



## SOCIETY FOR AMERICAN ARCHAEOLOGY

March 21, 2024

National Register of Historic Places  
National Park Service  
1849 C Street NW  
Mail Stop 7228  
Washington, DC 20240

ATTN: Revised TCP Bulletin

VIA Email: [nr\\_tcp@nps.gov](mailto:nr_tcp@nps.gov)

The Society for American Archaeology (SAA) submits the following comments to the National Register of Historic Places (NRHP) on the latter's revision of Bulletin 38 *National Register Bulletin: Identifying, Evaluating, and Documenting Traditional Cultural Places, DRAFT November 6, 2023*. The SAA continues to appreciate the effort of the Register and National Park Service (NPS) to update Bulletin 38, which plays a critical role in “identifying, evaluating, and documenting” the traditional cultural places (TCPs) that are significant to American history and culture. Nevertheless, we remain concerned that the document still does not meet the letter of the law when it comes to tribal TCPs.

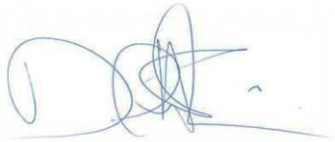
The SAA is an international organization that, since its founding in 1934, has been dedicated to research about and interpretation and protection of the archaeological heritage of the Americas. With more than 6,000 members, the SAA represents professional and avocational archaeologists, archaeology students in colleges and universities, and archaeologists working at tribal agencies, museums, government agencies, and the private sector. The SAA has members throughout the United States, as well as in many nations around the world.

The central problem with the current and earlier versions of the revisions to the Bulletin is that the places referred to in the 1992 amendments to the National Historic Preservation Act and its implementing regulations (36 CFR 800.16(1)(1))—“properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria”—do not fit squarely within the four eligibility criteria in 36 CFR 60.4 in the way that archaeological or historic or, especially, historic architectural properties do. That has been the consistent problem since the concept of “traditional cultural properties” was first

developed. For example, the amended statute refers to properties of religious and cultural significance. For non-Indigenous peoples, “religious” refers to structures such as churches, mosques, synagogues, and the like. The problem is with tribal TCPs. Clarification is needed concerning such properties that are considered religiously and/or culturally significant but whose values are often expressed in natural features as opposed to built structures. Unfortunately, neither the first draft of the proposed changes nor the current one resolves this issue.

We reiterate our call for the NPS to stop trying to reconcile archaeological, historical, and historic architectural resources with tribal TCPs within the Bulletin 38 framework. We suggest that a fifth eligibility criterion (36 CFR 60.4) be established for TCPs, especially tribal TCPs. As before, we note that doing so will provide a more direct, dependable, and effective method for tribes to manage and protect their TCPs through government-to-government dialogue.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Sandweiss", with a stylized flourish at the end.

Daniel H. Sandweiss, PhD, RPA  
President