observing it (a practice referred to as "participant observation").

Ethnohistory is the study of historical data, including but not necessarily limited to, documentary data pertaining to a group or community, using an ethnographic perspective.

Ethnographic and ethnohistorical research are usually carried out by specialists in cultural anthropology, and by specialists in folklore and folklife, sociology, history, archeology and related disciplines with appropriate technical training.'

Ethnocentrism means viewing the world and the people in it only from the point of view of one's own culture and being unable to sympathize with the feelings, attitudes, and beliefs of someone who is a member of a different culture. It is particularly important to understand, and seek to avoid, ethnocentrism in the evaluation of traditional cultural properties. For example, Euroamerican society tends to emphasize "objective" observation of the physical world as the basis for making statements about that world. However, it may not be possible to use such

may be nothing observable to the outsider about a place regarded as sacred by a Native American group. Similarly, such a group's belief that its ancestors emerged from the earth at a specific location at the beginning of time may contradict Euroamerican science's belief that the group's ancestors migrated to North America from Siberia. These facts in no way diminish the significance of the locations in question in the eyes of those who value them; indeed they are irrelevant to their significance. It would be ethnocentric in the extreme to say that "whatever the Native American group says about this place, I can't see anything here so it is not significant" or "since I know these people's ancestors came from Siberia, the place where they think they emerged from the earth is of no significance." It is vital to evaluate properties thought to have traditional cultural significance from the standpoint of those who may ascribe such significance to them, whatever one's own perception of them, based on one's own cultural values, may be. This is not to say that a group's assertions about the significance of a place should not be questioned or subjected to critical analysis, but they should not be rejected based on the premise that the beliefs they reflect are inferior to one's own.

Interjection here about why I dislike "ethnographic landscapes" as a name for landscapes that have traditional cultural value. The term implies that the landscapes are significant because ethnographers value them, and that only ethnographers can interpret them. This is nonsense, and an act of ethnocentrism in itself. A landscape is significant as a TCP if people ascribe traditional cultural value to it – and/or to the plants, animals, rocks, dirt, air and water that make it up. It may take an ethnographer to figure out what they value, or to express it in terms to which government can relate, or it may not. But what's important is what the people value, not what the ethnographer values.

EVALUATION, CONSIDERATION, AND PROTECTION

One more point that should be remembered in evaluating traditional cultural properties—as in evaluating any other kind of properties—is that establishing that a property is eligible for inclusion in the National Register does not necessarily mean that the property must be protected from disturbance or damage. Establishing that a property is eligible means that it must be considered in planning Federal, federally assisted, and federally licensed undertakings, but it does not mean that such an undertaking cannot be allowed to damage or destroy it.

Consultation must occur in accordance with the regulations of the Advisory Council (36 CFR Part 800) to identify, and if feasible adopt, measures to protect it, but if in the final analysis the

observations as the major basis for evaluating a traditional cultural property. For example, there public interest demands that the property be sacrificed to the needs of the project, there is nothing in the National Historic Preservation Act that prohibits this.

This principle is especially important to recognize with respect to traditional cultural properties, because such properties may be valued by a relatively small segment of a community that, on the whole, favors a project that will damage or destroy it. The fact that the community as a whole may be willing to dispense with the property in order to achieve the goals of the project does not mean that the property is not significant, but the fact that it is significant does not mean that it cannot be disturbed, or that the project must be foregone.

Interjection: This is very different from the way things work under most local historic preservation laws, where the act of “designating” something historic makes it more or less inviolable under local law. This difference is a source of constant confusion. The bottom line is that you can blow away a National Register property – listed or eligible, TCP or not – provided you (that is, the federal agency) make a reasonable and good faith effort to avoid, reduce, or otherwise mitigate impacts on it, in consultation with those who value it.

II. TRADITIONAL CULTURAL VALUES IN PRESERVATION PLANNING

Traditional cultural properties, and the beliefs and institutions that give them significance, should be systematically addressed in programs of preservation planning and in the historic preservation components of land use plans. One very practical reason for this is to simplify the identification and evaluation of traditional cultural properties that may be threatened by construction and land use projects. Identifying and evaluating such properties can require detailed and extensive consultation, interview programs, and ethnographic fieldwork as discussed below. Having to conduct such activities may add considerably to the time and expense of compliance with 106, the National Environment Policy Act, and other authorities.

Such costs can be reduced significantly, however, by early, proactive planning that identifies significant properties or areas likely to contain significant properties before specific projects are planned that may affect them, identifies parties likely to ascribe cultural value to such properties, and establishes routine systems for consultation with such parties.

The Secretary of the Interior's Standards for Preservation Planning provide for the establishment of "historic contexts" as a basic step in any preservation planning process be it planning for the comprehensive survey of a community or planning a construction project. A historic context is an organization of available information about, among other things, the

cultural history of the area to be investigated, that identifies "the broad patterns of development in an area that may be represented by historic properties" (48 FR 44717). The traditions and traditional lifeways of a planning area may represent such "broad patterns," so information about them should be used as a basis for historic context development.

The Secretary of the Interior's Guidelines for Preservation Planning emphasize the need for organized public participation in context development (48 FR 44717). The Advisory Council on Historic Preservation's Guidelines for Public Participation in Historic Preservation Review (ACHP 1988) provide detailed recommendations regarding such participation. Based on these standards and guidelines, groups that may ascribe traditional cultural values to an area's historic properties should be contacted and asked to assist in organizing information on the area. Historic contexts should be considered that reflect the history and culture of such groups as the groups themselves understand them, as well as their history and culture as defined by Euroamerican scholarship, and processes for consultation with such groups should be integrated into routine planning and project review procedures.

Interjection: This was mostly a sop to special interests in NPS, though I more or less believed it at the time. It's proved to be pie in the sky, at best, because often the most significant TCPs in people's minds are precisely the places they don't want to talk about until and unless they're threatened. There are lots of reasons for this, some of which I discussed in my TCP book, *Places That Count*, and there's a growing professional and legal literature on the subject. But some agencies that do planning figure that if a group doesn't come up during general plan development and say "Hey, look here, this is our sacred rock, or origin landscape, or whatever," then they've foregone the opportunity ever to have the place considered when projects come along that will destroy it. That's unfair and unreasonable.

III. IDENTIFYING TRADITIONAL CULTURAL PROPERTIES

Some traditional cultural properties are well known to the residents of an area. The San Francisco Peaks in Arizona, for example, are extensively documented and widely recognized as places of extreme cultural importance to the Hopi, Navajo, and other American Indian people of the Southwest, and it requires little study to recognize that Honolulu's Chinatown is a place of cultural importance to the city's Asian community. Most traditional cultural properties, however, must be identified through systematic study, just as most other kinds of historic properties must be identified. This section of the Bulletin will discuss some factors to consider in identifying traditional cultural properties.

ESTABLISHING THE LEVEL OF EFFORT

Any comprehensive effort to identify historic properties in an area, be the area a community, a rural area, or the area that may be affected by a construction or land-use project, should include a reasonable effort to identify traditional cultural properties. What constitutes a "reasonable" effort depends in part on the likelihood that such properties may be present. The likelihood that such properties may be present can be reliably assessed only on the basis of background knowledge of the area's history, ethnography, and contemporary society developed through preservation planning. As a general although not invariable rule, however, rural areas are more likely than urban areas to contain properties of traditional cultural importance to American Indian or other native American communities, while urban areas are more likely to contain properties of significance to ethnic and other traditional neighborhoods.

Let me highlight this: TCPs aren't just for tribes, and they aren't found only in the country. Nor are they only for so-called "ethnic" communities. An urban neighborhood, for example, may be valued by people who are not necessarily of minority ethnicity; it's their TCP, and if it meets the National Register's criteria, it's eligible for the Register as such.

Where identification is conducted as part of planning for a construction or land-use project, the appropriate level of effort depends in part on whether the project under consideration is the type of project that could affect traditional cultural properties. For example, as a rule the rehabilitation of historic buildings may have relatively little potential for effect on such properties. However, if a rehabilitation project may result in displacement of residents, "gentrification" of a neighborhood, or other sociocultural impacts, the possibility that the buildings to be rehabilitated, or the neighborhood in which they exist, may be ascribed traditional cultural value by their residents or others should be considered. Similarly, most day-to-day management activities of a land managing agency may have little potential for effect on traditional cultural properties, but if the management activity involves an area or a kind of resource that has high significance to a traditional group—for example, timber harvesting in an area where an Indian tribe's religious practitioners may continue to carry out traditional ceremonies—the potential for effect will be high.

These general rules of thumb aside, the way to determine what constitutes a reasonable effort to identify traditional cultural properties is to consult those who may ascribe cultural significance to locations within the study area. The need for community participation in planning identification, as in other forms of preservation planning, cannot be over-emphasized.

Let me stress this. You don't start identifying TCPs by hiring some specialist (even me) to do a study. You start by asking the people. They may be able and willing to tell you, in which case you can save the expense of hiring specialists. If they can't, or won't, then maybe you need specialist help, but that's something to be figured out in consultation with them.

CONTACTING TRADITIONAL COMMUNITIES AND GROUPS

An early step in any effort to identify historic properties is to consult with groups and individuals who have special knowledge about and in the anthropology, sociology, or folklife libraries of local universities or other academic institutions. Professional and nonprofessional students of the area's social and cultural groups should also be consulted—for example, professional and avocational anthropologists and folklorists who have studied the area. The SHPO and any other official agency or organization that concerns itself with matters of traditional culture—for example, a State Folklorist or a State Native American Commission—should be contacted for recommendations about sources of information and about groups and individuals to consult.

MAKING CONTACT

Having reviewed available background data, the next step is to contact knowledgeable groups and individuals directly, particularly those groups that are native to the area or have resided there for a long time. Some such groups have official representatives—the tribal council of an Indian tribe, for example, or an urban neighborhood council. In other cases, leadership may be less officially defined, and establishing contact may be more complicated. The assistance of ethnographers, sociologists, folklorists, and others who may have conducted research in the area or otherwise worked with its social groups may be necessary in such cases, in order to design ways of contacting and consulting such groups in ways that are both effective and consistent with their systems of leadership and communication.

It should be clearly recognized that expertise in traditional cultural values may not be found, or not found solely, among contemporary community

leaders. In some cases, in fact, the current political leadership of a community or neighborhood may be hostile to or embarrassed about traditional matters. As a result, it may be necessary to seek out knowledgeable parties outside the community's official political structure. It is of course best to do this with the full knowledge and cooperation of the community's contemporary leaders; in most cases it is appropriate to ask such leaders to identify members of the community who are knowledgeable about traditional cultural matters, and use these parties as

an initial network of consultants on the group's traditional values. If there is serious hostility between the group's contemporary leadership and its traditional experts, however, such cooperation may not be extended, and efforts to consult with traditional authorities may be actively opposed. Where this occurs, and it is necessary to proceed with the identification and evaluation of properties—for example, where such identification and evaluation are undertaken in connection with review of an undertaking under 106—careful negotiation and mediation may be necessary to overcome opposition and establish mutually acceptable ground rules for consultation. Again, the assistance of anthropologists or others with training and experience in work with the community, or with similar communities, may be necessary.

FIELDWORK

Fieldwork to identify properties of traditional cultural significance involves consultation with knowledgeable parties, coupled with field inspection and recordation of locations identified as significant by such parties. It is often appropriate and efficient to combine such fieldwork with surveys to identify other kinds of historic properties, for example archeological sites and properties of architectural significance. If combined fieldwork is conducted, however, the professional standards appropriate to each kind of fieldwork should be adhered to, and appropriate expertise in each relevant discipline should be represented on the study team. The kinds of expertise typically needed for a detailed ethnographic study of traditional cultural properties are outlined in Appendix II. Applicable research standards can be found in *Systematic Fieldwork, Volume 2: Ethnographic Analysis and Data Management*. (Werner and Schoepfle 1986)

CULTURALLY SENSITIVE CONSULTATION

Since knowledge of traditional cultural values may not be shared readily with outsiders, knowledgeable parties should be consulted in cultural contexts that are familiar and reasonable to them. It is important to understand the role that the information being solicited may play in the culture of those from whom it is being solicited, and the kinds of rules that may surround its transmittal. In some societies traditional information is regarded as powerful, even dangerous. It is often believed that such information should be transmitted only under particular circumstances or to particular kinds of people. In some cases information is regarded as a valued commodity for which payment is in order, in other cases offering payment may be offensive. Sometimes information may be regarded as a gift, whose acceptance obligates the

receiver to reciprocate in some way, in some cases by carrying out the activity to which the information pertains.

It may not always, or even often, be possible to arrange for information to be sought in precisely the way those being consulted might prefer, but when it is not, the interviewer should clearly understand that to some extent he or she is asking those interviewed to violate their cultural norms. The interviewer should try to keep such violations to a minimum, and should be patient with the reluctance that those interviewed may feel toward sharing information under conditions that are not fully appropriate from their point of view.

Culturally sensitive consultation may require the use of languages other than English, the conduct of community meetings in ways consistent with local traditional practice, and the conduct of studies by trained ethnographers, ethnohistorians, sociologists, or folklorists with the kinds of expertise outlined in Appendix II. Particularly where large projects or large land areas are involved, or where it is likely that particularly sensitive resources may be at issue, formal ethnographic studies should be carried out, by or under the supervision of a professionally qualified cultural anthropologist.

FIELD INSPECTION AND RECORDATION

It is usually important to take knowledgeable consultants into the field to inspect properties that they identify as significant. In some cases such properties may not be discernible as such to anyone but a knowledgeable member of the group that ascribes significance to them; in such cases it may be impossible even to find the relevant properties, or locate them accurately, without the aid of such parties. Even where a property is readily discernible as such to the outside observer, visiting the property may help a consultant recall information about it that he or she is unlikely to recall during interviews at a remote location, thus making for a richer and more complete record.

Where the property in question has religious significance or supernatural connotations, it is particularly important to ensure that any visit is carried out in accordance with appropriate modes of behavior. In some cases, ritual purification is necessary before a property can be approached, or spirits must be propitiated along the way. Some groups forbid visits to such locations by menstruating women or by people of inappropriate ages. The taking of photographs or the use of electronic recording equipment may not be appropriate. Appropriate ways to

approach the property should be discussed with knowledgeable consultants before undertaking a field visit.

To the extent compatible with the cultural norms of the group involved, traditional cultural properties should be recorded on National Register of Historic Places forms or their equivalent. Where items normally included in a National Register nomination or request for a determination of eligibility cannot be included (for example, if it is culturally inappropriate to photograph the property), the reasons for not including the item should be explained. To the extent possible in the property's cultural context, other aspects of the documentation (for example, verbal descriptions of the property) should be enhanced to make up for the items not included.

Interjection: Recommending use of Register forms was part of the price paid for publishing Bulletin 38 as a National Register publication, but it's usually a stupid idea that I don't recommend today. Register forms are inconvenient to fill out, inconvenient to use, counterintuitive in all kinds of ways, and they demand a lot of information that may be irrelevant to understanding and managing properties, especially TCPs. Filling them out is a waste of time and money, unless you really, really need to get a place actually listed on the Register. If you're in that unhappy position, you have no choice.

If making the location of a property known to the public would be culturally inappropriate, or compromise the integrity of the property or associated cultural values (for example, by encouraging tourists to intrude upon the conduct of traditional practices), the "Not for Publication" box on the National Register form should be checked; this indicates that the reproduction of locational information is prohibited, and that other information contained in the nomination will not be reproduced without the permission of the nominating authority. In the case of a request for a determination of eligibility in which a National Register form is not used, the fact that the information is not for publication should be clearly specified in the documentation, so that the National Register can apply the same controls to this information as it would to restricted information in a nomination.'

RECONCILING SOURCES

Sometimes an apparent conflict exists between documentary data on traditional cultural properties and the testimony of contemporary consultants. The most common kind of conflict occurs when ethnographic and ethnohistorical documents do not identify a given place as playing an important role in the tradition and culture of a group, while contemporary members of

the group say the property does have such a role. More rarely, documentary sources may indicate that a property does have cultural significance while contemporary sources say it does not. In some cases, too, contemporary sources may disagree about the significance of a property.

Where available documents fail to identify a property as culturally significant, but contemporary sources identify it as such, several points should be considered.

(a) Ethnographic and ethnohistorical research has not been conducted uniformly in all parts of the nation; some areas are better documented than others simply because they have been the focus of more research.

(b) Ethnographic and ethnohistorical documents reflect the research interests of those who prepared them; the fact that one does not identify a property as culturally important may reflect only the fact that the individual who prepared the report had research interests that did not require the identification of such properties.

(c) Some kinds of traditional cultural properties are regarded by those who value them as the loci of supernatural or other power, or as having other attributes that make people reluctant to talk about them. Such properties are not likely to be recorded unless someone makes a very deliberate effort to do so, or unless those who value them have a special reason for revealing the information—for example, a perception that the property is in some kind of danger.

Particularly because properties of traditional cultural significance are often kept secret, it is not uncommon for them to be "discovered" only when something threatens them—for example, when a change in land-use is proposed in their vicinity. The sudden revelation by representatives of a cultural group which may also have other economic or political interests in the proposed change can lead quickly to charges that the cultural significance of a property has been invented only to obstruct or otherwise influence those planning the change. This may be true, and the possibility that traditional cultural significance is attributed to a property only to advance other, unrelated interests should be carefully considered. However, it also may be that until the change was proposed, there simply was no reason for those who value the property to reveal its existence or the significance they ascribe to it.

Where ethnographic, ethnohistorical, historical, or other sources identify a property as having cultural significance, but contemporary sources say that it lacks such significance, the interests of the contemporary sources should be carefully considered. Individuals who have economic

interests in the potential development of an area may be strongly motivated to deny its cultural significance. More subtly, individuals who regard traditional practices and beliefs as backward and contrary to the best contemporary interests of the group that once ascribed significance to a property may feel justified in saying that such significance has been lost, or was never ascribed to the property. On the other hand, of course, it may be that the documentary sources are wrong, or that the significance ascribed to the property when the documents were prepared has since been lost.

Similar consideration must be taken into account in attempting to reconcile conflicting contemporary sources. Where one individual or group asserts that a property has traditional cultural significance, and another asserts that it does not or where there is disagreement about the nature or extent of a property's significance, the motives and values of the parties, and the cultural constraints operating on each, must be carefully analyzed.

In general, the only reasonably reliable way to resolve conflict among sources is to review a wide enough range of documentary data, and to interview a wide enough range of authorities to minimize the likelihood either of inadvertent bias or of being deliberately misled.

Authorities consulted in most cases should include both knowledgeable parties within the group that may attribute cultural value to a property and appropriate specialists in ethnography, sociology, history, and other relevant disciplines.

We weren't very satisfied with that limp recommendation when we wrote it, and I've gotten less satisfied with it over the years. I think that in general, we recommended putting far more effort than is usually necessary or appropriate into agonizing over whether a place really is or really isn't a TCP. At base, if people say it is, it is; if people say it's not, it's not. The people who may value the place need to know that speaking up may accomplish something, and they need to have opportunities to do so safely. If they do know that, and do have such opportunities, they ought to be trusted. They are the experts.

For excellent examples of studies designed in whole or in part to identify and evaluate traditional cultural properties based on both documentary sources and the testimony of consultants, see Bean and Vane 1978; Carroll 1983; Johnston and Budy 1983; Stoffle and Dobyns 1982, 1983; Theodoratus 1979.

IV. DETERMINING ELIGIBILITY: STEP BY STEP

Whether a property is known in advance or found during an identification effort, it must be evaluated with reference to the National Register Criteria for Evaluation (36 CFR Part 60) in order to determine whether it is eligible for inclusion in the Register. This section discusses the process of evaluation as a series of sequential steps. In real life of course, these steps are often collapsed into one another or taken together.

STEP ONE: ENSURE THAT THE ENTITY UNDER CONSIDERATION IS A PROPERTY

Because the cultural practices or beliefs that give a traditional cultural property its significance are typically still observed in some form at the time the property is evaluated, it is sometimes perceived that the intangible practices or beliefs themselves, not the property, constitute the subject of evaluation. There is naturally a dynamic relationship between tangible and intangible traditional cultural resources, and the beliefs or practices associated with a traditional cultural property are of central importance in defining its significance. However, it should be clearly recognized at the outset that the National Register does not include intangible resources themselves. The entity evaluated must be a tangible property—that is, a district, site, building, structure, or object. The relationship between the property and the beliefs or practices associated with it should be carefully considered, however, since it is the beliefs and practices that may give the property its significance and make it eligible for inclusion in the National Register.

This “tangible/intangible” distinction has been vastly misused by people and agencies that want to deny or obfuscate the significance of particular TCPs. “You say your place is special because it’s associated with your spiritual beliefs? Well, such beliefs are intangible, and we can’t consider them.” Nonsense. Any belief about a place is intangible. The submerged shipwrecks of Pearl Harbor are tangible, but what makes them significant is what we believe – that is, we know – happened to them on December 7, 1941. That belief, that knowledge, is intangible; it exists in our brains. That doesn’t somehow make the sunken USS *Arizona* ineligible for the National Register.

Yes, to be eligible for the National Register of Historic Places a place must be a place. But the significance of a place is never a place; it is always an intangible quality. And the intangible qualities of a place – how it looks from a particular angle, the view from it in a given direction, the way it smells or the sounds heard when one stands on or sits in it – may be the critical elements that must be preserved if the place’s significance is to be preserved. The fact that a

place must be a place in order to be put on a list of places is no excuse for not considering its intangible values.

Construction by human beings is a necessary attribute of buildings and structures, but districts, sites, and objects do not have to be the products of, or contain, the work of human beings in order to be classified as properties. For example, the National Register defines a "site" as "the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure." Thus a property may be defined as a "site" as long as it was the location of a significant event or activity, regardless of whether the event or activity left any evidence of its occurrence. A culturally significant natural landscape may be classified as a site, as may the specific location where significant traditional events, activities, or cultural observances have taken place. A natural object such as a tree or a rock outcrop may be an eligible object if it is associated with a significant tradition or use. A concentration, linkage, or continuity of such sites or objects, or of structures comprising a culturally significant entity, may be classified as a district.

It's been pointed out by some to whom such minutiae are important that the above is one of the few places we alluded to landscapes in Bulletin 38, and that in the example we used, we said the landscape could be a site. From this, some have inferred that a TCP landscape has to be pretty small; it can't be big enough to be classified as a "district." Nonsense. It was an example, people. A landscape may be a "site," and if it's big or complicated it may be a "district." However, I don't think there are size rules for either sites or districts. We probably should have said more about landscapes. A subsequent Preservation Brief, Brief 36, did say more about them, and usefully noted that a landscape includes the plants and animals that live there. In evaluating a landscape it's a good idea to look at Brief 36 – keeping in mind that it was written by landscape architects, who have a hard time coming to grips with landscapes that don't show human modification. Use the Bulletin and the Brief together.

In considering the eligibility of a property that contains no observable evidence of human activity, however, the documentary or oral evidence for the association of the property with traditional events, activities or observances should be carefully weighed and assessed. The National Register discourages the nomination of natural features without sound documentation of their historical or cultural significance.

BUT if you're not nominating a place, but only figuring out whether to treat it as eligible for the Register for purposes of Section 106, going through a lot of weighing and assessing may be a great waste of time and money. Around the same time we were working on Bulletin 38, I was also involved in reworking the Section 106 regulations, and we made sure that agencies were allowed to consider a place eligible for Section 106 purposes without going through a lot of rigmarole. If a property's eligibility is controversial, you may need to do a lot of weighing and assessing, but if it's not controversial, and a community says the property is significant, I think you ought simply to accept it.

STEP TWO: CONSIDER THE PROPERTY'S INTEGRITY

In order to be eligible for inclusion in the Register, a property must have "integrity of location, design, setting, materials, workmanship, feeling, and association" (36 CFR Part 60).

In the case of a traditional cultural property, there are two fundamental questions to ask about integrity. First, does the property have an integral relationship to traditional cultural practices or beliefs; and second, is the condition of the property such that the relevant relationships survive?

INTEGRITY OF RELATIONSHIP

Assessing the integrity of the relationship between a property and the beliefs or practices that may give it significance involves developing some understanding about how the group that holds the beliefs or carries out the practices is likely to view the property. If the property is known or likely to be regarded by a traditional cultural group as important in the retention or transmittal of a belief, or to the performance of a practice, the property can be taken to have an integral relationship with the belief or practice, and vice-versa.

For example, imagine two groups living along the shores of a lake. Each group practices a form of baptism to mark an individual's acceptance into the group. Both carry out baptism in the lake. One group, however, holds that baptism is appropriate in any body of water that is available; the lake happens to be available, so it is used, but another lake, a river or creek, or a swimming pool would be just as acceptable. The second group regards baptism in this particular lake as essential to its acceptance of an individual as a member. Clearly the lake is integrally related to the second group's practice, but not to that of the first.

INTEGRITY OF CONDITION

Like any other kind of historic property, a property that once had traditional cultural significance can lose such significance through physical alteration of its location, setting, design, or materials. For example, an urban neighborhood whose structures, objects, and spaces reflect the historically rooted values of a traditional social group may lose its significance if these aspects of the neighborhood are substantially altered.

In some cases a traditional cultural property can also lose its significance through alteration of its setting or environment. For example, a location used by an American Indian group for traditional spirit questing is unlikely to retain its significance for this purpose if it has come to be surrounded by housing tracts or shopping malls.

A property may retain its traditional cultural significance even though it has been substantially modified, however. Cultural values are dynamic, and can sometimes accommodate a good deal of change. For example, the Karuk Indians of northwestern California continue to carry on world renewal rites, ancient ceremonies featuring elaborate dances, songs, and other ritual activities, along a stretch of the Klamath River that is now the site of a highway, a Forest Service Ranger Station, a number of residences, and a timber cutting operation. Specific locations important in aspects of the ceremony remain intact, and accommodation has been reached between the Karuk and other users of the land. The State Department of Transportation has even erected "Ritual Crossing" signs at locations where the Karuk religious practitioners cross the highway, and built shallow depressions into the roadway which are filled with sand in advance of the ceremony, so the feet of the practitioners need not be profaned by contact with man-made macadam. As this example shows, the integrity of a possible traditional cultural property must be considered with reference to the views of traditional practitioners; if its integrity has not been lost in their eyes, it probably has sufficient integrity to justify further evaluation.

Some kinds of traditional cultural significance also may be retained regardless of how the surroundings of a property may be changed. For example, the First African Baptist Church Cemetery in Philadelphia, rediscovered during archeological work in advance of highway construction in 1985, has considerable cultural significance for the congregation that traces descent from those interred in the Cemetery, and for Philadelphia's African American community in general, even though its graves had been buried under fill and modern construction for many decades.

It should also be recalled that even if a property has lost integrity as a possible traditional cultural property, it may retain integrity with reference to some other aspect of significance. For

example, a property whose cultural significance has been lost through disturbance may still retain archeological deposits of significance for their information content, and a neighborhood whose traditional residents no longer ascribe significance to it may contain buildings of architectural importance.

A narrow, crabbed notion of "integrity" is another device often used to deny the Register eligibility of TCPs, and some published Register guidance can be used to support such a notion. The main thing to remember is that the integrity of a place, like other aspects of its significance, has to be viewed through the eyes of those who value it. If they don't think it's lost integrity, it hasn't lost integrity.

STEP THREE: EVALUATE THE PROPERTY WITH REFERENCE TO THE NATIONAL REGISTER CRITERIA

Assuming the entity to be evaluated is a property, and that it retains integrity, it is next necessary to evaluate it against the four basic National Register Criteria set forth in the National Register regulations (36 CFR Part 60). If the property meets one or more of the criteria, it may be eligible; if it does not, it is not eligible.

CRITERION (A): ASSOCIATION WITH EVENTS THAT HAVE MADE A SIGNIFICANT CONTRIBUTION TO THE BROAD PATTERNS OF OUR HISTORY.

The word "our" in this criterion may be taken to refer to the group to which the property may have traditional cultural significance, and the word "history" may be taken to include traditional oral history as well as recorded history. For example, Mt. Tonaachaw on Moen Island in Truk, Federated States of Micronesia, is in the National Register in part because of association with oral traditions about the establishment of Trukese society.

"Events" can include specific moments in history of a series of events reflecting a broad pattern or theme. For example, the ongoing participation of an ethnic or social group in an area's history, reflected in a neighborhood's buildings, streetscapes, or patterns of social activity, constitutes such a series of events.

The association of a property with significant events, and its existence at the time the events took place, must be documented through accepted means of historical research. The means of research normally employed with respect to traditional cultural properties include ethnographic, ethnohistorical, and folklore studies, as well as historical and archeological research.

Sometimes, however, the actual time a traditional event took place may be ambiguous; in such cases it may be impossible, and to some extent irrelevant, to demonstrate with certainty that the property in question existed at the time the traditional event occurred. For example, events recounted in the traditions of Native American groups may have occurred in a time before the creation of the world as we know it, or at least before the creation of people. It would be fruitless to try to demonstrate, using the techniques of history and science, that a given location did or did not objectively exist in a time whose own existence cannot be demonstrated scientifically. Such a demonstration is unnecessary for purposes of eligibility determination; as long as the tradition itself is rooted in the history of the group, and associates the property with traditional events, the association can be accepted.

Not only can be accepted but should be accepted. The association of the place with traditional events in a group's traditional past is really not amenable to "verification" by outsiders; only those with whose traditions it's associated can verify the association.

CRITERION (B): ASSOCIATION WITH THE LIVES OF PERSONS SIGNIFICANT IN OUR PAST.

Again, the word "our" can be interpreted with reference to the people who are thought to regard the property as traditionally important. The word "persons" can be taken to refer both to persons whose tangible, human existence in the past can be inferred on the basis of historical, ethnographic, or other research, and to "persons" such as gods and demigods who feature in the traditions of a group. For example, Tahquitz Canyon in southern California is included in the National Register in part because of its association with Tahquitz, a Cahuilla Indian demigod who figures importantly in the tribe's traditions and is said to occupy an obsidian cave high in the canyon.

CRITERION (C)(1): EMBODIMENT OF THE DISTINCTIVE CHARACTERISTICS OF A TYPE, PERIOD, OR METHOD OF CONSTRUCTION.

This subcriterion applies to properties that have been constructed, or contain constructed entities—that is, buildings, structures, or built objects. For example, a neighborhood that has traditionally been occupied by a particular ethnic group may display particular housing styles, gardens, street furniture or ornamentation distinctive of the group. Honolulu's Chinatown, for example, embodies the distinctive cultural values of the City's Asian community in its architecture, landscaping, signage, and ornamentation.

That flat statement that Criterion C applies (only) to constructed entities made sense at the time, but since then I've run into cases in which Criterion C might reasonably be applied to places of a non-structural character – see below.

CRITERION (C)(2): REPRESENTATIVE OF THE WORK OF A MASTER.

A property identified in tradition or suggested by scholarship to be the work of a traditional master builder or artisan may be regarded as the work of a master, even though the precise identity of the master may not be known.

So, if tradition says that the First People built the ridge on which all the oddly shaped rocks stand, could the ridge be eligible under Criterion C? Maybe, though Criterion A would probably be less controversial.

CRITERION (C)(3): POSSESSION OF HIGH ARTISTIC VALUES.

A property made up of or containing art work valued by a group for traditional cultural reasons, for example a petroglyph or pictograph site venerated by an Indian group, or a building whose decorative elements reflect a local ethnic groups distinctive modes of expression, may be viewed as having high artistic value from the standpoint of the group.

But what about a natural landscape associated with an Indian tribe's traditional songs or a Native Hawaiian group's hula – themselves works of art, and intimately related to places in the landscape? Could this not give the landscape a high artistic quality? What if particular auditory qualities of the place – the sound of the wind in the trees, the water running over the rocks – are associated with songs? Maybe, though again Criterion A would probably be less subject to debate.

CRITERION (C)(4): REPRESENTATIVE OF A SIGNIFICANT AND DISTINGUISHABLE ENTITY WHOSE COMPONENTS MAY LACK INDIVIDUAL DISTINCTION.

A property may be regarded as representative of a significant and distinguishable entity, even though it lacks individual distinction, if it represents or is an integral part of a larger entity of traditional cultural importance. The larger entity may, and usually does, possess both tangible and intangible components. For example, certain locations along the Russian River in California are highly valued by the Pomo Indians, and have been for centuries, as sources of high quality sedge roots needed in the construction of the Pomo's world famous basketry.

Although the sedge fields themselves are virtually indistinguishable from the surrounding landscape, and certainly indistinguishable by the untrained observer from other sedge fields that produce lower quality roots, they are representative of, and vital to, the larger entity of Pomo basketmaking. Similarly, some deeply venerated landmarks in Micronesia are natural features, such as rock outcrops and groves of trees; these are indistinguishable visually (at least to the outside observer) from other rocks and trees, but they figure importantly in chants embodying traditional sailing directions and lessons about traditional history. As individual objects they lack distinction, but the larger entity of which they are a part—Micronesian navigational and historical tradition—is of prime importance in the area's history.

Note that the Pomo case might also be discussed in terms of high artistic qualities, given the artistic character of Pomo basketry. The “distinguishable entity” part of Criterion C is tricky to apply in any case, but with TCPs as with other types of property, it is a basis for recognizing districts made up of many parts, any one of which may not – or may – be very distinctive in its own right. A landscape in which many individual locations – rocks, springs, ponds, hillocks – are associated with a group’s traditional stories or beliefs might be an example of such a district.

CRITERION (D): HISTORY OF YIELDING, OR POTENTIAL TO YIELD, INFORMATION IMPORTANT IN PREHISTORY OR HISTORY.

Properties that have traditional cultural significance often have already yielded, or have the potential to yield, important information through ethnographic, archeological, sociological, folkloric, or other studies. For example, ethnographic and ethnohistorical studies of Kaho'olawe Island in Hawai'i, conducted in order to clarify its eligibility for inclusion in the National Register, have provided important insights into Hawai'ian traditions and culture and into the history of twentieth century efforts to revitalize traditional Hawai'ian culture.

Similarly, many traditional American Indian village sites are also archeological sites, whose study can provide important information about the history and prehistory of the group that lived there. Generally speaking, however, a traditional cultural property's history of yielding, or potential to yield, information, if relevant to its significance at all, is secondary to its association with the traditional history and culture of the group that ascribes significance to it.

Let me stress that last point, and remind the reader that a place doesn't HAVE to have the potential to yield data in order to be eligible for the Register. Research potential is usually

irrelevant to traditional cultural significance, but the archaeologists and architectural historians who dominate practice under NHPA can have a hard time understanding this.

STEP 4: DETERMINE WHETHER ANY OF THE NATIONAL REGISTER CRITERIA CONSIDERATIONS (36 CFR 60.4) MAKE THE PROPERTY INELIGIBLE

Generally speaking, a property is not eligible for inclusion in the Register if it represents a class of properties to which one or more of the six "criteria considerations" listed in 36 CFR 60.4 applies, and is not part of a district that is eligible.

In applying the criteria considerations, it is important to be sensitive to the cultural values involved, and to avoid ethnocentric bias, as discussed below.

CONSIDERATION A: OWNERSHIP BY A RELIGIOUS INSTITUTION OR USE FOR RELIGIOUS PURPOSES.

A "religious property," according to National Register guidelines, "requires additional justification (for nomination) because of the necessity to avoid any appearance of judgment by government about the merit of any religion or belief." Conversely, it is necessary to be careful not to allow a similar judgment to serve as the basis for determining a property to be ineligible for inclusion in the Register. Application of this criteria consideration to traditional cultural properties is fraught with the potential for ethnocentrism and discrimination. In many traditional societies, including most American Indian societies, the clear distinction made by Euroamerican society between religion and the rest of culture does not exist. As a result, properties that have traditional cultural significance are regularly discussed by those who value them in terms that have religious connotations. Inyan Karan Mountain, for example, a National Register property in the Black Hills of South Dakota, is significant in part because it is the abode of spirits in the traditions of the Lakota and Cheyenne.

Some traditional cultural properties are used for purposes that are definable as religious in Euroamerican terms, and this use is intrinsic to their cultural significance.

Kootenai Falls on the Kootenai River in Idaho, part of the National Register-eligible Kootenai Falls Cultural Resource District, has been used for centuries as a vision questing site by the Kootenai tribe. The Helkau Historic District in northern California is a place where traditional religious practitioners go to make medicine and commune with spirits, and Mt. Tonaachaw in

Truk is an object of spiritual veneration. The fact that such properties have religious connotations does not automatically make them ineligible for inclusion in the Register.

Applying the "religious exclusion" without careful and sympathetic consideration to properties of significance to a traditional cultural group can result in discriminating against the group by effectively denying the legitimacy of its history and culture. The history of a Native American group, as conceived by its indigenous cultural authorities, is likely to reflect a kind of belief in supernatural beings and events that Euroamerican culture categorizes as religious, although the group involved, as is often the case with Native American groups, may not even have a word in its language for "religion." To exclude from the National Register a property of cultural and historical importance to such a group, because its significance tends to be expressed in terms that to the Euroamerican observer appear to be "religious" is ethnocentric in the extreme.

In simplest terms, the fact that a property is used for religious purposes by a traditional group, such as seeking supernatural visions, collecting or preparing native medicines, or carrying out ceremonies, or is described by the group in terms that are classified by the outside observer as "religious" should not by itself be taken to make the property ineligible, since these activities may be expressions of traditional cultural beliefs and may be intrinsic to the continuation of traditional cultural practices. Similarly, the fact that the group that owns a property—for example, an American Indian tribe—describes it in religious terms, or constitutes a group of traditional religious practitioners, should not automatically be taken to exclude the property from inclusion in the Register. Criteria Consideration A was included in the Criteria for Evaluation in order to avoid allowing historical significance to be determined on the basis of religious doctrine, not in order to exclude arbitrarily any property having religious associations. National Register guidelines stress the fact that properties can be listed in or determined eligible for the Register for their association with religious history, or with persons significant in religion, if such significance has "scholarly, secular recognition." The integral relationship among traditional Native American culture, history, and religion is widely recognized in secular scholarship. Studies leading to the nomination of traditional cultural properties to the Register should have among their purposes the application of secular scholarship to the association of particular properties with broad patterns of traditional history and culture. The fact that traditional history and culture may be discussed in religious terms does not make it less historical or less significant to culture, nor does it make properties associated with traditional history and culture ineligible for inclusion in the National Register.

The “religious exclusion” was, of course, one with which we had to struggle in writing Bulletin 38; hence the lengthy discussion. I think the discussion still holds up pretty well, but for more detail including some case law see pages 259-63 of *Places That Count*. Enactment of – and case law under – the Religious Freedom Restoration Act have also underscored the need to be sensitive to the spiritual values that people ascribe to the environment.

CONSIDERATION B: RELOCATED PROPERTIES.

Properties that have been moved from their historically important locations are not usually eligible for inclusion in the Register, because "the significance of (historic properties) is embodied in their locations and settings as well as in the (properties) themselves" and because "one basic purpose of the National Register is to encourage the preservation of historic properties as living parts of their communities." This consideration is relevant but rarely applied formally to traditional cultural properties; in most cases the property in question is a site or district which cannot be relocated in any event. Even where the property can be relocated, maintaining it on its original site is often crucial to maintaining its importance in traditional culture, and if it has been moved, most traditional authorities would regard its significance as lost.

Where a property is intrinsically portable, however, moving it does not destroy its significance, provided it remains "located in a historically appropriate setting." For example, a traditionally important canoe or other watercraft would continue to be eligible as long as it remained in the water or in an appropriate dry land context (e.g., a boathouse). A property may also retain its significance if it has been moved historically. For example, totem poles moved from one Northwest Coast village to another in early times by those who made or used them would not have lost their significance by virtue of the move. In some cases, actual or putative relocation even contributes to the significance of a property. The topmost peak of Mt. Tonaachaw in Truk, for example, is traditionally thought to have been brought from another island; the stories surrounding this magical relocation are parts of the mountains cultural significance.

In some cases it may be possible to relocate a traditionally significant property and still retain its significance, provided the property's "historic and present orientation, immediate setting, and general environment" are carefully considered in planning and executing the move. At Lake Sonoma in California, for example, the U.S. Army Corps of Engineers relocated a number of boulders containing petroglyphs having artistic, archeological, and traditional cultural significance to protect them from inundation. The work was done in consultation with members

of the local Pomo Indian tribe, and apparently did not destroy the significance of the boulders in the eyes of the tribe.

CONSIDERATION C: BIRTHPLACES AND GRAVES.

Birthplaces and graves of famous persons are not usually eligible for inclusion in the Register as such. If the birthplace or gravesite of a historical person is significant for reasons other than its association with that person, however, the property can of course be eligible. Thus in the case of a traditional cultural property, if someone's birth or burial within the property's boundaries was incidental to the larger traditional significance of the property, the fact that it occurred does not make the property ineligible. For example, in South Texas, the burial site of Don Pedrito Jaramillo, a well documented folk healer who practiced at the turn of the century, has for more than seventy years been a culturally significant site for the performance of traditional healing rituals by Mexican American folk healers. Here the cultural significance of the site as a center for healing is related to the intangible belief that Don Pedrito's spirit is stronger there than in other places, rather than to the fact of his burial there.

On the other hand, it is possible for the birth or burial itself to have been ascribed such cultural importance that its association with the property contributes to its significance.

Tahquitz Canyon in southern California, for example, is in a sense the traditional "birthplace" of the entire Cahuilla Indian people. Its status as such does not make it ineligible; on the contrary, it is intrinsic to its eligibility. Mt. Tonaachaw in Truk is according to some traditions the birthplace of the culture hero Souwooniiras, whose efforts to organize society among the islands of Truk Lagoon are the stuff of Trukese legend. The association of his birth with the mountain does not make the mountain ineligible; rather, it contributes to its eligibility.

The Tahquitz Canyon case is a little tricky, because the Register tends to interpret "birthplace" as relating to the specific birth of a specific person, not to the birth/creation of a whole people. If one tried to justify Tahquitz Canyon as eligible solely under Criterion B for its status as the Cahuilla birthplace, one would probably fail, with Consideration C cited as the partial rationale. Justifying it more broadly under Criterion A as associated with the traditional origins and development of Cahuilla culture, and more specifically under Criterion B for association with the spirit-being Tahquitz, can be and in fact was successful.

CONSIDERATION D: CEMETERIES.

Cemeteries are not ordinarily eligible for inclusion in the Register unless they "derive (their) primary significance from graves of persons of transcendent importance, from age, from distinctive design values, or from association with historic events." Many traditional cultural properties contain cemeteries, however, whose presence contributes to their significance.

Tahquitz Canyon, for example, whose major significance lies in its association with Cahuilla traditional history, contains a number of cemeteries that are the subjects of great concern to the Cahuilla people. The fact that they are present does not render the Canyon ineligible; on the contrary, as reflections of the long historical association between the Cahuilla and the Canyon, the cemeteries reflect and contribute to the Canyon's significance. Thus the fact that a traditional cultural property is or contains a cemetery should not automatically be taken to render it ineligible.

After Bulletin 38 was published, the U.S. General Services Administration discovered the "African Burial Ground" during construction on Manhattan Island. The Burial Ground, though forgotten since colonial times, quickly came to be regarded by many African Americans as a very tangible link with their enslaved ancestors, with their cultural origins in Africa, and with their unique identity. In this case the cemetery itself was clearly a traditional cultural property, and its status as a cemetery did not make it ineligible for the Register under Consideration D.

CONSIDERATION E: RECONSTRUCTION.

A reconstructed property—that is, a new construction that ostensibly reproduces the exact form and detail of a property or portion of a property that has vanished, as it appeared at a specific period in time—is not normally eligible for inclusion in the Register unless it meets strict criteria. The fact that some reconstruction has occurred within the boundaries of a traditional cultural property, however, does not justify regarding the property as ineligible for inclusion in the Register. For example, individuals involved in the revitalization of traditional Hawai'ian culture and religion have reconstructed certain religious structures on the island of Kaho'olawe; while the structures themselves might not be eligible for inclusion in the Register, their construction in no way diminishes the island's eligibility.

CONSIDERATION F: COMMEMORATION.

Like other properties, those constructed to commemorate a traditional event or person cannot be found eligible for inclusion in the Register based on association with that event or person alone. The mere fact that commemoration is involved in the use or design of a property should

not be taken to make the property ineligible, however. For example, traditional meetinghouses in the Republic of Palau, included in the National Register, are typically ornamented with "story boards" commemorating traditional events; these derive their design from traditional Palauan aesthetic values, and thus contribute to the cultural significance of the structures. They connect the structures with the traditional history of the islands, and in no way diminish their cultural, ethnographic, and architectural significance.

CONSIDERATION G: SIGNIFICANCE ACHIEVED WITHIN THE PAST 50 YEARS.

Properties that have achieved significance only within the 50 years preceding their evaluation are not eligible for inclusion in the Register unless "sufficient historical perspective exists to determine that the property is exceptionally important and will continue to retain that distinction in the future." This is an extremely important criteria consideration with respect to traditional cultural values. A significance ascribed to a property only in the past 50 years cannot be considered traditional.

As an example, consider a mountain peak used by an Indian tribe for communication with the supernatural. If the peak has been used by members of the tribe for many years, or if it was used by members of the tribe in prehistory or early history, it may be eligible, but if its use has begun only within the past 50 years, it is probably not eligible.

The fact that a property may have gone unused for a lengthy period of time, with use beginning again only recently, does not make the property ineligible for the Register. For example, assume that the Indian tribe referred to above used the mountain peak in prehistory for communication with the supernatural, but was forced to abandon such use when it was confined to a distant reservation, or when its members were converted to Christianity. Assume further that a revitalization of traditional religion has begun in the last decade, and as a result the peak is again being used for vision quests similar to those carried out there in prehistory. The fact that the contemporary use of the peak has little continuous time depth does not make the peak ineligible; the peak's association with the traditional activity reflected in its contemporary use is what must be considered in determining eligibility.

This hypothetical illustrates why "continuity of use" is a bogus concept as a basis for judging the traditional cultural significance of a property. The National Register has a tendency to fall back on this concept when it feels inclined to deny eligibility to a TCP.

The length of time a property has been used for some kinds of traditional purposes may be difficult to establish objectively. Many cultural uses may have left little or no physical evidence, and may not have been noted by ethnographers or early visitors to the area. Some such uses are explicitly kept from outsiders by members of the group ascribing significance to the property. Indirect evidence and inference must be weighed carefully, by or in consultation with trained ethnographers, ethnohistorians, and other specialists, and professional judgments made that represent one's best, good-faith interpretation of the available data.

V. DOCUMENTING TRADITIONAL CULTURAL PROPERTIES:

GENERAL CONSIDERATIONS

Generally speaking, documentation of a traditional cultural property, on a National Register nomination form or in eligibility documentation, should include a presentation of the results of interviews and observations that systematically describe the behavior, beliefs, and knowledge that are germane to understanding the property's cultural significance, and an organized analysis of these results. The data base from which the formal nomination or eligibility determination documents are derived should normally include appropriate tape recordings, photographs, field notes, and primary written records.

Obtaining and presenting such documentation can present special challenges, however. First, those who ascribe significance to the property may be reluctant to allow its description to be committed to paper, or to be filed with a public agency that might release information about it to inappropriate people. Second, documentation necessarily involves addressing not only the physical characteristics of the property as perceived by an outside observer, but culturally significant aspects of the property that may be visible or knowable only to those in whose traditions it is significant. Third, boundaries are often difficult to define. Fourth, in part because of the difficulty involved in defining boundaries, it is important to address the setting of the property.

THE PROBLEM OF CONFIDENTIALITY

Particularly where a property has supernatural connotations in the minds of those who ascribe significance to it, or where it is used in ongoing cultural activities that are not readily shared with outsiders, it may be strongly desired that both the nature and the precise location of the property

be kept secret. Such a desire on the part of those who value a property should of course be respected, but it presents considerable problems for the use of National Register data in planning. In simplest terms, one cannot protect a property if one does not know that it is there.

The need to reveal information about something that one's cultural system demands be kept secret can present agonizing problems for traditional groups and individuals. It is one reason that information on traditional cultural properties is not readily shared with Federal agencies and others during the planning and environmental review of construction and land use projects. However concerned one may be about the impacts of such a project on a traditional cultural property, it may be extremely difficult to express these concerns to an outsider if one's cultural system provides no acceptable mechanism for doing so. These difficulties are sometimes hard for outsiders to understand, but they should not be underrated. In some cultures it is sincerely believed that sharing information inappropriately with outsiders will lead to death or severe injury to one's family or group.

As noted above, information on historic properties, including traditional cultural properties, may be kept confidential under the authority of 304 of the National Historic Preservation Act. This may not always be enough to satisfy the concerns of those who value, but fear the results of releasing information on, traditional cultural properties. In some cases these concerns may make it necessary not to nominate such properties formally at all, or not to seek formal determinations of eligibility, but simply to maintain some kind of minimal data in planning files. For example, in planning deployment of the MX missile system in Wyoming, the Air Force became aware that the Lakota Indian tribe in the area had concerns about the project's impacts on traditional cultural properties, but was unwilling to identify and document the precise locations and significance of such properties. To resolve this problem, Air Force representatives met with the tribe's traditional cultural authorities and indicated where they wanted to construct the various facilities required by the deployment; the tribe's authorities indicated which of these locations were likely to present problems, without saying what the nature of the problems might be. The Air Force then designed the project to minimize use of such areas. In a narrow sense, obviously, the Air Force did not go through the process of evaluation recommended by this Bulletin; no specific properties were identified or evaluated to determine their eligibility for inclusion in the National Register. In a broader sense, however, the Air Force's approach represents excellent practice in the identification and treatment of traditional cultural properties. The Air Force consulted carefully and respectfully with those who ascribed traditional cultural significance to properties in the area, and sought to accommodate their concerns. The tribe

responded favorably to this approach, and did not take undue advantage of it. Presumably, had the tribe expressed concern about such expansive or strategically located areas as to suggest that it was more interested in impeding the deployment than in protecting its valued properties the Air Force would have had to use a different approach.

The MX case is a really good example of a very important principle, articulated long ago by a State Historic Preservation Officer. It amounts to: "Don't collect more than the minimum information you need to make the decision you're called upon to make." Good advice for almost any kind of data, but especially relevant to data on TCPs. And the fact that the National Register nomination form asks for a piece of data does not automatically justify or require getting and recording it.

In summary: the need that often exists to keep the location and nature of a traditional cultural property secret can present intractable problems. These must be recognized and dealt with flexibly, with an understanding of the fact that the management problems they may present to Federal agencies or State Historic Preservation Officers may pale into insignificance when compared with the wrenching cultural conflicts they may present to those who value the properties.

DOCUMENTING VISIBLE AND NON-VISIBLE CHARACTERISTICS

Documentation of a traditional cultural property should present not only its contemporary physical appearance and, if known, its historical appearance, but also the way it is described in the relevant traditional belief or practice. For example, one of the important cultural locations on Mt. Tonaachaw in Truk is an area called "Neepisaram," which physically looks like nothing but a grassy slope near the top of the mountain. In tradition, however, it is seen as the ear of "kuus," a metaphorical octopus identified with the mountain, and as the home of "Saraw," a warrior spirit/barracuda. Obviously a nomination of "Neepisaram" would be incomplete and largely irrelevant to its significance if it identified it only as a grassy slope near the top of the mountain.

PERIOD OF SIGNIFICANCE

Describing the period of significance for a traditional cultural property can be an intellectual challenge, particularly where the traditions of a Native American or Micronesian group are involved. In such cases there are often two different kinds of "periods." One of these is the period in which, in tradition, the property gained its significance—the period during which the Cahuilla people emerged from the lower world through Tahquitz Canyon, or the period when

civilization came to Truk through the magical arrival of the culture-bearer Sowukachaw on Mt. Tonaachaw. Such periods often have no fixed referent in time as it is ordinarily construed by Euroamerican scholarship. To the Cahuilla, their ancestors simply emerged from the lower world at the beginning of human life on earth, whenever that may have been. A Trukese traditional authority will typically say simply that Sowukachaw came to Truk "noomw noomw noomw" (long, long ago). It is usually fruitless, and of little or no relevance to the eligibility of the property involved for inclusion in the National Register, to try to relate this sort of traditional time to time as measured by Euroamerican history. Traditional "periods" should be defined in their own terms. If a traditional group says a property was created at the dawn of time, this should be reported in the nomination or eligibility documentation; for purposes of National Register eligibility there is no need to try to establish whether, according to Euroamerican scholarship or radiocarbon age determination, it really was created at the dawn of time.

The second period that is often relevant to a traditional property is its period of use for traditional purposes. Although direct, physical evidence for such use at particular periods in the past may be rare in the case of properties used by Native American groups, it is usually possible to fix a period of use, at least in part, in ordinary chronological time. Establishing the period of use often involves the weighing of indirect evidence and inference. Interviews with traditional cultural authorities are usually the main sources of data, sometimes, supplemented by the study of historical accounts or by archeological investigations. Based on such sources of data it should be possible at least to reach supportable inferences about whether generations before the present one have used a property for traditional purposes, suggesting that it was used for such purposes more than fifty years ago. It is seldom possible to determine when the traditional use of property began, however—this tends to be lost, as it were, in the mists of antiquity.

BOUNDARIES

Defining the boundaries of a traditional cultural property can present considerable problems. In the case of the Helkau Historic District in northern California, for example, much of the significance of the property in the eyes of its traditional users is related to the fact that it is quiet, and that it presents extensive views of natural landscape without modern intrusions.

These factors are crucial to the medicine making done by traditional religious practitioners in the district. If the boundaries of the district were defined on the basis of these factors, however, the district would take in a substantial portion of California's North coast Range. Practically

speaking, the boundaries of a property like the Helkau District must be defined more narrowly, even though this may involve making some rather arbitrary decisions. In the case of the Helkau District, the boundary was finally drawn along topographic lines that included all the locations at which traditional practitioners carry out medicine-making and similar activities, the travel routes between such locations, and the immediate viewshed surround this complex of locations and routes.

In defining boundaries, the traditional uses to which the property is put must be carefully considered. For example, where a property is used as the Helkau District is used, for contemplative purposes, viewsheds are important and must be considered in boundary definition. In an urban district significant for its association with a given social group, boundaries might be established where residence or use by the group ends, or where such residence or use is no longer reflected in the architecture or spatial organization of the neighborhood. Changes in boundaries through time should also be taken into consideration.

For example, archeological evidence may indicate that a particular cultural practice occurred within particular boundaries in the past, but the practice today may occur within different boundaries perhaps larger, perhaps smaller, perhaps covering different areas. The fact that such changes have taken place, and the reasons they have taken place, if these can be ascertained, should be documented and considered in developing a rationale for the boundaries identified in the nomination or eligibility documentation.

It's not the Register's business, so we didn't discuss it in Bulletin 38, but it ought to be obvious that the boundaries of a place are one thing and the boundaries of its viewshed, soundscape, and smellscape are quite something else again. Things that go on miles and miles away can have visual, auditory, and olfactory effects on a TCP – that is, on those living, working, recreating, worshipping, or otherwise using or relating to a TCP. Dealing with such effects is the business of those responsible for complying with laws like NEPA and Section 106 of NHPA – who often, unfortunately, get unnecessarily and counterproductively hung up on defining property boundaries. Boundaries are often utterly irrelevant to understanding and managing effects on TCPs; indeed, they often just confuse and complicate figuring out how to manage effects. The spatial dimensions of potential effects are proper subjects for consideration when defining the area(s) of potential effect (APE) under Section 106 and the affected environment under NEPA.

DESCRIBING THE SETTING

The fact that the boundaries of a traditional cultural property may be drawn more narrowly than they would be if they included all significant viewsheds or lands on which noise might be intrusive on the practices that make the property significant does not mean that visual or auditory intrusions occurring outside the boundaries can be ignored. In the context of eligibility determination or nomination, such intrusions if severe enough may compromise the property's integrity. In planning subsequent to nomination or eligibility determination, the Advisory Council's regulations define "isolation of the property from or alteration of the character of the property's setting" as an adverse effect "when that character contributes to the property's qualification for the National Register" (36 CFR 800.9(b)(2)). Similarly, the Council's regulations define as adverse effects "introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting" (36 CFR 800.9(b)(3)).

To assist in determining whether a given activity outside the boundaries of a traditional cultural property may constitute an adverse effect, it is vital that the nomination form or eligibility documentation discuss those qualities of a property's visual, auditory, and atmospheric setting that contribute to its significance, including those qualities whose expression extends beyond the boundaries of the property as such into the surrounding environment.

That advice was well meant, but probably unrealistic and somewhat misleading. I don't suppose it hurts to discuss such qualities in documenting the property, but the danger is that people will think that the discussion is definitive – so if the viewshed isn't discussed in the documentation, it may be assumed that the viewshed isn't important. That simply can't be guaranteed – no human evaluator of a place is omniscient, and things like viewsheds have to be defined not only with reference to the place but with reference to different points of view, or different potential effects on views. These are best defined when impacts are being evaluated; trying to address them in evaluation documents is likely to mislead.

COMPLETING REGISTRATION FORMS

The following discussion is organized with reference to the National Register of Historic Places Registration Form (NPS 10-900), which must be used in nominating properties to the National Register. To the extent feasible, documentation supporting a request for a determination of eligibility should be organized with reference to, and if possible using, the Registration Form as well. Where the instructions given in the National Register bulletin entitled How to Complete the National Register Registration Form, are sufficient without further discussion, this is indicated.

1. Name of Property

The name given a traditional cultural property by its traditional users should be entered as its historic name. Names, inventory reference numbers, and other designations ascribed to the property by others should be entered under other names/ site number.

2. Location

Follow How to Complete the National Register Registration Form, but note discussion of the problem of confidentiality above.

3.

Classification

Follow How to Complete the National Register Registration Form.

4. State/Federal Agency Certification Follow How to Complete the National Register Registration Form.

5. National Park Service Certification To be completed by National Register.

6. Function or Use

Follow How to Complete the National Register Registration Form.

7. Description

Follow How to Complete the National Register Registration Form as applicable. It may be appropriate to address both visible and non-visible aspects of the property here, as discussed under General Considerations above; alternatively, non-visible aspects of the property may be discussed in the statement of significance.

8. Statement of Significance

Follow How to Complete the National Register Registration Form, being careful to address significance with sensitivity for the viewpoints of those who ascribe traditional cultural significance to the property.

9.

Major Bibliographical References Follow How to Complete the National Register Registration Form. Where oral sources have been employed, append a list of those consulted and identify the locations where field notes, audio or video tapes, or other records of interviews are housed, unless consultants have required that this information be kept confidential; if this is the case, it should be so indicated in the documentation.

10. Geographical Data

Follow How to Complete the National Register Registration Form as applicable, but note the discussion of boundaries and setting under General Considerations above. If it is necessary to discuss the setting of the property in detail, this discussion should be appended as accompanying documentation and referenced in this section.

11. Form Prepared By

Follow How to Complete the National Register Registration Form.

Accompanying Documentation Follow How to Complete the National Register Registration Form, except that if the group that ascribes cultural significance to the property objects to the inclusion of photographs, photographs need not be included. If photographs are not included, provide a statement explaining the reason for their exclusion.

VI. CONCLUSION

The National Historic Preservation Act, in its introductory section, establishes that "the historical and cultural foundations of the Nation should be preserved as a living part of our community life in order to give a sense of orientation to the American people" (16 U.S.C. 470(b)(2)). The cultural foundations of America's ethnic and social groups, be they Native American or historical immigrant, merit recognition and preservation, particularly where the properties that represent them can continue to function as living parts of the communities that ascribe cultural value to them. Many such properties have been included in the National Register, and many others have been formally determined eligible for inclusion, or regarded as such for purposes of review under 106 of the Act. Federal agencies, State Historic Preservation Officers, and others who are involved in the inclusion of such properties in the Register, or in their recognition as eligible for inclusion, have raised a number of important questions about how to distinguish between traditional cultural properties that are eligible for inclusion in the Register and those that are not. It is our hope that this Bulletin will help answer such questions.

VII. RECOMMENDED BIBLIOGRAPHY AND SOURCES

FEDERAL STANDARDS AND GUIDELINES

Advisory Council on Historic Preservation and National Park Service 1988 Identification of Historic Properties: a Decision making Guide for Managers. ACHP, Washington, DC.

Advisory Council on Historic Preservation 1989 Public Participation in Section 106 Review: a Guide for Agency Officials. ACHP, Washington, DC.

National Park Service 1983 Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines. 48 FR 44716-42.

National Park Service 1988 The Section 110 Guidelines: Guidelines for Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act. 53 FR 4727-46.

National Park Service National Register bulletins:

- How to Apply the National Register Criteria for Evaluation
- How to Complete the National Register Registration Form
- Guidelines for Restricting Information About Historic and Prehistoric Resources

PROFESSIONAL TECHNICAL MANUALS

Bartis, P. 1979 Folklife and Fieldwork. American Folklife Center, Library of Congress, Washington, DC.

Langanese, L.L. and Celya Frank 1981 Lives: an Anthropological Approach to Biography. Navato. Chandler and Sharp, Inc.

Stoffle, R.W., M.C. Jake, M.J. Evans and P.A. Bunte 1981 Establishing Native American Concerns in Social Impact Assessments. Social Impact Assessment 65/66:3-10, New York.

Werner, O. and M. Schoepfle 1987 Systematic Fieldwork, Volumes I and II. Sage Publications.

EXAMPLES

Bean, Lowell J. and Sylvia B. Vane (eds.) 1978 Persistence and Power: A Study of Native American Peoples in the Sonoran Desert and the Devers-Palo Verde High Voltage

Transmission Line. Report prepared by Cultural Systems Research, Inc., Menlo Park, CA for Southern California Edison Company, Rosemead, CA.

Bean, Lowell J. and Sylvia B. Vane (eds.) 1979 Native Americans of Western Riverside County, California and the Devers-Mira Loma 500 kV Transmission Line Route (Lamb Canyon-Mira Loma Section). Report prepared by Cultural Systems Research, Inc., Menlo Park, CA, for Southern California Edison Company, Rosemead, CA.

Bean, Lowell J. and Sylvia B. Vane (eds.) 1979 Allen-Warner Valley Energy System: Western Transmission System Ethnographic and Historical Resources. Report prepared by Cultural Systems Research Inc., Menlo Park, CA, for Southern California Edison Company, Rosemead, CA.

Bean, Lowell J., Sylvia B. Vane, Michael Lerch and Jackson Young 1981 Native American Places in the San Bernardino National Forest, San Bernardino and Riverside Counties, California. Report prepared by Cultural Systems Research, Inc., Menlo Park, CA, for the USDA Forest Service, South Zone Contracting Office, Arcadia, CA (Contract No. 539JA9-0-212).

Carroll, Charles H. 1982 An Ethnographic Investigation of Sites and Locations of Cultural Significance to the Navajo People to be Affected by PNM's Four Corners to Ambrosia to Pajarito 500 kV Transmission Project. Public Service Company of New Mexico, Albuquerque.

Carroll, Charles H. 1983 The Ute Mountain Ethnographic Study. Public Service Company of New Mexico, Albuquerque.

Carter, T. and C. Fleischhauer 1988 The Grouse Creek Cultural Survey: Integrating Folklife and Historic Preservation Field Research. American Folklife Center, Library of Congress, Washington, DC.

Goldberg, S.K. and D.J. Theodoratus 1985 Cultural Resources of the Crane Valley Hydroelectric Project Area, Madera County, California. Volume I: Ethnographic, Historic, and Archaeological Overview and Archaeological Survey. Report prepared by Infotec Research, Sonora CA, and Theodoratus Cultural Research, Fair Oaks, CA, for the Pacific Gas and Electric Company, San Francisco, CA.

Hufford M. 1986 One Space, Many Places: Folklife and Land Use in New Jersey's Pinelands National Reserve. American Folklife Center, Library of Congress, Washington, DC.

Johnston, James and Elizabeth Budy 1983 Lost Creek Canyon Native American Sites. National Register of Historic Places Eligibility Evaluation. Manuscript. USDA Forest Service, Lassen National Forest, CA.

McCarthy, H. C. Blount, E. McKee and D.J. Theodoratus 1985 Ethnographic and Historic Survey for the Big Creek Expansion Project. Report prepared by Theodoratus Cultural Research, Fair Oaks, CA, for Southern California Edison Company, Rosemead, CA.

National Park Service 1985 Promised Land on the Solomon: Black Settlement at Nicodemus, Kansas. National Park Service, Rocky Mountain Region. U.S. Government Printing Office, Washington, DC.

Stoffle, Richard W. and Henry E Dobyms (eds.) 1982 Nuvagantu. Nevada Indians Comment on the Intermountain Power Project, Utah Section. Intermountain-Adelanto Bipole 1 Transmission Line. Ethnographic (Native American) Resources. Report submitted by the Applied Urban Field School, University of Wisconsin, Parkside, Kenosha, WI, to Applied Conservation Technology, Inc.

Stoffle, Richard W. and Henry E. Dobyms (eds.) 1983 Pauxant Tuvip. Utah Indians Comment on the Intermountain Power Project, Utah Section. Intermountain-Adelanto Bipole I Transmission Line. Ethnographic (Native American) Resources. Report submitted by the Applied Urban Field School, University of Wisconsin, Parkside, Kenosha, WI, to Applied Conservation Technology, Inc.

Stoffle, Richard W., et al. 1984 Toyavita Piavuhuru Koroin: Ethnohistory and Native American Religious Concerns in the Fort Carson-Pinon Canyon Maneuver Area. Report submitted by the Applied Urban Field School, University of Wisconsin, Parkside, Kenosha, WI, to the National Park Service.

Theodoratus Cultural Research, Inc.! Archaeological Consulting and Research Services, Inc. 1984 Cultural Resources Overview of the Southern Sierra Nevada: An Ethnographic, Linguistic, Archaeological and Historical Study of the Sierra National Forest, Sequoia National Forest, and Bakersfield District of the Bureau of Land Management. Report to the U.S. Department of Agriculture, Forest Service, South Central Contracting Office, Bishop CA.

Theodoratus, D.J., C.M. Blount, A.L. Hurtado, P.N. Hawkes and M.Ashman 1978 Balsam Meadow Cultural Resource Study: Ethnology and History. Report prepared by Theodoratus Cultural Research, Fair Oaks, CA, for Southern California Edison Company, Rosemead, CA.

Theodoratus, D.J. et al. 1979 Cultural Resources of the Chimney Rock Section, Gasquet/Orleans Road, Six Rivers National Forest. Report prepared by Theodoratus Cultural Research, Fair Oaks, CA, for USDA Forest Service.

Theodoratus, D.J. 1982 Ethnographic Cultural Resources Investigation of the Big Creek/Springville-Magunden and Big Creek/Rector-Vestal-Magunden Transmission Corridors. Report prepared by Theodoratus Cultural Research, Fair Oaks, CA, for Southern California Edison Company, Rosemead, CA.

Woods C.M. 1982 APS/SDG&E Interconnection Project Native American Cultural Resources: Miguel to the Colorado River and Miguel to Mission Tap. Report prepared by Wirth Associates, Inc., San Diego, CA, for San Diego Gas and Electric Company, San Diego, CA.

York, Frederick F. 1981 An Ethnographic Survey of the Public Service Company of New Mexico's Proposed New Town Site and Its Environs. Human Environmental Resource Services Corporation, Anthropological Series Number 1, Albuquerque.

OTHER

Association on American Indian Affairs 1988 American Indian Religious Freedom. Special Supplement to Indian Affairs, Number 116, New York, NY

Loomis, O.H. 1983 Cultural Conservation: the Protection of Cultural Heritage in the United States. American Folklife Center, Library of Congress, Washington, DC.

Michaelson, Robert S. 1986 American Indian Religious Freedom Litigation: Promise and Peril. Journal of Law and Religion 3:4776.

U.S. Commission on Civil Rights 1983 Religion in the Constitution: A Delicate Balance. Clearinghouse Publication No. 80, U.S. Commission on Civil Rights, Washington, DC.

U.S. Department of the Interior 1979 American Indian Religious Freedom Act: Federal Agencies Task Force Report. Washington, DC.

Walker, Deward E., Jr. 1987 Protection of American Indian Sacred Geography: Toward a Functional Understanding of Indian

Religion Focusing on a Protective Standard of Integrity. Paper presented at the Workshop on Sacred Geography, Harvard Center for the Study of World Religions, May 5-6, Cambridge, MA.

White, D.R.M. (ed.) 1982 Proceedings of the First National Conference of the Task Force on Cultural Resource Management. Edison Electric Institute, Washington, DC.

Many of the above sources are out of date as of 2013, and much official and professional literature has been added.

VIII. APPENDIX I: A DEFINITION OF "CULTURE"

Early in this Bulletin a shorthand definition of the word "culture" is used. A longer and somewhat more complex definition is used in the National Park Service's internal cultural resource management guidelines (NPS-28). This definition is consistent with that used in this Bulletin, and may be helpful to those who require further elucidation of the term. The definition reads as follows:

"Culture (is) a system of behaviors, values, ideologies, and social arrangements. These features, in addition to tools and expressive elements such as graphic arts, help humans interpret their universe as well as deal with features of their environments, natural and social.

Culture is learned, transmitted in a social context, and modifiable. Synonyms for culture include 'lifeways,' 'customs,' 'traditions,' 'social practices,' and 'folkways.' The terms 'folk culture' and 'folklife' might be used to describe aspects of the system that are unwritten, learned without formal instruction, and deal with expressive elements such as dance, song, music and graphic arts as well as storytelling."

IX. APPENDIX II: PROFESSIONAL QUALIFICATIONS: ETHNOGRAPHY

When seeking assistance in the identification, evaluation, and management of traditional cultural properties, agencies should normally seek out specialists with ethnographic research training, typically including, but not necessarily limited to:

I. Language skills: it is usually extremely important to talk in their own language with those who may ascribe value to traditional cultural properties. While ethnographic fieldwork can be done through interpreters, ability in the local language is always preferable.

II. Interview skills, for example:

- * The ability to approach a potential informant in his or her own cultural environment, explain and if necessary defend one's research, conduct an interview and minimize disruption, elicit required information, and disengage from the interview in an appropriate manner so that further interviews are welcome; and

- * The ability to create and conduct those types of interviews that are appropriate to the study being carried out, ensuring that the questions asked are meaningful to those being interviewed, and that answers are correctly understood through the use of such techniques as translating and back-translating. Types of interviews normally carried out by ethnographers, one or more of which may be appropriate during evaluation and documentation of a traditional cultural property, include:

- * semi-structured interview on a broad topic;

- * semi-structured interview on a narrow topic;

- * structured interview on a well defined specific topic; open ended life history/life cycle interview; and

- * genealogical interview.

III. Skill in making and accurately recording direct observations of human behavior, typically including:

- * The ability to observe and record individual and group behavior in such a way as to discern meaningful patterns; and

- * The ability to observe and record the physical environment in which behavior takes place, via photography, mapmaking, and written description.

IV. Skill in recording, coding, and retrieving pertinent data derived from analysis of textual materials, archives, direct observation, and interviews.

Proficiency in such skills is usually obtained through graduate and post-graduate training and supervised experience in cultural anthropology and related disciplines, such as folklore/folklife.

We experienced considerable pressure during Bulletin 38's drafting to say that qualified cultural anthropologists/ethnographers should always be engaged to find and evaluate TCPs. We

resisted this pressure and tried to focus on the qualities that someone (of whatever professional background) should have in order to do such work. Experience suggests that we went both too far and not far enough. A widespread impression has developed that a federal agency needs to get an ethnographer to do a study even where a group is quite ready to stand up and tell the agency what's important to it. That ought not be necessary; it's insulting to the group, generates unnecessary costs, and just confuses things – unless, of course, there are real ambiguities to be sorted out or some kind of translation into bureaucratic language is necessary. On the other hand, it seems to be thought in some quarters that any archaeologist or historian can find and characterize TCPs, sometimes without even bothering to talk with people. This is flatly absurd. Talking with – and especially listening to – people is absolutely central, and the kinds of qualities we listed in this appendix are more or less what one needs to have in order to listen attentively and with understanding.

X. APPENDIX III LIST OF NATIONAL REGISTER BULLETINS

The Basics

How to Apply National Register Criteria for Evaluation *

Guidelines for Completing National Register of Historic Places Form

Part A: How to Complete the National Register Form *

Part B: How to Complete the National Register Multiple Property Documentation Form

Researching a Historic Property *

Property Types

Guidelines for Evaluating and Documenting Historic Aids to Navigation *

Guidelines for Identifying, Evaluating and Registering America's Historic Battlefields

Guidelines for Evaluating and Registering Historical Archeological Sites

Guidelines for Evaluating and Registering Cemeteries and Burial Places

How to Evaluate and Nominate Designed Historic Landscapes *

Guidelines for Identifying, Evaluating and Registering Historic Mining Sites

How to Apply National Register Criteria to Post Offices *

Guidelines for Evaluating and Documenting Properties Associated with Significant Persons

Guidelines for Evaluating and Documenting Properties That Have Achieved Significance Within the Last Fifty Years
Guidelines for Evaluating and Documenting Rural Historic Landscapes *

Guidelines for Evaluating and Documenting Traditional Cultural Properties *

Nominating Historic Vessels and Shipwrecks to the National Register of Historic Places

Technical Assistance

Contribution of Moved Buildings to Historic Districts; Tax Treatments for Moved Buildings; and Use of Nomination Documentation in the Part I Certification Process

Defining Boundaries for National Register Properties*

Guidelines for Local Surveys: A Basis for Preservation Planning *

How to Improve the Quality of Photographs for National Register Nominations
National Register Casebook: Examples of Documentation *

Using the UTM Grid System to Record Historic Sites

The above publications may be obtained by writing to the National Register of Historic Places, National Park Service, 1849 C Street, NW, Washington, D.C. 20240. Publications marked with an asterisk (*) are also available in electronic form on the World Wide Web at www.cr.nps.gov/nr, or send your request by e-mail to nr_reference@nps.gov.

Addresses have changed, and everything is now available on-line.