



H32(2280)

United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, NW
Washington, DC 20240

November 12, 2021

Re: Validation of Owner Objection(s) to Listing on the National Register of Historic Places or Designation as a National Historic Landmark

Dear Colleagues:

This letter is to advise you that an owner objection to listing on the National Register of Historic Places (National Register) or designation as a National Historic Landmark (NHL) is not required to be notarized if it is made in compliance with 28 U.S.C. § 1746.

National Register and NHL regulations provide a property owner an opportunity to object to the nomination of their property for listing or designation of their property, or to its inclusion in either a National Register-listed or NHL-designated historic district.¹ These regulations require that owner objections be notarized. However, Section 1746 of Title 28 of the U.S. Code provides a generally applicable alternative to these notarization requirements.

Accordingly, the NPS must consider objections made under penalty of perjury consistent with 28 U.S.C. § 1746 to be valid objections, even if they are not notarized, if those objections otherwise comply with the requirements in the NPS's regulations. These objections must be counted as valid objections when determining whether a majority of private property owners have objected to listing a property in the National Register or designating a property as an NHL.

Section 1746 provides that

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than...an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

¹ The relevant regulations may be found at 36 C.F.R. § 60.6 (SHPO-submitted nominations); 36 C.F.R. § 60.10 (Concurrent State and Federal Nominations); 36 C.F.R. § 60.9 (Nominations by Federal Agencies); and 36 C.F.R. § 65.5 (NHL designations).

- (1) If executed without the United States: “I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)”.
- (2) If executed within the United States, its territories, possessions, or commonwealths: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).”

Please note that this change of process— of not requiring notarized objections, and instead of accepting declarations under penalty of perjury, as described above—does not require the NPS or state historic preservation officers to proactively review properties that have already been listed in the National Register to reevaluate the owner objector count. That is, the listing stands. If an owner or owners wish to seek removal of the property from listing in the National Register, they may pursue this action pursuant to 36 C.F.R. § 60.15(a)(4) which provides that a property may be removed from the National Register for prejudicial procedural error.

Should you have any questions or concerns about this matter, please do not hesitate to contact me at joy_beasley@nps.gov, or Sherry Frear, Deputy Keeper, at sherry_frear@nps.gov.

Sincerely,

Joy Beasley
Associate Director, Cultural Resources,
Partnerships, and Science
Keeper of the National Register