

**APPENDIX T:**

**SECTION 106 CONSULTATION AND DATA REQUEST**

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#### SECTION 106 CONSULTATION AND ISSUE RESOLUTION<sup>1</sup>

Section 106 of the National Historic Preservation Act (NHPA) requires that agencies consult with the State Historic Preservation Officer(s) (SHPO(s)), federally recognized Tribes, and other interested parties regarding the treatment of historic properties during a federal undertaking. There are consultation requirements that are specific to Section 106 that are not entirely congruent with the National Environmental Policy Act (NEPA) public involvement process. Where NEPA primarily requires disclosure and acknowledgement of the public's concerns, Section 106 seeks for a consensus among parties. Integration of Section 106 compliance activities into the NEPA process does not eliminate any of the requirements of Section 106. The Agencies have attempted to ensure that the Section 106 consultation requirements are met. To achieve this end, the Agencies have used three complementary strategies: the NEPA public involvement process; government-to-government consultation with Tribes; and outreach to and consultation with specific Section 106 partners. These strategies have effectively engaged numerous entities in a robust consultation process, and have permitted the Agencies to seek, discuss, and resolve issues important for the management of historic properties.

The NEPA public involvement process followed for the PEIS is described in Section 1.9 and Appendix D. The process has engaged

federal agencies, state and local governments, federally recognized Tribes, organizations, and individuals in discussions on numerous issues including historic preservation concerns. The public involvement process was initiated with the publishing of the NOI (September 2005) that invited the public to participate in the scoping process, which included issues concerning "impacts on archaeological, cultural, or historic resources." Since that time, the public involvement process has included extensive outreach through multiple review and comment periods, public meetings, presentations and discussions with stakeholders, and other forms of contact and dialog, including a heavily used website and e-mail list. These efforts have served to raise issues, provide a forum for public participation and discussions with the Agencies, and have resulted in numerous revisions to the PEIS. The project website included a page devoted to compliance efforts for Section 106. To date, this webpage has been visited over 1,600 times by at least 1,100 different users.

Government-to-government consultation with federally recognized Tribes is required by both NEPA (40 CFR 1501.2(d)2) and NHPA (36 CFR 800.2(c)2). Tribal consultation efforts are discussed in Sections 1.9.3 and 3.11 and Appendix C of this document. Issues pertaining to Section 106 were raised early by various Tribes and have continued as a significant theme during consultation. At the time of the release of the draft PEIS, Tribes had been specifically invited to consult under both NEPA and Section 106 of the NHPA. Tribal Historic Preservation Officers (THPOs) were included in this outreach. Concerns raised by individual Tribes through consultation have resulted in revisions to the proposed corridors and the PEIS.

SHPOs and the Advisory Council on Historic Preservation (ACHP) are key participants in Section 106 reviews.

<sup>1</sup> Shaded text indicates portions of the document that underwent revision between the draft and the final PEIS in response to comments received during the public comment period as well as additional information provided by local federal land managers and resource specialists.

Consultation with these organizations was initiated early in 2006 and has continued since that time. Consultation has included numerous interactions through formal letters, briefings, presentations, meetings and discussions, conference calls, and informal discussions. The Agencies have kept the ACHP advised of the progress of the PEIS, consulted with them regarding the Section 106 process, and provided them an opportunity to comment on the development of the PEIS with regard to historic preservation issues.

Since this is a national-level effort, the Agencies have worked with the National Conference of State Historic Preservation Officers (NCSHPO) to identify SHPO contacts, convey information to SHPOs, and consult on areas of concern. Individual SHPOs were also consulted early in the corridor siting process and contributed to the siting of the corridors proposed in the draft PEIS. All SHPOs were provided with early notice of the draft PEIS release and with copies immediately upon its release, together with a request to review and comment on it. Where individual SHPOs have raised concerns about the draft, the Agencies have addressed them through revisions to the draft and consultation with the SHPOs.

In addition to the NEPA public involvement process, the Agencies have undertaken additional outreach efforts with historic preservation organizations of particular concern. The Agencies have provided briefings and materials to the National Trust for Historic Preservation and to the National Association of Tribal Historic Preservation Officers, and invited them to consult on the PEIS through meetings and discussions, as well as other forms of contact. These national organizations, as well as others recommended by the NCSHPO and ACHP, were specifically notified prior to the release of the draft PEIS in order to ensure that they had ample opportunity to review the draft PEIS and to provide their comments.

The active participation of interested Section 106 partners, including other federal

agencies, Tribes, states, SHPOs, the NCSHPO, the ACHP, and many interested parties, has contributed greatly to the PEIS and affirmed the value of working through this process to ensure the ability of the Agencies to avoid, minimize, or mitigate the adverse effects of corridor designation on historic properties in the 11 western states.

Section 106 requires resolution of issues raised during the consultation process. Issues for this PEIS fall broadly into two categories: those that are programmatic in nature and those that are particular to a specific entity, location, or concern. Programmatic issues include concerns expressed by numerous Tribes about impacts to cultural resources on and off Tribal lands that may occur during project development and the consequent need to ensure Tribal consultation during any future development. These types of concerns are resolved programmatically in the PEIS, frequently by the adoption of mandatory interagency operating practices (IOPs).

Issues that are specific to a particular participant or location have been resolved through consultation with the party raising the issue and others that might be affected by proposed changes. Corridor-specific concerns are typical of these types of issues. In one case, for example, a SHPO raised a concern regarding the location of a corridor adjacent to a National Historic Trail. Resolution of this issue involved adjusting the Section 368 corridor at this location, and included additional consultation with other agencies, the SHPO, and other interested parties. These types of issues, involving specific concerns, entities, locations, and a range of interested parties, have been resolved on a case-by-case basis through webcasts, letters, e-mails, phone calls, meetings, and other documented contacts.

Resolution of issues that bear on Section 106 concerns are accommodated within the NEPA process as specified in the Section 106 regulations (36 CFR 800.8(c)). The regulations provide that Agency officials commit to actions that avoid, minimize, or mitigate adverse effects

on historic properties in a Record of Decision (ROD) (36 CFR 800.8(c)(4)(i)(A)). The IOPs defined and analyzed in this PEIS provide such actions to avoid, minimize, or mitigate any adverse impacts to historic properties arising from designation of energy transport corridors on public lands in the 11 western states. These IOPs have been developed through review and consultation with numerous Section 106 partners including Tribes, SHPOs, the ACHP, NCSHPO, and other interested parties such as the National Trust for Historic Preservation. Once a ROD has been signed, they will be mandatory for project development to occur within the corridors.

## CULTURAL RESOURCES DATA REQUEST

### Purpose

As part of the analysis conducted for the West-wide energy corridor (WVEC) Programmatic Environmental Impact Statement (PEIS), information was collected on cultural resources within the proposed corridors. The identification of individual cultural resources was considered too specific, given the wide scope of the PEIS; therefore, more general information was deemed appropriate. Three types of information concerning cultural resources were considered necessary for providing an understanding of what is known about cultural resources in the corridors. The first was the number of acres of land within the proposed corridors that had been previously surveyed for cultural resources; survey information is important because cultural resources are generally found only through surveys. The second was the number of cultural resources that had been identified within the proposed corridors. The third type of information sought was the number of cultural resources within the corridors that had been examined and determined to be eligible for listing on the *National Register of Historic Places* (NRHP). Most known cultural resources have yet to be examined to determine their

eligibility for listing on the NRHP. In addition, inquiries were made regarding known important cultural resources that could be avoided during the siting of the corridors (such as World Heritage sites or extensive traditional cultural properties). This inquiry also assisted in the characterization of the site types likely to occur in the analysis area.

### The Request

To determine what is known about cultural resources in the corridors, a data request was made in July 2006 asking agencies throughout the 11 western states with cultural resources management responsibilities for the above-described information for the proposed Section 368 energy corridors. The agencies included the Bureau of Land Management (BLM), Forest Service (FS), and State Historic Preservation Offices (SHPOs). Each agency was provided a description of the project and a discussion of the types of data desired. Paper and electronic maps (geographic information system [GIS] shape files) of the corridor locations were provided to each agency. The analysis area consisted of a 2-mile-wide corridor following the locations of the proposed corridors. This width provided a buffer for the ongoing corridor changes during the siting process. In some instances, corridors have been dropped or added since the inquiry. Given the programmatic nature of this study and the fact that the data received varied widely limiting a coherent analysis of the data (see below), a second inquiry was not made to the SHPOs subsequent to changes. These changes were, however, coordinated through agency offices, and important known cultural resources continued to be avoided.

Corridor routes were expected to be continuously modified while the PEIS was being prepared. It is acknowledged that the data collected in the summer of 2006 would not exactly correspond with the final corridor locations. To partially mitigate this issue, a 2-mile corridor width was used in the data

request rather than the 3,500-foot width of the final corridors. This increased width would compensate for some of the expected alterations of the proposed corridor routes. The information collected was intended to be representative of the current level of knowledge concerning cultural resources in the corridors not being definitive or complete.

### **Current Status of Cultural Resource Data**

It was anticipated that the condition and completeness of cultural resources information would vary among states and agencies. Data management for cultural resources is handled in many different ways across the United States. The primary repository for cultural resources information in every state is the SHPO. However, many federal agencies keep their own records or in some cases data is shared between the SHPO and a federal agency.

Most states and agencies index their information concerning cultural resources locations and survey data on USGS 7.5-minute topographic maps. In the last 25 years, there have been various attempts at the state and federal agency level to transfer this information into an electronic format, as the data requested is more easily accessible when in this format. The task becomes much more difficult and time consuming when the data must be extracted from paper maps. The response to the data request for the PEIS is partially a reflection of the current status of this transfer of information to an electronic format. The success of this transfer of data to an electronic format has been variable. In general, the states and agencies that provided the most information for the PEIS were those with more information available electronically.

### **The Response**

Information on cultural resources was received from 10 of the 11 western states. The results are provided in Table 3.10-4 in Section 3.10 of the PEIS. In most states, data was received from multiple agencies. The data ranged from electronic GIS data layers to letters containing summaries for the proposed corridors. The amount of corridor within a state for which information was provided varied widely. In one instance, only a single national forest provided any information for an entire state. Other agencies could only provide data for portions of the corridors that were proposed on land they managed. Often it was unclear how much of the corridor network within a state was covered by the information provided. All respondents provided at least some information on the number of cultural resources within the proposed corridors. Data pertaining to the amount of surveying that had been done was received from half of the states. Many locations chosen for corridors had not been surveyed for cultural resources, but based on past research in an area, a sense of the likelihood for there being cultural resources is known. The sensitivity of some corridor locations for containing cultural resources was provided, when possible. Because the level of detail and the completeness of the information varied so greatly, only a very broad-scale presentation of the data was possible. The information collected, however, is considered representative of our current level of knowledge. While not complete for the 11 western states, the information is deemed useful for illustrating what is known and unknown about cultural resources within the corridors.