



Preserving America's Heritage

CASE DIGEST: SECTION 106 IN ACTION



ADVISORY COUNCIL ON HISTORIC PRESERVATION

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

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TABLE OF CONTENTS

About this Report	2
California: New Case: Barriers for Golden Gate and Cold Spring Canyon Bridges.....	3
District of Columbia: Closed Case: Update on St. Elizabeths Campus.....	5
Hawaii: Ongoing Case: Footprint Reduction at Pearl Harbor Naval Complex.....	6
Louisiana: Closed Case: Medical Centers in New Orleans	7
Louisiana: Closed Case: Demolition and Replacement of Houses at Jackson Barracks...	9
Texas: Ongoing Case: Fort Hood Army Alternate Procedures Implementation.....	10

Cover: The Cold Spring Canyon Bridge in Santa Barbara County, California, is part of a Section 106 process dealing with ways to create barriers to prevent suicides without unduly degrading the historic integrity of significant structures that also include the Golden Gate Bridge in San Francisco. (JRP Historical Consulting, LLC)

ABOUT THIS REPORT

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

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

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

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

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

CALIFORNIA

Project: New Case: Suicide Barriers for Golden Gate and Cold Spring Canyon Bridges

Agencies: Federal Highway Administration, U.S. Department of Transportation; California Department of Transportation

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Since the Cold Spring Canyon Bridge in Santa Barbara County was built in 1963, at least 44 people have committed suicide there. More than 1,300 people have committed suicide by jumping from the Golden Gate Bridge in San Francisco since its 1937 construction. In separate projects, the California Department of Transportation is working to design suicide barriers for these bridges. The bridges' historical and aesthetic importance creates significant challenges for balancing public safety and historic preservation concerns.

Consultation under Section 106 of the National Historic Preservation Act (NHPA) is nearing conclusion on construction of a proposed suicide barrier on the Cold Spring Canyon Bridge. The largest steel arch bridge in California, and one of the first in the country to be built entirely of all-welded steel components, the 1963 bridge is considered of exceptional significance for its engineering and architectural design.

While not used as frequently for suicides as the Golden Gate Bridge, the Cold Spring Canyon Bridge does claim the highest concentration of such fatalities in the California Department of Transportation's (Caltrans) District 5 (which includes the central coastal counties of Monterey, San Benito, Santa Cruz, San Luis Obispo, and Santa Barbara), and has been a major source of concern for the Santa Barbara County Sheriff's Department. There is considerable public concern for the safety of people who may commit suicide there as well as for the sheriff's Search and Rescue recovery teams who must traverse difficult terrain to recover human remains.

Based on consultations with the public and a multi-agency Cold Spring Arch Bridge Suicide Prevention



The Golden Gate Bridge, constructed in 1937, has been the scene of at least 1,300 suicides. (California Department of Transportation)

Committee, Caltrans proposes construction of a fence-type barrier along the length of the bridge with funding from the Federal Highway Administration (FHWA). However, parties opposing a fence-type barrier argue that call boxes and human intervention are as effective as physical barriers for reducing the suicide rate and would avoid damaging the structural and visual integrity of the historic bridge. To date, the California State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) have agreed to work with Caltrans on the design of a fence-type barrier that minimizes the visual impacts to the historic bridge. A Memorandum of Agreement (MOA) under development by Caltrans also will require photo documentation of the Cold Spring Canyon Bridge according to Historic American Engineering Record (HAER) standards prior to construction, development of an illustrated booklet about the historic bridge for local organizations, and a three-panel interpretive exhibit to be designed by Caltrans.

The Golden Gate Bridge at the mouth of San Francisco Bay is one of the most internationally recognized and frequently visited suspension bridges in the world. Unfortunately, it is also the site of many suicides. In 2005 alone, an estimated 23 people took their lives by jumping from the Golden Gate Bridge, and another 58 people were contemplating jumping but were stopped through intervention. The total suicide count since 1937 exceeds 1,300, or at least 18 people per year on average.

In a separate project from Caltrans District 4, and working with the Golden Gate Bridge Highway and Transportation District, Caltrans formally initiated

consultation with the SHPO and the ACHP on December 15, 2008, on the proposed installation of a suicide barrier on the Golden Gate Bridge. On December 19, 2008, the ACHP notified Caltrans that it would participate in consultation to resolve adverse effects. As with the Cold Spring Canyon Bridge, Caltrans has involved the public and local governments in developing alternative strategies and means for reducing suicides at this location. Unlike the situation at Cold Spring Canyon, a number of non-physical deterrents are already in use at the Golden Gate Bridge including emergency counseling telephones, public safety patrols, employee training, and surveillance cameras.

The Golden Gate Bridge project also differs from Cold Spring Canyon in the type of bridge structure (suspension versus steel arch). The locally preferred alternative for the Golden Gate Bridge is a net system that would extend horizontally from the bridge, hanging 20 feet below the sidewalk, covered with stainless steel cable netting. Caltrans proposes to continue consultation regarding the alternatives with the SHPO, the ACHP, and consulting parties in the near future.

Caltrans has assumed responsibility for both National Environmental Policy Act and Section 106 review on FHWA projects in the state of California. Under the authority of Sections 6004 and 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), FHWA delegated this authority to Caltrans. FHWA retains auditing and monitoring responsibilities but does not generally participate in individual project reviews. Caltrans is, therefore, effectively the lead federal agency for both suicide barrier projects.

MOA signatories include the ACHP, the California SHPO, and local governments in the involved areas. Consulting parties in the two MOAs include, but are not limited to, the Los Padres National Forest, Santa Barbara Historic Landmarks Advisory Commission, Santa Barbara Trust for Historic Preservation, National Park Service Presidio of San Francisco, Golden Gate National Recreation Area, Golden Gate Bridge Highway and Transportation District, and various involved individuals and other organizations.

DISTRICT OF COLUMBIA

Project: Closed Case: Update on St. Elizabeths Campus

Agencies: General Services Administration

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A Programmatic Agreement has been signed for dealing with the richly historic Saint Elizabeths campus as it is converted and developed into the large-scale, new headquarters of the Department of Homeland Security.

The General Services Administration (GSA), the Advisory Council on Historic Preservation, the National Capital Planning Commission, the District of Columbia State Historic Preservation Office, the Federal Highway Administration, and the Department of Homeland Security (DHS) executed a Programmatic Agreement (PA) for the redevelopment of the Saint Elizabeths West Campus, which is part of the Saint Elizabeths National Historic Landmark (NHL). Section 106 consultation involved many local organizations and groups that were interested in this project due to the historic significance of the NHL and the complexity of the redevelopment.

GSA's client for the development is the DHS, which will use the site for its new headquarters. The final negotiated proposal will reduce some impacts to the historic resource by moving approximately 700,000 square feet of development to the nearby Saint Elizabeths East Campus, owned by the District of Columbia government. This alternative, along with a redistribution of square footage, reduces the West Campus development to 3.8 million square feet from the original proposal of 4.5 million square feet. In addition, detailed preservation guidance documents were developed to give proper consideration to the important contributing elements to the NHL site (i.e., buildings and landscape) consistent with the Secretary of the Interior's Standards as the project proceeds.

The PA commits GSA to retain and reuse more than



Front of Center Building at Saint Elizabeths

90 percent of existing historic structures, and to develop a landscape management plan to protect to the maximum extent practicable the historic campus setting. In addition, public outreach includes establishing a citizens advisory panel to assist GSA in the interpretation and management of the historic site, the creation of a Saint Elizabeths museum/visitors education center, and pursuing a relationship with a recently reopened vocational high school training academy (Phelps Architecture, Construction and Engineering Academy).

For more information, see *Case Digest* Summer 2006: www.achp.gov/docs/case_summer06.pdf.

HAWAII

Project: Ongoing Case: 2009 Footprint Reduction Program at Pearl Harbor Naval Complex

Agencies: U.S. Department of the Navy, Department of Defense (lead); National Park Service, Department of the Interior

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The Navy is consulting under Section 106 for its fiscal year 2009 footprint reduction program that includes demolition of a number of facilities, both historic and non-historic, at the Pearl Harbor Naval Complex. This case may create a precedent that could change the way in which the Commander Navy Region Hawaii handles individually proposed demolitions on a case-by-case basis in the future, as the organization strives to meet a target goal to reduce the Navy's total infrastructure by 30 million square feet through fiscal year 2013.

The Commander Navy Region Hawaii footprint reduction program is designed to reduce excess square footage. The fiscal year 2009 program proposes to demolish a total of 167,000 excess square feet. Demolition of the facilities will include removal of entire structures, floor slabs and foundations, removal and disposal of any hazardous materials, termination of utilities, and site restoration.

This case, and the Memorandum of Agreement (MOA) being pursued, could set a precedent for this Navy region. In the future, the Commander Navy Region Hawaii may handle footprint reduction initiatives on a more programmatic basis to meet Navy requirements while assessing potential impacts and cumulative impacts to historic properties and districts. On a much broader scale, the Chief of Naval Operations has set a target goal to reduce the Navy's infrastructure by 30 million square feet through fiscal year 2013. The challenge of addressing the footprint reduction initiative at the Pearl Harbor Naval Complex and its potential impacts to historic properties will continue in future consultations. This approach gives consulting parties



The Navy recommends the demolition of Building A3, located in the NAVFAC Hawaii Compound, Naval Station, Pearl Harbor. Building A3 was originally built as a barracks but was converted to a storehouse and shop in 1949, to a cafeteria in 1952, and then for administrative use in 1956.

an understanding of the broader program rather than continuing to handle individually proposed demolitions on a case-by-case basis.

The historic buildings of current concern are located within the Shipyard, Submarine Zone, Naval Supply Center, NAVFAC Hawaii Compound, Ford Island, and Makalapa. Some of the buildings are eligible for listing in the National Register, and others are contributing to the Pearl Harbor National Historic Landmark.

Consulting parties include the Advisory Council on Historic Preservation (ACHP), the Hawaii State Historic Preservation Division, the National Trust for Historic Preservation, the National Park Service, and the Historic Hawaii Foundation. The Navy initiated consultation with the ACHP in September 2008 and conducted a site visit to many of the properties in October 2008. Since that time, the Navy has hosted a series of consultation meetings via conference calls. The consulting parties have discussed alternatives to demolition for certain historic properties and mitigation strategies. An MOA is currently being sought regarding appropriate mitigation to resolve the adverse effects of this undertaking.

For more information: www.cnmc.navy.mil/Hawaii/index.htm.

LOUISIANA

Project: Closed Case: New Medical Center and the Replacement Charity Hospital in New Orleans

Agencies: Department of Veterans Affairs; Federal Emergency Management Agency, Department of Homeland Security

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Two hospitals that respectively serve U.S. veterans and the New Orleans region's indigent and uninsured patients have been out of operation since Hurricane Katrina in 2005. A new agreement regarding Section 106 will streamline the process to assure maximum speed in creating replacement facilities within the National Register of Historic Places-listed Mid-City Historic District.

The Louisiana state-owned Charity Hospital and the U.S. Department of Veterans Affairs (VA) Medical Center sustained extensive damage during Hurricane Katrina on August 29, 2005, and have been closed to the public since that time. Both the VA and the Federal Emergency Management Agency (FEMA), through its public assistance program, are working to meet the need to restore health care for uninsured, indigent, and veterans in New Orleans. The selected locations for the replacement hospitals are adjoining sites in the National Register-listed Mid-City Historic District. VA and FEMA consulted with local and state government, neighborhood organizations, and historic preservation groups to reach an agreement that was executed on November 14, 2008.

The urgent need to replace these vital medical facilities damaged by Hurricane Katrina necessitated an expedited consultation process. In addition, the selected alternatives will cause substantial adverse effects on the Mid-City Historic District and various individual historic properties including the locally iconic Charity Hospital. The National Trust identified Charity Hospital and the adjacent neighborhood (Mid-City Historic District) on its 11 Most Endangered Places List in 2008. The level of public controversy regarding these undertakings continues to be high. The federal agencies and the consulting parties struggled to identify and resolve the full range of adverse effects of



Residences in the Mid-City Historic District will be adversely affected by hospital and medical center relocation. (Department of Veterans Affairs).

the project alternatives for these separate but adjacent undertakings.

The agreement reached among the VA, FEMA, the Louisiana State Historic Preservation Officer (SHPO), the state of Louisiana, the city of New Orleans, and the Advisory Council on Historic Preservation (ACHP) provides a \$24 million package of treatment measures targeted to address issues raised by the public and consulting parties. The stipulations regarding the selected sites include the following:

- The SHPO will establish a program to promote the preservation and rehabilitation of the Mid-City Historic District. VA, the city, and the state will contribute up to \$1.4 million to support the costs of this program. The Louisiana SHPO will have the discretion to work with stakeholders to develop the criteria for program expenditures. Similar SHPO programs indicate it may be appropriate to limit expenditures to \$20,000 projects with a 50/50 matched investment by the property owner in kind or cash.
- The SHPO will also establish a program so that the city will pay for homeowners to move their buildings from within the selected site for the new VA Medical Center to another location within the Mid-City Historic District. VA and the city will contribute up to \$800,000 to support the costs of this program. With eligible costs to move each building limited to \$40,000, this program may fund as many as 20 individual house moves.
- VA plans to re-use and rehabilitate the Dixie Brewery

and the Pan-Am Building in its new medical center. The state will, if feasible, avoid acquiring, and thereby preserve, the Deutches Haus and Orleans House on the outside edges of its selected site. Louisiana will develop and implement a marketing strategy for Charity Hospital if the state cannot re-use the historic building. This marketing strategy will seek to identify appropriate adaptive re-uses and incentives for its preservation (including state and local tax incentives). Through this stipulation, the state has provided a framework for preservation of Charity Hospital.

- Buildings and structures contributing to the Mid-City Historic District will be demolished for construction. Selected sites will be documented, and architectural elements will be salvaged and donated to a local non-profit that will recycle them back to the community. This salvage effort is acknowledged to address, in part, environmental responsibility issues raised by the consulting parties.

Since Congress has already appropriated funds for this undertaking, VA is acquiring the property within its selected site and beginning design of the approximately 1 million-square-foot, state-of-the-art medical center. VA is coordinating with the SHPO to establish the Mid-City Historic District rehabilitation program and the house moving program. The urgency to complete the project and restore health care for veterans as soon as possible indicates that monitoring and assistance from the ACHP will continue so that potential disputes among the parties do not lead to delays in project planning and delivery.

Louisiana and FEMA continue to work to determine the amount of FEMA's assistance for the new public hospital. Such discussions and current financial market constraints could potentially delay progress toward property acquisition and design of the new hospital. If such delays are protracted, the ACHP may work with the parties to amend the agreement to adjust timeframes for relevant stipulations.

LOUISIANA

Project: Closed Case: Demolition and Replacement of Houses at Jackson Barracks

Agencies: Federal Emergency Management Agency, Department of Homeland Security

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The Federal Emergency Management Agency will provide Public Assistance Funds to the Louisiana Army National Guard for its demolition and replacement of seven Beaugard Drive houses that contribute to the Jackson Barracks Historic District, which is listed in the National Register of Historic Places. Consultation under Section 106 resulted in a Memorandum of Agreement to address adverse effects of the undertaking.

Through Federal Emergency Management Agency (FEMA) Public Assistance funding, the Louisiana Army National Guard (LAARNG) will demolish and replace Buildings 17, 19, 22, 26, 28, 29, and 32 Beaugard Drive, which are residential buildings located in Area A, Jackson Barracks in New Orleans.

All of these buildings are of frame construction and representative of the utilitarian architecture constructed at Jackson Barracks during the early 20th century. While the seven houses were built during the early 20th century, they are adjacent to the original garrison buildings at Jackson Barracks, which date from the 1830s. Several of the seven houses suffered from Formosan termite damage, and each of the houses was heavily damaged in 2005 by Hurricane Katrina, which led to LAARNG's decision to demolish the buildings and replace them with new houses.

When FEMA began the consultation process, it proposed to replace Building 26 in a manner that would have potentially disturbed a National Register-eligible archaeological site. Through consultation, FEMA and LAARNG devised a solution that would avoid the archaeological site and protect it following construction activities.

FEMA's first consultation meeting took place on June 10, 2008. Consultation meetings continued during the summer and fall of 2008. The consulting parties executed the Memorandum of Agreement



Beaugard Drive houses that contribute to the Jackson Barracks Historic District will be demolished.

(MOA) on November 21, 2008.

As executed, the MOA includes the following:

- recordation of the seven historic houses proposed for demolition;
- design review of the proposed replacement houses, which will be similar in design to the early 20th century houses;
- a process for addressing the inadvertent discovery of human remains including FEMA's notification of Indian tribes about such discoveries;
- updating the 1976 National Register nomination of Jackson Barracks; and,
- preservation in place of a National Register-eligible archaeological site.

Consulting parties include LAARNG; Facilities Planning and Control, Louisiana Division of Administration; the National Trust for Historic Preservation; Preservation Resource Center of New Orleans; and Holy Cross Neighborhood Association.

The undertaking is part of an overall effort to return Jackson Barracks to a usable condition. Because Jackson Barracks is located adjacent to the Holy Cross neighborhood, residents in the neighborhood are keenly interested in projects taking place at Jackson Barracks since they will influence the revitalization and repopulation of the neighborhood and other areas that have been slow to recover since Hurricane Katrina. This undertaking successfully balances historic preservation goals with economic recovery objectives.

For more information: www.crt.state.la.us/culturalassets/fema106/readnotice.asp?NoticeID=109.

TEXAS

Project: Ongoing Case: Fort Hood Army Alternate Procedures Implementation

Agencies: U.S. Army, Department of Defense

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Properties on Fort Hood include more than 2,000 archaeological sites, of which more than 200 are eligible for listing in the National Register of Historic Places. The Army post, located about 70 miles north of Austin, is completing development of a plan under the Army Alternate Procedures to streamline Section 106 compliance. The plan would allow Fort Hood to identify, evaluate, determine, and mitigate effects if needed to historic properties through internal processes without project-specific review by stakeholders.

The plan under the Army Alternate Procedures (AAP) is known as a Historic Properties Component (HPC). The HPC is composed of a series of Standard Operating Procedures (SOP), each dealing with a particular part of the Section 106 compliance process. By following the agreed-upon procedures in each SOP, Fort Hood envisions conducting all steps of the Section 106 process internally and will report on its actions to consulting parties in annual meetings. The HPC includes a Record of Historic Property Consideration that Fort Hood will use to document its decisions, including evaluation, alternative review, and mitigation as necessary, that will be the basis of the annual report of undertakings to stakeholders. Notification of adverse effects to stakeholders will occur primarily under the National Environmental Policy Act (NEPA) process, during which stakeholders have an opportunity to comment.

Properties on Fort Hood include more than 2,000 archaeological sites, including more than 200 National Register-eligible sites; one property of traditional religious and cultural importance to Indian tribes; and two historic buildings. Building evaluations of Cold War-era inventory are ongoing.

Consulting parties in the creation of the HPC are the Texas State Historic Preservation Officer (SHPO), Apache Tribe of Oklahoma, Caddo Nation, Comanche Nation, Kiowa Tribe of Oklahoma, Mescalero



The wide open spaces of Fort Hood, Texas, contain more than 2,000 archaeological sites that can be adversely affected by military training activities without proper planning. (Gil Eckrich, Fort Hood)

Apache, Tonkawa Tribe of Oklahoma, Wichita and Affiliated Tribes, and the Advisory Council on Historic Preservation (ACHP).

The Army and the ACHP worked together for several years to develop the AAP, which the ACHP approved for use by Army installations in 2001. Fort Hood notified the ACHP that it would be pursuing the AAP in late 2002. Fort Hood worked with its consulting parties to develop the HPC over the next six years, with major drafts issued for comment in 2004 and 2008 (development was temporarily slowed during installation staff changes). Fort Hood released the HPC for NEPA comment in October 2008, and is now preparing to submit the HPC for certification to the ACHP in February 2009. The ACHP then will have 30 days to review the HPC and documentation and decide whether to certify it.

No historic properties are threatened at this point. It is the aim of the streamlined process to increase opportunities for historic properties to be better considered in installation actions by making the compliance process more efficient. The AAP will also reduce the workload both for Fort Hood and consulting parties, allowing them to focus efforts on significant properties and long-range planning.

Information on the Army Alternate Procedures in general can be found at <http://www.achp.gov/army.html#aap>.



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