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Testimony of the Archaeological Institute of America before the National Parks Subcommittee of the US House of Representatives Committee on Resources concerning the National Historic Preservation Act Amendments of 2005

On behalf of the Archaeological Institute of America (AIA), I am writing to oppose the proposed amendment to Section 106 of the National Historic Preservation Act (NHPA). The AIA is the oldest and largest archaeological organization in the United States. Founded in 1879 and chartered by an Act of Congress in 1906, its over 8,000 members include not only professional archaeologists and students but also a majority of people from all walks of life—e.g. doctors, lawyers, business people, teachers, retirees—who are united by a shared passion for archaeology and what it can teach us about the human past.

The National Historic Preservation Act now requires assessment for potential damage to historic sites and properties caused by federal undertakings such as construction projects on federal land or other projects carried out with federal funds. It also requires agreement on an appropriate mitigation plan to reduce any damage. The NHPA currently requires this mitigation process for harm to any historic properties listed on the National Register of Historic Places or eligible for listing. The inclusion of properties that are eligible for listing on the National Register is very important for the preservation of archaeological sites. Archaeological sites are often unknown before a federal project begins and are only discovered during the assessment phase. The applicability of the NHPA to sites that are newly discovered and eligible for placement (but not yet actually) on the National Register thus serves primarily to protect archaeological sites.

Among the amendments to the NHPA that your subcommittee is considering, Section 4 of the proposed bill would change Section 106 to apply to properties “included in or determined by the Secretary to be eligible for inclusion in the National Register” rather than to properties “included in or eligible for inclusion in the National Register [of Historic Places].” This change in the law would shift eligibility determinations from a local consensus determination process involving the State Historic Preservation Officer or the Tribal Historic Preservation Officer to a centralized and formal determination that can be made only by the Keeper of the National Register. This will make the process of compliance with Section 106 considerably more bureaucratic, expensive, and time-consuming and may require excessive documentation of the historic value of previously unknown archaeological sites. The AIA’s greatest concern is that by making the Section 106 process so much more costly and time-consuming, this change will serve as a disincentive to the identification and determination of eligibility of newly-discovered archaeological sites. Any such disincentive would reduce the Section 106 requirement to consider the effect of federal undertakings on historic properties and to mitigate adverse consequences.

A reduction in the number of newly discovered archaeological sites to which Section 106 applies would diminish the historical, cultural and scientific information that can be learned about the past from such sites. The AIA therefore opposes Section 4 of the National Historic Preservation Act Amendments of 2005.

Thank you for your consideration.

Sincerely,

Jane C. Waldbaum
President, Archaeological Institute of America