



*Preserving America's Heritage*

# CASE DIGEST: SECTION 106 IN ACTION



ADVISORY COUNCIL ON HISTORIC PRESERVATION

WINTER 2012

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: Tom Smeltzer, District Ranger, provided this image of what he described as a “Dempster 12A windmill in Unit 76 of the Black Kettle National Grassland, located adjacent to a homestead structure. The wind driven water pump was the lifeblood of the plains and settlement in general.” The grassland is part of efforts by the USDA Forest Service in eight states to create new Programmatic Agreements.

## 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](http://www.achp.gov) contains a useful library of information about the ACHP, Section 106 review, and the national historic preservation program.

# ARIZONA

**Project:** New Case: Pima County Wireless Integrated Network

**Agencies:** Federal Communications Commission

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A widespread system of communications towers is part of the Pima County Wireless Integrated Network, an important upgrade to meet the needs of public safety agencies and emergency responders in Pima County. One of the 30 proposed tower sites is located on Tumamoc Hill and involves a National Historic Landmark with two millennia of human association.

In 2004, Pima County voters approved a \$92 million bond issue for the design and implementation of a regional telecommunications network to meet the needs of 32 public safety agencies and emergency responders in the county. The project, entitled Pima County Wireless Integrated Network (PCWIN), consists of 30 communications towers placed strategically throughout approximately 9,200 square miles, a geographic area about the size of Maryland.

Of the 30 tower sites, only one site has thus far been determined to have the potential to adversely affect historic properties. This facility is PCWIN's proposed replacement tower at Tumamoc Hill, site of the Tumamoc Hill Archaeological District and the Desert Botanical Laboratory. It is a designated National Historic Landmark owned by the University of Arizona.

The Tumamoc Hill Tower proposal calls for removal of two power poles, six towers, and three buildings and the consolidation of these facilities into one remaining building plus one 125 foot replacement tower. This consolidation will reduce current physical and visual impacts to the property. Nevertheless, the project consolidation activities still constitute an adverse effect to the National Historic Landmark property.

Licensing of the facility by the Federal Communications Commission (FCC) is a federal action that makes the project an undertaking subject to the provisions of



Tumamoc Hill, facing east. The photograph is taken from the land on the west side of the hill that the county acquired for conservation, located within the Tumamoc Hill Archaeological District and Desert Laboratory National Historic Landmark boundary. (Photo courtesy Pima County)

Section 106 under the terms of the National Historic Preservation Act and the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the FCC. The ACHP was notified of the adverse effect and invited to participate in the Section 106 review process. The ACHP determined that the case did not require active agency participation as the process was properly being carried out.

The Tohono O'odham, Akimel O'odham, and Hopi tribes have indicated that Tumamoc Hill is an ancestral site of cultural significance to them. Anthropological and archaeological research at the site has documented more than 2,000 years of habitation. Archaeological evidence of the use of Tumamoc Hill by indigenous peoples includes cemeteries, rock art petroglyphs, trincheras architecture, habitation structures, farming, and resource processing features.

Pima County asked for, and received, support for the tower consolidation plan from several Indian tribes and representatives including the Four Southern Tribes Cultural Resource Working Group which includes representatives from the Salt River Pima-Maricopa Indian Community, the Gila River Indian Community, the Ak-Chin Indian Community, and the Tohono O'odham Nation. In addition,

the Tohono O'odham Nation Legislative Council passed a Resolution (No.10-271) of support for the consolidation plan, recommending a finding of No Adverse Effect. The Ak-Chin Indian Community and the Hopi Tribe provided written concurrence with the Tohono O'odham Nation Legislative Council resolution, too.

The concrete pillars and slabs currently supporting the towers and buildings are slated for removal. The cleared sites will be chiseled down to the ground surface, and the landscape where these towers and buildings once stood is to be restored.

To mitigate adverse effects to potential archaeological features that contribute to the archaeological district, the county is developing a Historic Properties Treatment Plan that outlines research questions, review protocols, and permits necessary to complete the cultural resources compliance process, including archaeological data recovery.

Consulting parties include the FCC, Arizona State Historic Preservation Officer, the University of Arizona, the National Park Service, and Pima County. Pima County has invited the Tohono O'odham Nation, the Ak-Chin Indian Community, the Salt River Pima-Maricopa Indian Community, the Gila River Indian Community, the Hopi Tribe, the Pascua Yaqui Tribe, and the Arizona State Museum to endorse the Memorandum of Agreement as concurring parties. While the ACHP was not involved as a consulting party or a signatory, this case is provided as an instructive example of significant cases that are handled well under program alternatives established by the ACHP.

# ARIZONA/ CALIFORNIA

**Project:** Closed Case: Water Storage Tank at Fort Yuma Indian Health Service Facility

**Agencies:** Indian Health Service (Phoenix Area), Department of Health and Human Services

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This is a case involving a National Historic Landmark District and diverse agencies and consulting parties where adverse effects were avoided through a coordinated National Environmental Policy Act and National Historic Preservation Act Section 106 procedure.

The Department of Health and Human Services, Indian Health Service (IHS), in cooperation with the Quechan Indian Tribe, plans to construct a new, approximately 750,000-gallon community water storage tank within the IHS Fort Yuma Service Unit. The tank will augment an existing water storage tank constructed in 1974.

The Phoenix Area IHS used the National Environmental Policy Act (NEPA) process to meet its Section 106 responsibilities, and as part of that process, drafted an Environmental Assessment (EA). In the NEPA process, an EA is written to determine whether a federal undertaking would significantly affect the environment. Typically, an EA reviews the need for the proposed action, considers alternatives, and discusses the environmental impacts of the proposed action and the alternatives. The IHS's EA assessed five different site alternatives, three of which were located within the Yuma Crossing and Associated Sites National Historic Landmark District (NHL). Sites one, two, and three were located within the NHL; sites four and five were outside of its boundaries.

The Fort Yuma Indian Reservation, near Winterhaven, California, is in the southwestern portion of Arizona and the southeastern part of California, in portions of Yuma County, Arizona, and Imperial County, California. The NHL spans a similar area. Long used by Native Americans, this natural crossing continued to serve as a significant transportation gateway on the Colorado River during the Spanish Colonial and U.S. westward expansion periods. The surviving buildings



Current view (above) and simulated second tower view (below)  
(Photos courtesy Tierra Environmental Services)



of the Yuma Quartermaster Depot and Arizona Territorial Prison are the key features on the Arizona side of the border. Across the river in California stand the surviving buildings of Fort Yuma, an Army outpost that guarded the crossing from 1850 to 1885.

The Quechan Tribe passed a resolution in December 2009, selecting site two as the location of the new water tank. The cultural resources survey completed in December 2010, however, showed that site two would cause direct adverse effects to the NHL. The IHS, working closely with the Quechan Tribe, determined that site one would meet the need for a new water storage tank while avoiding any direct, adverse effects to the NHL. The tribe passed a new resolution confirming the choice of site one on September 6, 2011, and on November 15, 2011, the California State Historic Preservation Officer (who was acting as lead SHPO, since the affected area included two states) concurred with IHS's determination that there would be no adverse effects to the NHL.

The ACHP became involved in the case in August 2010. Other parties in addition to those already cited included the National Park Service and Bureau of Indian Affairs.

# DISTRICT OF COLUMBIA

**Project:** Ongoing Case: Eisenhower Memorial Plans

**Agencies:** National Park Service

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The complicated design and approval process for a national memorial to Dwight D. Eisenhower has resulted in a preferred alternative with adverse effects to the L'Enfant Plan of the City of Washington and other historic properties.

First time or experienced visitors to the nation's capital are familiar with the commemorative elements of the Washington landscape. What would DC be without the Washington, Lincoln, and Jefferson Memorials visible when entering the city by car over the Memorial Bridge or by air landing at Reagan National Airport? But many Americans would be surprised to learn how new memorials on federal lands in the District of Columbia are approved, funded, planned, and constructed.

A new memorial must be authorized by an act of Congress. The proposed bill must be consistent with the National Capital Memorials and Commemorative Works Act and authorize a privately funded commission to plan, design, and construct the new memorial on land under the control of either the National Park Service (NPS) or the General Services Administration (GSA). Congress consults with the National Capital Memorial Advisory Commission (NCMAC), comprised of representatives of the NPS, GSA, Department of Defense, District of Columbia, National Capital Planning Commission (NCPC), Architect of the Capitol, Commission of Fine Arts (CFA), and American Battle Monuments Commission. The NCMAC also issues site and design approvals for new congressionally authorized memorials. Before either the NPS or GSA issue construction permits, they must ensure that the site and designs have also been approved by their own agency, NCPC, and CFA.

In recent years, many of these same federal commissions and agencies worked to develop a National Mall Plan.



Artist's concepts of the Eisenhower Memorial. Top image shows view from Smithsonian's Air and Space Museum, bottom view shows alignment with Federal Aviation Administration building on Independence Avenue SW. (Images courtesy National Park Service)



A component of this plan is the designation of three areas in which the type of memorials sited thereupon are to be limited:

- Federal lands in the Reserve – comprising the National Capital Mall from the Capitol to the Lincoln Memorial and from the White House to the Jefferson Memorial – are not available for new memorial proposals.
- Federal lands in Area I – comprising the larger viewshed of the Mall including Pennsylvania Avenue, Federal Triangle, Maryland Avenue in Southwest DC, and parklands along the Potomac River in DC and Virginia – may be used, if proposed by the NPS or GSA and approved by Congress, for commemorative works of “preeminent historical and lasting significance to the United States.”
- Federal lands in Area II – comprising all of DC and



select areas in Virginia such as Arlington National Cemetery – are available for commemorative works of “subjects of lasting historical significance to the American people.”

The Dwight D. Eisenhower Memorial Commission was created on October 25, 1999 (Public Law 106-79). The Commission is charged with memorializing Eisenhower, who served as the Supreme Commander of the Allied Forces in Europe in World War II and subsequently as the 34th President of the United States.

In 2006, the NPS, as the lead federal agency, with the approval of NCPC and CFA, selected the site for the proposed “Eisenhower Square” in Area I, as authorized by Congress, along Maryland Avenue in Southwest DC. The location of the site is characterized by federal office buildings developed in the post-World War II era, some even constructed during Eisenhower’s Administration, which currently serve as headquarters of the Department of Education and the Federal Aviation Administration (FAA). Other immediate neighbors of the site include the National Air and Space Museum, National Museum of the American Indian, and the Cohen Building (home of the Voice of America). In its site selection, NPS noted the opportunities that the site presented in communicating to the public the role of President Eisenhower in the establishment of the federal role in public education, aviation, space exploration, and Cold War communications.

However, the site was selected without the initiation or completion of a formal Section 106 review by the NPS or NCPC. The NPS formally initiated Section 106 with proposed designs prepared by the Eisenhower Memorial Commission and its architect, Frank Gehry, in 2010. The preferred design proposes a colonnade the height of the adjacent Department of Education building with a metal “tapestry” depicting an image of Eisenhower’s boyhood home in Abilene, Kansas. Inside this building-sized framework, other features will communicate Eisenhower’s contributions as general and president.

After the proposed design was developed by the Commission, the NPS consulted with the DC State Historic Preservation Office and other consulting parties regarding the area of potential effect for

the undertaking and the identification of historic properties within it. Through consultation, the NPS determined that the proposal will directly affect the L’Enfant Plan of the City of Washington, a historic property listed on the National Register of Historic Places, and the designed landscape of the Department of Education Building—determined eligible for the National Register. Consulting parties have raised concerns that in addition to visual effects to the FAA, Department of Education, and Cohen Buildings and the two Smithsonian museums, NPS should take into account the visual effects to views of and from the U.S. Capitol.

Consultation to develop a Section 106 Memorandum of Agreement for the undertaking is ongoing. But the challenges in this consultation were set in motion because the potential for the proposed memorial to affect historic properties was not taken into account when the site was selected and the objectives and constraints for the memorial’s design was developed by the Commission with its architect. The Commission was focused on creating a memorial that would be worthy of preservation by future generations. It did not take advantage of opportunities to build on the historic environment unique to DC and, specifically, the site selected to create a multi-dimensional memorial reflecting the accomplishments of Eisenhower’s Administration.

The ACHP has invited the NPS, GSA, NCPC, and CFA to consult with it and the DC State Historic Preservation Office to better incorporate historic preservation concerns and Section 106 requirements earlier in project planning for such commemorative works projects. The ACHP looks forward to such consultation in the future to minimize challenges so the American public can have new memorials that not only make history but are planned from the outset to help preserve it.

*Editor’s Note: As Case Digest was being finalized, news was received that a member of the Eisenhower family had submitted a formal objection to the proposed memorial’s design to the National Capital Planning Commission on January 10. The letter asked for changes in design and a delay in groundbreaking. How or whether this development will impact the memorial and the processes involved in creating it are currently unknown.*

# HAWAII

**Project:** Closed Case: Renewable Energy Park Project at Ewa Field

**Agencies:** U.S. Navy, Department of Defense

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The Navy has approved construction of a controversial solar energy project adjacent to the runways of historic former Ewa Field (also known as Ewa MCAS) which was significantly involved in events connected with the Japanese attack on Pearl Harbor. Many parties remain uneasy about potential adverse effects on historic places and Native Hawaiian remains.

The Navy is proposing to approve construction of a 5.91 megawatt photovoltaic (PV) field array on approximately 20 acres of land at Kalaeloa, Oahu, a location selected for its high solar radiation output. The project would be located on Navy land that is currently leased to Ford Island Ventures (FIV). The proposal includes a sublease by FIV to the Kalaeloa Renewable Energy Park LLC, a company formed to develop this project.

The runways at Ewa Field, known to be one of the first sites attacked on December 7, 1941, were the initially proposed location for the PV field. Upon consultation with the Hawaii State Historic Preservation Office (SHPO), Native Hawaiian groups, interested parties and the public, the proposed PV field was relocated to a parcel adjacent to the runways, known as “the panhandle.”

The project will involve excavating and grading a 10 foot by 14 foot mechanical building on a concrete slab, an eight-foot-high chain-link fence with 42 inch deep post footings, and a 30-foot-high golf-ball netting with five-foot-deep pole footings. An overhead high-voltage transmission line and an unpaved access/maintenance road is currently planned to run within the existing communication line easement, connecting to the Hawaiian Electric Company (HECO) power grid. A two-inch water line will run northward through another existing easement. Both of these easements cross the runways within the Battlefield Core Area.



This is illustrative of photovoltaic panels. This particular picture is of a 300-watt photovoltaic battery system, developed by the Office of Naval Research, which can provide continuous power to military in the field. It is designed by the Advanced Power Generation Future Naval Capabilities program located at the Experimental Forward Operating Base at Marine Corps System Command Transportation Demonstration Support Area in Quantico, Va. (U.S. Navy photo by John F. Williams/Released)

Interested parties included Ewa Beach Community Association, Hawaii Community Development Authority, Hawaii Aviation Preservation Society, Hawaii Museum of Military Vehicles, Hawaiian Railway Society, Historic Hawaii Foundation, National Park Service, National Trust for Historic Preservation, Naval Air Museum Barber's Point, Oahu Island Burial Council, Office of Hawaiian Affairs, Pacific War Memorial Association, and Save Ewa Field. Signatories included Navy Region Hawaii, FIV, Kalaeloa Renewable Energy Park LLC, the Hawaii SHPO, and the ACHP.

This undertaking, and every action by the Navy and its lessees at the former Naval Air Station Barber's Point, is controversial. Vocal community members and groups continue to press the Navy to preserve this highly significant battlefield, where much of the property has been leased to private developers, and the undertaking has the potential for adverse effects on National Register of Historic Places-eligible properties. Without a comprehensive evaluation that would inform a Determination of Eligibility (DOE), the Navy is treating the battlefield (as it has determined the boundaries) as eligible. Underground karst (natural cave) water systems, which support Hawaiian cultural and religious practices, may extend into the Area of Potential Effects. Previously disturbed land which may contain fill dirt taken from Native Hawaiian burial grounds retains a high potential for discovery of human remains. Finally, the policy issues surrounding leasing and use of federal lands are in stark relief here, where

the Navy must align its stewardship responsibilities for properties of great historic significance with the exigencies of developers holding the lease.

Following the 2002 Programmatic Agreement (PA) governing the lease of various Navy properties at Kalaeloa, the air station land was divided into transferable parcels without thorough evaluation that would have better guided the process. The consultation for this undertaking revealed differing views on how to define the battlefield boundaries when the battlefield is an airfield involving both defensive and offensive actions during an attack. In the current PA, the Navy commits to developing a DOE addressing historic properties throughout the leased properties and using remote sensing testing for a final proposed battlefield boundary.

Under the PA for this particular project, re-routing of the proposed alignment of power and water lines and service road to avoid the (presumed) battlefield boundaries will continue to be pursued. The Navy made a significant concession to the concerns of many consulting parties when it abandoned the preferred alternative site on the runways in favor of the “panhandle” location that avoids the runways, but concerns remain about the easements crossing the battlefield. The agreement commits the project developer to minimization of effects and improvements to access to the historic aircraft warm-up platform. The lessee will also provide funding to an as-yet unnamed qualified non-profit affiliate group for long-term public interpretation and commemoration of Ewa Field’s history and role in the events of World War II, particularly the events of December 7, 1941.

Because the developer of the Renewable Energy Park faced a December 31, 2011, deadline for a PA in order to obtain tax credits, the Navy’s consultation period was constrained. The agreement was executed on December 28, 2011. The Navy is considering any unresolved issues in a post-execution amendment to the PA.

For more information:

<http://hawaii.gov/hawaiiaviation/hawaii-airfields-airports/oahu-pre-world-war-ii/barbers-point>  
<http://www.caves.org/section/ccms/wrh/>

# HAWAII

**Project:** New Case: Kuhio Highway Short-Term Improvements

**Agencies:** Federal Highway Administration

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A small project to widen a section of Kuhio Highway on the Island of Kauai will affect an area near the Wailua River of cultural and religious significance to Native Hawaiian organizations. The ACHP and Hawaii State Historic Preservation Office are providing technical assistance as the Hawaii Department of Transportation and Federal Highway Administration learn a new way of working with Native Hawaiian organizations to identify and resolve their concerns.

The Hawaii Department of Transportation, Highways Division (HDOT) proposes to widen Kuhio Highway along a 0.65 mile section between the Temporary Kapa'a Bypass Road and Kuamo'o Road. Other intersection and accessory improvements would be completed along with the widening of Kuhio Highway from three to four lanes in order to improve safety and reduce congestion. In addition to the highway widening improvements, 1.70 miles of existing overhead utility lines (electrical, telephone, and cable) will be relocated underground as part of mitigation measures for endangered and threatened sea birds in the area. The project is called the Kuhio Highway Short-term Improvements. The Federal Highway Administration (FHWA) and HDOT will also need to decide upon a long-term solution to congestion on Kuhio Highway with a possible new route bypassing Kapa'a.

The ACHP first learned of the project in September 2009, when it was contacted by Hui Na Makaiwa o Wailuanuiaho'ano, a Native Hawaiian organization (NHO) that objected that the project was being developed without consultation with NHOs.

Hui Na Makaiwa o Wailuanuiaho'ano and several other NHOs were concerned that the proposed improvements would cause damage to the Mahunapu'uone burial ground and other historic features associated with the original settlement of Kauai and the royal center where high chiefs and chiefesses dwelled and entertained visitors. The concerns of NHOs were heightened by the construction of a new bridge over the Wailua River and



Holoholuku Heiad (above, and on detail view to right) is a sacred site associated with royal births. (ACHP photos)

a plan by the county to build a bicycle and pedestrian path on the beach adjacent to the Kuhio Highway—all in a small area near the mouth of the Wailua River, a place of significance in Native Hawaiian history and spiritual practice associated with the Wailua Complex of Heiau National Historic Landmark.

In response to these concerns, FHWA initiated consultation with HDOT, the State Historic Preservation Office (SHPO), and NHOs regarding the proposed Kuhio Highway Short-term Improvements, and met with NHOs in February 2010 to discuss the project. Section 106 review was already concluded for the bridge and bicycle and pedestrian path as separate projects. Although FHWA had previously consulted with the Office of Hawaiian Affairs (OHA), other NHOs expressing interest needed to be invited to share their views. FHWA, with the assistance of HDOT, has since made a concerted effort to engage NHOs in the review of the Kuhio Highway project, although it maintains that consultation on the bridge and multi-use path will not be reopened. Consultation has been challenging due to the lack of trust among many of the participating NHOs, and concern among Native Hawaiians about disturbance to this highly significant area.

FHWA has hosted seven Section 106 consultation meetings with NHOs since early 2010. As part of its identification efforts, FHWA has proposed that a large area associated with the Wailua Complex of Heiau and the Wailua Beach, including the entire project area, is a property of traditional cultural significance to

NHOs. Most recently, a meeting was held in Kapa'a on December 7-8, 2011, to discuss FHWA's finding that the project will adversely affect the Wailua River Traditional Cultural Property, and solicit from NHOs possible measures to mitigate these effects. Although FHWA has not yet made a formal determination of Adverse Effect, the ACHP and the Federal Preservation Officer for FHWA have participated in consultation to provide technical assistance to both the project development team and NHOs.

A follow-up consultation meeting to try to reach agreement on mitigation measures to incorporate into a Memorandum of Agreement for the project is being planned for March 2012. Measures suggested include clean up and restoration of the fish ponds adjacent to the project area, improvement of the drainage system to keep runoff away from burials and the ponds, maintenance of heiau (built sites dedicated to spiritual purposes) in the Traditional Cultural Property, and additional study and education of the traditional significance of the Wailua River area in Hawaiian culture. Despite FHWA's efforts to date, Hui Na Makaiwa o Wailuanuiaho'ano still views the consultation process as flawed and is opposed to the proposed improvements.



# MISSISSIPPI

**Project:** Ongoing Case: NRCS Assistance for Irrigation Practices

**Agencies:** Natural Resources Conservation Service, U.S. Department of Agriculture

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During construction of irrigation systems, a prehistoric burial site was discovered. Construction work immediately stopped, and the Mississippi State Historic Preservation Officer, representatives of federally recognized tribes, and the ACHP were contacted. Work is now proceeding with protection of the sensitive site secured.

The Natural Resources Conservation Service (NRCS) is providing technical and financial assistance through the Mississippi River Basin Initiative to a private farmer in Mississippi for the construction of irrigation storage reservoirs, a tail water recovery system, and irrigation land leveling.

During initial construction activities for an irrigation storage reservoir, there was a discovery of a prehistoric human burial site. The NRCS immediately halted construction activities in and around the site and contacted the Mississippi State Historic Preservation Officer (SHPO), federally recognized tribes, and the ACHP, and made temporary arrangements to protect the site. In consultation with the SHPO and tribes, the NRCS determined the site to be eligible for listing on the National Register and that the site had been adversely affected by the construction activities. The NRCS proposed several protection and mitigation measures for the site, formally notified the ACHP, and continued consultation to develop a Section 106 Memorandum of Agreement (MOA).

The MOA provides for relocating the south levee of the irrigation storage reservoir to avoid the site, covering the exposed burial with a protective barrier, and placing fill material over the site. The area would be marked with a cross pattern of detectable tape. NRCS would ensure the buried site area will be planted in grass and included within an expanded levee maintenance buffer zone that would be maintained for the life of the conservation practice (15 years). The landowner would



Historic site in Coahoma and Sunflower counties, Mississippi  
(Photo courtesy Natural Resources Conservation Service)

pursue placing a deed restriction on the use of the property for the site area within one year of execution of the MOA. The deed restriction would restrict any activities that may cause erosion to, degrade, disturb, or undermine the integrity of the site.

While this process began with a discovery and adverse effects to a historic property, the NRCS immediately initiated consultation with the SHPO, interested Indian tribes, and the ACHP and worked collaboratively with those groups to identify a long-term preservation outcome. The NRCS shared information as it became available and kept open lines of communication with all consulting parties. The landowner in this case agreed to seek a deed restriction on the use of this area of his property with the intent to protect the site in perpetuity. The parties worked together, and the consultation process was efficient and productive.

In addition to the landowner and land lessee, the ACHP, NRCS, and SHPO, the consultation involved parties including the Chickasaw Nation, the Choctaw Nation of Oklahoma, the Mississippi Band of Choctaw Indians, the Jena Band of Choctaw Indians, and the Quapaw Tribe of Oklahoma.

For more information: [www.nrcs.usda.gov/wps/portal/nrcs/main/national/home](http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/home)

# MONTANA

**Project:** New Case: Tongue River I Rail Line Construction Project

**Agencies:** Surface Transportation Board

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The Surface Transportation Board is coordinating Section 106 review to develop a Programmatic Agreement for the construction and operation of an 89-mile rail line in Montana from Miles City to the Otter Creek and Montco coal mines south of Ashland. The board's predecessor agency, the Interstate Commerce Commission, approved Tongue River I in 1986.

The Surface Transportation Board (STB) has initiated the Section 106 review process for the Tongue River I rail construction and operation project (Tongue River I). This project had undergone Section 106 review previously, resulting in the execution of a Programmatic Agreement (PA) in 2005 among the STB, the ACHP, and consulting parties. The PA was extended through an amendment executed in 2011. However, it expired in fall 2011 before the project was implemented.

Prior to the expiration, STB consulted with signatories and consulting parties to amend the PA to address substantive and procedural issues related to the implementation of Tongue River I and two other phases of the rail line construction project (Tongue II and Tongue III). Since the execution of the original PA, additional historic properties have been identified, including two National Historic Landmarks. In addition, other consulting parties, including Indian tribes, raised concerns about STB's limited outreach to consulting parties to address the changing scope of the proposed undertaking.

The original project proponent, the Tongue River Railroad Company (Railroad), recently decided to suspend construction of Tongue River II and III indefinitely. Those two phases were the subject of litigation that recently led to a Ninth Circuit holding that STB made errors in its compliance with the National Environmental Policy Act. Further, the project proponent added a new owner to the project and made other modifications to original plans.



An old residence along the proposed rail line corridor outside of Miles City, Custer County, Montana (Photo courtesy Montana state government)

Since the litigation had nothing to do with Section 106 compliance, the STB decided to proceed with the Section 106 consultation while that litigation was still underway and notified consulting parties to that effect. STB is presently moving forward with development of an entirely new Section 106 agreement on the modified Tongue River I Project.

As part of the Section 106 review, STB will attempt to identify new consulting parties; review and possibly modify the project's area of potential effects; identify and evaluate historic properties considering the passage of time since the earlier process; identify new preservation issues raised by consulting parties related to alternatives analysis; and, assess effects of the new rail line and alternatives.

Based on STB's proposed timeline for concluding Section 106 review, the review may be concluded as early as October 2012. The ACHP will continue to actively participate in Section 106 consultation due to the project's legal and procedural issues and to ensure that tribal consultation addresses the direct and indirect effects of the proposed rail line on natural landscapes that may be impacted.

# MULTI-STATE

**Project:** New Case: Programmatic Agreements for National Forests in Eight States

**Agencies:** Forest Service, U.S. Department of Agriculture

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National Forests in eight states are updating Programmatic Agreements (PAs) to address two major concerns: past inadequate consultation with Indian tribes in creating the existing PAs, and appropriately coordinating Section 106 with the many other federal regulations governing interactions with American Indians while assuring the ACHP's jurisdictional range is properly considered.

The ACHP is participating in several ongoing Section 106 consultations to develop new Programmatic Agreements (PAs) for the property management activities of the Forest Service (FS), U.S. Department of Agriculture (USDA) in Arkansas, Colorado, Oklahoma, South Dakota, and Texas. In addition, the ACHP is participating in consultations to develop new PAs for the following individual National Forests: Land between the Lakes (Kentucky), Mark Twain (Missouri), and Humboldt-Toiyabe (Nevada).

Each of these FS management units has been meeting Section 106 responsibilities through the implementation of existing PAs. None of these existing PAs was developed in consultation with the Indian tribes who attach religious and cultural significance to historic properties on these lands. Consequently, a main objective in the consultations for these new PAs is to ensure that the Indian tribes are consulted and have the opportunity to influence the development of the agreements.

These consultations come at a time when the USDA and the FS are conducting a policy and procedures review regarding Indian Sacred Sites. FS staff have been making efforts to coordinate their consultations about Sacred Sites and historic properties. These consultations often have addressed a broad range of cultural and historic property concerns governed by not only Section 106 of the National Historic Preservation Act, but also by Section 110 of the Act and other laws,



Black Kettle National Grassland, Oklahoma (Photo by Tom Smeltzer, courtesy US Forest Service)

such as the Native American Graves Protection and Repatriation Act, American Indian Religious Freedom Act, and the Archaeological Resources Protection Act. The ACHP has been working with the FS and Indian tribes in these coordinated consultations to distinguish Section 106 from these other legal authorities and to ensure Section 106 consultations do not exceed the ACHP's jurisdiction.

Principal consultation issues regarding the existing FS PAs include streamlining provisions for undertakings unlikely to affect historic properties, incorporation of FS commitments for further efforts to identify historic properties of religious and cultural significance to Indian tribes, and streamlining provisions for emergency and disaster situations such as wild fire and flooding. Typically, these PAs are not addressing key FS programs such as the permitting of Recreational Residences or minerals exploration and development. Once these new statewide and National Forest-specific PAs are developed, the ACHP anticipates they will serve as examples for other National Forest management units considering the use of such a program alternative.

Such alternatives are not always easily produced. The Karuk Tribe and others recently sued the supervisor of the Six Rivers National Forest in the U.S. District Court for Northern California. The court found that the FS had violated the National Historic Preservation Act in its Orleans Community Fuels Reduction and Forest Health Project in Six Rivers National Forest by failing to adequately implement conditions to avoid adverse effects to the Panamnik World Renewal Historic District, a historic property determined eligible for



the National Register of Historic Places. The remedial plan, approved by the court in September 2011, was developed in accordance with the First Amended Programmatic Agreement regarding Undertakings on the National Forests of The Pacific Southwest Region, executed in 2001.

The ACHP did not become aware of the dispute between the Karuk Tribe and the Six Rivers National Forest until after the court's findings in this case, when the ACHP was consulted pursuant to the regional PA stipulation for inadvertent adverse effects. As a result, the ACHP had limited opportunity to help influence the outcome. Review of the case, however, indicates that the PA, which was developed without substantive consultation with Indian tribes, does not clearly define the roles of Indian tribes and ensure opportunities for them to participate in Section 106 consultations regarding specific undertakings. With this in mind, the ACHP stated in a letter to the Supervisor of the Six Rivers National Forest noting that this undertaking is not the first one implemented under this regional PA that has encountered issues regarding inadvertent effects to historic properties and challenges with tribal consultation. The ACHP plans to communicate separately with the Regional Forester to urge him to re-initiate consultation with the SHPO and Indian tribes to amend or replace the PA governing these activities.

The ACHP is continuing to consult with the FS, SHPOs, and Indian tribes to develop PAs for all these Forest Service management units.

# NATIONWIDE

**Project:** Case Update: Weatherization Grant Programs Highlights Success of Prototype Programmatic Agreement

**Agencies:** Department of Energy

**Contact:** Lee Webb lwebb@achp.gov

A new Government Accountability Office report on weatherization efforts funded by the American Recovery and Reinvestment Act alleviates concerns that compliance with Section 106 may pose a major obstacle to efficient and effective results. Since a streamlining prototype Programmatic Agreement went into effect in February 2010, 43 of the 57 states and territories have executed these agreements among the Department of Energy, states, and State Historic Preservation Officers. This strategy and response was unprecedented among the federal preservation program, resulting in widespread acclaim for the Department of Energy.

A December 19, 2011, article in *Government Executive* credits the Department of Energy (DOE) for “effectively using stimulus money to help low-income families weatherize their homes.”

The article cites a Government Accountability Office (GAO) study that found 58 state-level grant recipients spent \$3.46 billion in money allocated for weatherization by the American Recovery and Reinvestment Act (ARRA), under the Weatherization Assistance Program (WAP), one of the three grant programs covered by the DOE prototype Programmatic Agreement (PA).

The recent GAO findings alleviate the agency’s previously expressed concerns in February 2010 that red tape was delaying weatherization progress at the local level. GAO’s report also showed that the challenges DOE applicants faced in complying with historic preservation requirements (Section 106) decreased over three years, in that in the first year of ARRA, 71 percent of applicants responded that Section 106 compliance was a strong challenge, while in the third year, only 35 percent of applicants still felt this to be an issue. The significant percentage drop



Residential project in Delaware that received a Department of Energy SEP grant for installation of photovoltaic panels

showcases that with the past three years worth of training, guidance, and technical assistance, DOE applicants have a better understanding of the regulations and the process. Some may still feel any additional requirements are a challenge, but the efforts of the DOE and the ACHP have proven beneficial and continue to be.

DOE was the first federal agency to use the prototype PA under the Section 106 regulations as a program alternative. The prototype PA allows states administering the three DOE weatherization related grant programs under the Office of Weatherization and Intergovernmental Programs (OWIP) to expedite historic preservation reviews and improve coordination between the state’s energy agencies and the State Historic Preservation Officers (SHPOs). The agreement enables states to streamline Section 106 reviews by establishing review protocols and methods for resolving adverse effects to historic properties. Further, it addresses the workload concerns that SHPOs are confronting in the review of ARRA projects while ensuring the timely obligation of DOE funds for OWIP undertakings.

Since the prototype PA was designated by the ACHP for use in February 2010, 43 states and territories have executed these agreements. This strategy and response was unprecedented among the federal preservation program, resulting in widespread acclaim for DOE.

In February 2011, the ACHP awarded DOE its Chairman’s Award for Achievement in Historic Preservation, recognizing that DOE has created a model within the

federal government regarding the management of major block grant programs that benefit low-income communities. DOE's weatherization programs have created a new resource to stabilize communities and to assist in resolving national policy issues related to sustainability, rightsizing, and job creation.

As a result of the partnership with the ACHP and the development and administration of the prototype PA, DOE established internal and external training; recognized best management practices; and integrated within DOE guidance and directives to ensure that the DOE weatherization programs were properly implemented.

Due to the success of the weatherization programs, other departments within DOE have sought ACHP and OWIP staff's guidance and direction for meeting their historic preservation compliance responsibilities. In addition, other federal agencies have sought guidance from the ACHP about how to replicate DOE's prototype PAs for their assistance programs.

The prototype PA was established to create efficiencies in the administration of DOE's OWIP grants, including the Weatherization Assistance Program, the State Energy Program (SEP), and the Energy Efficiency and Conservation Block Grant Program (EECBG). It provides a template PA that can be executed by DOE and the state grant recipients to evidence they have complied with the requirements of Section 106, and exempts routine activities with limited potential to affect historic properties.

Furthermore, under the terms of the prototype PA, DOE, the SHPO, and state agency can execute subsequent agreements without ACHP involvement, provided that DOE consults with Indian tribes or Native Hawaiian organizations to develop consultation procedures for projects that may affect historic properties of religious and cultural significance to them. Finally, direct recipients may use the prototype PA once it is executed by a state, thereby avoiding potential delays.

DOE first approached the ACHP in August 2009 to create a partnership to explore possible program alternatives in anticipation of the dramatic increase of projects receiving funds as a result of ARRA.

The prototype PA was designated by the ACHP chairman on February 8, 2010. As stated before, since the designation of this prototype PA, DOE has successfully negotiated and executed 43 agreements with SHPOs and state agencies receiving DOE OWIP grants. The ACHP subsequently provided guidance and technical assistance to DOE Project Officers and SHPOs during the negotiation of the agreements, as well as provided assistance on determining appropriate treatments and mitigation for individual projects that resulted in adverse effects. At the request of DOE, the ACHP has provided specialized Section 106 training to DOE staff, grant recipients, contractors, and SHPOs, in Colorado, Pennsylvania, Missouri, and at the National DOE Weatherization Training Conference in New Orleans.

Those states without DOE prototype PAs will be encouraged to execute PAs based on their overall success. In the meantime, DOE will continue to consult with the ACHP and the National Conference of State Historic Preservation Officers to explore the feasibility of adopting other possible Section 106 program alternatives for the OWIP programs.

For more information:

[http://www1.eere.energy.gov/wip/state\\_historic\\_ppa.html](http://www1.eere.energy.gov/wip/state_historic_ppa.html)

[http://www1.eere.energy.gov/wip/historic\\_preservation.html](http://www1.eere.energy.gov/wip/historic_preservation.html)

# NATIONWIDE

**Project:** Ongoing Case: Prototype Programmatic Agreement for Privatization of Army Lodging

**Agencies:** Department of the Army

**Contact:** Chris Wilson [cwilson@achp.gov](mailto:cwilson@achp.gov)

The Army is developing a Prototype Programmatic Agreement that will apply to a widespread program to privatize lodging in Army installations across the United States.

The Army is currently undergoing a significant privatization effort of lodging facilities in Army installations throughout the U.S. This privatization effort has already occurred at 21 installations in two previous phases. The third phase consists of 21 additional installations and will be the subject of a prototype Programmatic Agreement (PA).

For the previous phases, creation of individual PAs for each installation was a time-consuming effort. The current effort will create a tool to assist in the cultural resource management of an Army installation's historic properties associated with the privatization of Army lodging. Most importantly, this tool, in the form of a prototype PA, would provide a streamlined approach to the process of developing, negotiating, and implementing PAs for the installations that have historic properties impacted by this privatization effort. The prototype PA will provide standardization by utilizing language to create subsequent PAs for the remaining 21 installations that will privatize their lodging.

Archeological investigations may be necessary if there is significant ground disturbance in previously undisturbed areas and would be considered during the consultation for each installation's subsequent agreement for the Privatization of Army Lodging (PAL) program. Cultural landscapes and/or viewsheds impacted by any new construction will have to be taken into consideration during the consultation for each installation's subsequent agreement for the PAL program. In addition, there may be tribal issues identified through consultation for this prototype PA.

A prototype PA provides for consistency; predictability in costs, time, and outcomes; as well as the flexibility to address specific situations and conditions on each installation. Once agreement is reached on the prototype



The former parade ground is now a parking lot for new housing at historic Fort Benning, Georgia. (Photos courtesy Susanne Perry, U.S. Army)



PA as a result of the consultation that went into its development, the consultation to develop subsequent agreements should be more efficient. An installation can, after appropriate consultation with stakeholders, include language in the subsequent agreements that addresses similar actions in multiple geographical areas. The installation and the State Historic Preservation Office are the key participants in the subsequent PAs that are created from the prototype. There is no ACHP involvement in the follow-up PAs that result from the prototype PA which further expedites the process.

The first consulting party meeting was December 6, 2011. A prototype PA is expected to be complete and up for designation by the ACHP chairman in April 2012. Informal discussions with consulting parties regarding this draft concept will test the receptivity of these parties to the tool prior to the commencement of the formal prototype PA process. Consulting parties include the National Park Service, the National Conference of State Historic Preservation Officers, the National Association of Tribal Historic Preservation Officers, the National Trust for Historic Preservation, and the ACHP. See [www.pal.army.mil](http://www.pal.army.mil)

# NEW MEXICO

**Project:** Closed Case: Navajo-Gallup Water Supply Project

**Agencies:** Bureau of Reclamation

**Contact:** Tom McCulloch [tmcculloch@achp.gov](mailto:tmcculloch@achp.gov)

A new water project promises to improve quality of life for many people in northern New Mexico and on the Navajo Nation, where 40 percent of residents still depend upon hauling water for their residences.

The Navajo-Gallup Water Supply Project will bring a clean and sustainable water supply to the Navajo Nation, where an estimated 40 percent of residents are dependent upon hauling water for use in their homes. Water would come via pipelines from the San Juan River in northern New Mexico. Currently, the Navajo Nation communities and the city of Gallup rely on a rapidly depleting groundwater supply that is inadequate to meet present needs and anticipated growth.

More than 90 percent of this project occurs on Navajo Nation lands, with the remainder on state, city, and Bureau of Land Management (BLM) lands. Prehistoric archaeological sites are the most common historic properties that may be affected by construction of approximately 280 miles of new pipeline, two water treatment plants, 24 pumping plants, and numerous water regulation and storage facilities.

This project has been in the planning stages for many years, with active involvement from the ACHP beginning in 2011. The ACHP attended a major consultation meeting in Albuquerque, New Mexico, in June 2011. On October 11, 2011, the Obama Administration announced the selection of 14 infrastructure projects to be expedited through the permitting and environmental review process including the Navajo-Gallup Water Supply Project. The latest project status information can be accessed on the Priority Projects Dashboard site (see below).

Responsive to the Administration's policies to expedite important projects, the ACHP worked efficiently with this project to achieve the results necessary. The resulting Programmatic Agreement (PA) on the project was



The area shaded in pink with a red outline shows the area served by the Navajo-Gallup Water Supply Project. (Map courtesy Bureau of Reclamation)

executed on November 21, 2011. Consulting parties in addition to the Bureau of Reclamation and the ACHP included the Navajo Nation, Jicarilla Apache Nation, BLM, Indian Health Service, City of Gallup, and the New Mexico State Historic Preservation Officer.

Under the terms of the PA, the Navajo Nation's Cultural Resources Protection Act's procedures and regulations will be followed by the Bureau of Reclamation on Navajo lands. On BLM and non-federal, non-tribal lands, the BLM and State Historic Preservation Officer's procedures for compliance with Section 106 will be followed. Surveys will take place within a 400-foot-wide Area of Potential Effects and construction right-of-way, which will allow for avoidance of many archaeological sites and properties of traditional religious and cultural significance to the tribes as pipe laying moves forward. Archaeological sites that meet the National Register criteria but cannot be avoided will likely be excavated. If human remains are encountered on tribal lands, the Navajo Nation's Jishchaa' protection policy will be followed. On BLM and state lands, New Mexico's burial laws and regulations will be followed.

For more information: [www.usbr.gov/uc/rm/navajo/nav-gallup/index.html](http://www.usbr.gov/uc/rm/navajo/nav-gallup/index.html)  
<http://permits.performance.gov/projects/18/details>

# PUERTO RICO

**Project:** New Case: Via Verde Natural Gas Pipeline

**Agencies:** Corps of Engineers, Jacksonville District

**Contact:** John Eddins jeddins@achp.gov

A proposed 92-mile pipeline will traverse the island of Puerto Rico, crossing a broad range of environments, affecting public and private lands, and impacting 235 river and wetland crossings.

The Corps of Engineers, Jacksonville District (Corps) is currently reviewing a permit application from the Puerto Rico Electric Power Authority (PREPA) for the proposed construction of the Via Verde Natural Gas Pipeline project (Via Verde).

The undertaking will include construction and installation of a 24-inch diameter steel pipeline for approximately 92 miles within a construction right-of-way (ROW) 150 feet wide. The pipeline will traverse the island of Puerto Rico, starting at the Eco Electrica Liquid Natural Gas Terminal in the municipality of Peñuelas on Puerto Rico's southern coast, and proceeding to electricity-generating plants in Arecibo, Cataño, and San Juan on the north coast, crossing the territory's Cordillera Central (a mountain range across the center of the island). The pipeline route will cross a broad range of environmental and topographic settings, affecting private and public lands that include commercial, industrial, and agricultural land uses as well as remote forest, mountainous terrain, and coastal areas. The total project area is about 1,672 acres. Pipeline construction will impact 235 river and wetland crossings.

The project has been subject to a great deal of public controversy in Puerto Rico. Many members of the public and non-governmental organizations have concerns about the benefits, cost-effectiveness, and effects of the project. Numerous environmental settings crossed by the ROW are likely to have high potential for archaeological sites that might be eligible for inclusion on the National Register of Historic Places (National Register).

The applicant has carried out a limited initial study



Map courtesy CIA World Factbook

for the identification of historic properties that may be affected by the undertaking. The Puerto Rico State Historic Preservation Officer (SHPO) and other interested parties have provided the Corps with recommendations regarding varying survey methodologies that will be necessary in the differing settings in order to meet the “reasonable and good faith” standard for identification of historic properties required by Section 106 regulations. Accordingly, a supplemental survey methodology has been prepared as a component of a Programmatic Agreement (PA) which is currently under development. That survey methodology will serve as the minimum basis for the expanded identification effort to be carried out by consultants for the applicant.

Several professional archaeologists from Puerto Rico universities, as well as representatives of an organization concerned with preserving Puerto Rico's cultural patrimony, requested to be included in the Section 106 consultations. They have expressed concerns about the following:

- the sufficiency of the effort to identify historic properties in the Area of Potential Effects (APE) to date;
- the methodologies being considered for supplemental identification efforts; and,
- the timing or phasing of the identification effort that would be enabled by the PA under development. (The PA allows for the start of construction along sections of the pipeline where no historic properties have been identified before the identification process has been completed for the entire ROW.)

After receipt of expressions of concern from the public and individuals who desired to be consulting parties, the ACHP wrote a letter of inquiry to the Corps

in June 2011. The ACHP subsequently entered the consultation, first informally by supplying technical assistance, and then formally to assist the Corps, SHPO, and consulting parties in developing and finalizing the PA.

The PA is structured to enable the Corps to complete a reasonable and good faith effort to identify historic properties and conduct consultations to assess and resolve adverse effects to historic properties, after the Corps permit is issued, and both before and, as necessary, after project construction gets underway. Because of time constraints related to project development and financing, the PA relies on expedited time frames for consulting party review of Corps determinations about eligibility and effect, and proposed steps for resolution of adverse effects. The PA will provide for ongoing consultation among the Corps, SHPO, PREPA, the ACHP, and other consulting parties. As set forth in the PA, the ACHP will play a central role in ensuring that consulting party views on these issues will be seriously considered by the Corps when it finalizes its determinations and requires the applicant to carry out steps to avoid, minimize, or mitigate adverse effects.

The Corps has indicated its preference that the ROW be altered whenever possible to avoid adverse effects to historic properties. If that cannot be done, a treatment plan will be developed in consultation with the ACHP, SHPO, and other consulting parties to mitigate the adverse effects. In the case of archaeological sites, an appropriate data recovery plan will be developed and implemented prior to construction in the vicinity of such sites. Draft reports for the supplementary identification survey, and for the fieldwork carried out for each data recovery plan, will be reviewed by all consulting parties before they are finalized. A popular report in English and Spanish and suitable for public dissemination will also be developed that summarizes the gains in knowledge of Puerto Rico's cultural and historic heritage resulting from the investigations carried out as a requirement of the PA.

# WASHINGTON

**Project:** Closed Case: New Structures and Preservation Plan at Fort Walla Walla

**Agencies:** Department of Veterans Affairs

**Contact:** Brian Lusher blusher@achp.gov

A Memorandum of Agreement, signed in January 2011, not only governs construction of three new buildings in the Fort Walla Walla Historic District but also provides a basis for long-term management of historic resources on the Jonathan M. Wainwright VA Medical Center campus.

The Jonathan M. Wainwright VA Medical Center initiated consultation for the proposed construction of three patient care buildings and associated improvement of underground utility corridors within the boundaries of the Fort Walla Walla Historic District. The Department of Veterans Affairs (VA) is currently completing the mitigation efforts detailed in the agreement document.

The Wainwright center occupies land and buildings that were constructed originally to serve the military mission associated with Fort Walla Walla. The fort's establishment dates to 1858. It was arranged with an open plan. The officers' quarters, barracks, and administration buildings were constructed around a parade ground, and support and maintenance structures occupy the perimeter of the fort.

The resulting agreement document addresses mitigation specific to the construction project, and it also contains stipulations that will benefit the long-term management of the historic resources on the VA campus.

It ensures that the VA will construct three new patient care buildings that are contextually sensitive to the surrounding historic district. To this end, the VA will create Design Guidelines that take into account the defining architectural and cultural landscape elements of principal contributing elements. The VA will also prepare a Cultural Landscape Report and a Historic Preservation Plan. The Preservation Plan, the Design Guidelines, and the Cultural Landscape Report will guide future decisions about the historic properties at the medical center.

The agreement also ensures that two known archaeological sites will be avoided and cared for through VA's implementation of a Site Treatment and Management Plan. Additionally, VA will conduct on-site monitoring to detect undiscovered archaeological sites during construction and evaluate two fort-era sites for National Register of Historic Places eligibility. VA will also ensure that a collection of fort-era artifacts is managed according to its curation plan. Finally, VA will update the existing National Register of Historic Places nomination for the property.

This case resulted in a Memorandum of Agreement (MOA) that not only addresses the subject undertaking, but also paves the way for long-term, future facilities management that takes into account the historic properties on the campus. Also, this case reflects the personal involvement of the medical center director, who realized the need to consider systematically the effects to historic properties in a timely manner and who hired personnel with cultural resources expertise to oversee implementation of the preservation program. The dedicated preservation staffer at the medical center has enhanced the development and the implementation of the agreement document.

VA initiated consultation in October 2009. The ACHP notified VA of its participation in November 2010 and signed the resulting MOA on January 20, 2011. Other signatories to the MOA were the Washington State Historic Preservation Office and the Confederated Tribes of the Umatilla Indian Reservation. Other parties invited to concur included the City of Walla Walla, Fort Walla Walla Museum, Colville Confederated Tribes, Confederated Tribes and Bands of the Yakama Indian Nation, Nez Perce Tribe, and the Wanapum Tribe.

For more information: [www.wallawalla.va.gov](http://www.wallawalla.va.gov)





Overhead view of the Department of Veterans Affairs' Jonathan M. Wainwright Medical Campus. (Photo by Linda Wondra)







*Preserving America's Heritage*

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