



Preserving America's Heritage

CASE DIGEST: SECTION 106 IN ACTION



ADVISORY COUNCIL ON HISTORIC PRESERVATION

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An independent federal agency, the ACHP promotes the preservation, enhancement, and productive use of our nation's historic resources and advises the President and Congress on national historic preservation policy. It also provides a forum for influencing federal activities, programs, and policies that affect historic properties. In addition, the ACHP has a key role in carrying out the Preserve America program.

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Cover: Archaeologist mapping a stone foundation of a historic farmstead in Illinois. A new standard treatment for Euro-American archaeological sites affected by federal-aid highway projects has been developed to improve Section 106 road project review in the state. (Photo courtesy Illinois State Archaeological Survey)

ABOUT THIS REPORT

Section 106 of the National Historic Preservation Act requires federal agencies to consider historic preservation values when planning their activities. In the Section 106 process, a federal agency must identify affected historic properties, evaluate the proposed action's effects, and then explore ways to avoid or mitigate those effects.

The federal agency often conducts this process with the Advisory Council on Historic Preservation (ACHP), State Historic Preservation Officers, representatives of Indian tribes and Native Hawaiian organizations, and other parties with an interest in the issues.

Sometimes a Programmatic Agreement (PA) or a Memorandum of Agreement (MOA) is reached and signed by the project's consulting parties. A PA clarifies roles, responsibilities, and expectations of all parties engaged in large and complex federal projects that may have an effect on a historic property. An MOA specifies the mitigation measure that the lead federal agency must take to ensure the protection of a property's historic values.

Each year thousands of federal actions undergo Section 106 review. The vast majority of cases are routine and are resolved at the state or tribal level, without the ACHP's involvement. However some cases present issues or challenges that warrant the ACHP's involvement.

This report presents a representative cross-section of undertakings that illustrate the variety and complexity of federal activities that the ACHP is currently engaged in. In addition, the ACHP's Web site www.achp.gov contains a useful library of information about the ACHP, Section 106 review, and the national historic preservation program.

CALIFORNIA

Project: Closed Case: Southbound Pedestrian Processing and Inspection Center

Agencies: General Services Administration

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Following a three-year Section 106 consultation, the General Services Administration found a new use for the Old Custom House at San Ysidro, built in 1933. The historic facility will serve as the Southbound Pedestrian Processing and Inspection Center at the busiest crossing on the United States' southern border.

The General Services Administration (GSA) owns numerous U.S. Border Inspection Stations operated by U.S. Customs and Border Protection (CBP), a division of the U.S. Department of Homeland Security. The majority were built between 1931 and 1943 to enforce customs and immigration laws associated with increasing international vehicular and pedestrian travel.

Responding to congressional guidance of that period, the stations were built to demonstrate federal authority and presence, and to offer “fair and adequate” service to the public. Over the years, in response to changes in economics and commerce, policy and law enforcement, some border stations were shuttered, renovated, or expanded—losing their historic integrity along the way.

The Old Custom House at San Ysidro, listed on the National Register of Historic Places, weathered almost 80 years of service. Situated approximately 50 feet from the border between San Diego, California, and Tijuana, Mexico, the Old Custom House was built along a largely pastoral stretch of what is now Interstate 5.

Shortly after the Old Custom House was built, the crossing became a 24-hour operation. Increasing agricultural commerce, coupled with tourism to sites like the popular Agua Caliente Racetrack in Mexico, rendered San Ysidro a busy commercial hub. A handful of small shops sprung up along the United States side of the border, joining a nearby 1930 Art Deco Style International Building, a general merchandise



Mexico is to the right and the U.S.A. to the left on this historic image of the Old Custom House at San Ysidro. The barrier area on the U.S.-Mexican border is the cleared space to the right of the Custom House. (Photo courtesy General Services Administration)

store determined eligible for listing on the National Register by GSA in 2009.

During the post-World War II economic boom, San Ysidro became the second busiest border station between the U.S. and Mexico, surpassed only by El Paso, Texas. To accommodate increasing traffic, additional security features were installed in the 1960s and 1970s. A two-story security wall was attached to the north end of the Old Custom House's main façade, and additional security fencing was installed around the building. In addition, the historic portecochere at the main entrance was truncated into a small ceramic-tiled ornamental canopy, and a false front was added to the façade.

In the mid-1970s, San Ysidro surpassed El Paso as the most heavily trafficked southern crossing. When an extensive Brutalist Style building campaign commenced in 1974, the front yard of the Old Custom House was paved to make way for additional vehicular lanes and inspection booths. So that the building could function as support for a nearby northbound pedestrian processing center, additional alterations were made to the building's character-defining features: fenestration was in-filled in certain locations, and various interior renovations were completed.

Despite these changes, in 1983, the Old Custom House was listed on the National Register. GSA's

nomination noted that the building was regionally significant and retained “exterior integrity as a well-executed example of vernacular architecture designed on a national level.” Since that time, the building was generally well-maintained by GSA but suffered from improper drainage, failed stucco, and cracked terra cotta roof tiles associated with occasional illegal border crossing attempts.

Traffic at San Ysidro continued to increase since the 1970s. Currently more than 50 million travelers pass through the station each year, and experts estimate the station will process 85 million travelers a year by 2030. Without improvements to the 30-acre facility, average northbound vehicle queues at San Ysidro could stretch to three hours or longer. To accommodate increased traffic and facilitate required security inspections, GSA proposed to expand and reconfigure the facility to include additional building space, 31 northbound inspection lanes, six southbound inspection lanes, two new southbound pedestrian crossings, and a new southbound connector road.

GSA commenced Section 106 consultation in October 2008, during a site-wide master planning effort. At that time, GSA considered and then dismissed three costly building relocation options. CBP expressed security concerns about adaptive use options due to the building’s adjacency to the border, and together the agencies made a preliminary determination that the Old Custom House might need to be demolished to make way for additional inspection lanes. At a February 2009 consultation meeting, which the ACHP attended to provide technical assistance, the California State Historic Preservation Office (SHPO) requested GSA consider additional alternatives for keeping the building in place.

By late summer 2009, the project team decided upon tandem inspection lanes, which reduced the overall width of the vehicular processing area to the extent that the Old Custom House could remain in place. When funding was approved by Congress in summer 2010, at the further urging of GSA’s Federal and Regional Historic Preservation Officers, the project team developed a final design alternative that proposed reuse of the Old Custom House as a southbound pedestrian processing and inspection center. The new project component responded to requests from the San Ysidro

community that had requested a processing center on the east side of the complex.

Upon invitation in July 2009, the ACHP agreed to officially participate in consultation. The final design alternative was reviewed by the ACHP, SHPO, and the City of San Diego Historical Society, the latter being a consulting party. The proposal called for façade rehabilitation in accordance with the Secretary of the Interior’s Standards for Rehabilitation, construction of a stylistically consistent northern addition, seismic retrofit, reconfiguration of the non-original interior spaces, and development of a new pedestrian plaza adjacent to the Old Custom House.

After three years, the parties were pleased with the final reuse plan for the Old Custom House. The Memorandum of Agreement, executed in August 2011, includes exemplary schematics and work scope exhibits.

As the implementation of the site-wide master plan is underway, the historic building is currently being used as swing space. The Old Custom House Southbound Pedestrian Processing and Inspection Center will be funded in a later phase. Construction at San Ysidro is scheduled to be complete in 2016.

For more information: www.gsa.gov/portal/content/265937

www.gsa.gov/portal/content/103466

CALIFORNIA

Project: Closed Case: California High-Speed Train Project Statewide PA

Agencies: Federal Railroad Administration, Department of Transportation

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When completed, nine individual rail service segments will provide uninterrupted high speed rail service between San Francisco and San Diego. A Programmatic Agreement was executed in July 2011 for the project that was partially funded through the American Recovery and Reinvestment Act.

The California High Speed Rail Authority (CHSRA) received a grant from the Federal Railroad Administration (FRA), through the High-Speed Intercity Passenger Rail Program, to construct a section of the California High-Speed Train. California's High-Speed Intercity Passenger Rail Program is an undertaking subject to compliance with Section 106 of the National Historic Preservation Act. The purpose of this statewide Programmatic Agreement (PA) is to provide statewide consistency in consultation procedures, documentation standards, and federal agency oversight during individualized compliance with Section 106 for each of the nine individual segments.

This project is likely to establish a precedent for future high speed rail development. The statewide programmatic model developed for this project is consistent yet flexible and could be applied in other states or corridors to promote efficiencies.

The PA assigns certain federal compliance activities to the CHSRA, an agency of the state of California that will construct and operate the system. Signatories are the FRA, the California State Historic Preservation Officer (SHPO), the CHSRA, and the ACHP. The ACHP became involved in the case in March 2010.

During the National Environmental Policy Act/California Environmental Quality Act compliance process preceding development of this PA, the CHSRA and the FRA provided project information to 15,500 federal, state, and local agency representatives; elected officials; property owners; interested persons and organizations. Twenty-five informal and formal



Artist rendering of high-speed train along actual track alignment. (Photo courtesy California High-Speed Rail Authority)

public meetings were held statewide in which federal and state agencies as well as non-governmental organizations, community planning organizations, and public interest discussion/research groups were invited to provide input on environmental impacts. Many of these entities, including federally recognized Indian tribes, also participated in the Section 106 consultations and development of the PA.

This PA allows FRA to delegate to the CHSRA responsibility for initiating consultation, delineating the Area of Potential Effects, identifying and evaluating historic properties, assessing effects, convening meetings, preparing and maintaining records of public meetings and views of consulting parties, developing Memoranda of Agreement (MOAs) in consultation with process participants, and implementing avoidance and mitigation measures and treatment plans. The FRA remains legally responsible for all findings, determinations, and compliance with the terms of the PA. FRA also will conduct additional government-to-government consultation with federally recognized Indian tribes, execute the individual MOAs, and participate in the resolution of disputes. Duration of the agreement is 10 years and may be amended and/or extended by agreement of the signatories.

The PA provides an effective tool to clearly delineate responsibilities among the proponents by delegating certain obligations to the CHSRA. The state agency is likely to be more familiar with the affected historic resources, and better able to reach out and respond to needs of local participants. Through effective delegation, significant efficiencies in the compliance process can be captured.

For more information: www.cahighspeedrail.ca.gov
www.fra.dot.gov/rpd/passenger/646.shtml

DISTRICT OF COLUMBIA

Project: Closed Case: National Museum of African American History and Culture

Agencies: Smithsonian Institution

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The Smithsonian has entered a new phase in completing construction of the National Museum of African American History and Culture. A Programmatic Agreement defining a range of mitigation and additional consultation for this new museum has been executed as the Smithsonian seeks final approvals from the Commission of Fine Arts and the National Capitol Planning Commission.

This is an update to the summer 2011 *Case Digest* report for the National Museum of African American History and Culture (NMAAHC). The Programmatic Agreement (PA) for this undertaking was executed in October 2011. The PA acknowledges that any substantial building construction on the selected site would cause unavoidable adverse effects on historic properties. The design team of Freelon Adjaye Bond/Smithgroup has continued to refine the design, guided in part by design principles developed during the Section 106 consultation process so as to minimize and mitigate adverse effects on the large number of highly significant historic properties surrounding the site.

Consultation among the signatories and consulting parties included the Afro-American Historical and Genealogical Society, the Association for the Study of African American Life and History, Commission of Fine Arts, the Committee of 100 on the Federal City, the DC Preservation League, the U.S. General Services Administration, the Guild of Professional Tour Guides, the National Coalition to Save Our Mall, the National Trust for Historic Preservation, and the US Capitol Historical Society. The Programmatic Agreement allows this important project to go forward with consensus support of the conceptual and siting design, while ensuring that as the design is further developed, the District of Columbia State Historic Preservation Officer, the National Capital Planning



Gray outline shows location of National Museum of African American History and Culture looking northeast from base of Washington Monument. (Photo courtesy National Park Service)

Commission, the National Park Service (NPS) and the ACHP will continue to have multiple opportunities to consult on any changes, and their comments will be taken into account.

The effects most likely to diminish the integrity of the affected historic properties relate to the size, scale, massing, and location of the above-ground building, its projecting porch element along the south face of the building, and the views the building will obstruct to and from the Washington Monument. In response to concerns raised during the Section 106 process, the proposal responds to requests to limit visible massing and height, reduce intrusion of the porch element into the open Mall, and to reduce or refine site features incompatible with surroundings such as the entrance to the service drive, at-grade skylights, and mechanical vaults. The rain garden, a major feature on Constitution Avenue, has been modified from a naturalistic swale dependent on rainwater for its effect, to an edged water feature, reflective of the Tiber Creek/Washington Canal, in keeping with the curbs and materials along the formal sidewalks of Constitution Avenue.

In addition, the Programmatic Agreement stipulates that the Smithsonian Institution will:

- provide structural condition documentation and monitoring to avoid harm to surrounding properties;
- fund tree-planting by the NPS on the immediately adjacent Washington Monument Grounds;
- fund a National Register (NR) nomination amendment for the Washington Monument Grounds including addressing concerns about the boundary brought

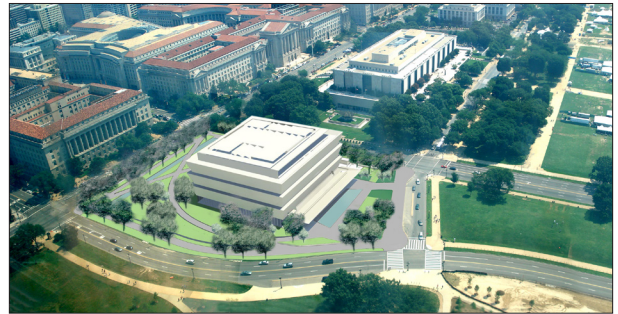
forward by the Coalition to Save Our Mall;

- cooperate with the NPS as new or updated NR nominations are developed for the Smithsonian buildings, the National Mall, and the Monumental Core, as well as possible National Historic Landmark nomination(s) for the National Mall and the Monumental Core;
- develop and implement a Protection Plan and Treatment Plan for the National Mall Gate Posts and fund their implementation on the Bulfinch Gate Post which stands on the NMAAHC grounds;
- complete an amendment to the NR nomination for the Bulfinch Gate Posts and Gate Houses;
- provide Historic American Building Survey/Historic American Landscape Survey documentation of the museum site and descriptive documentation of the Water Intake Tunnel prior to its removal from the museum site;
- prepare an exhibit regarding the Section 106 process for the NMAAHC;
- prepare an NR nomination for the Greenough Statue of George Washington; and,
- conduct ongoing research on the history of the site including that pertaining to the African American heritage of Washington, D.C.

The implementation of the PA will support the Smithsonian Institution's efforts to ensure this important project is a respectful neighbor within its iconic setting and make meaningful contributions to offset the adverse effects.



Gray outline shows appearance of National Museum of African American History and Culture looking southwest toward Washington Monument from corner of 14th and Constitution, NW. (Photo courtesy National Park Service)



Aerial view from top of Washington Monument shows how National Museum of African American History and Culture will be sited. The National Museum of American History is located to the top and right of the new museum. (Photo courtesy National Park Service)

DISTRICT OF COLUMBIA

Project: Closed Case: U.S. Diplomacy Center at the Harry S Truman Building

Agencies: Department of State, General Services Administration

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Informed by professional historic analysis and clear agency findings, expedited Section 106 consultation among engaged parties contributed to a “design-bid-build” process for a new museum and educational center at the U.S. Department of State near the National Mall.

Located in Washington, D.C., the U.S. Department of State (State) headquarters are housed at the Harry S Truman Building, which comprises two buildings: New State, built in 1960; and Old State, built in 1941 for the War Department. The latter is considered individually eligible for listing in the National Register of Historic Places.

The double-height Old State lobby boasts numerous character-defining features, including original Colorado Colorosa travertine marble-clad walls, polished bronze and glass doors, and an impressive but little-known 1942 Kindred McLeary mural, “The Defense of Human Freedoms.” The Stripped Classical Style façade at Old State retains integrity but is obscured by a temporary security screening structure that was added in 2006. The drive aisle and hardscape were reconfigured in 1986, while the original flagpole and Dun Mountain pink granite base remain.

Established under former Secretary of State Madeleine Albright, the U.S. Diplomacy Center currently consists of a small exhibit area at the Truman Building and a set of traveling exhibits. The Diplomacy Center also offers educational programs and hosts conferences, including the semi-annual George C. Marshall Conference. When State began planning for a new Diplomacy Center facility, dedicated to telling the story of American diplomacy through interactive exhibits and educational programs, Old State emerged as an ideal site.

Once private fundraising efforts achieved set goals, State



The Old Department of State building began life in 1941 when constructed for the Department of War. (Photo courtesy General Services Administration)

approached the General Services Administration (GSA) to discuss next steps for locating the Diplomacy Center at Old State. Together with GSA as the building owner and project manager, State led a team of highly skilled architects and consultants to develop preliminary plans under a January 2011 “design-bid-build” contract.

Shortly thereafter, in May 2011, Section 106 consultation was commenced with State as the lead agency. State coordinated Section 106 public outreach as part of its Environmental Assessment under the National Environmental Policy Act. State invited the ACHP to participate in Section 106 consultation in July 2011, and the ACHP engaged officially in early August 2011.

State was already consulting separately on proposed perimeter security improvements for the Truman Building with the ACHP, the District of Columbia State Historic Preservation Office (SHPO), the National Capital Planning Commission (NCPC), the U.S. Commission of Fine Arts (CFA), and others. Given these parties’ familiarity with the Truman Building and other historic properties in the Area of Potential Effect, State was able to expedite consultation. State and GSA also conducted additional targeted outreach to the District of Columbia Preservation League and the George Washington University.

By mid-August, an engaged group of consulting parties agreed on a concept design, which features a matte glass entrance pavilion in the Old State forecourt.

The pavilion was well-received by the parties. The rehabilitated Old State historic lobby is a central feature of the plan; it will host exhibits and serve as a connector

to additional galleries in Old State's reconfigured northeast wing. In addition, the Old State façade pilasters will be legible from 21st Street, Northwest, and also through the glass roof inside the pavilion. The project team is targeting LEED® Silver certification for the undertaking.

The Memorandum of Agreement was signed in early September, aligning with the State and GSA project schedules. A handful of outstanding design elements are subject to additional review by the SHPO, and NCPC's final design review will occur in the fall. NCPC has commented favorably on the Diplomacy Center because it adheres to the 2009 Monumental Core Framework Plan, authored by NCPC and CFA, and will draw visitors beyond the west end of the National Mall.

Throughout consultation, State made efforts to avoid or minimize adverse effects, and to retain historic features. Mitigation will include photographic documentation of the Old State building, installation of exhibits on the history of the Department of State headquarters, and development of a Web-based illustrated narrative addressing the history of the embassy presence in Washington, D.C. Further, the Department of State's reuse of the historic Old State lobby will bring attention to its stately finishes and the Kindred McLeary mural.

For more information: <http://diplomacy.state.gov/www.gsa.gov/portal/ext/html/site/hb/method/post/actionParameter/searchCriteriaForm/buildingId/700/category/25431>.



Contemporary view of the Department of State's U.S. Diplomacy Center (Photo courtesy General Services Administration)



Artist's rendering of Beyer Blinder Belle Architects and Planners, LLP, proposal for the new museum and educational center to be located in front of existing structure. (Photo courtesy General Services Administration).

GEORGIA

Project: Closed Case: Albany Multimodal Transportation Center

Agencies: Federal Transit Administration

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A new multimodal transit center, located within historic districts in Albany, will be designed in keeping with the Secretary of the Interior's Standards according to a recently-executed Memorandum of Agreement.

The Federal Transit Administration (FTA) concluded consultation to develop a Memorandum of Agreement (MOA) for the construction of a new multimodal transportation center in Albany to replace the city's current interim transfer facility.

The transportation center will serve intercity and local bus service, house an operations building, and provide community gathering space and parking. Its central location on a parcel currently used as a parking lot is within two National Register-eligible historic districts: the Albany Downtown Historic District and the Albany Freedom Historic District. It is near seven other historic properties and is within Albany's local historic district.

Consultation included the Georgia State Historic Preservation Officer, the Muscogee (Creek) Nation, the Georgia Department of Transportation (GDOT), the City of Albany, Southwest Georgia Regional Commission, Flint Riverquarium, Sherman Timberlands, and the ACHP.

The ACHP's involvement began when FTA requested review of a disputed no adverse effect finding based on concerns raised by a consulting party about the potential for long-term and indirect effects on the historic districts. FTA had simultaneously notified the ACHP of its own finding of adverse effect since an archaeological site also will be disturbed by construction. The ACHP clarified that, while individual historic properties may experience different kinds and intensities of effects, the federal agency must progress through the Section 106 process based on an effect finding for the undertaking as a whole. FTA concluded the project may result in adverse effects and proceeded to prepare a draft MOA.

Consulting parties participated in a June 2011 meeting



A new transportation center will soon be neighbor to historic commercial buildings. (photo courtesy FTA)

to review the MOA draft. The discussion centered on concerns about the long-term effect of a transportation center, including the potential for improved transit to result in rehabilitation and economic development through heritage tourism. FTA and GDOT maintained such effects were outside the scope of the federal agency's Section 106 oversight of the project but had been addressed in National Environmental Policy Act reviews and local plans.

This case highlights the benefits of consultation and open communication with Section 106 consulting parties and the public early in the project planning process. While broader issues related to community development were considered in the overall environmental review process for the transportation center, frank discussion between the federal agency and consulting parties about the appropriate forum for such concerns regarding historic properties occurred only once an MOA was awaiting finalization. Early and direct consultation can help resolve concerns about the scope of an agency's Section 106 review and foster trust among parties involved.

The MOA includes a testing protocol and treatment measures, to be carried out in consultation with the Muscogee (Creek) Nation, for the adversely affected archaeological site. It also commits GDOT to designing the transportation center in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, affording consulting parties an opportunity to comment on plans, and applying for a certificate of appropriateness from the Albany Historic Preservation Commission. Ensuring the new transportation center is a compatible enhancement to Albany's rich historic character can demonstrate the benefits of improved transportation facilities to riders as well as other historic district users.

ILLINOIS

Project: Closed Case: Statewide Agreement for Mitigation of Adverse Effects to Euro-American Tradition Archaeological Sites

Agencies: Federal Highway Administration

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Annually, the Illinois State Archaeological Survey Transportation Archaeology program performs hundreds of archaeological surveys and dozens of excavations. To improve Section 106 efficiency on project review, Illinois developed an innovative approach, using a “standard treatment” for Euro-American archaeological sites affected by Federal-Aid Highway projects.

On August 30, 2011, the ACHP, Federal Highway Administration (FHWA), the Illinois Department of Transportation (IDOT) and the Illinois State Historic Preservation Officer (SHPO) executed a Programmatic Agreement (PA) that streamlines the Section 106 review process for Federal-Aid Highway projects that only affect Euro-American archaeological sites. The streamlined process may be used to comply with Section 106 for undertakings classified as minor highway projects (that is, projects that qualify as Categorical Exclusions under the National Environmental Policy Act). Additionally, the Illinois SHPO must agree with IDOT, in writing, that:

- The affected sites are examples of the Euro-American Tradition (as defined in the PA);
- The affected sites are significant primarily for the information they may yield through data recovery and have little value for preservation in place; and,
- The only historic properties potentially affected by the undertaking are such archaeological sites.

Review of these projects is streamlined through the delegation of responsibility to IDOT for the identification, evaluation, and treatment of Euro-American Tradition sites in consultation with the Illinois SHPO and the Illinois State Archaeological Survey (ISAS), and the use of a “Standard Data-Recovery Plan for Euro-American Tradition Archaeological Sites” as the standard treatment for these sites.

The PA requires that IDOT notify the SHPO, Indian



Archaeological surveys of road-connected Euro-American sites in Illinois are made more efficient through a new statewide standard treatment. (Photo courtesy Illinois State Archaeological Survey)

tribes, and when appropriate, other potential interested parties prior to concluding environmental review. If any of these parties objects or expresses concern about use of the standard treatment approach, or if archaeological sites are determined likely to contain human remains or burials, the streamlined process will not be used. In such cases, FHWA and IDOT must go through the standard Section 106 review process (36 CFR 800.3-800.7) to conclude consultation.

The streamlined approach, using a Standard Data Recovery Plan, works well in Illinois. Because IDOT projects commonly occur in rural or once-rural settings, specific methodologies have been developed for the standard treatment of farmsteads. Individually, these sites may contribute little new information regarding historic settlement patterns, subsistence, and architecture of farming communities in Illinois. Through use of a standardized methodology, IDOT will be able to generate consistent and comparable information that can be readily synthesized and utilized in the preparation of overview studies.

The PA requires that the results of these investigations be reported using professional standards, and that they also be made available to the general public through Web postings; public and professional lectures; an annual report of site investigations; and, through the publication of studies that synthesize the data recovered under the PA.

Adjustments to the methodology may be made when other types of historic-period Euro-American resources are investigated, such as urban residential areas.

The PA supplements the amended Statewide PA for minor transportation projects which was executed among FHWA, IDOT, SHPO, and the ACHP in September 2010.

FHWA has built into the new PA a number of checks and balances to ensure that the standard treatment applies only to non-controversial undertakings and sites that are of value primarily for the information they are likely to contain. The agreement also provides for the possibility that a Euro-American tradition archaeological site may be of value to an Indian tribe or another interested party, and in that case, it will go through the standard Section 106 review process in accordance with the Section 106 regulations.

A pdf copy of the PA is posted at: www.achp.gov/il.fhwa.statewide%20euro-american%20arch%20sites.pa.30aug11.pdf

For more information about the ISAS transportation program: www.isas.illinois.edu/transportation_research/index.shtml



Artifacts recovered from sites covered by the new standard treatment include this gun and jug found at a farm site. (Photo courtesy Illinois State Archaeological Survey)



NATIONWIDE

Project: New Case: Disposal of Excess Post Offices

Agencies: U.S. Postal Service

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The United States Postal Service is planning on transferring or closing a large number of post offices in the near future. The ACHP is assisting with Section 106 compliance responsibilities.

The United States Postal Service (USPS) is proposing the transfer of numerous post offices throughout the country due to consolidation of service. The closure of many post offices is being planned in an effort to address USPS' financial shortfall. Due to the number of post office closures and disposals that have taken place and are planned in the near future, the ACHP has encouraged USPS leadership to develop a programmatic approach to satisfy its Section 106 compliance responsibilities.

Since December 2010 the ACHP and USPS officials have met to discuss Section 106 consultation strategies and alternatives, such as the development of a nationwide context study of post-WWII post offices, Section 106 training for USPS staff, and potential program alternatives to expedite the Section 106 review of undertakings. Also under discussion is the effect of the disposals on historic properties, including National Register of Historic Places and National Historic Landmark individual and district listings.

The ACHP is also reaching out to State Historic Preservation Offices and other consulting parties regarding responsibilities and procedural challenges in Section 106 consultations for such undertakings. Currently, the ACHP is in an ongoing discussion with USPS regarding the appropriate point in the discontinuance of services decision-making process to initiate Section 106 consultations.

The ACHP recommended that the USPS prepare a contextual study of post offices constructed post-WWII. Such a study does not currently exist. The study would provide a knowledge base for determining National Register eligibility and would inform the development of a Section 106 program alternative to assist in expediting project reviews. The lack of identification



Many post offices in the U.S.A. face uncertain futures because of major pending consolidation of service actions. (Photo courtesy U.S. Postal Service)

and evaluation of these properties has the potential to hinder consultation with regard to preservation solutions for transferred properties. Without an understanding of the character-defining features or period of significance of post-WWII post offices in each state and nationwide, it is difficult to plan for the preservation of the resources or determine the potential adverse effects to the historic properties. The USPS supports the development of such a context and is in the process of selecting a consultant for the study.

The USPS is also facing other challenges in coordinating and carrying out the Section 106 process, including consistent approaches to developing covenants and easements to the historic property, a lack of resources for proper historic property identification and evaluation on a case by case basis, and complex consultation with other federal agencies to be affected by the closure of USPS facilities.

A number of major post office transfers have already undergone Section 106 reviews. The ACHP will continue to work closely with USPS and preservation partners throughout the USPS post office disposal process and encourage USPS to engage stakeholders in the development of a program alternative for these anticipated actions.

NEW YORK

Project: Closed Case: Repair and Restoration of the Old Albany Post Road

Agencies: Federal Emergency Management Agency

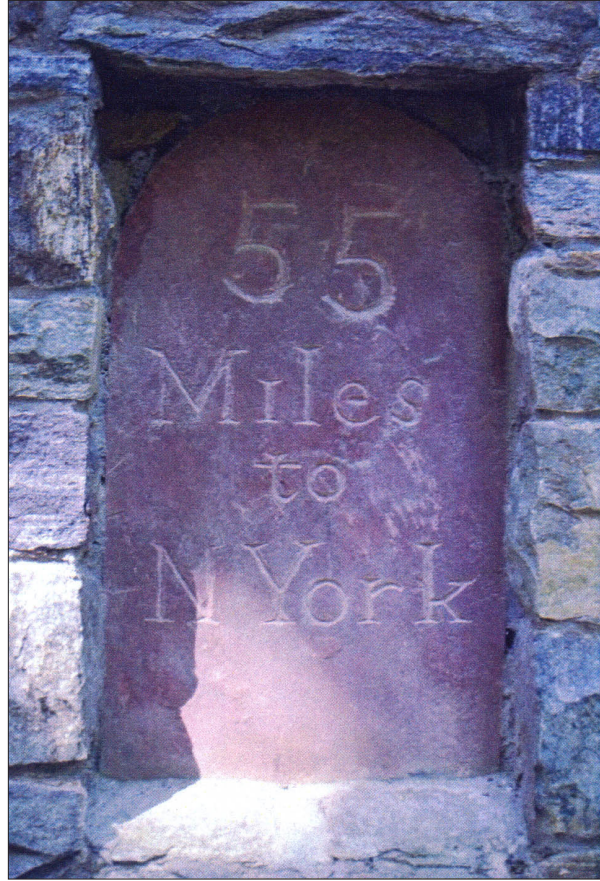
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Improvements to a section of the Old Albany Post Road listed on the National Register of Historic Places were the focus of a three-year Section 106 consultation effort that culminated in August.

The Old Albany Post Road is a 6.6-mile section of road located in Philipstown, New York. It was listed on the National Register of Historic Places because it was the original transportation artery between New York City and Albany. Laid out largely over long-existing Native American paths along the ridge of hills paralleling the Hudson River, the route was successively improved throughout the 17th and 18th centuries for the movement of mail, commodities, and people in eastern New York. The Philipstown section of the Old Albany Post Road has retained a significant amount of its 18th century character and appearance. Important artifacts and landscape features remain which enhance the visual impact of this historic thoroughfare. It is the least altered extant section of the Post Road.

The Federal Emergency Management Agency (FEMA) proposed the use of Public Assistance funds through the New York State Office of Emergency Management to the town of Philipstown for the repair and restoration of the Old Albany Post Road, which was damaged as a result of flooding in April 2007. The town of Philipstown also requested funds to prevent future recurring damage due to drainage of the road, and to address safety and emergency issues that arise when the road is eroded.

The ACHP joined the consultations March 10, 2008, and the first meeting was April 24, 2008. The project then went through a period of uncertainty until an April 28, 2011, session forged agreement on a Memorandum of Agreement (MOA). Consulting parties in addition to FEMA and the ACHP included the town of Philipstown, Old Road Society of Philipstown, New York State Office of Emergency Management, and New



Many historic resources, including Milestone 55, remain along the Old Albany Post Road where they may be affected by an improvement project. (Photo courtesy URS Corporation)

York State Historic Preservation Officer.

The MOA provides design guidelines for the road's surface repaving, width expansion, alignment, and drainage system. It also includes measures to minimize any effects to the landscape and setting of the road. Photographic documentation and the development of a Historic Resource Study also are included. The MOA also contains provisions for the development of an archaeological monitoring protocol for the entire Area of Potential Effect.

The MOA was executed among the consulting parties on August 26, 2011.

NEW YORK

Project: Closed Case: Batavia Veterans Affairs Medical Center Building Site Relocation

Agencies: Department of Veterans Affairs

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Having initially chosen to demolish two historic duplex buildings to accommodate a needed new mental health building, the staff at Batavia Veterans Affairs Medical Center realized through the Section 106 process that this adverse effect was avoidable and quickly decided to relocate the new structure to spare the historic ones.

This case reflects the quick responsiveness of the local Department of Veterans Affairs (VA) staff, including the acting Medical Center director and engineers, who were unfamiliar with the Section 106 process but quickly grasped the situation and the legal requirements. They worked efficiently to consider site alternatives and design changes despite having moved so far along the process prior to initiating Section 106 consultation. The ultimate outcome is a “win-win” in that two historic buildings were saved, and the VA accomplished its veteran service mission.

The Batavia VA Medical Center (Batavia VAMC) initiated consultation, having already chosen a site on which to build a new Female Mental Health Building (FMHB) and having produced 100 percent design drawings. Batavia VAMC proposed to demolish two historic duplex quarters (Buildings 7 and 8) in order to build the new FMHB.

This case focuses on the extraordinary, last minute efforts the VA staff undertook in order to consider whether the new FMHB could be built on land behind the two duplex quarters, rather than in their place. The New York State Historic Preservation Officer (SHPO) strongly advocated for this alternative. Batavia VAMC agreed that the FMHB could be built on the land behind the historic quarters, thus saving the two historic buildings.

Buildings 7 and 8 contribute to a larger historic district that includes a central hospital building; recreation hall; administration building; nurses’ quarters; and director’s residence. All these major buildings are located around a central parade ground, with other contributing



Historic Building 7 will be preserved through fast action that relocated a new structure that was proposed on the duplex site. (Photo courtesy Department of Veterans Affairs)

resources located behind the main hospital building. The Batavia VAMC was built in 1932 in the Georgian Colonial Revival style. The campus belongs within the Second Generation hospitals, which were built between the World Wars to serve the huge influx of veterans requiring services. The historic district is currently eligible for listing in the National Register of Historic Places. VA is preparing to submit a nomination in the near future.

In addition to VA and the ACHP, consulting parties included the New York SHPO, the Seneca Nation, and the City of Batavia.

The ACHP received notice of the adverse effects finding on May 26, 2011. The ACHP then requested more information on June 10 and notified the VA it would participate in consultation on June 30. In July, in the space of a week after consultation occurred, the Batavia VAMC determined to proceed with the FMHB on another site and spare the historic structures.

The Memorandum of Agreement (MOA) resulting from this case acknowledges that the VA has avoided adverse effects to the contributing resources and the district as a whole. Also, it stipulates that the VA will repair the roofs of Buildings 7 and 8 and that the new FMHB will be designed to be compatible with the architectural character of the district. The agreement also stipulates documentation of a contributing garage that will be demolished to make way for the new FMHB. The garage has diminished integrity and is not visible from the parade ground. For more information: www.buffalo.va.gov/batavia.asp

NEW YORK

Project: Ongoing Case: Expansion of the Peace Bridge International Crossing in Buffalo

Agencies: Federal Highway Administration

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After 10 years of planning, as Section 106 consultation was about to conclude with execution of a Memorandum of Agreement, the Peace Bridge International Crossing and customs plaza project faces significant challenges due to a lack of sufficient funding.

The proposal to expand the Peace Bridge crossing and customs plaza, as described in the summer 2010 *Case Digest*, is unlikely to proceed. Current federal budget projections make it doubtful that the project will receive the \$320 million in federal funds needed to build the expanded customs plaza. In July, the Peace Bridge Authority, formally known as the Buffalo and Fort Erie Public Bridge Authority, announced it will pursue approval for a reduced plaza design concept.

The size of the proposed customs plaza was a significant source of contention in Section 106 review. Local citizens—wanting to preserve historic homes and the views from Prospect Hill Historic District and the Buffalo Park and Parkways System (including Front Park, Columbus Park, Prospect Park, and Porter Avenue) designed by F.L. Olmsted—objected to the Memorandum of Agreement that the New York SHPO and the ACHP were willing to sign last spring.

The western New York congressional delegation is working with the Department of Homeland Security on a plan to allow preinspection of commercial vehicles on the Canadian side of the bridge. This might allow for a smaller U.S. customs plaza in Buffalo.

With the Peace Bridge Authority now looking at a smaller renovation of the U.S. plaza, featuring primarily operational improvements, the impact of the project on this Buffalo historic neighborhood should be minimal. Consequently, the Section 106 review of the project will likely be suspended until and unless the



The Peace Bridge across the Niagara River dates to 1927. Canada is across the river at the top of this image. (Photo courtesy Federal Highway Administration)

Federal Highway Administration reinitiates consultation on a revised proposal for the bridge project.

Last reported in the summer 2010 *Case Digest*
www.achp.gov/docs/CaseDigestAug2010.pdf

WASHINGTON

Project: New Case: Bear Creek Fish Habitat Restoration Project Permit

Agencies: U.S. Army Corps of Engineers, Seattle District

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A potentially highly significant archaeological area along Bear Creek is threatened by both a highly desirable stream rehabilitation project to assist fish habitat and natural conditions associated with streams. A consultation process is seeking the best possible solutions to allow the project and preserve and recover the information of early human habitation that exists at the site.

The U.S. Army Corps of Engineers (Corps), Seattle District is reviewing a permit application from the City of Redmond, Washington, for a fisheries habitat restoration project in King County, Washington. The permit is for work in the waters of the United States related to the creation of an unobstructed migratory fish passage access to and from the Bear Creek basin particularly for the population of North Lake Washington Chinook salmon.

The proposed undertaking will involve excavation of a third of an acre of wetland and partial fill of 1,600 linear feet of Bear Creek to construct 3,340 linear feet of new, meandering Bear Creek stream channel with fish habitat features including pools, 3,000 linear feet of side channels of various depths, and woody debris. The project will also include creation of forested wetland on the creek floodplain and the planting of 11.3 acres of stream buffer areas.

An archaeological site has been identified in the Area of Potential Effects (APE) for the undertaking that the Corps has determined is eligible for listing on the National Register of Historic Places. The site appears to contain multiple prehistoric components distributed across several areas of artifact concentrations and has the potential to contain important information regarding Pleistocene and Holocene site formation processes, technological adaptations, and settlement and subsistence practices during the earliest occupation of the region. Given the site's potential age, it may be important in understanding archaeological research



Bear Creek is the locale of a fish habitat project that poses threats to significant archaeological sites. (Photo courtesy U.S. Army Corps of Engineers, Seattle District)

questions that have broader geographic implications for other regions of North and South America.

Consulting parties for the Section 106 consultation include the Washington State Historic Preservation Officer, the City of Redmond, the Muckleshoot Tribe, the Snoqualmie Tribe, the Tulalip Tribe, the Stillaguamish Tribe, the Washington State Department of Transportation, and the King County Department of Natural Resources and Parks. The tribes have expressed support for the proposed fisheries restoration project. However, they also have concerns about the effects to the archaeological site, and have advised that impacts to the site should be avoided if possible and minimized if unavoidable. Tribes have suggested that if destruction is unavoidable for any portion of the site, the Corps require that every effort is made to ensure data recovery is focused on generating information that can be used to address significant archaeological research questions.

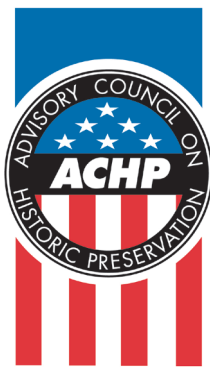
The Corps has been working with consulting parties in considering alternatives for the project that would enable them to avoid or minimize the adverse effects to the Bear Creek site from the proposed project. The permit applicant initially preferred an alternative that would result in destruction of the site and require data recovery as mitigation for the adverse effect. However, the Corps is now considering alterations to the proposed project that would keep important portions of the site intact but require data recovery in affected portions. In carrying out due diligence in the consideration of

alternatives, the Corps has required further analysis of a number of artifacts whose depositional integrity or authenticity was uncertain. The intention of the analysis is to help refine the boundaries of the site and the loci of artifact concentration. In considering the alternatives that would preserve portions of the site, the Corps will have to evaluate the feasibility of ensuring the long-term survival of the site in a flood plain setting subject to seasonal flooding events. A number of consulting parties have questioned the practicability of long-term preservation of the site.

The ACHP has entered the consultation because of the potential significance of the site and in order to assist the Corps and consulting parties with procedural issues related to the consideration of alternatives and how they may influence the resolution of adverse effects.



Another view of the affected area along Bear Creek, Washington
(Photo courtesy U.S. Army Corps of Engineers, Seattle District)



Preserving America's Heritage

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