NCHRP 25-25, TASK 33:
"NATIONAL REGISTER OF HISTORIC PLACES ELIGIBILITY"

A Panel Discussion
Transportation Research Board Committee on
Historic and Archaeological Preservation in Transportation (ADC50)
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SRI Foundation
333 Rio Rancho Drive, Suite 103
Rio Rancho, NM 87124

INTRODUCTION

In 2006, the National Cooperative Highway Research Program (NCHRP) funded NCHRP 25-25, Task 33, "The National Register of Historic Places Eligibility." This study examined current practices for evaluating the National Register eligibility of properties identified during the development of transportation projects. The study, conducted by the SRI Foundation and ICF International, involved a national survey of state Departments of Transportation (DOTs), State Historic Preservation Offices (SHPOs) and private sector cultural resource management (CRM) firms hired by state DOTs. The survey was also sent to a small number of state Federal Highway Administration (FHWA) division offices. The survey questionnaire was divided into two parts. The first eleven questions examined the use of historic contexts as a tool for evaluating National Register eligibility. The remaining questions looked at other approaches to National Register evaluations. The NCHRP 25-25, Task 33 report is available at http://www.trb.org/NotesDocs/25-25(33)_FR.pdf. The following is a brief summary of the recommendations presented in the report.

The NCHRP survey participants recommended the following mechanisms for increasing the use of historic contexts and improving their effectiveness:

- Developing more historic contexts and updating existing contexts.
- Making existing historic contexts more accessible through the use of the Internet, in addition to making the contexts fully searchable.
- Making historic contexts more explicit. Historic contexts need to contain all of the key components described in National Register and the Secretary of the Interior's guidance. Historic contexts should identify the property types associated with the context. They should include descriptions of the physical characteristics/attributes an archaeological site, historic building, historic engineered feature, etc. must posses in order to be considered representative of one of the historic context's property types. Historic contexts should also include examples of real world properties that would be considered National Register eligible.

In terms of improving the overall National Register evaluation process, survey respondent recommended:

- Updating or rewriting existing National Register guidance. Some survey participants also recommended more guidance on problematic properties such as those dating to the recent past and traditional cultural properties.
- Using existing guidance. Several individuals noted that historic preservation professionals often do not use existing National Register guidance. If practitioners actually used this guidance, there would be a great improvement in eligibility evaluations.

- Developing standards for creating historic contexts. Having such standards would result in greater consistency in National Register evaluations.

- Improving the qualifications of the individuals conducting National Register eligibility evaluations.

- Increasing training opportunities. Some survey respondents called for National Register staff to actively participate in training efforts across the country.

- Creating a separate process for evaluating the National Register eligibility of archaeological sites.

As a follow-up to the release of the NCHRP 25-25, Task 33 report, the SRI Foundation organized a panel discussion at the 2008 annual meeting of the Transportation Research Board's (TRB), Committee on Historic and Archaeological Preservation in Transportation (ADC50), held in Saratoga Springs, New York. Panelists were asked to present their views on the NCHRP survey's findings, conclusions, and recommendations, particularly in terms of the role of historic contexts within the Section 106 process. The panel included representatives from the National Park Service, state DOTs, SHPOs, FHWA, and private sector cultural resource management consultants. Each panelist spoke for about ten minutes, followed by a question and answer period with the audience.

After the Saratoga Springs conference, each panelist was asked to write-up their presentations for inclusion in this report. The purpose of this report is to share the results of the panel discussion with ADC50 members who could not attend the Saratoga Springs conference. It is also hoped that this report will serve as a vehicle for continued discussion on the issues raised during the session.

The panelists' papers are presented in the same order as at the Saratoga Springs session, beginning with the presentations by Erika Martin Seibert and Sue Renaud of the National Park Service, Headquarters, Washington, D.C. These two papers are followed by those of the panel's two private sector consultants, Joe Joseph of New South Associates and Amy Squitieri of Mead & Hunt, Inc. The next group of papers are by Joe Baker of the Pennsylvania Department of Transportation, Mark Peckham of New York State Historic Preservation Office, and Douglas Mackey, also of the New York State Historic Preservation Office. The last presentation is by Jeffrey Berna, Federal Highway Administration, New York division office. Terry Klein, SRI Foundation, served as the session moderator, and provides a brief summary of the session at the end of this report.

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NATIONAL REGISTER POSITION ON THE ISSUES RAISED IN THE NCHRP 25-25, TASK 33 SURVEY OF NATIONAL REGISTER EVALUATION PRACTICE

Erika Martin Seibert, Archeologist
National Register of Historic Places
National Historic Landmarks Survey
National Park Service
Washington, D.C.

While the National Register raised many issues with the NCHRP 25-25, Task 33 Survey of National Register Evaluation Practice that are laid out in the letter of July 7, 2008 (National Park Service (NPS) letter), in the interest of time this presentation will only focus on three observations and recommendations the survey makes and discuss the position of the National Register on those interpretations of the survey data and possible avenues to address those issues.

Using Contexts for Making Criterion D Evaluations

The first issue is the use of contexts for making Criterion D evaluations. The position of the National Register is that contexts are essential for making any evaluation of eligibility, including evaluations under Criterion D for both historic and prehistoric sites.

The survey says (NCHRP 25-25, Task 33 report, page 42, bottom and page 43) that historic contexts work poorly under Criterion D and that, "the survey clearly shows that most practitioners do not consider contexts to be a useful tool for evaluating archeological sites."

The National Register believes that the survey data show the opposite. When you combine the categories of "Very Useful", "Useful", and "Somewhat Useful" (National Register of Historic Places Eligibility Survey, page 17, question number 9), you find that at least 84.5% of respondents found contexts at least somewhat useful for making Criterion D evaluations. Further, the survey goes on to recommend a different process for evaluating archeological sites that considers the interpretation (among other things) that people don't use contexts for Criterion D. However, what we believe this statistic (84.5%) really should encourage, is not a different process, but more, better, and clear guidance on what contexts are and how to use them. This is a recommendation that was repeated throughout the survey. Therefore, to address this issue, we recommend more, better, and clear guidance.

Additionally, with regard to contexts, we point out a quote from one of the respondents about information potential and eligibility. It emphasizes that respondents don't necessarily understand the use of contexts in Criterion D evaluations and why contexts are essential

"According to some archeologists, since all archeological sites have the potential to contribute to our knowledge, and because all new information is important, all sites should be eligible. This is a conundrum of an academic context" (NCHRP 25-25, Task 33 report, page 19).

Contexts should define what is important about sites so that we can make decisions about which ones contribute significant information (whether that information is new or not) and which ones do not. It shows further, that practitioners often conflate significance with eligibility. Practitioners need to be specific about why and how they are defining what is important. Contexts help us do this. This issue is further highlighted when archeologists use integrity as an argument for significance. This is the next issue that is highlighted.

Using Only Integrity to Evaluate Archeological Sites:

The interpretation of the survey data says on page 43 of the NCHRP report says that assessing site integrity is seen as the most important tool in evaluating these [archeological] properties and as a result historic contexts are viewed as unnecessary.

The National Register does not believe that the survey data reflect this interpretation. For instance, page 45 of the NCHRP report notes, "practitioners do not use alternative methods [like integrity] to the exclusion of using historic contexts." This appears to contradict the interpretation on page 43, noted above.

To address this issue, the National Register would promote educating practitioners on when and how to use integrity in an evaluation of archeological sites under Criterion D. *The National Register Bulletin, Guidelines for Evaluating and Registering Archeological Properties* says "The assessment of integrity is the final step in the sequence of evaluation (i.e., it comes after the development of an historic context) and should not be used as an initial step with which to screen properties" (*The National Register Bulletin, Guidelines for Evaluating and Registering Archeological Properties*, page 20).

For instance, an archeological property might have excellent depositional integrity, but if the deposits at the site are not going to answer important research questions, then the property is not eligible. Those questions should be defined within a specific context and the context should describe why those particular questions are important. Integrity alone does not equal significance nor justify eligibility. Likewise, a property may have poor depositional integrity but may still provide important information within a specific, defined context. We note that different, important research agendas may require different levels of integrity. Without a context, one might not understand how a deflated site, a rare site, a small site, or a redundant site type might be eligible.

We believe the focus should be on understanding *the process* of an evaluation. Providing guidance on the necessary steps for an evaluation under Criterion D and in what order those steps should be carried out is essential to addressing this issue. Increased training on the process of evaluation and identifying a misunderstanding or misapplication of the National Register process would be appropriate here.

<u>Consensus Determinations of Eligibility (DOEs) versus Listing and a Separate Process for Archeology</u>

The suggestion that there be a different process for archeological properties with regard to listing and Consensus DOEs did not appear to be echoed in the 1999 forum Assessing Historic Significance for Transportation Programs, which was discussed briefly in the last part of the report. (NCHRP 25-25, Task 33 report, page 47). Further, we were unsure (other than one quote on page 50) what data this recommendation was based on.

The National Register does not see a difference between evaluation for listing and evaluation for Section 106. So we wondered, what people actually thought was the difference. We would have liked to have seen more response in the survey about 1) how the National Register guidance is not compatible with Section 106 and 2) how the National Register guidance "restricts the ability of historic preservation and transportation professionals to develop anything close to an actual historic context" (page 50). We especially questioned this last quote because we felt that the overall survey showed that few people were reading the National Register guidance, so we were unsure about how it could be restrictive. We note that some restrictions may actually come from preservation practitioners. Consider the following analogy from an anonymous federal archeologist:

The NR [NR] is designed (perhaps accidently) for maximum flexibility and reliance on the profession to be thoughtful and honest about its own expertise. But, unfortunately, it seems to me that there is a consistent lack of imagination to use the tools we have to do what we need to do. Imagine: if you have a can of paint that you want to open and the only available tool is a screwdriver, you probably don't whine and complain and refuse to open the can because you don't have the proper tool. You use the one you have and, surprisingly enough, it turns out to work for the can and for lots of other activities that it was not designed for. Flexibility is only one of the keys here; another is imagination, also commitment.

It's true that the National Register was not designed for archaeology. And it is probably a good thing in the long run that it was not (or we'd have abandoned it in by the late 70s). Instead it gives the profession the responsibility to define and to describe in an intelligible way what's important. It allows the definition not only of sites, but also of districts (what we might now think of as landscapes); it allows related multiple properties to have requirements set up specifically to judge eligibility. It encourages the development, use, and updating of historic contexts, which rely on syntheses, research designs, and in the best cases, collaboration. The limits come from the profession, not from the tool.

I am all for the profession discussing, debating, experimenting, and figuring out ways to deal with significance issues and, more broadly, value issues, in planning and executing survey and treatment. We have to think better and more collaboratively about this.

What I'm not in favor of is destroying the screwdriver and then trying to open the can of paint with our teeth. The distraction factor is just way too high to worry about how people think the NR should work. There is just not the barrier there in the NR process that our practice has created.

While we do not believe that the current system is perfected for archeological properties, we also do not think it warrants a different evaluation system. To address this issue, the National Register recommends finding solutions for making the current system work better. Working with the TRB, SHPOs, federal agencies and tribes to find solutions, as well as increased training and clear guidance, we believe is the key.

Closing Thoughts

The National Register has a bulletin on creating and using contexts, it is called, *How to Complete the Multiple Property Documentation Form*. We also have guidance on archeological evaluation in *The National Register Bulletin, Guidelines for Evaluating and Registering Archeological Properties*. The National Register guidance is downloadable from our website (http://www.nps.gov/history/nr). Also available on our website are over 290 archeological contexts.

Additionally, the National Register is in the process of streamlining our guidance for the web. As part of that process we will be updating the guidance. We hope that this streamlining and updating process makes the guidance easier to use.

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PLACING HISTORIC CONTEXTS IN CONTEXT: Clarifying Respondent Confusion in the NCHRP 25-25, Task 33 Survey of National Register Evaluation Practice

Susan L. Renaud, RPA
Historic Preservation Planning Program Manager
Heritage Preservation Services
National Park Service
Washington, D.C.

The NCHRP 25-25, Task 33 Survey Report shows that there is considerable misunderstanding and confusion about historic contexts – what they are and how they should be developed and used. As a first step in beginning to address this confusion and survey respondent requests for guidance on historic contexts and their development and use, I'd like to briefly highlight what historic contexts are, as presented in the Secretary of the Interior's Standards and Guidelines for Preservation Planning (on-line at www.nps.gov/history/local-law/arch_stnds_1.htm). Having worked with historic contexts for 30 years, and serving for nearly 20 years as the "keeper" of the administrative record for the Secretary of the Interior's Standards and Guidelines for Preservation Planning, my perspectives on historic context identification, development, and use in planning may be useful to cultural resource management practitioners in the transportation industry.

But first, let me share some background on the thinking that went into the creation of the historic context concept in the late 1970s and 1980s.

It is ironic that some survey respondents claimed that historic contexts don't work well for archaeological sites, when the concept of what we now call "historic contexts" was developed by archaeologists in the 1970s based on commonly accepted archaeological and planning approaches.

Initially termed "study units," this concept was part of resource management guidance published in 1980 by the U.S. Heritage Conservation and Recreation Service called the "Resource Protection Planning Process" (HCRS 1980) or RP3, for short.

The purpose of this method was…

> "To develop a comprehensive historic resource management process [that] identifies and organizes information about a state's historic, archaeological, architectural, and cultural resources into a form and process readily usable for producing high reliability decisions, recommendations, and/or advice about the identification, evaluation, and protection of these resources." [HCRS 1980]

What the creators of this approach were trying to do was to….

> "create a bridge between preservation disciplines on the one hand, and action as implemented in communities and agencies…on the other – in order to translate the traditional findings from investigations that we as professionals would do, into something that people from planning offices can work with in terms that they understand… in other words, to get preservation information at the table where decisions were made in government." [Aten 1994]
>
> And "to do this right requires the assembly and synthesis of an enormous amount of information – that's why GIS is so important." [Aten 1994]

As explained by one of the method's creators, "The basic elements of this planning method are:

1. [Understanding] managerial [and planning] issues of scale, logistics, & goals…,

2. Organizing resource data into groups of manageable size that have a unifying cultural focus or concept, [each] with defined time and space limits;

3. For each group, the quantity and quality of data are characterized, important values for the group are formulated, & the relationship between sites, site types, resource values, and NR criteria are described – *this is where the NR criteria are operationalized* [emphasis in the original];

4. Develop objectives [goals] for preserving and managing the resources of the contextual group & link these objectives [goals] to processes for use in land management decisions – it is not material whether these decision-making processes are federal, state, local, or private in nature." [Aten 1982:8-9]

Note this important aspect:

> "for National Register criteria to take on rational and replicable form and meaning,… they must be expressed in contextual terms …at scales more in tune with the scale at which the cultural context of specific historic and archaeological sites can be seen [i.e., where the rubber meets the road]. …These spatial scales for cultural contexts are also more similar to the administrative scales at which CRM decision-making occurs." [Aten 1982:8]

The key elements of this approach became institutionalized in 1983 as the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716). When you visit the NPS website for these Standards and Guidelines (link above), you will note in the left-hand menu that the Planning Standards are listed first, followed by Identification, Evaluation, Documentation, and Treatment – all of which are linked to planning and/or historic contexts.

Secretary's Preservation Planning Standards & Guidelines

Historic Context. A historic context is defined as a framework for organizing preservation information based on a cultural theme and its geographical and chronological limits, which form the foundation for making decisions about identification, evaluation, registration, and treatment of historic properties (see Planning Standard I).

Historic contexts are the cornerstone of historic preservation efforts, helping us answer some key questions, such as:

- What have we got? Identification and Documentation Standards and organization of resource data

- Why should we care? Evaluation and Registration Standards – deciding what's important to protect

- How should we preserve them? -- Treatment Standards and other protection strategies

Scale. Historic contexts development and preservation planning occurs at various levels, or scales, such as:

- Project
- Community, neighborhood, district
- City, town, county
- State
- Tribal lands
- Federal agency land holdings

However, the Secretary's Standards and National Register criteria must be broad and general in order to embrace the nation's cultural diversity from Maine to Guam during the last 14,000 years or so [Aten 1982:7]. The Standards and the criteria need to be translated for specific application at different scales.

Standard I – Establish Historic Contexts

As noted earlier, a historic context is an organizational framework, a frame of reference within which we gain understanding of our resources and their significance in the past. A context is based on a cultural theme **and its** geographical and chronological limits. A cultural theme describes significant broad patterns of development in an area that is represented by historic properties. The original intent was that the geographic and chronological limits would be dictated by the extent of the theme, rather than be used as separate but equal parameters with which to define the context. Current practice, however, frequently uses these as three separate and equal variables for defining historic contexts.

Standard II – Develop Goals & Priorities

For each historic context, goals and priorities are established to make sure that the range of properties representing the context is identified, evaluated, and treated.

Integrating the goals and priorities for all historic contexts in an area creates the preservation plan for that area.

Historic contexts and associated goals and priorities are updated when new information becomes available.

Standard III – Integrate Preservation Planning Results into Broader Planning Processes

Historic preservation is one element in larger planning processes, but for preservation to be successful preservation planning results (goals and priorities, historic property information, including historic context highlights) must be translated and transmitted **in a usable form** to other planners. Preservation planning information is most successfully integrated into broader planning processes and project management at an early stage,

Guidelines

The Guidelines for Preservation Planning that accompany the Standards outline a general process for developing a historic context. Briefly, this process is as follows (see the entire text online at the website noted above):

General Process for Developing a Historic Context

1. Identify the theme, time period, and geographical limits

2. Assemble existing information about the historic context (similar to doing the background research for a CRM project)

    - Incorporate results of previous research & surveys
    - Incorporate contributions of other disciplines
    - Consult with organizations or groups who have association with and knowledge about the theme, place, and time
    - Assess the information for biases in approach, perspective, types of information, currency, gaps, etc.
    - Examples include all sources of information listed for the NCHRP Survey Questions #15 and #16.

3. Synthesize the information collected and analyzed

    - Produce a written narrative of the historic context (theme, place, & time)

4. Define property types

    - Property type is a grouping of individual properties based on shared physical or associative characteristics
        - Property types link elements of the theme to actual historic properties that represent (illustrate, or are products of) those elements; see the example in the Guidelines text

    - Identify property types expected to exist and be relevant to the context

    - Characterize locational patterns of property types – where they are likely to be found

    - Characterize the current condition of property types – to help define physical integrity thresholds for various property types
        - Assess the inherent characteristics of a property types that either contribute or detract from its physical preservation.
        - Assess aspects of the social and natural environment that may affect the preservation or visibility of the property types

5. Identify information needs and information gaps to be filled

As a planning process, the application of the Standards requires public participation; produces one or more documents that discuss historic contexts and goals and priorities; records decisions about historic properties; and is updated when new information is obtained.

<u>Developing Goals & Priorities</u>

Goals should be designed to achieve the greatest possible protection for the properties associated with the historic context.

Goals should be based on the principle that preservation in place through affirmative treatments is preferred.

Goals may be phrased in terms of property types or related to filling information gaps.

Setting priorities for goals involves examining several factors, such as:

1. General social, economic, political and environmental conditions and trends affecting the identification, evaluation, registration, and treatment of property types in the historic context.

2. Major cost or technical considerations affecting the identification, evaluation, registration, & treatment of property types in the historic context.

3. Identification, evaluation, registration, and treatment activities previously carried out for property types in the historic context.

Integrating Individual Historic Contexts – Creating the Preservation Plan

Historic contexts will overlap geographically, and for effective planning and management, competing goals and priorities need to be reconciled, which results in a preservation plan with consolidated goals & priorities for a specific geographic area

Several historic contexts may share the same property types, but they may have different levels of importance, or the same properties may be grouped in different property types, reflecting either a different scale of analysis or a different historical perspective.

Integration with Management Frameworks

Preservation goals and priorities are adapted to land units through integration with other planning concerns.

This integration must resolve conflicts that may arise when competing resources occupy the same land base.

Clarification of Some Points Raised in the Survey

This brief outline of the process for developing historic contexts and using them in a preservation planning arena has been very general, and probably does not immediately address some of the questions and concerns raised in the NCHRP 25-25, Task 33 survey.

Without going into a lot of detail, I would like to clarify some points that came up in the survey, as follows:

- The Guidelines for Developing a Historic Context outline a **very** general approach that provides a lot of flexibility for developing effective contexts for application in a wide variety of situations and scales.

- Historic contexts help us manage the large amounts of data on cultural resources through the organizing scheme based on theme, geography, and chronology, and by identifying particular types of historic properties that represent that theme, place, & time, associated property types can be defined.

- Historic contexts should not be so broadly drawn that all property types will represent it, **nor** should a historic context be so narrowly defined that only one property type is covered.

- Broad, general and/or out-dated historic contexts will need to be revised, or new contexts developed, for application in specific situations.

- Historic contexts ought to work well and be useful for all property types and all National Register criteria, regardless of how knowledgeable the context user is.

- Personal experience is an important factor in evaluating historic property eligibility for National Register listing, but the written historic context helps to document that eligibility, thereby justifying and communicating to others why the property is important.

- A historic context is far more than a narrative history.

- Compiling information about the historic context is similar to doing the background research for a CRM project, or developing a research design or "predictive" model – practitioners are already used to doing much of the research and synthesis needed to develop a historic context.

- There is no "required" length for a historic context document – it does NOT need to be a Manhattan Yellow Pages, unless you want that level of detail.

- A historic context does NOT have to be a Ph.D. dissertation; it just needs to be good scholarship.

- Developing a historic context does NOT have to take more than a year.

- It should not cost a third of a million dollars to develop a historic context (as one example we learned about), unless, of course, you want that level of scholarship.

- "Context-based goals and priorities are a key element in preservation planning,…because they provide a means for transforming the historic context's theoretical framework of theme, geography, and time…into concrete management options or strategies…. for resources or resource types specific to the historic context. Goals and priorities address the question: what steps should be taken to protect resources deemed significant within the historic context?" [Planning Question 10, 1987]

WHAT'S NEXT??

<u>First</u> – Everyone should review existing NPS and SHPO guidance on developing and using historic contexts. Contact the author if there are any questions about Secretary's Planning Standards and historic contexts.

<u>Then</u> – Include the NPS in implementing the Report's recommendations to:

1. Develop more historic contexts

2. Update existing historic contexts

3. Increase accessibility of existing contexts

4. Develop guidance for preparing and updating historic contexts

5. Develop guidance on contexts for "problematic" properties (e.g., recent past, traditional cultural properties)

6. Increase training, both on-site and on-line

7. Re-examine the usefulness of the "prototype tools," Historic Property Screening Tool (HPST) and the Electronic Cultural Resource Evaluation Library (ECRL)

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DISCUSSION OF NCHRP 25-25, TASF 33, NATIONAL REGISTER OF HISTORIC PLACES ELIGIBILITY EVALUATIONS

CRM ARCHAEOLOGY PERSPECTIVE

J. W. Joseph, PhD., RPA
New South Associates
Stone Mountain, Georgia

SURVEY FINDINGS

- CRM industry lacks understanding of the intent the use of contexts as defined by the NPS and the National Historic Preservation Act (NHPA)

- "Historic Contexts" are taken from a number of sources: cultural overviews in CRM reports, personal experience with a particular resource type, colleague/senior manager experience with a resources, and written contexts.

- Written historic contexts are used when available, however, availability is poor.

RECOMMENDATIONS

- Clarify the intent and use of context for CRM archaeology – this is something the NPS will be doing.

- Expand the number of historic contexts available. Recommend using resource context development as an element of data recovery studies – Georgia DOT has had consultants develop contexts for the resource classes they are doing data recovery on (i.e. Middle Woodland in the Piedmont) as creative element of their mitigations. Since CRM consultant is already gathering and researching gray literature and published work on the time period/resource class for the data recovery, this is a cost-effective way to prepare new historic contexts.

- Put historic contexts on-line. Web-based contexts are far more accessible. Developing web-based contexts would also have public benefits by allowing public access to information archaeologists have gathered on a resource type.

- Significant challenge to CRM lies in the retirement of the first generation of CRM archaeologists, which is in-progress and will accelerate over the next 10 years. Since much of CRM's current use of context is personal knowledge, that means this knowledge will be lost if not captured in or replaced by formal historic contexts or captured through other means.

- One potential capture of retiring CRM archaeologists would be by adding a chat-room/list-serve function to web-based historic contexts that would allow retired archaeologists to comment on sites, research issues, etc.

THE IMPORTANCE OF CONTEXTS TO ARCHITECTURAL HISTORIANS

Amy Squitieri and Christine Long
Mead & Hunt, Inc.
Madison, Wisconsin

Perspective

Representing the perspective of a consulting architectural historian, our comments are based on the numerous projects that we, and our other historical colleagues at Mead & Hunt, have worked on throughout the Midwest and Texas. These projects include statewide bridge inventories supported by historic contexts, historic contexts for compliance surveys and evaluations, and National Register Multiple Property Document (MPD) and individual nominations. This perspective is based on historic contexts developed by our consulting firm, as well as contexts developed by others that we have referenced and used for our own consulting work. National Register evaluations are used for many purposes, and we actively develop historic contexts for *National Register Criteria A, B,* and *C* in order to support our eligibility evaluations.

Definitions

The NCHRP 25-25, Task 33 report raised the question of defining a historic context. Various definitions are given in the report, suggesting that the concept of a historic context is broad and vague. Moreover, the format of a historic context differs depending upon the type of documentation required. Some historic contexts require consideration of characteristic features and level of integrity, while others may simply provide a thematic framework for understanding associated resource types.

For example, according to the *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation,* historic contexts explore in narrative framework "those patterns or trends in history by which a specific occurrence, property, or site is understood and its meaning made clear." *National Register Bulletin 16b: How to Complete a Multiple Property Document Form* extends this definition to require a historic context to consider property types and registration requirements that establish significance.

Multiple Property Documents (MPDs)
MPD nominations require a property type analysis, with detailed registration requirements for the future assessment of a contributing resource's National Register eligibility. To evaluate farmsteads encountered by Minnesota Department of Transportation projects, a Minnesota farmsteads study was completed with the explicit goal of streamlining the environmental review process. Although this study was not submitted to the National Register as an MPD, the document follows the MPD organization and develops a historic context of farming, identifies individual farming property types, and provides National Register eligibility requirements.

Stand-alone Historic Contexts
Stand-alone historic contexts may or may not include registration requirements or details on the physical characteristics and level of integrity required for National Register eligibility. For example, to evaluate bridges across Indiana, we developed a historic context that provides a thematic development of statewide bridge building within a defined time period. From this standalone context, we developed National Register eligibility requirements and a methodology for determining eligibility. Afterwards, we conducted field survey and evaluated eligibility; however, the context was not has not yet been updated to reflect these survey results. A couple issues that arise with statewide standalone historic contexts, such as the example cited here, include whether the context is updated to reflect survey findings, which often occur after the initial context is written and the limitation of the statewide context's use for evaluating a property of local significance. While the context may be generally useful, additional local research would enhance the broader context.

Accessibility

Although as practitioners we are constantly developing historic contexts to aid in our evaluations, the accessibility of written contexts and tools varies. The tools, or contexts that are available for use, include those that address statewide-specific themes and resource-specific property types.

Statewide Contexts
Many State Historic Preservation Offices (SHPOs) maintain existing statewide contexts of varying types. For example, the Nebraska SHPO has a survey manual with a topical listing that defines a theme and provides a list of related historic context themes. A basic historical summary of the theme is provided along with a list of related property types and generic registration requirements that do not explicitly describe what physical characteristics or level of integrity a property type should have to be considered eligible. This type of topical listing is used to assign potential historic contexts to each inventoried survey property, for the purposes of classification rather than for evaluation.

The Wisconsin SHPO has a Cultural Resources Management manual that provides developed historic contexts for various statewide themes, including historical themes and architectural themes. Although the manual is outdated (it was completed in the mid-1980s), it provides a broad overview of the state and good starting point with a useful bibliography of relevant sources.

Resource-specific Contexts
There are numerous good resource-specific historic contexts available. For example, historic contexts for Nebraska aviation-related property types and Nebraska historic roads have been completed in the MPD format. MPDs from each state, and searchable by keyword, are accessible on the National Park Service website. These serve as useful references for developing historic contexts for property types that occur in multiple

regions or states. In particular, we often use accepted MPDs as a starting point for developing historic frameworks that address national trends and themes and for assessing characteristic features of resources that occur nationwide.

The Minnesota SHPO and Minnesota DOT have completed numerous historic contexts for property types, such as those related to Minnesota Lumbering, Minnesota Farmsteads, and Historic Bridges. Minnesota DOT and the SHPO have made some of these studies available online, although not necessarily in one location.

Next Steps

The NCHRP 25-25, Task 33 Report considered several issues with the development of historic contexts as part of the National Register evaluation process. The following points highlight steps that we think are necessary for the successful development of future historic contexts and evaluations.

Identify Needs
Because the definition of historic context is nebulous and broad and often limited by a project's scope, it is essential that identifying the needs for a historic context be implemented into our best practices. At the beginning of the context development process we should be clear on the steps that will be taken to develop the context, including how the historic context will be used and what needs it will serve. Questions that should be raised include whether a property type analysis or formal registration requirements should be included. Similarly, should a field survey be required for completing a historic context? In order to answer these questions, we must think about what we need the historic context to do and who the audience and users of this context will be.

Training
We should improve training and guidance on property type analysis and identifying characteristic features and levels of integrity that are necessary for National Register eligibility. Practitioners should also have an understanding of how standalone historic contexts inform decisions about what a property needs to meet National Register eligibility. It is important to develop methods for promoting good historian skills, whether by national training sessions or through firm-specific mentorship programs.

At our firm, in order to train and guide our more junior historians, we have experienced practitioners mentor newer staff. We maintain files of products and property type examples, such as Determinations of Eligibility, National Register nominations, community surveys, and bridge contexts and surveys that are easily accessible to all staff. We hold active group discussions about problems that we come across in identifying and evaluating specific properties. Additionally, at a business meeting that brought together all our historians, we had discussions on various challenging property types, such as farmsteads and post-World War II resources, and thereafter developed bibliographies and compiled guidance on these topics.

Accessibility and Guidance
Although a web-based national clearinghouse of historic contexts, including standalone contexts and MPDs, would be useful, data and tools related to cultural resource evaluation are available with a little leg work. Good historical research requires effort, and in the absence of a national clearinghouse, we should remember that state historical society and university libraries make a good starting point for identifying existing and related historic contexts. Web-based library catalogs and Google further enable us to access the tools for evaluating cultural resources.

Finally, although tools for developing historic contexts are available, better guidance on historic context development would be extremely useful for the field. Such guidance could also include enhancing compatibility between National Register evaluations and Section 106-driven determinations of eligibility so that integrity standards and historic contexts are similarly applied.

ELIGIBILITY LAND AND TREATMENTVILLE: A PARABLE IN COUPLETS

Joseph Baker
Pennsylvania Department of Transportation
Bureau of Design
Harrisburg, Pennsylvania

Eligibility Land and Treatmentville

Would squabble as neighboring countries will
Each behind their walls well-covered
From even the smallest peek at the other
Yet each responsible for producing
The stuff that their neighbors in fact were using
To move projects along and to safeguard the past
And while this arrangement was plainly half-assed
They dare not change things between their nations
As that might violate regulations
And require a massive shift in the firmament
Thus their squabbles were more or less permanent
Which goes to show that, in the end,
Things never change in CRM…

I apologize for this clumsy paean to Dr. Seuss. As solace I can offer the fact that said ditty began life as a much more extensive and picaresque flight of fancy that I elected to spare all of you in the interests of brevity and good taste.

Let me preface my suggestions by noting that we were all invited to Saratoga Springs to opine, and what follows is just opinion. There are of course, innumerable aphorisms about the ubiquity and value of opinions, some of them quite cheeky, so please go ahead and choose your own. You won't offend me.

First I strongly concur with Joe Joseph's suggestion, echoed by others and by many of the survey participants, that wider dissemination and greater availability of developed historic contexts, as well as related guidance documents, and useful training would be a **very** good thing. A lot of this is already available at the NR's website, and at the sites of a variety of SHPOs and DOTs. A central, searchable on-line clearinghouse that linked to all this stuff would be a godsend. As Joe mentioned, the applicability of many contexts doesn't end at state borders, so I think this would get a lot of use. Like Joe I include data-recovery level archaeological reports in this suggestion, since in part they comprise the raw material that good contexts are built from.

I'm a supporter of funding for the development of additional NR historic contexts and the guidance for their application at the state or regional level. My support is grounded on the practical effect they have on the Section 106 process. As Jeff Berna mentioned, project managers (**especially** engineers) like predictability, and an agreed-upon context buys you predictability. As Erika Seibert and Sue Renaud can both vouch, there are few things nastier or more time consuming than a Section 106 consensus determination that fails to reach consensus. In our state, and I imagine elsewhere, these are a tiny minority of the consensus determinations, but their effects on project delivery time and the general level of interagency antipathy are legendary. Historic contexts quickly and predictably identify eligible and ineligible examples of a given property type, and in my experience greatly reduce the number and length of squabbles. Further, since they enable the identification of eligible properties, or at least educated guesses about same, fairly early in the design stage of a given project, they can contribute to better resource management and better design choices. I think they are a good use of the taxpayer's money.

Finally, I noted that page 50 of the report suggests "…National Register staff and historic and transportation professionals work together…" toward a new process for Section 106-driven consensus determinations. Based on the NPS reaction to said report, we ain't there yet. That said, I think the formation of a working group that includes representation from the affected constituencies (e.g., National Register, National Conference of State Historic Preservation Officers, Registry of Professional Archaeologists, American Cultural Resource Association, National Association of Tribal Historic Preservation Officers, ADC50, Society for American Archaeology, National Trust for Historic Preservation, Society for Historical Archaeology, etc.) that is tasked with meeting on some kind of regular schedule and monitoring and making recommendations for the continued improvement of National Register evaluations in the Section 106 process wouldn't hurt anything. If nothing else, it would force some of the inhabitants of Treatmentville and Eligibility Land to sit in the same room on a regular basis, and I don't think that would hurt anything either. I think professionals who work primarily with NR and National Historic Landmark evaluation and listing and those who work primarily with treating and managing historic properties should have more opportunities to peek over each other's shoulders and to exchange perspectives and ideas. Nobody has a monopoly on good ideas.

CONTEXTS AND THEIR USE IN ELIGIBILITY EVALUATIONS – A BRIEF RESPONSE TO THE NCHRP 25-25, TASK 33 SURVEY

Mark L. Peckham
National Register Coordinator,
New York State Historic Preservation Office
New York State Office of Parks, Recreation and Historic Preservation
Albany, New York

The Survey:

The NCRHP 25-25, Task 33 survey grew out of concerns among some cultural resources practitioners that many National Register eligibility assessments are made without the benefit of historic contexts. There is a related belief held by some that determinations of eligibility are becoming too inclusive and increasingly indefensible. This survey cites a report published in 2002 asserted that "SHPO and state DOT staff rarely use historic contexts" in evaluating eligibility. Although the current survey calls for a clear understanding of how the evaluation process is actually conducted, responses to the current survey seem to indicate a lack of consensus among practitioners as to the definition of "context" and its applicability in evaluating National Register eligibility.

The NCHRP survey defined the term "context" by pointing to the National Register definition, i.e. a body of knowledge including a theme, a geographic place, and a time frame that provide a perspective from which to evaluate significance. The definition offered at the beginning of the survey offered plenty of room for interpretation. Some, influenced by the implied slant of some of the questions, appear to have treated the term "context" as meaning a packaged or canned report such as a definitive theme study or a multiple property nomination cover document. Others appear to have taken a more inclusive approach, defining "context" as a synonym for "background." It also appears possible that individual respondents were inconsistent in their definitions from question to question. Many did not answer all of the questions. As a result, it is difficult to draw conclusions on a statistical basis. It might have been more revealing if respondents were simply asked the more neutral question of what information and methods are typically used in evaluating eligibility and making determinations or recommendations. In many instances, the narrative comments provided by respondents offered greater insights.

In Question 1, the current survey finds that 84% of respondents said that historic contexts were routinely used in evaluating eligibility, however, in Question 12, 82 % of the respondents indicated that alternatives to the use of historic contexts are also used. Are these responses mutually exclusive? Not necessarily. It simply indicates the ambiguous meaning of the word "context" and the situational way in which it appears to have been defined by the survey participants.

Observations:

I would argue that eligibility evaluations must always be cognizant of context, but that context can be defined in fairly broad terms, not strictly as a pre-packaged report. I think this is consistent with the guidance we have received from the National Register and workable on a daily basis. In our office, contextual tools include:

> 5000 National Register nominations, including hundreds of districts and multiple property nominations documenting broad patterns in our state's history, local communities and even narrow themes such as *peppermint culture* and the religious beliefs of the *Universal Friend*. This entire 40-year body of work has been scanned and is available to all users through our website;
>
> An archive of approximately 15,000 CRM reports, widely used by cultural resources consultants including those preparing surveys in advance of transportation projects;
>
> Research files, historic maps, GIS coverage and a small reference library with an emphasis on local history;
>
> Access to the Internet which is widely used in developing background for themes and property types not yet formally documented in nominations or CRM reports;
>
> A specialized staff with hundreds of years of experience in New York State history architecture and archaeology and the application of the National Register criteria in evaluating eligibility;

Inconveniently, evaluating eligibility cannot be reduced to a formula or a one size fits all approach. In my experience, it requires judgment, experience, openness, flexibility and a sense of proportion. In some instances there is not always an absolutely right or wrong finding, complicating discussions of how properties may be treated. Our office routinely considers the eligibility of tens of thousands of properties each year. Sometimes, as a result of sheer volume and the uneven quality of submissions, ill-informed initial judgments are admittedly made. This is not the fault of inadequate contextual tools. For larger projects, the Section 106 process offers checks and balances that offer opportunities to adjust and refine determinations as additional perspectives are gained. In one recent instance, consulting parties brought a previously unknown ethnic history perspective to light in a well-researched district defined by architectural alone. The new information changed the period of significance attributed to this district and led to expanded boundaries and preservation objectives within the area of potential effect. There is always more to be learned, with or without packaged contexts.

Although well prepared contexts reports can be extremely valuable in our work, it will never be possible to develop pre-packaged contexts for all aspects of our state's diverse history. At a minimum, the National Register criteria state that eligible properties need only be significant at a local level. At this most basic level, one context would need to be developed for each of New York's approximately 1500 towns, villages and cities. More contexts would be needed in large cities with historically distinct neighborhoods. Additionally, hundreds of additional contexts based on regional and statewide themes of industry, agriculture, religion, social movements, and ethnic history would be needed to portray New York's vibrant history and pre-history. Many of these contexts would intersect and overlap, making efforts to categorize historic properties by context and outline them in linear fashion futile. From where I stand, this is neither a useful nor practical approach. A better use of our time and limited resources is to be strategic in encouraging the survey of poorly understood histories and properties, particularly those facing frequent threats. An example of this approach has been our work to encourage research on the history of abolitionism and the Underground Railroad in Central New York State. The research fundamentally changed our understanding of the region's reform history and for the first time revealed buildings and sites with significant associations that were both threatened and unlikely to be recognized through windshield surveys or compliance submissions. The research led to a multiple property nomination, sub-criteria used in evaluating the reliability of oral history and written accounts, integrity measures and ultimately a series of National Register listings. Several listed properties subsequently succeeded in obtaining restoration grants.

Staff qualifications and experience are essential in successfully applying the National Register criteria in compliance reviews. A library of packaged context reports is a poor substitute for staff that are intimately familiar with the state or region and that have long experience in sorting through the issues of significance and integrity. Collectively, our staff has hundreds of years of experience in using contexts and applying the National Register criteria in the review of new highway projects, transmission lines, wind energy projects, and numerous redevelopment programs. Maintaining the continuity of this team will be a serious challenge given the high percentage of staff in their fifties and sixties and the inevitable succession of retirements on the near horizon. Although building contexts is highly desirable, it must be recognized that succession planning, hiring and training are even more critical to our continuing success.

Finally, I do not agree with the concept of establishing separate criteria for evaluating "consensus" eligibilities. If we are honest, many of us will admit to giving the benefit of the doubt to properties in projects where available information is weak. I do not view this as a failure of the criteria, but rather as a practical response to real world situations.

HISTORIC CONTEXTS AND THE NATIONAL REGISTER EVALUATION OF ARCHAEOLOGICAL SITES
THOUGHTS FROM A SHPO REVIEWER

Douglas Mackey,
New York State Historic Preservation Office
New York State Office of Parks, Recreation and Historic Preservation
Albany, New York

Identifying the National Register Eligibility of archaeological sites is often a difficult task. Whereas the eligibility for a building or structure can be usually determined relatively quickly and at minimal cost, making the same type of determination for an archaeological property often involves a substantial amount of work and cost. Even the first step, of even identifying that a property is present to evaluate is typically a much more intensive process for archeological sites than for a building or structure which is easily visible from the street. In this presentation I will provide some thoughts on just how this process occurs in New York, and on how the process can be made more effective.

All archaeologists understand the importance of context; it is what we are all about. Every note made in the field, photograph and measurement taken is done with an eye toward understanding the full context of the artifacts and features that are found. Being able to place that item in its context within both the site and the region is the most fundamental aspect of archaeological research and what separates us as scientist from casual collector and looters. Looking at context at another level, it is very helpful to have Historic Contexts developed that identify what is already known about the history of an area, specific technological issue, cultural relations, chronology, etc. These types of contexts can be of great assistance when evaluating the research value of a site. And that is the crux of making a National Register Determination for Criterion D, the criteria that most often applies to archaeological sites, “Does the site have research potential”.

Unfortunately, most of the prepared Historic Contexts that already exist for archaeological resources are often outdated, incomplete or they are totally lacking. While many contexts have been developed, and at the time of their development may well have taking into account all the available data, very few are updated on a regular basis if at all, and over the years, a multitude of new data have been produced that needs to be utilized to re-examine established contexts. Unfortunately, the realities of available funding and staffing do not make such re-evaluation a high priority. This has been especially true in states like New York, where buildings and structures receive more of the financial resource allotment than archaeological properties, and where budgetary issues of the last 20 years have led to significant cutbacks in the size of archaeological staff at the same time that the housing boom created a significantly higher volume of work. After I arrived at the New York SHPO office in 1997, the archaeological staff was increased to 2.5 full time reviewers. In the decade since I arrived, we are now up to 4 review staff and two additional archaeologists, but the amount of projects and reports to review has nearly tripled resulting in even less time than we previously had to undertake tasks such as reconsidering the existing Historic Contexts, let alone developing new ones.

The result of this situation is that we often need to rely on the project archaeologists to develop an appropriate Historic Context for the site in question with each new project. While this would be helpful, it is a task that should be completed before a National Register determination if attempted, but in the days of doing more with less, this is not usually the case. The review agencies are then left to try and evaluate a site's eligibility with minimal context information. To add to this dilemma, while having more and better prepared contexts available as a basis to start from would be tremendously helpful, that would not preclude the need for the investigating archaeologist to develop site specific context for each site before making an eligibility determination.

In practice, most determinations are made based on the experience and expertise of the review agency staff. They utilize their own knowledge of existing contexts, as well as their knowledge of additional work which has been completed and on-going research, but not formalized into written contexts, to make determinations. While this approach usually works, the process can be affected by a number of factors, including but not limited to:

- Overall level of experience both of the review and investigating archaeologist;
- The familiarity of the review and investigating archaeologist with a particular geographic or physiographic region;
- Familiarity with the setting of site involved (stratified, single component, submerged, etc.);
- Familiarity with the type of site (historic/prehistoric, village/ procurement site, etc.);
- Familiarity with the chronological period and cultural affiliations involved.

Another major issue which affects the ability to make eligibility determination is the level of utilized in the survey. Although the Section 106 regulations indicated a need fro consultation on any scope of work in advance of testing, in practice this is rarely done on a case by case basis. In large part this is a result of the development of guidelines on how to conduct surveys in particular areas. The utilization of such guidance is a tremendous help in the everyday application of Section 106 in that to conduct "face to face " discussions regarding work scopes on every project reviewed would result in a tremendous workload increase greatly affect the ability to complete any reviews. Another issue in New York is that in addition to Section 106 undertakings, there are also a state level (SHPA) and local level (SEQRA) regulation that calls for archaeological investigation and neither of these regulations have the same clear mandate for work scope consultation. A large number of projects that eventually end up as Section 106 undertakings are initially seen under the SHPA or SEQRA and therefore the guidelines are helpful in insuring at leas a minimal level of effort for that work. However utilization of guidance does have a tendency to oversimplify the process for more in depth studies and we often find that investigation archaeologists will undertake only the minimal level of effort called for in the guidelines, even when a higher level of effort might be helpful in making a determination.

Typically decisions are made after a relatively low level of investigatory effort. It is not unusual for the investigating archaeologists to submit reports that include generalized statements about a site and their interpretation of its National Register Eligibility after examining less that 0.5 percent of a site, a number that decreases rapidly as the site size increases. I have seen numerous cases where the eligibility recommendation provided by the investigating archaeological has been that a site is not eligible because no temporally diagnostic artifacts or features have been identified when less than one-tenth of one percent of a site has been examined. The lack of diagnostic features is then used to argue that the site can not provide any information which will allow it to be placed in an appropriate Historic Context. For a building/structure review that would be like making an eligibility determination after looking at a very small portion of one wall, in one room of a house and then arguing that you can not tell what period the house may date to.

Unfortunately this will always be an issue with archaeological resources due to the cost of archaeological research, but we do need to consider how to adequately address sampling issues related to eligibility determinations and the use of historic contexts. Ultimately, we need to consider:

1. What level of investigatory effort is needed to develop sufficient information to evaluate a site, both for context development and to avoid making premature statements regarding research potential?

This will always be a difficult question for economic reasons, however we at least need to get the message out that making generalized statements about what is not present at a site after minimal investigation is not appropriate. Any statements made should be based on what has been identified rather than on what has not. This may require a more intensive look at the materials recovered (edge wear analysis, radiocarbon dating, soil chemistry analysis, etc) at the resource evaluation level. While it is understood that this type of research may lengthen the time needed to prepare a report, and may increase the cost of evaluation studies, it will result in the ability to make statement about known aspects of a site rather than about "missing " aspects when only a minimal sample has been examined.

2. Is it acceptable to develop minimal Historic Contexts on a project by project basis?

I would argue that this is the best way to approach the use of Historic Context. While the development of detailed contexts on major issues would be helpful, there will always be sites that present unique issues to consider. We should encourage investigating archaeologists to be aware of existing contexts, but to also utilize their experience to develop an appropriate context for every site examined, and to utilize that context in preparing their evaluation of any site under consideration. In some cases, a single project may yield multiple sites that can utilize a single context. In other cases, examining contexts developed by colleagues on adjacent sites and similar settings could prove helpful and avoid the need to start from scratch every time. However the context is developed, it is important to remember that a site needs to be considered within a context before making a determination.

3. How do we insure that even minimally acceptable contexts are developed prior to making an eligibility determination and that they are utilized in making those decisions?

As I suggested above, minimal contexts might be developed in a number of ways, but we must continue to emphasize that such contexts need to be included as part of the evaluation process. The National Register guidance prepared by the National Park Service clearly indicates that no property can be evaluate for eligibility until it has been placed in some kind of contexts. As stated in the Bulletin *Guidelines for Evaluating and Registering Archaeological Properties* (Revised in 2000)

> A statement of significance, **whether designed to show that a property is or is not significant,** should be developed as a reasoned argument, **first identifying the historic context or contexts to which the property could relate**, next discussing the property types within the context and their relevant characteristics, and then showing how the property in question does or does not have the characteristics required to qualify it as part of the context (emphasis added) (National Park Service 2000)

The only way that to insure that such historic contexts are developed and consider for any site under evaluation, would be to consistently insist that they be included. This could result in an increase in the number of evaluations that are sent back for additional information, an action that will not be politically or economically appreciated. Such action would also seem unnecessary for many sites that we all can agree, based on experience, are truly unlikely to be considered eligible. However, the need to request additional information could easily be avoided by the inclusion of the necessary information in initial submissions.

Ultimately, the process that exists has served us well for over 40 years. During that time it has adapted to existing conditions and advances in the field, but we have also allowed shortcuts to work there way into the system in ways that may not be productive in the long run. The discussion of how to move forward with a number of issues, including the evaluation of significance, will be an important one in the coming years as our economy and the perception of archaeology by the general public change. I look forward to being part of that discussion and to the challenges we face.

A FHWA PERSPECTIVE

Jeffrey Berna
Environmental Coordinator
New York Division Office
Federal Highway Administration
Albany, New York

Introduction

The advantage to going last is that just about everything has already been said; the disadvantage of course, is that everything has already been said.

I have been asked to sit on today's panel to offer comments from the federal perspective, specifically, from the perspective of FHWA and a Division Office staffer. MaryAnn Naber, Federal Preservation Officer for FHWA, is here in the audience and will keep me in line and offer any vantages from a national perspective. In fact when I found out MaryAnn was going to be here, I thought of deferring to her. But after giving it some thought, I realized this conference provided an excellent opportunity to spotlight the fine work and people of the State of New York. I think very highly of the quality of work and the level of professionalism found amongst the consultants, University programs, the Cultural Resources Survey Program (CRSP) and Office of the State Archaeologist at the New York State Museum, the New York State Historic Preservation Office (NYSHPO), and the New York State Department of Transportation cultural resource staff. I think you will get a good sense of their abilities and commitment to historic resources as the conference proceeds.

You have an experienced and knowledgeable panel before you and they have articulated very clearly the importance of historic contexts in evaluating properties for the National Register. The National Park Service (NPS) through training, technical services, online and printed volumes of guidance, provides a blueprint for the successful development and use of historic contexts. But it is up to us, as representatives of all aspects of the preservation spectrum, to complete the task. To make historic contexts more relevant, we are going to have to make them relevant. To have them better understood, we are going to have to educate ourselves and others on their value. We are going to have to develop new historic contexts while continuing to refine existing ones. We must collect, synthesize, and share the data that has been generated through decades of effort.

Now, saying you support the concept and development of historic contexts is easy to do. It is like a beauty pageant wishing for world peace. But knowing when to invest in efforts to develop historic contexts, and understanding how to use them is the challenge we face. This is the framework from which I offer my comments today. I will note the benefits and downsides of having and using historic contexts; identify procedural and funding limitations; and offer several recommendations to address these challenges. Although my comments are provided from the vantage of an Environmental Specialist from an FHWA Division Office, they are likely to be similar to the experience and recommendations of others.

Comments on NCHRP 25-25, Task 33 Report

The NPS and others have commented on the report's methodology and conclusions already and I need not repeat them. I would concur with the comments that there was ambiguity in some of the survey questions and that some respondents do not fully understand the process of evaluating properties or have fallen into a practice of making consensus determinations without applying the full range of eligibility requirements or considerations. In turn, the report illustrates dissatisfaction with existing NPS guidelines and the paucity of existing historic contexts available for use. It would appear that many survey respondents are seeking plug and play historic contexts that are specific to their locality or property type, a responsibility not borne by the NPS. It is difficult therefore to conclude that the NPS guidance is insufficient as many respondents are unaware of, or appeared confused by existing guidance.

Although some respondents were critical of NPS guidance, the guidelines should be judged for what they are. As Sue Renaud stated earlier, they provide a general outline of a process to develop historic contexts, with questions to ask and resources to consult. They provide form and structure. The problem is that historic contexts need to be refined further and adapted to local resources to make them relevant and useful for the bulk of compliance projects. Who is going to do this? State Historic Preservation Offices don't have the staff or resources to commit. As a prime example, Doug Mackay just shared with us the history of staffing levels at the NY SHPO and the work load they face. In turn, the State Departments of Transportation are focused on getting projects out and often find themselves in reactionary mode. Therefore they don't have the time or resources to dedicate to developing historic contexts for future projects. To further complicate matters, a characteristic of many transportation projects is that they are linear in nature, passing along or through many resources, making it difficult to identify a 'typical' historic property type that may be impacted by future projects. Because transportation projects occur in almost any community and are not restricted to any one location (such as a formal land management area), it is difficult for state and local transportation agencies to see a return on any major investment in developing contexts. That is not to say that it can't be accomplished or that gains cannot be achieved. Cases that prove otherwise include contexts and management plans for transportation resources like bridges, canals, and parkways. As Mark Peckham correctly points out, there is a wide variety of sources that can be considered 'contextual tools' that equally assist in the identification and evaluation of historic properties. Although not formal 'pre-packaged' contextual studies, National Register nominations for individual properties, districts and multiple properties document broad patterns and themes and are readily available online through the NY SHPO.

Role of FHWA

To put my comments into perspective, it is important to note that FHWA does not pick projects or direct recipients in which projects to pursue. Federal funds are apportioned and allocated by formula and distributed through program areas, each with their own eligibility requirements. It is up to state and local transportation agencies to determine which projects to spend their funds on within these program areas. FHWA does encourage the early consideration of environmental impacts in the planning process and has highlighted the advantages of the adaptive management of resources, both areas in which historic contexts can contribute.

Although FHWA may not select projects, as the lead federal agency for any project that utilizes Federal-aid or necessitates a federal action by FHWA, it is still incumbent upon FHWA to meet the requirements of the National Historic Preservation Act (NHPA) and its implementing regulations (36 CFR 800). Yet, as many of you know, FHWA Division staff tend to be generalists by the very nature of their responsibilities. With a myriad of environmental and program delivery responsibilities, very few have been exposed to the challenges or efforts in developing contexts or are knowledgeable in the nuances of their use. Rather, Division staff are tasked with the role of decision maker in a complex relationship with local and state transportation partners, balancing the benefits of transportation projects with the consequences of implementing them. To manage our program in a fiscally and environmentally responsible manner, we must rely heavily upon process and procedures. We must constantly ensure that procedures are being followed, that our findings and conclusions are reasonable, and issues that have been identified have been adequately addressed. Any time we can develop a process that improves our understanding of the issues or improves our ability to address such issues, is considered a positive step in meeting our stewardship responsibilities.

Typically the evaluation of National Register eligibility is made within the context of a specific project. Historic properties are only one of many considerations and the average FHWA project manager or reviewer is seldom interested in the details of which criterion best describes the attributes of a particular historic property. Instead, their focus is on trying to understand what consequences the project will have on the historic property and conversely, what impacts the historic property will have on the design, cost, and scheduled delivery of the project. In our current economic climate, conversations with project managers are likely to be dominated by the issue of delay. Although it may appear to you as an insensitivity to historic resources, please recognize that the manager's underlying concern may not be the direct cost of the proposed environmental work, or the scope of any proposed work, but often is focused on the time it takes to complete the work. Because of the volatility of the market and escalation of material costs, even short delays in project schedules result in projects exceeding their programmed cost estimates. Consequently, these cost overruns have ripple effects over the entire program. This issue is exacerbated for smaller entities that may not have the fiscal means to make up any shortfall or shift resources between projects.

This is not to say that we should short cut either the process or short change the resources. To the contrary, we need to become more efficient and effective in our consideration of historic resources, and this is where historic contexts prove their value.

Benefits of Historic Contexts

Several of the most notable benefits from the perspective of a Division representative include: the ability to plan with greater certainty and predictability; an improved ability to assess alternatives on a broad level, early in the project development process; consistency in how properties are both identified and evaluated; due consideration for properties that deserve eligibility status, and an ability to screen properties that do not warrant further attention. Perhaps more pertinent to FHWA than others in this session, is that historic contexts provide a broader perspective from which the relative value of a property can be assessed. Not only is this important when solely comparing impacts among historic properties, but it especially useful when having to compare with non-historic resources that may hold their own significance and value. For example, how does one compare the acquisition and removal of an historic property that is merely noted as 'a good representative example of late-19th century residential development' with a half acre impact on a forested wetland that provides critical habitat in an area under development pressure? How can FHWA make the determination that a project's needs outweigh the impacts if a minimal amount of effort is made to identify and quantify the significant attributes of impacted resources? In this case, a fuller understanding of the functions and values of both the historic property and the wetland would be in order before making a determination. If a relevant historic contextual study was available, it firstly should have been used to identify the property and its significant qualities at the outright, but if not, it could be referred back to once the complexities and challenges of the project became known.

Historic Bridges: A Practical Example

Historic bridge inventories and their associated management plans offer insight in how well defined historic contexts can be used appropriately and for the betterment of this resource type. Founded upon national, state, and to a lesser degree, local historic contexts, the bridge inventories offer consistency in how the National Register criteria are applied and add predictability to the project development process. With themes developed from synthesized information, and property types defined by criteria specific to each property type, the contexts help establish and describe the necessary attributes for National Register eligibility. Once the criteria are established, understood, and applied to the resource under review, measures to minimize harm and measures to offset the adverse effects to such properties can be incorporated early in the project development process. By doing so, an awareness of the significant attributes can guide designers towards avoidance and minimization measures when there is greater opportunity and flexibility. The downside with bridge inventories is not with the inventories themselves, but the manner in which they are used. If we are not careful, the process can become inflexible, and there is a risk that practitioners will stop conducting critical analyses because a predetermined outcome is manageable, and we are able to plan for it and accommodate. In this scenario, the resource may not receive its due consideration for preservation.

Challenges to Developing Historic Contexts

Timing

Developing contextual studies while trying to deliver projects is complicated and hampered by the fact that projects are limited by schedules and resources. The resources in this case include budget and personnel. For example, if you were interested in developing a contextual study for a specific property type or group of property types outside the confines of a project, then you would hire someone that has specific experience with the property type and would thus be highly qualified to make the assessment. It is also likely that the study would go through a larger peer review and vetting. On a project level assessment, the project sponsor typically does not have the time or contractual ability to produce a comparable effort.

When historic contexts are developed for a project, they typically are nothing more than background research and do not follow the guidelines as described earlier by Sue Renaud (see General Process for Developing a Historic Context). Many of these 'contexts' are centered on assembling and synthesizing existing data but then jump to eligibility statements without comparing the identified resources against this backdrop of information. Seldom are specific criteria established to identify either the attributes or characteristics that would define a property type, or identify the necessary criteria to establish National Register eligibility.

Financing

Finding the money to finance the development of historic contexts is difficult because Federal transportation funding usually follows the path of specific, programmed projects. Costs are born by a project sponsor and then reimbursed. In addition, it must be demonstrated that Federal-aid funds used for mitigation purposes are a reasonable public expenditure, related to project impacts, and offset impacts to the resource in question.

Prioritization

Most participants in today's discussion have argued that developing additional contexts would be advantageous. But choosing which property types or which histories to study is a challenge. Sue Renaud provided a brief history of the creation and evolution of the concept of contextual studies. Through the years, efforts to complete or maintain studies have been sporadic and often without success or agreement as to form, content or value. Presentations at this conference as well as efforts referenced by several of the panelists indicate that there are current and successful examples for many property types. The most notable examples however, are not simply opportunistic, but are deliberate, far reaching, and substantial efforts requiring multi-agency collaboration.

Recommendations

Some of the NCHRP report's recommendations are long standing and have not changed since they were first identified in the 1990s. The greatest challenges have always come down to money, time, and resources. But if we recognize the benefits of historic contexts and are willing to prioritize their development, then we will find the money, make the time, and dedicate the resources. To accomplish this, we must educate ourselves and others of their value, use the data we have, address the funding issues, coordinate and prioritize our efforts, and then get on with it.

Educate

The report identified a general confusion amongst practitioners in how historic contexts are developed as well as a general misunderstanding in how such contexts should be used in the evaluation process. Regardless whether any additional contexts are developed, practitioners must be made aware of existing regulation and guidance. In addition to training opportunities, websites and links should be assessed for their effectiveness and revised as determined necessary. The SHPO and State DOT staff can assist by disseminating current information and reinforcing standards of review on a project-by-project basis.

Use What We Have

There is a vast amount of data from which to draw, some of it located in the grey literature found on the shelves of offices and storage areas, much of it stored in the minds of those that have toiled in this field of study for decades. Collectively, this knowledge base is our greatest asset, and is perhaps at greatest risk of being lost. New York is a prime example of what is possible and what is at stake. The consistent quality reviews and assurance provided through the services of the CRSP and ultimately through the Office of the State Archaeologist is made possible by the broad range and extensive depth of experience of CRSP staff and its affiliates. Because of the years of experience amongst the NYSHPO staff and their involvement in the review of projects spanning all sectors, a de facto historic context has been created. But it is time to capture this experience, standardize to the extent to be useful for all, and refine as needed. It is also important to improve access to existing information, including existing historic contexts and the CRM literature.

Address Financial Shortfall

It is not clear where the next Highway Bill Reauthorization will take us and whether existing programs will be expanded or retracted. We need to find a way to finance contextual studies. There are a host of issues, but they can be overcome. But we can't just sit and wait for things to happen. We need to develop a plan, and commit to it. It is suggested that one possibility is to batch or pool project funds for the purposes of developing historic contexts during the early stages of project scoping. Using mitigation funds has been done in some states, either as offset for project impacts associated with a large project, or by pooling compensatory mitigation funds from several projects with impacts to like resources. Another funding source that has been used is the Transportation Enhancement Program, Category 10: Archaeological Planning and Research. Information on this program and its eligibility requirements can be found at http://www.fhwa.dot.gov/environment/te/index.htm. For other funding questions, you are advised to consult with the FHWA Division Office in your state.

Prioritize

Prioritization of historic context development can be readily addressed, before transportation projects are developed, if a multi-agency group looks at what information is available and determines what historic contexts would be most useful. As Mark Peckham stated, 'A better use of our time and limited resources is to be strategic in encouraging the survey of poorly understood histories and properties, particularly those facing frequent threats.' The transportation agencies should pause and 'look down the road' to assess the types of projects that are planned and determine likely resources that will be encountered. In New York, we are well positioned with the services and experience of the CRSP and NYSHPO to assist us in this effort of synthesizing existing data and identifying suitable candidate studies for development and financial support.

Summary

In summary, I would like to thank the panel and Terry Klein for the opportunity to participate in this discussion. I feel that we have renewed a dialogue on an important and longstanding topic that is without a solitary solution. The ultimate benefit of advancing our understanding and use of historic contexts is spending more time on properties that deserve our attention and effectively communicating the value of the resources and our efforts to the public.

PANEL SESSION SUMMARY

Terry H. Klein
Executive Director
SRI Foundation
Rio Rancho, New Mexico

In this summary, I would like to highlight the key issues raised during the panel discussion and subsequent audience Q & A. I shared these issues with the panel and audience as a wrap-up to the session, and since no one threw any vegetable matter or snide remarks at me during the wrap-up, I believe that there was some consensus on these key issues.

First, there is clearly some confusion among practitioners on what is a historic context. What I heard during the session was that a "historic context" can range from a detailed, in-depth document, such as a Multiple Property Documentation Form, to what is inside the head of a historic preservation professional (with the hope at some point that he or she will write the historic context down).

Secondly, there is some confusion about and misapplication (and lack of application) of National Register guidance on eligibility evaluations. The way to address these issues is through better guidance on the use of historic contexts, and improved training on applying National Register guidance. In addition, practitioners need to reacquaint themselves with existing guidance.

Third, there were several suggestions for an on-line historic context clearinghouse, with the contexts being fully searchable. There was also a recommendation to place the cultural resource management grey literature (for both archaeological projects and those dealing with the historic built environment) within this on-line source since there are many good historic contexts within these documents.

A fourth issue that was raised was the need to find funding and the venue for developing needed historic contexts. In most cases, available funding is tied to a specific project, and as noted by some of the panel members, it is often very difficult to use these funds to develop more than a "micro" historic context that is specific to the project. One recommendation discussed above, at least for archaeology, was to use archaeological data recovery programs as a vehicle for funding a more comprehensive historic context linked to the type of site(s) being excavated.

The last two key issues are somewhat related. First, almost all of the panelists' presentations highlighted the importance of having experienced, knowledge historic preservation professionals making the National Register eligibility evaluations. As Mark Peckham notes in his paper, "Staff qualifications and experience are essential in successfully applying the National Register criteria in compliance reviews. A library of packaged context reports is a poor substitute for staff that are intimately familiar with the state or region and that have long experience in sorting through the issues of significance and integrity." The second issue (which has two parts) is the need to train the next generation, and capturing the experience of soon-to-retire historic preservation professionals within federal and state agencies and CRM firms for the benefit of new staff within these agencies and firms.

The NCHRP survey asked if agencies and CRM firms had an established process for transferring knowledge to new staff. The survey showed that a little less than half had these processes in place, usually in the form of mentoring, training courses, and written guidance on conducting National Register eligibility evaluations. This is a bit disconcerting given the “brain-drain” that has already started and will continue to grow within the historic preservation profession.

Addressing this issue will require all of the tools and approaches discussed by the panelists, especially capturing on paper and on-line the knowledge and experience of historic preservation professionals currently working for federal and state agencies, and CRM firms. Finding the funding, resources, and time to do this will be a challenge, but not one that is insurmountable. It will take a lot of creative thinking on our part, and most importantly, require a close partnership with the institutions that are training young professionals who will be seeking careers in historic preservation and public service.