



DEPARTMENT OF VETERANS AFFAIRS
Office of Construction & Facilities Management
Washington DC 20420

January 10, 2013

Paul Loether, Director
National Register of Historic Places
National Park Service
1201 Eye Street NW
8th Floor
Washington, DC 20005

Dear Paul:

The Department of Veterans Affairs (VA) is pleased to submit our comments on the proposed revision of National Register Bulletin 38.

1. We believe that NRB 38 is an important reminder that the purpose of the National Register is to encourage the preservation and wise management of places that are important to the American people in all their diversity. If changes are to be made in NRB 38, they must be made with the greatest of care, and in open, transparent consultation with all interested parties both inside and outside government.
2. Although NRB 38 explicitly says that any community of people may value traditional cultural properties (TCPs), NRB 38 has been so much more extensively used by Native American groups than by others that it has come to be thought of as concerned only with Native American TCPs. The National Register should counter this perception by publishing and otherwise highlighting examples of non-Native American TCPs. VA can contribute examples of TCPs valued by communities of Veterans and their families. In doing this, of course, the National Register should on no account discourage the recognition of Native American TCPs.
3. The National Register and other elements of the National Park Service (NPS) should carefully examine its National Register Bulletins and other guidance documents to ensure that:
 - a. None of them throw up unnecessary procedural or documentation impediments to the recognition and management of TCPs; and that
 - b. Clear relationships are drawn between NRB 38 and other guidance, notably NRB 30 on rural historic landscapes and Preservation Brief 36 on cultural landscapes.

4. One error that should be corrected in NRB 38 is the statement that “(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.” This statement has led to the erroneous impression that it is the National Register’s role to decide whether a place is a TCP. In fact, it is clearly up to communities to decide what places constitute their TCPs; it is the National Register’s role to decide whether they are eligible for the Register. The statement should be rephrased along the following lines:

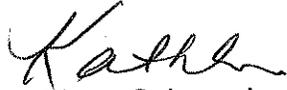
A traditional cultural property, then, can be defined generally as a place – be it a specific site or building or an expansive landscape – that is valued by a living community for its association with cultural practices or beliefs (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community. Such a place may meet the National Register criteria at 36 CFR 60.4 by virtue of such association.

5. The National Register should reconsider the emphasis it places on establishing hard-and-fast boundaries for TCPs. Sometimes such boundaries need to be defined, but at other times doing so is unnecessary for purposes of management. At such times, the requirement to specify boundaries in any but the most general way (e.g., “Rocky Hill,” or “the southeast portion of the parade ground”) is burdensome and requires arbitrary decision-making and guesswork.
6. To assuage fears that recognizing the significance of TCPs (and other kinds of historic properties) inappropriately constrains decision-making about land and resource management, NPS and the Advisory Council on Historic Preservation (ACHP) should jointly issue a policy statement making it clear that nothing in the recognition of a place as historic requires that it be physically protected in perpetuity. Such a policy statement should reflect the clear intent of Congress that the preservation, continued and adaptive use, and enhancement of such places should be thoroughly and fairly considered by those who manage them, in consultation with all who value them, but that their physical preservation may or may not be in the public interest in every case.
7. The National Register should recognize that in many if not most cases, particularly where federal lands are concerned, it is neither necessary nor desirable to nominate TCPs to the National Register, provided such places are

recognized as eligible for the Register and hence entitled to consideration under Sections 106, 110, and 111 of the National Historic Preservation Act.

If you have questions regarding these comments, please feel free to contact me. I can be reached at 202-632-5529.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen".

Kathleen Schamel,
Federal Preservation Officer