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**Testimony of the National Association of Tribal Historic Preservation Officers
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Florida**

**H.R. 8108 - Advancing Tribal Parity on Public Land Act
H.R. 8109 - Tribal Cultural Areas Protection Act
September 14, 2022**

Chair Neguse, Ranking Member Fulcher, and Members of the Subcommittee, I appreciate the opportunity to testify on H.R. 8108 - Advancing Tribal Parity on Public Land Act and H.R. 8109 - Tribal Cultural Areas Protection Act. I serve as Director of the Tribal Historic Preservation Office for the Seminole Tribe of Florida. I speak to you today as a representative of the National Association of Tribal Historic Preservation Officers (NATHPO), which is a national non-profit 501(c)(3) membership organization, founded in 1998, of Tribal preservation leaders protecting culturally important places that perpetuate Native identity, resilience, and cultural endurance.

Thank you, Chairman Grijalva for sponsoring these bills. I appreciate your years of leadership in championing the creation of policies that Tribal Nations can use to protect and preserve their cultural resources and sacred places.

Tribal Historic Preservation Offices (THPOs) are an exercise of Tribal sovereignty. THPOs are appointed by federally recognized Tribal governments that have an agreement with the Department of the Interior to assume the federal compliance role of the State Historic Preservation Office, per the National Historic Preservation Act (NHPA). Tribal historic preservation plans are grounded in self-determination, traditional knowledge, and cultural values, and may involve projects to improve Indian schools, roads, health clinics, and housing. THPOs are the first responders when a sacred site is threatened or when Native ancestors are disturbed by development. THPOs are often responsible for their Tribe's oral history programs, operating museums and cultural centers, leading revitalization of Native traditions and languages, and many more related functions.

Under the NHPA, THPOs are required to consult on projects with a federal nexus. Although it is not the purpose of this hearing, I would be remiss if I did not reiterate the points that Reno Franklin, Chairman of the Kashia Band of Pomo Indians and THPO for the Enterprise Rancheria of Maidu Indians, made to this subcommittee in April, while testifying on H.R. 6589, The Historic Preservation Enhancement Act. Over the past decade there has been a significant expansion in the number of projects that THPOs are required to consult on but there has not been a corresponding increase in the funding that Congress provides to THPOs. The delays associated with underfunding not only threaten Tribal Nations' cultural resources and sacred sites. They also hinder the American economy by creating unnecessary delays in infrastructure and clean energy projects that are important for the country, including Tribal Nations. In fact, in many cases, Tribal Nations would benefit the most from the completion of these projects.

Since Fiscal Year 2014, the total HPF appropriation has grown from \$56.4 million to \$173.1 million, but the portion that THPOs receive has only grown from \$8.9 million to \$16 million. When dispersed among the 212 Tribal Nations with THPOs (out of 574 Tribal Nations), this amounts to an average of around \$75,000 per THPO. And this underfunding gets worse annually because the increases in THPO funding are not enough to offset the fact that every year 5 to 10 more Tribal Nations establish a THPO.

This is not simply an accounting problem. There are real world consequences associated with the federal government's failure to adequately fund THPOs. Cultural resources are being lost and landscapes are being destroyed because THPOs do not have the ability to effectively consult on the impact that projects with a federal nexus have on their communities and ancestral homelands.

I am proud to represent my THPO colleagues. The mere fact that I am here before this committee to testify in support of these bills is a reflection of the resilience of the Seminole Tribe of Florida and the hundreds of other Tribal Nations throughout America. I am here despite a concerted effort on the part of the United States to extinguish my ancestors and their culture. The Seminole Tribe members and other Tribal Nation members who were not killed were expected to vanish and their culture was supposed to disappear with them. We are still here and I and staff members in Tribal Historic Preservation Offices throughout America are committed to preserving and protecting the cultures and the lands that were intrinsic to the lives of our ancestors. The practices of our ancestors and the places that are associated with those practices continue to be an essential part of our lives and we are committed to passing them on to future generations.

The Advancing Tribal Parity on Public Land Act and Tribal Cultural Areas Protection Act would strengthen laws governing the management of federal lands that are predicated on the belief that Tribal Nations and their cultures no longer exist. We do still exist and because the vast majority of what are now federal lands were carved out of the ancestral homelands of Tribal Nations, we have a special connection to these places.

NATHPO strongly supports provisions in the Advancing Tribal Parity on Public Land Act that would prohibit the sale of public land containing a Tribal cultural site, where an Indian Tribe retains treaty or other reserved rights, or that contains a former reservation. NATHPO also supports provisions in the bill that would make sure that Tribal Nations have the first opportunity to reacquire federal lands that they have an historic connection to. Sadly, existing law authorizes the conveyance of public lands to State or local governments, or non-profit organizations, for public purposes, but does not authorize the conveyance of public lands to Tribal Nations. Similarly, the bill would modernize existing laws that direct federal land managers to consult with State and local governments but fail to require consultation with Tribal Nations. The existing laws reflect the wishful thinking that Tribal Nations had vanished and need to be changed to reflect the reality that we are very much here and an integral part of our Nation's story and existing culture.

NATHPO also strongly supports the provisions in the Tribal Cultural Areas Protection Act. This bill would address an oversight in the law that fails to recognize and protect Tribal Nations' interests in federal lands. Congress has established national systems of protected lands for parks, wilderness, and other purposes, but no such system exists for Tribal Nations' cultural sites. The

lack of such a system has resulted in federal land managers permitting development that desecrates places that are culturally significant or sacred to Tribal Nations. It has also led to a system of managing these lands that unintentionally results in the theft of Tribal Nations' cultural resources and the wanton destruction of places that Tribal Nations' revere. Congress does not tolerate the vandalism of churches or temples and should not tolerate the destruction of places that are vital for Tribal Nations' understanding of their place in the universe. By creating a system of Tribal Cultural Areas and empowering Tribal Nations to play a role in the management of these areas, this bill would make significant progress toward protecting Tribal Nations' cultural resources and sacred places.

While NATHPO supports these bills, we look forward to working with the Committee as it moves forward to fine tune some of the definitions in the bill. In particular, we would like to work with the Committee on the definition of "Tribal cultural site" in both bills. NATHPO is also concerned about the provision in the Advancing Tribal Parity on Public Land Act that defines "sacred site" as "a specific, discrete, narrowly delineated site on public land that is identified by an Indian Tribe as sacred by virtue of the established religious significance of the site to, or ceremonial or medicinal use of the site by, an Indian Tribe." The bill does not limit the size of cultural sites and should not limit the size of sacred sites. We would also like to raise concerns that the Section 4 of the Advancing Tribal Parity on Public Land Act, which allows for the redaction of sensitive information only applies to "sacred sites" and not also cultural sites. Both sacred and cultural sites are vulnerable to looters and vandals and are deserving of the protection that comes with redaction.

We believe that the above changes and other changes we would like to see are consistent with the intent of both bills and we look forward to working with the Committee to improve these bills and have them enacted into law.

NATHPO also recognizes that many of the changes we would like to see in the bill reflect the larger problem that both pieces of legislation aim to address: our nation's failure to enact laws that specifically protect Tribal Nations' cultural resources and sacred sites, and reflect indigenous values and understandings of place. In the absence of such laws, we are forced to use laws that are intended to protect and preserve the built environment and the culture of European Americans in order to protect Tribal Nations cultural resources and sacred sites. This problem can be seen with the NHPA, which governs the work that my fellow THPOs and I do. When the NHPA was amended in 1992 to establish THPOs, lawmakers failed to address the fact that the underlying legislation was not written with the Tribal Nations' cultural resources or sacred sites in mind. This leaves me and my fellow THPOs to use a law for purposes that it was not intended – which neither gives us a real seat at the table nor truly protects our significant places and resources.

We appreciate the Chairman and his staff's willingness to face the challenge of establishing a new paradigm to protect and preserve Tribal Nations cultural resources and sacred sites rather than using a legislative history that is intended to protect and preserve the resources of European Americans' resources.

These bills are part of a movement to confront institutions, including the federal government, that do not value our living culture. These institutions have done their best to erase our oral histories, our stories, our beliefs while at the same time asking us to validate what we believe in to justify our rights to our ancestral lands, practices, and ancestors. We are the only political group in the United States who are asked to validate who we are. My testimony on behalf of these bills is consistent with my efforts to pressure institutions like the Smithsonian Museum of Natural History, which has a collection of about 1,500 Seminole ancestors and tens of thousands of archaeological objects, to repatriate Tribal Nations' ancestors and return our cultural resources.

Thank you for considering my testimony. I would be pleased to answer any questions you have.