

## **NCSHPO Newsletter: November 1<sup>st</sup>, 2018 | Number 164**

With elections next Tuesday the focus is on politics and the potential impact the elections will have on policy. The outcome of the elections could have implications for every one of the issues and nominations addressed below.

### **NCSHPO Fall Board Meeting:**

The NCSHPO fall board meeting took place this week in Charleston, S.C. The staff of the South Carolina Department of Archives and History were incredibly gracious hosts. They did a great job setting up the meeting at The Charleston Museum and put together tours of Charleston and the surrounding area. We had the opportunity to learn about historic preservation efforts in the area and tour historic tax credit projects. We want to especially thank SHPO Dr. Eric Emerson, Deputy SHPO Elizabeth Johnson, and staff members Brad Sauls, Virginia Harness and Keely Lewis. Please visit the [NCSHPO Facebook page](#) to see pictures from the board meeting and the site visits.

### **Fiscal Year 2019 HPF:**

The outcome of the election could have implications for lawmakers' efforts to complete Fiscal Year 2019 spending bills in general and specifically implications for the Historic Preservation Fund. The Fiscal Year 2019 Department of the Interior spending bill, which includes funding for the Historic Preservation Fund (HPF), is one of a handful of bills that have not been completed. Because Congress passed, and the President signed what is known as a "continuing resolution" the departments, agencies and programs funded under these bills are funded at Fiscal Year 2018 levels through Dec. 7<sup>th</sup>. Fiscal Year 2019 began on Oct. 1<sup>st</sup>, 2018.

There has been talk about including funding to build a border wall between the United States and Mexico in the final Fiscal Year 2019 spending legislation. A disagreement over this issue could have an impact on both the Fiscal Year 2019 Department of Interior spending bill in general and specifically on Fiscal Year 2019 HPF spending. Disagreements between Republicans and Democrats over funding a border wall could prevent passage of such a bill, leading to either another continuing resolution funding these agencies at Fiscal Year 2018 levels or a temporary shutdown of these agencies.

Although no final decisions have been made regarding Fiscal Year 2019 funding for the HPF, it appears unlikely that there will be an increase for either SHPO or THPO apportionments in the Fiscal Year 2019 Department of Interior bill that would be passed after the election.

Both the Senate and House passed versions of the bill had level funding of \$48.9 million for SHPO apportionments and \$11.5 million for THPO apportionments. When something is the same in both bills, it is highly unusual that the compromise version is different.

Although the House bill had an unallocated increase of \$5 million for the HPF, that funding is likely to be used for a new historic preservation program that the Senate created in the Fiscal

Year 2018 bill and funded in the Fiscal Year 2019 bill. The House bill had no specific funding for the program.

As we look toward the future, it is important that we remind lawmakers and their staff that SHPOs and THPOs are the backbone of historic preservation in America and need to be appropriately funded. This is an ongoing effort and I am optimistic that we will build on this year's effort. It is very important that Congress provide SHPOs and THPOs with gradual, sustainable funding increases. This is particularly important at a time when SHPO workloads are increasing.

### **Hurricane Florence and Hurricane Michael:**

Although many communities in North Carolina, Florida and Georgia are still dealing with the effects of Hurricanes Florence and Michael, efforts to help the affected communities recover and prepare for future storms are already underway. There is a strong possibility that after the election Congress will pass legislation to help communities affected by the storms. NCSHPO is working with the affected states and our preservation partners to get an understanding of the damage to historic resources and what kind of federal assistance may be necessary. We are working with our partners, specifically the National Park Service and National Trust for Historic Preservation, to educate lawmakers about the historic preservation recovery needs. Although sometimes our partners and NCSHPO do not see eye-to-eye, in this situation there is a great deal of cooperation and an honest effort to help affected communities. The top priorities are the safety of the people who have been affected by the storms and making sure they can return to communities they recognize.

### **NPS Director:**

[The Senate Energy and Natural Resources Committee hearing on current Grand Teton National Park Superintendent David Vela's nomination to be the Director of the National Park Service \(NPS\), that was scheduled for Tuesday Oct. 16<sup>th</sup>, has been rescheduled for Nov. 15<sup>th</sup>, 2018.](#) President Trump nominated Superintendent Vela to be NPS Director in August. On Nov. 15<sup>th</sup>, besides considering Superintendent Vela's nomination, the Committee will also consider Dr. Rita Baranwal's nomination to be an Assistant Secretary of Energy (Nuclear Energy), and Bernard L. McNamee nomination to be a Member of the Federal Energy Regulatory Commission.

Senate Energy and Natural Resources Committee Chairwoman Lisa Murkowski (R-AK) has made clear that she would like to see a National Park Service Director in place, so she may try to push his nomination through quickly. The Department of Interior is likely to hold off on major policy changes, such as changes to the National Historic Preservation Act, until Superintendent Vela is confirmed.

As with HPF funding for Fiscal Year 2019, the elections could have implications for Superintendent Vela's nomination. If Superintendent Vela is not confirmed to be the Director of the NPS before the end of the 115<sup>th</sup> Congress, the process would have to begin from the beginning when the 116<sup>th</sup> Congress begins working in 2019.

## **ACHP Chair:**

The Senate Energy and Natural Resources Committee has favorably reported out the nomination of Aimee Jorjani to be Chair of the Advisory Council on Historic Preservation for the remainder of a four-year term expiring on June 10<sup>th</sup>, 2021. If confirmed by the full Senate, Aimee Jorjani would be the first full-time chair of the ACHP. The National Historic Preservation Act was amended in 2016 to change the chair of the ACHP from a part-time to full-time position. It remains unclear when the full Senate will vote on her nomination.

If Aimee Jorjani is not confirmed to be the Chair of the ACHP before the end of the 115<sup>th</sup> Congress, the process would have to begin from the beginning when the 116<sup>th</sup> Congress begins working in 2019.

## **LWCF and Permanent HPF Reauthorization:**

Earlier this month, the Senate Energy and Natural Resources Committee approved legislation permanently reauthorizing and fully funding the Land and Water Conservation Fund (LWCF). They also approved legislation that aims to address the NPS's maintenance backlog. Last month, the House Natural Resources Committee approved a bill that would permanently reauthorize the LWCF but not fully fund it. The House Natural Resources Committee also passed legislation that aims to address the NPS maintenance backlog. Supporters of the LWCF and addressing the maintenance backlog would like to see the bills packaged together and passed before the 115<sup>th</sup> Congress officially ends on January 3<sup>rd</sup>, 2019. That said, the odds of this happening are slim. Nevertheless, we are working with the National Trust for Historic Preservation to try to make sure that if it moves forward, a permanent reauthorization of the HPF is added to it. Like the LWCF, the HPF is funded with royalties that companies pay to drill for oil and gas in United States waters.

The LWCF's \$900 million per year authorization expired on September 30<sup>th</sup>, 2018. Although the authority to carry out LWCF did not expire Sunday, the language in the statute that allows oil and gas revenue to be deposited into LWCF has lapsed. That means offshore drilling money stops going into the fund and is diverted into the general Treasury.

The main impediments to passage of LWCF and NPS maintenance backlog bills are the disagreement over fully funding the LWCF and concerns about the Congressional Budget Office score for the bill. The Senate bill would permanently fund the LWCF at \$900 million per year. Although the LWCF, like the HPF, is funded with royalties that energy companies pay for the right to drill in federal waters, concerns have been raised that fully funding it would increase the federal deficit. During the successful effort to reauthorize the HPF in 2016, the Congressional Budget Office (CBO) determined that the seven-year reauthorization of the HPF "would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply." CBO added, HPF reauthorization "would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027." If the CBO chooses to take a different approach with the LWCF, they could determine that the cost of the bill over 10 years is \$9 billion. That estimate would be arrived at by multiplying the \$900 million LWCF is currently authorized to pay out annually by 10 years. In 2016, the CBO estimated that the cost of the HPF over 10 years is zero.

The challenges that lawmakers are facing with the looming expiration of the LWCF authorization is a reminder of why it was imperative that for us to get the HPF reauthorized. It was reauthorized in 2016 for seven years at \$150 million per year.

### **\$50 million Threshold for SHPO Apportionments:**

During the Fiscal Year 2019 appropriations process, NCSHPO has worked to address the \$50 million threshold for SHPO apportionments. Although we have made significant progress, action is not likely to happen until Congress begins work on Fiscal Year 2020 spending bills. The House version of the Fiscal Year 2019 Interior Department spending bill includes language in the report that accompanies the bill that urged the National Park Service to consult with State Historic Preservation Officers, to evaluate the Historic Preservation Grants Manual to consider the current \$50 million threshold for a Tier 3 apportionment. The Grants Manual currently has language that requires the National Park Service to create a grant program for SHPOs when Congress appropriates more than \$50 million for SHPO apportionment. The grant program would be used to distribute any appropriated funds beyond \$50 million. The Fiscal Year 2018 SHPO apportionment is \$48.93 million. NCSHPO supports the elimination of the \$50 million threshold. Congressman Mike Simpson (R-ID) championed the inclusion of the report language calling for an evaluation of the \$50 million threshold.

Congressman Mike Turner (R-OH) drafted an amendment to the House bill that would have eliminated the \$50 million threshold for SHPO apportionments but withdrew the amendment because the House Rules Committee was not going to allow the amendment to be debated because it considered the amendment to be legislating on a spending bill. Spending bills are technically supposed to only deal with spending and not set policy.

The Idaho and Ohio SHPOs were extremely helpful in making sure Congressman Simpson and Turner understood the importance of eliminating the \$50 million SHPO apportionment threshold.

### **Infrastructure:**

Although Congress will not pass an infrastructure bill in 2018 and may have great difficulty passing one in 2019, it is important to keep our focus on the issue because it could have a significant impact on historic resources and the work that SHPOs do.

In a partisan environment, it is likely to be difficult for members of Congress to come together on \$1.5 trillion infrastructure package. As reporters in Politico have noted, “coming together on a \$1.5 trillion package that spends real money is virtually impossible unless Democrats and Trump can agree to raise new revenues, cut other programs or add to the debt — all heavy lifts when the federal deficit is surging toward \$1 trillion.”

*Despite the great difficulty that Congress and the President will have in producing an infrastructure bill, it is imperative that we act as if such a bill will happen and make sure that it does not have a negative impact on SHPOs ability to protect historic and cultural resources. We also need to make sure that SHPOs are not blamed for delays in infrastructure projects.*

NCSHPO and the National Trust for Historic Preservation are focused on getting funding for survey and digitization. This is an effective way to make sure historic preservation is not blamed for delays in infrastructure projects. Survey and digitization will only solve some of the challenges associated with a potential infrastructure bill.

During debate on an infrastructure bill, some lawmakers are likely to call for streamlining historic preservation regulations. With this in mind, it is important for members of the historic preservation community to start highlight the fact that federal law already permits the use of programmatic agreements to expedite cultural resources reviews, so there is no need to make changes to the National Historic Preservation Act.

If lawmakers and the administration can find common ground on how to fund a large infrastructure investment program, it would present two possible challenges for SHPOs.

- An influx of Section 106 reviews that could overwhelm SHPOs;
- “Streamlining of regulations” may circumvent or erode the Section 106 process.

While funding for surveys and digitization will be important, so will increase general funding for SHPOs so they can efficiently conduct Section 106 reviews.

#### **Outreach to Lawmakers:**

For those of you who are able to, please invite lawmakers to visit both your office and Historic Tax Credit (HTC) projects. Relationships with lawmakers and their staff members are very valuable when we need them to be active on priorities, such as HPF reauthorization, preservation of the HTC, and funding for SHPOs. As I mentioned to those of you who were here for Advocacy Week, these relationships are not just a matter of asking them for what your office needs, but also inquiring how you can be of assistance to them. If you need help setting up these meetings, please do not hesitate to reach out to me.

Please do not hesitate to ask to have upcoming events added to the list. Please send e-mails to [monoson@ncshpo.org](mailto:monoson@ncshpo.org)