



*Preserving America's Heritage*

# CASE DIGEST: SECTION 106 IN ACTION



ADVISORY COUNCIL ON HISTORIC PRESERVATION

SUMMER 2011

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: STS-135 *Atlantis* Prelaunch. The space shuttle *Atlantis* is seen shortly after the rotating service structure was rolled back at launch pad 39a, July 7, 2011, at the NASA Kennedy Space Center in Cape Canaveral, Florida. *Atlantis* lifted off July 8 on the final flight of the shuttle program on a mission to the International Space Station. (Photo Credit: NASA/Bill Ingalls)

## 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.

# COLORADO

**Project:** New Case: Proposed Highway Improvements to US 160 between Durango and Bayfield

**Agencies:** Federal Highway Administration

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The Colorado Department of Transportation (CDOT) plans to improve US Highway 160 between Durango and Bayfield, but the effort was delayed in 2008 by twin discoveries: a natural gas well occupied the originally proposed realignment, and a number of sites on the preferred right-of-way and its possible alternatives were eligible for listing on the National Register of Historic Places. These discoveries sent CDOT back to the environmental review drawing board.

The Colorado Department of Transportation (CDOT) proposes to improve a 16.2 mile corridor of US Highway 160 between Durango and Bayfield. The project includes the proposed expansion of approximately two miles of US 550 just south of US 160 from two to four lanes and realigning of US 550 to improve safety. The Federal Highway Administration (FHWA) concluded Section 106 review for the larger project in 2006, with a Memorandum of Agreement (MOA) with the State Historic Preservation Officer (SHPO).

In 2008, the unexpected presence of a natural gas well in the proposed realignment of US 550 required CDOT to find another route for the project. At about the same time, the late discovery that the Webb Ranch and a number of archaeological sites potentially eligible for inclusion in the National Register of Historic Places were located within the proposed right-of-way, required the FHWA and CDOT to step back and reopen environmental review of the new alignment and interchange connecting US 550 to US 160 in southwestern Colorado. Three alternative alignments were surveyed. The Shaeferhoff/Cowan Ranch, Craig Ranch, the Clark property, the Webb-Hotter Lateral ditch, and the Co-op-Ditch also were historic properties that needed to be factored into the alignment considerations. Three years later, CDOT has completed its analysis of alternatives. FHWA has reopened Section



US 160 (in the foreground) and US 550 (climbing the hill) – the intersection of the two roads is hidden by the hill. (Photo courtesy FHWA)

106 consultation and is working to resolve the newfound effects to historic properties.

On April 21, 2011, the ACHP and other consulting parties received a draft MOA and the draft evaluation of alternatives (completed pursuant to the requirements of Section 4(f) of the Department of Transportation Act). The consideration of alternatives to avoid the newly documented properties is complicated by CDOT's construction of a massive \$42 million interchange that was to serve as US 550's connection to US 160. The ACHP, in a letter dated May 31, 2011, commented on the need for additional consultation regarding the effects of various alternatives on historic properties; both to inform FHWA's selection of a least harm alternative and to inform development of meaningful mitigation.

FHWA first notified the ACHP that it was reopening consultation on the MOA in July 2008. It requested the ACHP's assistance in establishing the terms of access to the Webb Ranch for conducting further archaeological survey – to verify the locations of National Register-eligible sites identified by the ranch owners. The property owner hired a Cultural Resource Management firm to do a survey of the right-of-way (ROW) for the preferred alternative – and identified nine potentially significant archaeological sites. Working with the Colorado SHPO, the ACHP provided assistance and, after some negotiation, the ranch owners allowed CDOT access to complete a

new inventory of archaeological sites.

The originally conceived re-alignment for US 550 did not directly impact any of the ranch structures on the Webb property that were presumed to be eligible for the National Register, and the structures were considered outside of the Area of Potential Effect (APE). However, when a gas well was constructed on the Webb Ranch within the proposed US 550 realignment, CDOT took steps to revise the alignment to avoid impacts to the new gas well. At the time CDOT was revising the alignment to avoid the gas well, the Webb Ranch owners identified what they believed to be previously unknown archaeological sites along the proposed realignment of US 550.

A re-survey of the property by CDOT, completed in 2009, found that eight archaeological sites are eligible for inclusion in the National Register. A survey of three alternative alignments for US 550 resulted in the documentation of five additional historic properties.

From late 2008 to April 2011, CDOT and FHWA entered into a period of active outreach with locally affected or potentially affected interests and as a result there was relatively less contact with formal consulting parties as an alternatives analysis was prepared. The resulting alternatives analysis did not include a detailed discussion of improving the existing route, which would largely avoid all historic properties. The ACHP and the Webb Ranch owners questioned this lack of consideration of the existing route in comments on the document. FHWA noted that neither alternative using that general existing alignment meets the project's Purpose and Need. In follow-up discussions, FHWA pointed out that US 550 from county Road 220 to US 160 (the 1.2 mile section proposed for realignment) is a steep winding roadway with narrow shoulders, lack of guardrails, and steep embankments that follows a stream course. It is subject to icing conditions and rockfall, thereby creating hazards for drivers. Use of the existing ROW would be costly and would impact other important resources. CDOT and FHWA maintain that a new alignment and a grade-separated intersection will provide the best option due to terrain and traffic volume, and found that the "least harm" alternative was the "Revised G Modified Alternative."

Consulting parties include FHWA, CDOT, the

Colorado SHPO, the ACHP, the Southern Ute Indian tribe, the Hopi Indian Tribe, the owners of the Webb Ranch, the Schaeferhoff/Cowan Ranch, the Craig Ranch, the Laguna Pueblo, and the owners of the Clark property.



The barn on the Schaeferhoff-Cowan ranch (Photo courtesy FHWA)



# DISTRICT OF COLUMBIA

**Project:** Continuing Case: National Museum of African American History and Culture

**Agencies:** Smithsonian Institution

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The new National Museum of African American History and Culture is to be located on the National Mall in proximity to the Washington Monument's 555-foot high obelisk. The structure is to be completed in 2016. Many complex historic preservation challenges are posed by the significance of the location.

In 2003 Congress directed the Smithsonian Institution (SI) Board of Regents to plan, design, and construct a building for the National Museum of African American History and Culture on one of several sites on or near the National Mall. The site selected is an area bounded by Constitution Avenue, Madison Drive, and 14th and 15th streets, NW. The site choice was final but was nevertheless widely debated because of its close proximity to, and likely adverse effect upon, the Washington Monument, as well as potential effects on President's Park South, the National Mall, and other elements of the "L'Enfant Plan" which are of national significance and unusual importance. Formal participation by the ACHP began in June 2007. Early consultation resulted in a statement of guiding Design Principles that, taken into account during design development, would help avoid or minimize adverse effects.

As the design by the selected architect, The Freelon Group, advanced, alternatives generated by the designers seemed to vary little in regard to the level and kind of adverse effects. Those effects include land use alteration, as the museum site will no longer be part of the National Park Service's open space used for public demonstrations nor permitted recreational activities. Other adverse effects include changes to significant vistas due to obscured views, removal of mature trees, and the altered movement of pedestrians across the site. The building's height and massing will project beyond existing museum alignments, and will diminish the visual impact of the



An early artist's conception of how the new National Museum of African American History and Culture might appear. The design was evolving and not final as *Case Digest* went to print. (Photo courtesy Smithsonian Institution)

Monument Lodge and the Bulfinch gatehouse. Other concerns being discussed include reflectivity of the building's metallic skin (referred to as the "corona"), highly visible night lighting, the possible inclusion of photo-voltaic cells on the roof, and other features which may also be inconsistent within the current Mall setting and design. Through consultation, the building's above-grade massing and height has been reduced, pedestrian flow and use have been enhanced through landscaping, and the service drive's effects have been visually reduced and softened, but many adverse effects may be unavoidable.

A draft of the Programmatic Agreement (PA) has been written, and discussion on minimization and mitigation of adverse effects continues. The SI has reached out to potentially interested parties across the country but has received a minimal number of suggestions for avoiding, minimizing, or mitigating adverse effects. The agreement likely will include commitments to work with the National Park Service (NPS) on supporting the National Historic Landmark nomination for the National Mall, Historic American Buildings Survey and Historic American Landscapes Survey (HABS/HALS) documentation of the site (including the Bulfinch gate post and possibly the abandoned subterranean Water Intake Tunnel that crosses it), research on site history, and documentation of the statue of George Washington by Horatio Greenough, in the collections of the Smithsonian American Art Museum (but currently located in the National Museum of American History).

The SI's revised concept design was reviewed by the National Capital Planning Commission (NCPC) and the Commission on Fine Arts (CFA) in April 2011. Both of those bodies commented favorably on

the proposal, while noting issues for further study. The museum is expected to be completed by 2016.

Other federal agencies involved in the consultations include the NPS, General Services Administration, NCPC, and CFA. Non-federal organizations involved include the D.C. State Historic Preservation Officer, National Trust for Historic Preservation, Committee of 100 on the Federal City, National Coalition to Save Our Mall, Afro-American Historical and Genealogical Society, Association for the Study of African American Life and History, United States Capitol Historical Society, DC Preservation League, and the Guild of Professional Tour Guides.

For more information:

[www.ncpc.gov/DocumentDepot/Actions\\_Recommendations/2011April/National\\_Museum\\_African\\_American\\_History\\_Culture\\_Action\\_6331\\_April2011\\_.pdf](http://www.ncpc.gov/DocumentDepot/Actions_Recommendations/2011April/National_Museum_African_American_History_Culture_Action_6331_April2011_.pdf)

[www.nmaahceis.com/section-106-process](http://www.nmaahceis.com/section-106-process)



Shown circled on the photo, the Monument site is bordered by Constitution Avenue on the north, Madison Drive on the south, 14th Street, N.W. on the east and 15th Street, N.W. on the west. The site is directly across 14th Street from the National Museum of American History (to the east), and the site is northeast of the Washington Monument. (Photo courtesy Smithsonian Institution)



# FLORIDA

**Project:** New Case: Hendry County Stormwater Treatment Area

**Agencies:** U.S. Army Corps of Engineers, Jacksonville District

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An existing Memorandum of Agreement governing development of a system to treat agricultural wastewater before releasing it into the Everglades Protection Area is being updated after consultations on issues of concern that a number of tribes believed were given insufficient consideration in the original agreement.

The ACHP was requested to enter consultations on a new Memorandum of Agreement (MOA) for the Compartment C Build-Out agricultural wastewater treatment area by the U.S. Army Corps of Engineers (Corps), Jacksonville District, and the Seminole Tribe of Florida. The ACHP notified the agency and consulting parties that it was entering the consultation to assist with addressing procedural problems and significant concerns of tribes in March 2011.

In 2010, the Jacksonville District of the U.S. Army Corps of Engineers (Corps) began consultation to revise and amend a Memorandum of Agreement (MOA) executed in 2008 to resolve the adverse effects of construction of a stormwater treatment area in Hendry County, Florida. Compartment C will be constructed by the South Florida Water Management District (SFWMD) as a stormwater treatment area within the Everglades Agricultural Area. Its purpose is to treat stormwater from the surrounding agricultural areas prior to it entering the Everglades Protection Area. Treatment consists of holding water within the Compartment C boundaries for a period of time to allow nitrogen and phosphorus to naturally settle to the bottom before the water is discharged into the Everglades Protection Area. Compartment C is being constructed pursuant to a Consent Decree (1992) resulting from a lawsuit settled in 1991.

The resolution of adverse effects set forth in the original MOA from 2008 called for excavations and recovery of environmental data from a number of



Typical vegetation in the area where the Compartment C Build-Out agricultural wastewater treatment area will be located (Photo courtesy U.S. Army Corps of Engineers, Jacksonville District)

archaeological sites that would be subject to periodic inundation. Protocols were developed for removal of any human remains encountered to a nearby reburial site. However, a number of federally recognized tribes had concerns about the sufficiency of the consultation carried out for development of the original MOA and the associated protocols.

In response to tribal concerns, the Corps reopened the permit review in 2010 and reinitiated the Section 106 process to consider revisions to the MOA. Consulting parties include the Florida State Historic Preservation Officer, Seminole Tribe, the Miccosukee Tribe of Indians of Florida, and SFWMD.

In consultation with the consulting parties, the Corps has decided to require modifications to the undertaking to ensure that one archaeological site will be excluded from the areas subject to inundation and will be protected from disturbance during construction of the undertaking. Other archaeological sites will be protected from the artificial inundation by protective measures, thus eliminating the original adverse effects. The protocols for handling and disposition of human remains have also been revised in consultation with interested tribes. The Corps plans to terminate the existing MOA and execute a new MOA which will address the agreed-upon site preservation measures and protocols. The ACHP has provided guidance, participated in a number of consultation meetings, and has provided extensive comments on drafts of the MOA. The Corps expects to finalize the MOA by the summer of 2011.

# HAWAII

**Project:** Closed Case: Nuclear Repair Consolidation Project

**Agencies:** Department of the Navy

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The Navy has modified its plans for a multi-functional nuclear submarine facility at the Pearl Harbor National Historic Landmark to avoid most adverse effects to historic properties while providing the essential capabilities. An MOA was executed in January 2011.

In October 2006, the Navy originally proposed to construct a multi-functional Submarine Production Support Facility and Intermediate Maintenance Facility to consolidate and provide for the collocation of primary nuclear maintenance functions adjacent to the waterfront and within the Controlled Industrial Area fence. The Area of Potential Effects is within the Pearl Harbor Naval Shipyard National Historic Landmark (NHL). The scope originally included demolition of several of the earliest and most significant buildings on the Navy base, notably Buildings 8, 5, and 5A. Early in the consultation the Navy committed to adaptively reuse Buildings 5 and 5A, but lengthy consultation failed to reach consensus regarding demolition of Building 8 with its iconic roof monitor and details so strongly characteristic of the NHL district.

The project as initially conceived presented the possibility of significant loss of integrity for both the cumulative effects to views of a cohesive grouping of early shipyard buildings from Ford Island as well as important vistas within the shipyard. The ACHP focused attention on the fact that a vista along Port Royal Street, including Building 8, was described in the Integrated Cultural Resources Management Plan as “the most cohesive of all view planes in the Shipyard,” and that “the pattern of closely spaced shop buildings ... is very important in maintaining the image of the Shipyard.”

The Navy’s initial position was that the requirement to store and maneuver trucks in the footprint of the former boiler house (the one-story portion of Building 8) seemed to necessitate removal of the entire building including the two-story power house portion of the building. Consultation involved detailed discussion of



The larger portion of the structure is the power plant which will remain a contributing element, and the smaller structure to the left houses the boiler, which will be removed. (Photo courtesy U.S. Navy)

specifics such as truck turning radii, structural systems and building stabilization requirements.

Participants in the consultation agreed demolition of the low bay boiler house was necessary and partial demolition would result in a loss of integrity, but continued to discuss ways to avoid the loss of integrity to the district from full demolition. The Navy ultimately found retaining and stabilizing the high bay portion of the building would not impede functionality, and the cost difference between removing that half of the building versus stabilizing it was negligible. The Navy committed to keeping and stabilizing the high-bay half of the building, so that it will continue to contribute to the National Historic Landmark District. Opportunities for its adaptive re-use will also be considered.

While the loss of the low-bay half of Building 8 is certainly an adverse effect, the partial preservation solution prevented a greater loss when all other alternatives had been exhausted. The outcome is an indication of the Navy’s commitment to preservation, spirit of cooperation with those who share that commitment, and the willingness to find creative solutions for the sake of the resource.

The ACHP has been a party in this consultation since 2008. Other signatories to the Memorandum of Agreement are the Navy and the Hawaii State Historic Preservation Officer. Other consulting parties included the National Park Service, National Trust for Historic Preservation, and the Historic Hawaii Foundation.

For more information: <http://www.navsea.navy.mil/shipyards/pearl/default.aspx>  
<http://tps.cr.nps.gov/nhl/detail.cfm?ResourceId=713&ResourceType=District>

# LOUISIANA

**Project:** New Case: Demolition of Booker T. Washington High School

**Agencies:** Federal Emergency Management Agency, Department of Homeland Security

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The Recovery School District in New Orleans proposes to use Federal Emergency Management Agency funds to demolish and replace portions of Booker T. Washington High School. The property will lose its National Register status despite the retention of two of the school's principal features.

The Recovery School District (RSD) has applied to the Federal Emergency Management Agency (FEMA) for a Public Assistance grant to demolish and replace Booker T. Washington High School and Auditorium in New Orleans. The new school will be designed to meet current educational standards and the RSD's Master Plan for post-Hurricane Katrina improvements to the New Orleans public education system.

Booker T. Washington High School and Auditorium was listed on the National Register of Historic Places in 2002 under Criterion A at the local level in the areas of Education; Entertainment/Recreation; Ethnic Heritage (Black). The State Historic Preservation Office's database describes the property as follows: "The Booker T. Washington School is of local significance as a milestone in the development of secondary public school education for blacks in New Orleans. The much lobbied for high school, with its state-of-the-art vocational educational facilities, was the first public high school in the city built specifically for blacks."

The ACHP notified FEMA that it would participate in this case on December 20, 2010. An initial consultation meeting took place on January 28, 2011, with subsequent consultations approximately every two weeks. Initial discussions with local citizens, alumni, local preservation groups, and the National Trust for Historic Preservation focused on avoiding or minimizing demolition at the site. Alternatives considered included renovation of the interior of the building or relocation of the school to a new site and marketing the historic school as available for reuse. As



Main entrance, Booker T. Washington High School

discussions proceeded, it became clear that the local community and school alumni wanted to see a new school on the current site. Therefore, negotiations in the last three months have focused on minimizing and mitigating adverse effects.

RSD agreed to retain the portion of the building containing the auditorium and main entrance, restoring and incorporating them into the new design. They also agreed to salvage and reuse a portion of the historic brick on the new property. Several parties felt that this approach would allow the building to retain its listing on the National Register of Historic Places. However, the State Historic Preservation Office contacted the Keeper of the National Register of Historic Places and was advised that it would be inappropriate to either amend the original nomination to keep the auditorium listed after the demolition, or to attempt to relist the property following major alterations. Based upon the Keeper's response, the consulting parties agreed that RSD would not be required to restore the retained portions of the building to the Secretary of the Interior's Standards. Instead, RSD would list character-defining features and try to retain them in the new school, to the extent feasible.

FEMA is currently in the process of concluding negotiation of a Memorandum of Agreement (MOA). In addition to the requirements to retain portions of the building and their character-defining features, the current version of the MOA would require recordation of the building, its formal delisting from the National Register, and development of public interpretation materials. The target date for executing the MOA is August 2011.

# MULTI-STATE

**Project:** New Case: Retirement of the Remaining Space Shuttles

**Agencies:** National Aeronautics and Space Administration

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Space shuttles *Atlantis*, *Endeavor*, and *Discovery*, historic for the contribution they made to space flight and exploration, and for their engineering significance, will go on public display in three sites within the United States. The National Aeronautics and Space Administration, fully aware of the shuttles' historic importance, began Section 106 compliance in 2008 to be certain these American heritage resources were treated appropriately as they were retired from spaceflight service.

The space shuttle program—the vehicles are officially part of the Space Transportation System—began in the late 1960s as an effort to create reusable space vehicles that could enter space and return to Earth, then be prepared for another flight. Since that beginning, there have been 135 missions and the loss of two other shuttles and their crews: *Challenger* in 1986 and *Columbia* in 2003. The program is being terminated. Originally the Orion spacecraft was to be created to fill this mission when the shuttles were retired, but budget cuts have placed that program in doubt.

After the final shuttle mission, NASA “safes” the vehicles by removing toxic and hazardous materials and removes sensitive items prior to conveyance and title transfer to the selected museums.

*Discovery* will be displayed at the Smithsonian Institution's Air and Space Museum Udvar-Hazy Center just outside Washington, D.C.; *Endeavour* will be displayed at the California Science Center in Los Angeles; and *Atlantis* goes to the Kennedy Space Center in Florida.

A Memorandum of Agreement (MOA) among the National Aeronautics and Space Administration (NASA), the ACHP, the National Park Service (NPS), and the State Historic Preservation Officers (SHPOs)



Shuttle liftoff (photo courtesy NASA)

of Alabama, California, Florida, and Texas is being finalized. As *Case Digest* went to print, it is anticipated that the MOA will be signed in July. Recognizing the significance of these resources to the American public and the complexity of actions necessary to prepare these orbiters for retirement, the ACHP entered consultation to assist in developing a process that would ensure they are appropriately interpreted at each location.

In developing this MOA NASA has consulted with the SHPOs of the four states most associated with the shuttles. Dryden Flight Research Center in California serves as the alternate landing site; Kennedy Space Center in Florida is the site for ground processing, launch, and landing activities; and, Marshall Space Flight Center in Alabama is the site for shuttle propulsion systems development and management.

Because of their unique engineering, and their extraordinary historical importance in American space exploration, the NPS participated in consultation to provide expert advice for inclusion of documentation into the Historic American Engineering Record (HAER) collection and will be a concurring party to the MOA.

The purpose of the mitigation documentation on the shuttles is to tell the story to future generations. The goal is to provide members of the public, engineers, and space enthusiasts with comprehensive and appropriate documentation of how the flight hardware of the shuttles was conceived, developed, used, and its accomplishments. NASA will organize its documentation around a written historical narrative, to include the design history and evolution of performance



and safety improvements of the orbiter and contributing propulsion elements (external tank, space shuttle main engines, solid rocket boosters). The historical narrative will include technical and interpretative drawings; photographs and video recordings; and oral histories. NASA has developed educational materials appropriate for primary and secondary educational use that will be made available through NASA's public Web site and NASA's education program.

NASA will provide hard copies, as well as digital files, of all final documentation to the Library of Congress HAER collection through the NPS, to the ACHP, and to the SHPOs of states where an orbiter is displayed. Any state repository, museum, university, or library may request digital copies of the final documentation. The information will also be made available to the interested public through posting on the NASA Stack Recordation Web site after final transmission to the Library of Congress.

For more information: [www.nasa.gov/mission\\_pages/shuttle/main/index.html](http://www.nasa.gov/mission_pages/shuttle/main/index.html)



The space shuttle *Atlantis* rolls out of an Orbiter Processing Facility, in background, enroute to the Vehicle Assembly Building. (photo courtesy NASA).



# NATIONWIDE

**Project:** Closed Case: Nationwide Programmatic Agreement for Army National Guard Readiness Centers Maintenance and Repair

**Agencies:** National Guard Bureau

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In December 2010, a nationwide Programmatic Agreement among the National Guard Bureau, the National Conference of State Historic Preservation Officers, and the ACHP was executed regarding maintenance and repair projects for readiness centers, also known as armories.

In 2006, the National Guard Bureau (NGB) opened consultation with the National Conference of State Historic Preservation Officers (NCSHPO) and the ACHP regarding the development of a program alternative to streamline Section 106 compliance for maintenance and repair projects for all federally owned or federally supported readiness centers in all 50 states, Puerto Rico, the U.S. Virgin Islands, Guam, and the District of Columbia. Routine maintenance is defined as regular and general upkeep of a readiness center against normal wear and tear above ground. The Programmatic Agreement (PA) does not address undertakings that could cause ground disturbance or that may affect archaeological sites, except those areas previously designated by an easement (e.g., natural gas lines) or areas where disturbance has already occurred (e.g., sidewalks) for the first six inches in depth of ground disturbance. The PA also does not apply to replacement or repair of wall insulation.

An individual state Army National Guard (ARNG) Cultural Resources Manager is responsible for determining whether a proposed activity meets the definition of an exempted undertaking under the PA. If the proposed activity meets one or more of the definitions, it is exempted from further Section 106 review. The definitions include exterior and interior activities such as painting on previously painted surfaces using similar color and non-destructive lead paint abatement. If the proposed activity is not exempted, there is a process stipulated for an individual state ARNG to follow for both no adverse effect and adverse effect determinations.



In June 2008, NGB completed The Historic Context for Army National Guard Readiness Centers to assist in applying National Register of Historic Places eligibility criteria to readiness centers and to serve as an overview of the different types of architecture, architects, social history, people and events that occurred throughout the United States related to readiness centers. This report can be downloaded in its entirety at this address: <https://gkportal.ngb.army.mil/sites/ARE/C/Cultural/Historic%20Contexts%20Document%20Library/Forms/Alltems.aspx?RootFolder=%2fsites%2fARE%fc%2fCultural%2fHistoric%20Contexts%20Document%20Library%2fNationwide%20Armor%20Historic%20Context&View=%7bE3c1372E%2d733C%2d43DC%2dbe1B%2d69BDCD311673%7d>

Contact Derek Manning at [derek.manning@us.army.mil](mailto:derek.manning@us.army.mil) or Stephanie Webber at [stephanie.webber@us.army.mil](mailto:stephanie.webber@us.army.mil) for a username and password.

The NGB is required to produce an annual report for NCSHPO and the ACHP that will include a list of projects in which the Programmatic Agreement was utilized including those activities that were exempted, have no adverse effect, and those with an adverse effect. The annual report will consist of the previous fiscal year's activities.

One unique element of this nationwide PA is that each individual state ARNG was required to organize a consultation meeting with the appropriate SHPO within 90 days of the execution of the PA. During that meeting, a state ARNG representative and the

SHPO were to determine whether to implement the alternative process as outlined in the PA to meet Section 106 responsibilities. Within 120 days of signing the PA, the individual state ARNG would formally notify the NGB in writing of the decision made during this consultation. This time requirement does not prevent individual state ARNGs and SHPOs from reconsidering this approach and the PA's implementation within their respective states in the future.

As of July 2011, the following 20 individual state ARNGs and SHPOs have elected to implement the PA:

- Alabama
- Alaska
- Arkansas
- California
- Georgia
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Missouri
- New Hampshire
- New Mexico
- Nevada
- North Carolina
- Oklahoma
- Rhode Island
- South Carolina
- Vermont
- Utah

The PA will expire in December 2020. The NGB, NCSHPO, and the ACHP will meet six months prior to the expiration of the PA to ascertain if renewal and/or revision are needed to this program alternative.

Consulting parties for this undertaking included the following: NCSHPO, the National Park Service, the Department of the Army, the National Trust for Historic Preservation, and cultural resources experts in academia.

For more information: The PA is on the ACHP Web site at [www.achp.gov/palist.html](http://www.achp.gov/palist.html)

# WASHINGTON

**Project:** Closed Case: Programmatic Agreement for Highway Widening and Replacement of the Evergreen Point Bridge

**Agencies:** Federal Highway Administration

**Contact:** Carol Legard [clegard@achp.gov](mailto:clegard@achp.gov)

The Programmatic Agreement for the replacement of the Evergreen Point Bridge and expansion of state Route 520 was executed on June 7, 2011.

The Washington Department of Transportation (WSDOT) and Federal Highway Administration (FHWA) will replace the aging Evergreen Point Bridge and expand state Route (SR) 520 to include six new traffic lanes over a 12.8 mile corridor from Interstate 5 in Seattle to SR 202 in Redmond. The overall purpose is to enhance safety by replacing the deteriorating floating bridge that carries traffic over Lake Washington and to improve traffic flow through the heavily congested corridor. Although the project will have many benefits, the proposed project will have an overall adverse effect on historic properties.

A total of 345 historic properties were identified in the project Area of Potential Effects (APE). These include the Evergreen Point Bridge, the longest floating bridge in the world, which will be replaced with a modern structure. The project will also affect the Montlake Historic District, Roanoke Park Historic District, individually eligible residential properties, Seattle Yacht Club, Montlake Bascule Bridge, Lake Washington Boulevard, Washington Park Arboretum, properties of cultural and religious significance to Indian tribes, and other properties of historic significance. Because of the impact this highway project would have on adjacent communities, WSDOT designed the preferred alternative to include construction of two landscaped "lids" over SR 520 that will reconnect historic neighborhoods currently bisected by the highway. Additionally, WSDOT is committed to a context-sensitive solutions approach to replacement of the Portage Bay Bridge and a new Bascule Bridge on Montlake Boulevard, where the existing historic Bascule Bridge will be rehabilitated for continued use.

Through the course of consultation, the Washington



Evergreen Point Bridge over Lake Washington, located on Interstate 5 in Seattle, is slated for replacement. (Photo courtesy Washington Department of Transportation)

State Historic Preservation Officer (SHPO) and the ACHP were called on to assist with resolving disputes among consulting parties regarding the sufficiency of WSDOT's efforts in following the steps of the Section 106 review process. WSDOT also engaged a qualified consultant to work as a liaison to consulting parties and help draft the PA to address their concerns as much as possible.

Construction of the new bridges and highway widening will occur over a period of seven years, beginning in 2012, and will likely result in increased noise, dust, and traffic, visual effects, and disruptions in access to areas near construction sites. To address these concerns, WSDOT and FHWA will take an adaptive approach to resolving construction impacts, or potential construction impacts, with community input as construction proceeds. The PA, which was executed on June 7, 2011, includes a great deal of specific mitigation for the effects of the project on historic properties, and ongoing consultation among the parties who concur in the PA. FHWA and WSDOT have done an excellent job of consulting, working with a large, complex project and a number of deeply concerned and engaged consulting parties. While the massive project understandably remains a concern to many residents in adjacent historic districts, FHWA has put together a mitigation package that reflects a commitment to minimizing damage to historic properties and disruption to adjacent communities.

This project was reported on in the Winter 2011 *Case Digest*. A more detailed description and a pdf copy of the signed PA are available at [www.achp.gov/fhwa\\_section106\\_washington.html](http://www.achp.gov/fhwa_section106_washington.html).

# WISCONSIN

**Project:** Ongoing Case: Management of Deferred Maintenance and New Living Centers at Milwaukee Veterans Medical Center

**Agencies:** Department of Veterans Affairs

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

Recently designated a National Historic Landmark, the Northwestern Branch National Home for Disabled Volunteer Soldiers historic district contains some structures that already have suffered significant deterioration. The Clement J. Zablocki Veterans Affairs Medical Center is now initiating Section 106 consultation to create four new Community Living Centers within the boundaries of the historic district.

The Department of Veterans Affairs (VA), Veterans Health Administration (VHA) medical center decision to focus new construction on the southern boundary of the Clement J. Zablocki VA Medical Center has allowed the historic district to remain largely intact, but also resulted in diminishing use of repair and maintenance funding for the historic resources. This has caused advanced states of deterioration for two of the district's most outstanding features: the district's centerpiece, Building 2 (Old Main), and Building 41 (Ward Memorial Hall).

The threatened resources contribute to the significance of the Northwestern Branch National Home for Disabled Volunteer Soldiers (NHDVS) NHL district. The NHL includes a total of 30 contributing resources, including buildings, structures, sites, and objects, and also includes original landscape features including its original Picturesque-style site plan, circulation patterns, building locations, portions of water features, and a cemetery. The historic district, whose period of significance is 1867-1930, retains a high degree of integrity and is one of the three oldest NHDVS sites established.

Furthermore, the VHA medical center has initiated consultation to erect up to four Community Living Centers (CLC) within the boundaries of the NHL district, and the medical center is currently considering ways to minimize and mitigate the effect the proposed undertaking will have on the NHL.



Old Main, or Building 2, at the Clement J. Zablocki Veterans Affairs Medical Center (Photo courtesy HABS/HAER collection, Library of Congress)

The ACHP became involved in regard to the diminishing maintenance funds in April 2009 when it inquired to determine the adequacy of VHA's Section 106 compliance at the medical center. For the CLC undertaking, the ACHP entered consultation in February 2010.

The VHA proposes to develop a Memorandum of Agreement (MOA) that will likely provide measures to mitigate the impact of new construction on the historic district and possibly focus on guiding VHA to proactively consider future undertakings that may affect the historic district. A second agreement is expected to address the emergency stabilization of Buildings 2 and 41.

The property was designated a National Historic Landmark district on June 17, 2011, and also listed in the National Trust for Historic Preservation's (NTHP) 11 Most Endangered list for 2011 on June 15. The Soldiers Home Reef, also an NHL, is also located on the medical center campus.

Consulting parties include the ACHP, Wisconsin State Historic Preservation Office, NTHP, National Park Service, Milwaukee Historic Preservation Commission, Milwaukee County Veterans Service Office, Milwaukee Soldiers Home Foundation, City of Milwaukee, Milwaukee County Historical Society, Milwaukee Preservation Alliance, Friends of Reclaiming Our Heritage, Soldiers Home Foundation, Forward Observer Foundation, Heritage Guard Preservation Society, West Side Soldiers Aid Society, Quorum Architects, Allied Veterans Council of

Milwaukee County, Mueller Communications,  
Uihlein Wilson Architects, and David & Julia Uihlein  
Charitable Foundation.

For more information:

National Register of Historic Places:

[www.nps.gov/history/nhl/Downloads/NHDVS/  
NHDVS%20Draft%20Two.pdf](http://www.nps.gov/history/nhl/Downloads/NHDVS/NHDVS%20Draft%20Two.pdf)

Clement J. Zablocki VA Medical Center:

[www.milwaukee.va.gov/](http://www.milwaukee.va.gov/)



Ward Memorial Hall, or Building 41, at the Clement J. Zablocki Veterans Affairs  
Medical Center (Photo courtesy HABS/HAER collection, Library of Congress)



# WYOMING

**Project:** Closed Case: White Mountain Wind Energy Project

**Agencies:** Bureau of Land Management

**Contact:** Nancy Brown nbrown@achp.gov

A major wind farm under development on more than 13,000 acres in Sweetwater County poses visual adverse effects to a number of historic properties.

The White Mountain Wind Energy Project proposes to install up to 240 wind turbines, access roads, and associated facilities on more than 13,000 acres of mixed federal, state, and private lands in Sweetwater County, Wyoming. The Bureau of Land Management (BLM) led Section 106 consultations that were contentious at times, but ended with the development of an innovative mitigation package for adverse visual effects to a number of properties eligible for or listed on the National Register of Historic Places.

The primary adverse effects of the proposed undertaking are visual effects to historic properties outside of the actual project construction boundary. Those properties include the following:

- The nationally significant Cherokee Trail, one of three major east-to-west 19th century transcontinental wagon roads across Wyoming that has documented use going back to 1849.
- Pilot Butte, considered a sacred site by Native Americans, as determined through earlier tribal consultations. It also has historic significance as a directional marker for travelers from the 1820s and is mentioned in a U.S. Air Mail Service pilot's logbook as a point of reference in 1921.
- The regionally significant Rock Springs to Lander Stage Road and New Fork Wagon Road.

A major sticking point during consultations was how to reduce the visual effects of the towers. The consulting parties wanted the turbines painted gray or tan instead of white, but that foundered on the Federal Aviation Administration (FAA) requirement that turbines that are not white must be lighted both night and day. Another consideration was the Audio Visual Warning System, which is being used in Europe



View from White Mountain petroglyph site, looking toward top of White Mountain (Photo courtesy Bureau of Land Management)

and tested in the U.S. This system is a radar-based obstacle avoidance system that activates lighting and audio signals to alert pilots of potential collisions if they come too close to the turbines. However, the FAA would not allow the system to be tried here, so it is written into the Programmatic Agreement (PA) that should it become possible in the future, this system will be considered at the time the turbines are purchased.

The ACHP decided to participate in the consultations because this case involved renewable energy development with impacts to larger landscapes, and because Indian tribes consider the area culturally significant. The BLM also consulted with the Wyoming State Historic Preservation Office, Sweetwater County Board of County Commissioners, Oregon-California Trail Association, Alliance for Historic Wyoming, Rock Springs Grazing Association, and the proponent—Teton Wind, LLC. Tribal consultations with the Eastern Shoshone, Northern Arapaho, and Northern Ute were held regarding their land use patterns and possible traditional cultural properties (TCPs) in the area. Private landowners were invited to participate in the consultation but declined.

The Section 106 process resulted in a PA that ensures identification efforts will continue to determine whether there is a rural historic district and/or TCPs within the project area that are eligible for the National Register of Historic Places. The mitigation package addresses the mostly visual effects to larger

historic landscapes. One critical component is the photo-documentation of the area before, during, and after project construction. The setting of the historic properties within the visual 20-mile area of potential effect will be photographed four times at five-year intervals from key observation points determined by the consulting parties. If additional historic properties are identified, such as a rural historic district or TCP, additional key observation points will be added. This photo-documentation will allow analysis of the effects over time to historic properties where the setting is a character-defining feature.

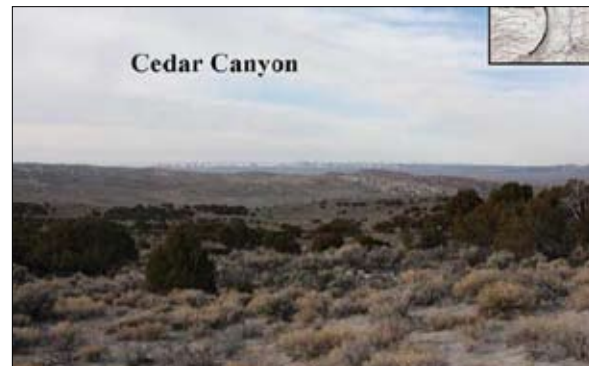
The proponent agreed to fund the registration fee for a “Passport in Time” project. This public archaeology program will offer volunteers the opportunity to document and collect data for a historic mapping project of the Cherokee Trail, New Fork Wagon Road, and/or Rock Springs to Lander Stage Road. Teton Wind will also sponsor two summer history interns to address historical documentation of the trails and roads, and three tribal internships to investigate historical sites of significance to the three local tribes.

A Web site will be developed and sponsored by Teton Wind for 10 years that will include information on the local area—such as maps, podcasts, text, and photographs of the historic trails – the history of the transportation corridor, and the history of wind power. Information from the TCP study will be incorporated as appropriate, in an effort to show how each tribe has used the local landscape over time, what the living landscape means to their tribal heritage, and how the lands are interconnected. Information from the Web site will be produced as brochures to be made available at the local chambers of commerce and museums, and as educational materials available for use in local classrooms.

The package also includes more typical mitigation measures such as placing 80-100 historic trail markers on public lands and developing 16 to 24 wayside interpretive exhibits. However, the commitment goes further to include a long-term maintenance fund to ensure upkeep and replacement as necessary.

This is the first BLM agreement signed by the ACHP regarding wind energy and represents a benchmark

in developing ways to address the visual impacts of wind turbines to historic properties, especially historic landscapes and TCPs. The mitigation for adverse visual effects is an example that will be useful as BLM and other agencies grapple with these issues on energy projects that have visual effects to landscape-scale historic properties.



Cedar Canyon viewshed simulation (Photo courtesy Bureau of Land Management)











*Preserving America's Heritage*

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