

U.S. Senate Committee on Energy and Natural Resources

May 15, 2018 Hearing

Nomination of Aimee Kathryn Jorjani to be Chair of the Advisory Council on Historic Preservation
Questions for the Record Submitted to Ms. Aimee Kathryn Jorjani

Questions from Senator Ron Wyden

Question 1: During the hearing, several of my colleagues emphasized the importance of the Advisory Council on Historic Preservation (ACHP) tribal consultation process. You testified that you had not personally worked on tribal consultation before, but that you would review existing guidance documents and work with the board of historic preservation experts and members of the tribes.

I would like more details. What specific steps will you take, if confirmed, to increase your personal awareness of the tribal consultation process and ensure that the ACHP works effectively with tribes given the unique relationship, as sovereign nations, with the federal government?

Response: *Senator Wyden, I understand and fully support tribal sovereignty, government-to-government consultation, and the federal government trust responsibility to Indian tribes. That government-to-government relationship needs to be nurtured and respected. I am committed to continuing and building upon the ACHP's record in being a leader within the Executive Branch in advancing timely and effective consultation with Indian tribes, Native Hawaiian Organizations, and Native Alaskans. If confirmed, I am eager to:*

- (1) Meet soon with the four tribal members on the Council – Leonard Forsman (ACHP Vice Chair), Dorothy Lippert (Expert Member), and Reno Franklin (Tribal/NHO Member) and Shasta Gaughen (Chair of the National Conference of Tribal Historic Preservation Officers) – to gain their perspectives and organize strategy.*
- (2) Attend the 2018 National Tribal Preservation Conference (if confirmed by September 2018) arranged by the National Conference of Tribal Historic Preservation Officers (NATHPO) and hosted by the Suquamish Tribe.*
- (3) I will seek a working relationship with the current-nominee for the Assistant Secretary for Indian Affairs at the Department of the Interior.*
- (4) Meet, possibly through a Chairman's working group, with the major intertribal organizations, such as the National Congress of American Indians, Alaska Federation of Natives, Navajo Nation, United South & Eastern Tribes.*
- (5) Meet regularly and frequently with ACHP's Office of Native American Affairs staff to review the statuses of current and on-the-horizon 106 cases known or thought to involve tribal issues.*
- (6) Personally monitor high-profile Section 106 cases that involve issues of consultation with Indian tribes, Native Hawaiian Organizations, and Alaskan Natives (ex: BLM oil and gas leasing near Chaco Culture National Historic Park).*

Question 2: The ACHP, as an independent federal agency that promotes the preservation, enhancement, and productive use of our nation's historic resources, plays an important role in historic preservation policy.

Will you commit to protecting ACHP processes and recommendations from political interference?

Response: *Yes, and with respect to the advisory nature of the ACHP.*

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Will you advocate to the President and OMB for the resources necessary for the ACHP to fulfill its mission?

Response: *If confirmed, I look forward to utilizing my advisory role to advocate for the resources necessary for the ACHP.*

Furthermore, I am a strong advocate for the Historic Preservation Fund, as administered by the National Park Service. I come into this knowing how important those dollars are. Adequate funding for state and tribal historic preservation programs is essential for their continued health to serve the public, especially as it relates to an efficient Section 106 review process. I look forward to advising senior policy officials at the Department of the Interior and OMB in regard to the HPF.

Questions from Senator Joe Manchin III

Question 1: Last April, a dozen federal agencies signed a memorandum of understanding meant to promote interagency collaboration on permitting of major infrastructure projects. The Advisory Council on Historic Preservation was one of the signatories. I was pleased to see this Memorandum of Understanding because I believe the permitting process can and should be done more cost effectively and efficiently. The MOU will eliminate duplication efforts, and streamline and improve the process. Furthermore, President Trump, in his Executive Order 13807, set a goal of two years to complete environmental reviews and authorize decisions starting from the time of publication of a Notice of Intent to prepare an EIS.

What are your ideas to improve the timeliness of the permitting process while better conserving cultural resources and promoting the mission of the Advisory Council of Historic Preservation?

Response: *The ACHP has been very active in promoting efficiencies in federal approval of infrastructure projects, using tools that exist in 106 regulations. Significant achievements have occurred in wireless and broadband deployment, public lands management, and highway maintenance and construction, working with federal agencies and preservation stakeholders to strike balance between infrastructure needs and preservation values. The ACHP is an active member of Federal Permitting Improvement Steering Council and is a unique voice for preservation. I would continue the working groups formed by the ACHP that include representatives from the energy transmission industry, SHPOs/THPOs, cultural resource consultants, and federal agencies to identify opportunities to streamline permitting process for pipelines and electric transmission lines. I would expand that to work with your office and others interested within the Legislative branch.*

The key feature of this is engaging all stakeholders to find solutions that improve efficiency with due consideration of historic preservation goals. If confirmed, I would continue these efforts and seek new

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opportunities to find collaborative solutions by using the position of full-time chairman to engage leadership of federal agencies that approve or fund infrastructure projects. I am eager to restart network of Senior Policy Officials (policy-level officials with responsibility for historic preservation within federal agencies) that was created by E.O. 13287 titled “Preserve America” to better promote interagency coordination on preservation issues. I would use the position of full-time chair to promote federal agency commitments to training field personnel that deal with Section 106 reviews of infrastructure projects. I would advise within the Administration and Congress for the creation and support of accessible nationwide, GIS-based database of historic property information to aid agencies and applicants. I would work with agencies, applicants, and preservation stakeholders to encourage early, informed and effective consultation to expedite permitting processes. And, I would reach out, possibly through a working group, to industry, agencies, and the preservation community to identify opportunities to improve Section 106 review process within existing statutory and regulatory framework to find practical solutions that have widespread support.

Question 2: In your opinion, when is the best time to engage public input and involve State Historic Preservation Offices and other interested parties during the permitting process?

Response: *Early, through frequent and regular contact with State and Tribal Historic Preservation Offices.*

Question from Senator Steve Daines

Question: I first want to congratulate you on your historic appointment. As you may know, Montana is home to an abundance of natural resources. In order to get those resources to market and to refineries and power plants around the nation and the world we require extensive infrastructure. Extensive permitting and litigation can cause long delays and even kill important infrastructure that provides much-needed jobs in Montana. We are also home to twelve federally recognized Indian tribes who are integral to our state’s culture and history. It is important that we balance concerns and have early government-to-government consultation with tribes in order to address issues early and thoroughly.

How can we streamline the permitting process while maintaining appropriate Section 6 consultation, in order to expeditiously approve infrastructure projects?

Response: *Thank you, Senator Daines.*

Early engagement of Indian tribes in the planning process is key to identify concerns and establish effective communication. The Section 106 process has specific timeframes for stakeholders, including Indian tribes, to respond to agency findings and determinations. One problem may lie in that the timeframe is not always understood. Ultimately, Section 106 can not stop a project.

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Another problem is the lack of understanding by federal agency personnel of what they must do, who they need to talk to, and where historic properties important to Indian tribes are located and how they are affected. I would encourage greater training of agency personnel in tribal consultation and tribal relations. I am told that a good example of an innovative technique is HUD's Tribal Directory Assessment Tool to assist agencies in identifying and contacting Indian tribes early in the planning process. If confirmed, I look forward to examining that tool further.

I would continue the working groups formed by the ACHP that include representatives from the energy transmission industry, SHPOs/THPOs, cultural resource consultants, and federal agencies to identify opportunities to streamline permitting process for pipelines and electric transmission lines. I would expand that to work with your office and others interested within the Legislative branch.

Finally, I also look forward to utilizing the ACHP's seat on the Federal Permitting Improvement Steering Council to seek efficiencies and would continue ACHP's efforts to provide guidance on tribal consultation to make roles, responsibilities, and timeframes understood by all participants in the Section 106 process.