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September 4, 2012

J. Paul Loether, Chief
Attention: Alexis Abernathy, Consultation Process Coordinator
National Park Service
National Register of Historic Places and National Historic Landmarks
1849 C Street, N.W.
Washington, DC 20240

Subject: TCP/NAL Comment

Dear Mr. Loether,

This letter is in response to your correspondence received August 15, 2012, regarding the National Park Service (NPS) developing a framework and revised schedule for tribal government-to-government consultations on updating National Register Program guidelines for identifying, evaluating, and documenting properties that are historically significant as Traditional Cultural Properties and Native American Landscapes.

Pursuant to Hopi Tribal Council Resolution H-70-94, the Hopi Tribe claims cultural affiliation to prehistoric cultural groups in the American Southwest. The Hopi Cultural Preservation Office supports the identification and avoidance of prehistoric archaeological sites and Traditional Cultural Properties, and we consider the prehistoric archaeological sites of our ancestors to be "footprints" and Traditional Cultural Properties. Therefore, we appreciate the NPS's continuing solicitation of our input and your efforts to address our concerns.

The Hopi Cultural Preservation Office has initially offered the NPS the enclosed comments from Dr. Thomas King. We have been particularly concerned that the NPS has created limitations on Traditional Cultural Properties through requirements such as "continuity of use."

Therefore, we are relieved that the NPS has responded to two telephonic planning sessions by developing a revised framework and schedule and looks forward to more thoroughly exploring and discussing issues and concerns tribes may have regarding the NPS updating guidelines for identifying, evaluating, and documenting properties that are historically significant as Traditional Cultural Properties and Native American Landscapes.

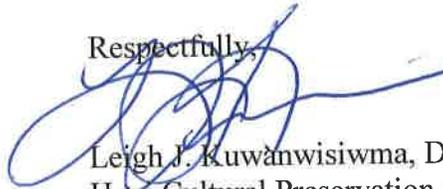
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We appreciate that tribes participating in the two telephonic sessions identified important concerns and needs related to Traditional Cultural Properties that will help inform the process of developing improved NPS guidance.

We hope the Southwestern regional face to face consultation meeting scheduled for May 2013 will be at a location reasonably close to Hopi. In any case in lieu of the regional meeting, we invite you to an actual face to face government to government consultation meeting at Hopi.

If you have any questions or need additional information, and to schedule an actual tribal consultation meeting, please contact Terry Morgart at the Hopi Cultural Preservation Office at 928-734-3619 or tmorgart@hopi.nsn.us. Thank you for your consideration.

Respectfully,

A handwritten signature in blue ink, appearing to read "Leigh J. Kuwanwisiwma", written over the typed name below.

Leigh J. Kuwanwisiwma, Director
Hopi Cultural Preservation Office

Enclosure: King comments on NPS Bulletin 38 review

xc: Theresa Pasqual, Acoma; Peter Pino, Zia
Kurt Dongoske, Zuni; Christine Landrum, NPS

FRIDAY, APRIL 27, 2012

Commenting on the need for NPS Traditional Cultural Property Update

The U.S. National Park Service (NPS), National Register of Historic Places, has asked its "preservation partners" and others to advise it about the need for new guidance on "traditional cultural properties" and "Native American landscapes." If you want to comment, address nr_info@nps.gov, and be sure to put "TCP/NAL Comment" in the subject line. Below are my comments:

I see that you have requested "comments on identifying, evaluating, and documenting traditional cultural properties and Native American landscapes" from "tribal, national, state, and local historic preservation partners, National Park Service regional offices and parks, other Federal agencies, and the public at large." Presumably because I fall into none of the above categories, you have not requested such comments from me, but I will provide them anyway, below.

You say:

With the 1990 release of National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties, NPS clarified a broader scope of properties that could be considered eligible for listing in the National Register of Historic Places (NR) for their significance as Traditional Cultural Properties, and provided written guidance on working with these properties.

Comment: This is a misleading introduction, to the extent it is comprehensible as an English language sentence. It implies that Bulletin 38 expanded the range of property types that could be considered eligible for the Register, and it did no such thing. The Bulletin simply provided a name for such properties, examples of which had been determined eligible and listed on the Register since the very beginning of the Register's existence, and provided some guidelines for identifying and evaluating them.

You say:

This policy direction was followed by the provision in the 1992 amendment to the National Historic Preservation Act stating: "Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion in the National Register."

<http://crmplus.blogspot.com/>

Comment: It might be worth noting that this amendment did not appear out of thin air. It was a tribally encouraged congressional reaction to the flat refusal by the Bureau of Land Management (BLM), Forest Service, and Bureau of Indian Affairs (BIA) to pay any attention to Bulletin 38.

You say:

While Bulletin 38 remains an essential, basic resource for identifying, evaluating, and documenting TCPs, in recent years the number of requests for additional assistance in this regard from State and Tribal Historic Preservation Offices, Federal agencies, and preservation professionals has increased significantly.

Comment: It may be revealing that such requests have apparently not come from tribes or members of the public. Does this tell you anything?

You then list a series of topics on which you are considering publication of more "guidance." Let me first suggest that you take a good hard look at the guidance you already have, and consider ways to resolve inconsistencies that exist among the voluminous piles of paper you have generated in the past. This should certainly be done before you burden the world with MORE of the stuff. Let me also suggest that if you're going to issue guidance, you get help from people who know something about the subject, and that you pay some attention to the literature that has been produced in the last 22 years dealing with it. I realize that these suggestions may run counter to long-standing NPS policy.

Below are comments on each of the points on which you say guidance is in order:

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- *What constitutes a "traditional" community*

Comment: A traditional community is a community that values its traditions, including but not limited to communities of American citizens.

- *"Continuity of use" by a traditional community*

Comment: I am at a loss to understand where and how you have come up with this "continuity of use" nonsense. It is not in the Bulletin, but NPS keeps coughing it up as an excuse for not recognizing a place as eligible. It is particularly galling when applied to a tribal property. "Well, sure, we ran all over you militarily, killed most of you with our diseases, marched your survivors off to a reservation 500 miles away from this place you say you value, and imprisoned you there – so gee, we're sorry, but you haven't continued your use of the place, so it's not eligible." You really should be ashamed of yourselves for even murmuring this sort of insulting drivel.

- *Evolving uses of resources by a traditional community*

Comment: Yes, they evolve, as do communities. So what? What business is it of yours whether and how they do?

- *Multiple lines of documentary evidence*

Comment: Multiple lines of evidence happen. Sometimes they accord with one another, sometimes they conflict. That's life. So what?

Comment: Broad or narrow, the term "ethnographic landscape" is insulting to those who value cultural landscapes; it implies that a landscape is important because of its role in ethnographic research. It may be, but that's usually beside the point. Traditional cultural landscapes (including but not limited to many "Native American landscapes") are simply that – traditional cultural properties that happen to be landscapes, landscapes that have traditional cultural value. Ethnography has nothing to do with it. Please discard the term.

- *Property boundaries*

Comment: As Bulletin 38 says, boundaries are often difficult if not impossible to define. They are usually arbitrary, and usually irrelevant to the way a community (notably a tribe) defines the place. They comprise an artifact of the National Register's roots in local planning and zoning. They are often irrelevant to determining effects under NHPA Section 106 – the real world context in which traditional cultural properties are most often considered. Any guidance should stress that they need be defined only to the extent there is a practical reason for doing so.

- *Resource integrity*

Comment: If the people who value a place say it has integrity, it has integrity. It is that simple. The place is significant in people's minds, so if in their minds it has integrity, it obviously has integrity. This is not rocket science.

You go on to say that you are willing to consider other "user-identified" TCP-related issues. I doubt if you would define me as a "user," and I do not intend to cater to the Register's intellectual lassitude by re-stating what I have written in the past. Rather, I request that you consider the issues discussed in at least the following of my publications:

- *Places that Count: Traditional Cultural Properties in Cultural Resource Management.* AltaMira Press 2003
- "Rethinking Traditional Cultural Properties?" *George Wright Forum* 26:1:28-36, 2009, George Wright

Society, Washington DC.

- "A Listless Approach to Resource Management." *Heritage Management* 3:1:97-100, 2010.