Good morning and thank you for being here. Thank you also to the original inhabitants of this land. I’m a little embarrassed to admit it’s my first visit to Arizona, so I’m grateful to Kathryn for the opportunity to get a thorough sample of historic preservation efforts happening here. I’m a white lady out here from Washington, DC to tell you all about Native issues in Arizona. OK, not really. As Kathryn mentioned, I’ve been at NATHPO since January, so I’m going to talk about that, and Kathryn assures me that you’re all keenly interested to hear about the intricate details of policy jockeying and bureaucratic kabuki in DC.

Unlike my distinguished counterpart yesterday morning, I’m not a rock star of historic preservation, so here is a little background (slide 2). My experience in cultural resources is a grab-bag of basically everything but buildings. My degrees are in history, anthropology, and coastal resources management. I’ve done some Roman archaeology, Late Upper Paleolithic archaeology, underwater archaeology, biological anthropology, and the coastal part was interdisciplinary with some ecology and public policy mixed in. So why am I here to talk to you about THPOs? Since I was young, I’ve been moved by the history of Native Americans and inspired by their persistence and resilience. This turned into motivation to play a part in perpetuating and elevating modern Native voices and stories. But then, following the path that many of us have, I learned about Native history through the lens of archaeology (it gets better) (slide 3).

During my PhD work, I was extremely fortunate and pretty excited to work on the shipwrecks of both the H.L. Hunley, an incredibly well-preserved Civil War submarine, and Queen Anne’s Revenge, flagship of the pirate Blackbeard. However, the real game changer was an internship at NOAA in the Marine Protected Areas Center (MPA), where I would eventually inherit the job of the person I interned for. Cultural Resources Coordinator! At last, my dreams had come true! I’m only half kidding. I spent over 8 years there as a long-suffering contractor doing the work of a fed, and part of that as the Tribal Liaison for the National Ocean Service. I enjoyed the work immensely, ranging from geeking out on federal regulatory processes to pushing the envelope of the office’s work with tribes – earlier, oftener, more inclusive, and more holistic.

I formed a working group of outside experts to guide our work, and I was very privileged to collaborate with some of the smartest and most delightful cultural resources professionals out there. We created a cultural resources toolkit for MPA managers (slide 4), based on the framework of a cultural landscape approach – analogous to ecosystem-based management. I think my boss wanted a maritime archaeology 101, so we did some of that. But with the lead of the Native group members, we expounded on integrating cultural and natural resources management, traditional knowledge and ecosystem management, cultural values of natural
resources, intangible cultural resources, sensitive information and intellectual property rights, and many other things we recovering archaeologists didn’t learn in school, let alone the oceanographers and marine biologists we were creating it for. Based on a tip from my colleagues at NCSHPO about what you want to hear, I’m going to use the rest of my time to talk about intangible cultural resources. Haha.

So, why the long-suffering? My family patiently endured my constant complaining about the instability of the job, which required finding funding to keep myself employed, and figuring out how to manage the funding and associated projects – when I really just wanted to be able to do my job! Haha, right. Maybe you can see where this is going. One of these projects turned out to be my greatest collaborative accomplishment, which I plan to build upon in my current capacity – Characterizing Tribal Cultural Landscapes (slide 5). I’m going to talk a little about this project because it’s really exciting and we got a lot of traction among federal agencies, and I had an epiphany during the Tribal Monitoring presentation yesterday. I was also really happy to see essentially this model in the Fort Mojave/Topock/PG&E session.

It was cooperative, with BOEM funding, I at NOAA managing, and three West Coast tribes doing case studies. The framework was self-determination, with the tribes deciding their own methods, collecting their own data, and only sharing what they wanted to share. One of our THPOs summarized it as, “trying to come up with a way to talk about things that aren’t supposed to be talked about, to people who aren’t supposed to know about those things.” And our consultant called it pre-consultation. Of course we had to start with defining terms, and here is how we defined TCLs (slide). Then we came up with yet another federal level guidance document, which has three parts: for agencies and project proponents, gold-standard guidelines for consultation, for tribes, a template for internal data collection, and a stepwise process for integrating NHPA and NEPA – adding these steps. Something for everyone!

(Slide 6) Here is the stepwise process. Note that we’ve added a couple of critical things: managing for cultural values, and a feedback loop for going back to that step if necessary. Although we did have tribal case studies, their purpose was to demonstrate that data collected by tribes using their methods and shared on their own terms can be useful in agency planning. We didn’t have an undertaking, so demonstrating that part wasn’t in the scope, nor was the issue of tribal capacity. So what we have is a theoretical framework that high-level bureaucrats can understand and support, and that leaves practitioners on the ground saying “so what? How do you DO it?” So I got really excited about the Forest Service Tribal Monitor presentation, which answers both of those questions, and fits so neatly in this model. What’s even funnier is that Forest Service cultural resources leadership has approached NATHPO for a cooperative agreement to advise them and coordinate tribal engagement in developing their phasing approach to 106, among other things. I can’t wait to point this out to them.

Back to NOAA, the only place our work wasn’t appreciated (as it always goes). (Slide 7) When the job finally fizzled for good, I had to do a lot of hard work to get myself back to good (much like DC metro for the last couple of years). After a year of unemployment, when the NATHPO
gig came along, I of course was the last person to see that I had for years been inadvertently preparing for its unique combination of requirements, and because of the timing, I was up for a challenge of this magnitude. Life is funny, in that way it has of things happening when they should. I remind myself of this while trying to create a maternity leave policy and plan for myself on short notice.

(Slide 8) What is NATHPO, and why do I say magnitude of the challenge? NATHPO has been around since 1998, after the 1992 amendments to NHPA established the THPO program, and in 1996 the Historic Preservation Fund (HPF) began including a THPO appropriation. There has been one Director (and staff member) since then — many of you worked with Bambi — so I have a big role to step into. When she moved on after the conference last year, Melinda Young, THPO at Lac du Flambeau in Wisconsin, served as Interim Director, and continues to advise and assist me as we map out NATHPO’s directions and plans beginning this year.

You may have noticed in my background that I don’t have any business management training. So my additional challenges for this year include improving internal operations and creating business processes, like creating financial stability and getting member management software. It’s cool though, I got this. We’re also working on communications and visibility by sending a newsletter, hosting webinars, and having a social media presence. We’re also creating our first-ever strategic plan, focusing on increasing membership and of course member support, and working to demonstrate tangible benefits and success stories. Maybe some of you can relate to these challenges.

(Slide 9) One exciting development is the creation of our first-ever strategic plan. We had an in-person Board meeting in March, and got as far as goal areas, which is pretty good for a day and half, when many of us were meeting each other for the first time. We also have a new collaborative relationship with the Udall Foundation, which is a natural fit, and they’re helping us with this process.

Here is our new vision – this is the big picture, what the world looks like when we succeed (slide): Empowering tribal preservation leaders to protect culturally important places that perpetuate Native identity, resilience, and cultural endurance. This may be kind of what you expected, but it represents a renewed focus on protecting places, which is what the THPOs on our Board emphasized as their priority work. Of course, this is interrelated to issues such as museums, repatriation, language preservation, traditional knowledge, and all the other things many THPOs DO, but protecting places is their core work, which most don’t have adequate capacity to do.

Here is our new mission (slide): NATHPO is a national non-profit organization that supports and encourages tribal historic preservation programs. We provide guidance to preservation officials, elected representatives, and the public about national historic preservation legislation, policies, and regulations. We promote tribal sovereignty, develop partnerships, and advocate for Tribes in governmental activities on preservation issues.
(Slide 10) And here are our broad goals, all intended to better serve and support THPOs:

1. Enhance fiscal standing
2. Diversify and expand membership
3. Protect culturally important places
4. Honor and promote member efforts and achievements
5. Advocate for cultural and historic preservation

(Slide 11) In order to have a THPO, federally recognized tribes must have a reservation or trust lands – this is just the way it is in the regulations. The THPO program is managed by the Park Service, so tribes have to get their THPO program application approved (which they may need professional help with), and a preservation plan. They can then assume the responsibilities of the State Historic Preservation Officer (SHPO) on tribal lands, so in that way it’s an exercise of tribal sovereignty. Once the THPO program plan is complete, a Partnership agreement between the Tribe and the Secretary of the Interior is executed and the THPO then becomes eligible for operational support from the Historic Preservation Fund (HPF) on an annually recurring basis. The THPO Grant is similar to the support provided to the state SHPO programs in that the HPF appropriation is approved by Congress. Funding for the HPF does not come from taxpayer dollars, but rather from offshore oil and gas lease revenues, and although it is authorized at $150 million, it has never been fully funded.

Another source of potential funding under the HPF is Tribal Heritage Grants, available beyond THPOs to Indian Tribes, Alaska Natives, and Native Hawaiian Organizations for the preservation and protection of their cultural heritage. Unlike THPO Grants, these grants are competitively selected and require a projected completion date of two years or less. This grant program has funded projects such as survey and inventory of sacred and historic places, nominations to the National Register of Historic Places, traditional skills survey of tribal members, documenting traditional lifeways through oral histories, and providing education and training in historic preservation. The call for grant proposals is usually made at the end of November, although with this year’s Congressional budget cycle (the budget for the FY beginning October 2018 just passed in February), it’s open right now for two more weeks (until July 1). Applications, guidelines, and reports with project abstracts from prior approved projects grants can be downloaded from the NPS Tribal Heritage Grants website.

(Slide 12) A big part of our advocacy involves federal appropriations. The Historic Preservation Fund (HPF) is the only source of federal funding for many THPOs, and it’s its own process. After completing all the steps above, THPOs apply for their apportionment as a grant, which then also involves reporting to NPS. In FY19, the appropriated amount is $11,735,000 for 183 THPOs, a tiny increase from FY18. The total amount is divided among eligible THPOs based on a formula - - about 80% is divided equally among all THPOs and the remaining 20% is apportioned based the area of Tribal lands.
As the number of tribes with THPO programs increases, the amount of HPF funding for THPOs has not kept pace: in 1996, 12 tribes received an average of $80,000; and in 2019, 179 tribes received an average of $64,000. Adjusted for inflation alone, without any other increase, 1996’s $80k would be $131k today, and by extension the appropriation would be $24 million. Clearly though, the need and workload has increased too: many THPOs can only respond to a small percentage of review requests they receive, meanwhile agencies note slow and/or no response from THPOs! Everyone’s ability to do their job is affected by this, and wouldn’t it be cool if everyone affected pitched in to advocate this necessary increase in federal funding?

(Slide 13) Here is a chart showing the current state of affairs. As a graphics geek, I’m really proud of this and thankful to my husband – we met in archaeology but then one of us had to get a real job, so now he’s an IT engineer and seems to have enjoyed the pro bono project of leading that part of NATHPO’s operational improvements. He helped me figure out that google sheets is the only program that will give you three lines on a graph like this.

In green you can see the total HPF appropriation (which has steadily gone up, yay), and in yellow the number of THPOs (which has also steadily gone up, yay). The result however, in red is going slightly down. The blue star is where we should be if level funding accommodated inflation. We’ve already done our advocacy for the FY20 budget, but this will be my ask for FY21.

(Slide 14) What did we ask for in FY20? $20 million, which would give the nearly 200 THPOs about $100k. Yes, that’s a 70% increase, but if we don’t ask, we certainly won’t get it. Although my Magic 8 Ball says outlook not so good for a neat and timely federal budget process this year either, we’ve seen some indications that our advocacy has had some traction. We’re not realistically expecting an $8 million increase, but the House bill has come out, and it includes a $2 million increase, which would be the biggest we’ve ever had by far.

Here are the two new talking points I’ve built into all my messaging and meetings. Adequately funding THPOs is crucial because:

1. Reconnecting Native peoples to their cultural heritage has the power to help heal deep generational wounds. Meaning that historical trauma is the cause of the symptoms we see in Indian Country. I won’t list the epidemics, but you know what they are, and they are the effects. The cause is systematic destruction of individuals, communities, and cultures, including the Boarding School period. When generations of children are removed from their parents, home, and basic human affection, with their language and traditions violently programmed out of them, you end up with generations of parents who are disconnected from these foundations. Cultural revitalization and historic preservation can rebuild them.

If I’m talking to a Republican audience (no judgment, although admitting it is the first step), I emphasize this:
2. Funding for THPOs creates jobs, generates economic development, and spurs community revitalization. Whether this Administration can admit it or not, environmental and historic reviews are still required, including for infrastructure and energy permitting. Agencies must consult on all actions and undertakings, with tribes identifying affected sites and mitigation measures. If streamlining is the goal, someone has to be there to pick up the phone and do the work.

This year, our colleagues at NCSHPO added our handout to their materials for Preservation Advocacy Week. We really appreciate it and it makes sense for everyone, since enabling THPOs to do their jobs makes SHPOs’ jobs easier too.

(Slide 15) Another part of our advocacy involves federal regulations – the exciting part! Last year, NATHPO joined the fray in the FCC Case, represented pro bono by Georgetown Law. In short, to roll out 5G as fast as possible, FCC took it upon themselves to unilaterally redefine what constitutes an undertaking and major federal action, basically exempting 5G tower construction from Section 106 review. With an administrative order, they also eliminated tribal consultation and associated fees, which had been a considerable supplement for many THPO offices. Although petitioners filed a motion to stay the order while it was challenged in court, this was denied and the changes took effect, which have been pretty catastrophic. The tribes and our issues were lack of consultation, and violation of NEPA, NHPA, and the Administrative Procedures Act. The oral arguments were March 15, which didn’t go as well as we’d hoped. Weirdly, to me, the judges appeared split, so we’re just awaiting the ruling which could be any day now. I’m an eternal optimist, but I’m nervous about the precedent this would set if it’s not in our favor.

(Slide 16) The National Register Proposed Rule! My favorite topic lately. Do not ask me for an agenda for our conference in August, and this is a big reason why. Unlike FCC, DOI is creating an illusion of following administrative procedure, but the agenda and the drivers are the same. Their story is this: “The intent ... is to bring regulations current with 2016 amendments to the NHPA, and to emphasize the rights of private property owners with the overall intent to streamline processes for the nomination of properties in the National Register by federal agencies.” Not a big deal, nothing to see here. Also, they had predetermined that the changes wouldn’t have substantial direct effects on tribes and therefore consultation was not required.

We launched a campaign including information on submitting public comment, a template for tribes to send letters directly to DOI/NPS requesting consultation, webinars, and a coordinated approach with partners to fight this.

(Slide 17) In short, the proposed rule oversteps NPS authority, is contrary to the letter and spirit of the NHPA and the 2016 amendments. The changes would inappropriate and negatively impact the role of the Keeper of the NRHP, State Historic Preservation Officers (SHPOs), Indian tribes, and historic properties and the public interest. There are two major changes that are cause for alarm:
1. Keeper may only determine eligibility after request from federal agency, allowing agencies to effectively veto nominations. This also conflates the eligibility and the listing processes.

2. There can be no listing if there are objections from either (1) a majority of land owners (as it currently stands); or (2) owners of majority of land area of property.

That second part is crazy talk. It’s neither realistic for SHPOs to determine that, nor compatible with the fundamental American principle of one person, one vote. Furthermore, in writing this, NPS did not consult with Federal Preservation Officers (FPOs), SHPOs, THPOs, or generally anyone who knows anything about the NRHP. It is unstated, although tacitly understood, what “problems” this would ostensibly solve, and we are all pulling out all the stops to try to slow it down.

(Slide 18) Some of the tribal implications are these. Agencies are already challenged by the identification of properties of religious and cultural significance to tribes. The requirement for agency submittal to the Keeper could impact tribes’ ability to participate in consultations, especially off tribal land. They would create confusion and delay in Section 106. Giving undue weight to land and private property owners could seriously threaten tribally significant sites. And precluding G2G consultation in the rulemaking itself and the changes it proposes impugn tribal sovereignty and abrogate DOI’s trust responsibility to tribes.

(Slide 19) No consultation conducted on rulemaking, although DOI Policy implementing EO 13175 requires it. Responsive to outcry, now offering one meeting June 24 at NCAI’s mid-year meeting and a webinar July 1. New public comment period for tribes open until July 8. Info on nathpo.org. So now we need another round of letters clarifying that one group meeting and one teleconference do not constitute meaningful and robust government-to-government consultation, and continuing to insist upon nothing less. I will consider it an interim victory that our campaign wasn’t ignored, and use it to leverage actual victory if they proceed to a Final Rule. And if not, the National Trust is compiling an administrative record for the lawsuit.

(Slide 20) Upcoming Events. CA SHPO/THPO Summit, July 24-26
NATHPO Annual Conference: Coushatta Tribe of Louisiana, Aug. 26-30
Workshop on emergency preparedness/response for cultural resources.

Recurring workshops:
THPO Toolkit, NEPA, NAGPRA

(Slide 21) Partnership opportunities. Many federal agencies don’t have a great way to contract directly with tribes, and working through a non-profit like ours can be mutually beneficial. We have a number of agreements for this purpose, and more in the works. Under co-op agreement with NPS, we host annual regional SHPO/THPO meetings to support and provide technical assistance to THPOs and tribes developing THPO programs; promote public interest/awareness, encourage, assist: tribal historic preservation and cultural programs; preservation of Native
historic and cultural properties; education on importance of traditional knowledge and stewardship.

NRCS co-op agreement to develop regional ancestral lands consultation protocols.

USFS co-op agreement to develop phasing PA for Section 106, and I’ll be talking to them about implementing a Tribal Cultural Landscape Approach and tribal monitoring.

MOU with FPISC for tribal consultation in improving infrastructure permitting.

Individualized approaches to nationwide issues – endless possibilities!

(Slide 22) Finally, something I mentioned in my initial description of this session that I thought I would focus on more, but I’ll only leave you with a parting gift to ponder. How can tribes truly partner in energy and infrastructure development – needed by everyone – to ensure environmental protection and their share of the benefits rather than just the costs? Tribes don’t want to stop development, they need improved and more reliable roads, energy supply, and connectivity than anyone. And it’s not too much to ask that their historical and sacred sites and resources not be destroyed in the process, especially to achieve results they don’t even end up seeing.

We have to continue to improve consultation and collaboration, but it’s also past time for some innovation. Many of you surely know better than I of examples close to home where tribes have adopted unconventional approaches and partnerships, some controversial. Without compromising our principles as preservationists and environmental stewards, there has to be a way to engage in conversations about possibilities. To find ways for tribes to truly have a seat at the table representing their own interests and needs, and to strike a balance between ending up in litigation and protest, and “selling out.” I’m encouraged by the growing number of projects where tribes are able to secure economic benefits while protecting their places, resources, and sovereignty. And that’s the bottom line: not every tribe’s decision will be agreeable to every other tribe, but they must be empowered to make those informed decisions for themselves. I look forward to NATHPO being able to engage in and support these discussions.

(Slide 23) You can reach me here, and thank you very much for this opportunity.