



*Preserving America's Heritage*

# CASE DIGEST: SECTION 106 IN ACTION



ADVISORY COUNCIL ON HISTORIC PRESERVATION

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

John L. Nau, III, of Houston, Texas, is chairman of the 23-member council, which is served by a professional staff with offices in Washington, D.C. For more information about the ACHP, contact:

Advisory Council on Historic Preservation  
1100 Pennsylvania Avenue NW, Suite 803  
Washington, D.C. 20004  
Phone: 202-606-8503  
Web site: [www.achp.gov](http://www.achp.gov)

This report is available online at [www.achp.gov/casedigest](http://www.achp.gov/casedigest)

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Cover: The West Tavaputs Plateau Natural Gas Full Field Development Plan Section 106 issues focus on how dust from increased truck traffic would impact petroglyphs and archaeological sites in Nine Mile Canyon, as well as the cumulative effect on the character of the area through increasing industrialization. Photo courtesy Jerry D. Spangler, Colorado Plateau Archaeological Alliance

## 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.

# INDIANA

**Project:** Ongoing Case: Preserving Indiana's Historic Bridges

**Agencies:** Federal Highway Administration, Department of Transportation

**Contact:** Carol Legard clegard@achp.gov

Approximately 800 bridges built in Indiana before 1965 are either listed in the National Register of Historic Places, have been determined eligible, or are contributing elements to a National Register Historic District. In 2006, the Indiana Department of Transportation and Federal Highway Administration put in place an innovative historic bridges program developed collaboratively with local governments and historic preservation advocates. A dispute about how historic bridges will be selected for preservation versus replacement now involves the Advisory Council on Historic Preservation.

During the past 30 months, the Indiana Department of Transportation (INDOT) and its consultant (Mead & Hunt Architecture Inc.) have completed a contextual study of the historic bridges in Indiana, a listing of bridges eligible for inclusion in the National Register of Historic Places, and a proposed methodology for identifying historic bridges to be tagged for preservation.

The program was put into effect with the execution of a statewide Programmatic Agreement (PA) for the Management and Preservation of Indiana's Historic Bridges, executed among the Advisory Council on Historic Preservation (ACHP), Federal Highway Administration (FHWA), INDOT, and the Indiana State Historic Preservation Officer (SHPO) on August 11, 2006. The PA was also signed by the Historic Landmarks Foundation of Indiana and the Historic SPANS Task Force as concurring parties. The Historic SPANS task force is comprised of the Historic Landmarks Foundation, the FHWA, INDOT, and preservation professionals.

The program was developed to address a growing concern among the Historic Landmarks Foundation of Indiana, the National Trust for Historic Preservation



Renovated Atterburg Bridge (photo courtesy Division of Engineering, Indiana Department of Natural Resources)

(NTHP), and the Carroll County Historic Bridge Coalition that case-by-case Section 106 review of bridge projects in Indiana was not serving to protect historic bridges from demolition. FHWA funds were being used to replace some of the state's most historically significant bridges, even when they could have been saved and rehabilitated at a lower cost. In 2002, the Historic Landmarks Foundation of Indiana listed Indiana's historic bridges in its "Ten Most Endangered" properties. The same year, the NTHP placed Indiana's Historic Bridges on its 11 most endangered list.

The NTHP awarded the Indiana Historic SPANS Task Force the National Preservation Honor Award in 2007 for its work on the Indiana Historic Bridges Program, noting that:

"From 1987-1999, poor planning and conflicting interests led to the loss of 62 percent of Indiana's historic bridges. Built between 1860 and 1930 and made of wood, stone, iron, and steel, hundreds of these structures were torn down even though rehabilitation would have been less expensive than new construction. When both the NTHP and the Historic Landmarks Foundation of Indiana put the Hoosier State's historic bridges on their endangered lists, an alarm bell sounded. Fighting to save these threatened bridges one at a time was proving to be ineffective. A more holistic, proactive approach was needed."

To address these concerns, INDOT and FHWA agreed to develop the PA in consultation with a broad array of stakeholders, including preservationists and Indiana's county governments that own and are responsible for maintaining most of the state's historic bridges.



Replacing a restored sign on the renovated Atterburg Bridge (photo courtesy Division of Engineering, Indiana Department of Natural Resources)

Historic Landmarks Foundation of Indiana, Historic SPANS Task Force, Indiana Association of County Highway Engineers and Supervisors, and Mead & Hunt Architecture, Inc.

For more information on the program and public involvement visit: [www.in.gov/indot/7035.htm](http://www.in.gov/indot/7035.htm)

For information on the Historic SPANS Task Force: <http://press.nationaltrust.org/content/view/177/162/>

While the consulting parties agreed to a program that would focus preservation efforts on the most important historic bridges and those most suitable for preservation, reaching agreement on how those bridges would be identified and striking an appropriate balance has proved challenging. In December 2008, the Historic SPANS Task Force and the NTHP wrote to the ACHP's executive director requesting the agency's assistance in resolving several disputed issues regarding implementation of the PA. After discussing its concerns with various parties, the ACHP responded on March 17, 2009, in a letter to FHWA's Indiana Division, requesting a meeting with all consulting parties to consider the concerns raised. INDOT and FHWA have scheduled a meeting for April 21, 2009, and the ACHP's FHWA liaison will attend.

Understanding that not all historic bridges can be saved, the primary goal of the PA is to complete a historic bridges inventory and identify a pool of bridges of each type that will be designated as "Select" bridges. For bridges that are identified as "Select," FHWA will not provide funding toward projects that result in their demolition. "Non-Select Bridges" will go through Section 106 review (and review under Section 4(f)); however, the parties to the PA have agreed that the project review may result in demolition. The conflict brought to the ACHP's attention is focused on the methodology (or criteria) for selecting specific bridges for preservation.

Groups formally involved in the Section 106 process include the Indiana SHPO, the ACHP, INDOT, Indiana Association of County Commissioners,

# MISSISSIPPI

**Project:** Closed Case: Replacement of Second Street School in Bay St. Louis

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

**Contact:** Jeff Durbin [jdurbin@achp.gov](mailto:jdurbin@achp.gov)

Through Federal Emergency Management Agency Public Assistance Funds, the Bay St. Louis-Waveland School District proposes to replace the 1926 Second Street School, which is a contributing resource in the National Register of Historic Places-listed Beach Boulevard Historic District. Consultation under Section 106 resulted in a Memorandum of Agreement to address adverse effects of the undertaking.

The Federal Emergency Management Agency (FEMA) proposes to provide Public Assistance Funds to the Bay St. Louis-Waveland School District for its proposed replacement of the Second Street School in Bay St. Louis, Mississippi.

The Second Street School is a central feature of the Beach Boulevard Historic District, which has a period of significance from 1875 to 1949. Originally constructed to serve as the local public high school, the building was most recently used as an elementary school. Despite its change in use, the building has tremendous symbolic importance to the community. School district officials have no desire to demolish the building. Instead, the school district will market the Second Street School and the adjacent 1956 Ingram Building and has already received inquiries from parties interested in re-using the school buildings.

In addition to the Second Street School building being a contributing resource, FEMA has determined in consultation with the Mississippi State Historic Preservation Officer (SHPO) that the Ingram Building also contributes to the Beach Boulevard Historic District.

This undertaking is part of the overall effort to help Bay St. Louis recover from the destruction that Hurricane Katrina caused. A developer is interested in rehabili-



Second Street School circa 1926

tating the historic Second Street School and Ingram Building to create a mixed-use arts center with retail and dining. The proposed reuse of the historic buildings could create jobs and help spur revitalization in the Beach Boulevard Historic District and other parts of Bay St. Louis that have been slow to recover since Hurricane Katrina. Thus, it is an example of an undertaking that successfully balances historic preservation goals with economic recovery objectives.

The SHPO, the Advisory Council on Historic Preservation (ACHP), the Bay St. Louis-Waveland School District, and FEMA have entered into a Memorandum of Agreement (MOA), which addresses the potential adverse effects of the proposed undertaking.

As executed, the MOA includes the following:

- marketing of the Second Street School and Ingram Building for a period of three years to identify potential recipients or lessees of the property who will rehabilitate the two buildings;
- rehabilitation of the Second Street School and the Ingram Building in accordance with the Secretary of the Interior's Standards for Rehabilitation;
- interim protection of the two buildings including securing them against vandalism and ventilating them until rehabilitation work begins; and,
- recordation of both buildings should efforts to market them fail to result in their rehabilitation and it becomes necessary for the Bay St. Louis-Waveland School District to demolish the two buildings.

The ACHP has been involved in the process since December 2008. The MOA was executed on March 17, 2009.

# NATIONWIDE

**Project:** New Case: Neighborhood Stabilization Program Grants

**Agencies:** Community Block Grant Recipient Communities; Department of Housing and Urban Development

**Contact:** Martha Catlin [mcatin@achp.gov](mailto:mcatin@achp.gov)

The foreclosure crisis has given rise to an economic stimulus program that is being implemented by state and local governments with delegated responsibility for Section 106 review. Programmatic Agreements are under development in several of the states hardest hit by foreclosures and abandonments to ensure that historic properties are considered in a comprehensive and streamlined manner.

On July 30, 2008, the President signed Public Law 110-289, "Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes" under Title III of the Housing and Economic Recovery Act of 2008 (HERA), which established the Neighborhood Stabilization Program (NSP). The law directs the Department of Housing and Urban Development (HUD) to distribute \$4 billion to states and local communities to assist in the stabilization of neighborhoods most impacted by housing foreclosures.

With the passage of the American Recovery and Reinvestment Act (ARRA) in February 2009, an additional \$1.98 billion has been devoted to a second round of NSP grants. Unlike the first round of grants, which were based on allotments reflecting the relative magnitude of the foreclosure crisis across communities nationwide, round two NSP grants will be competitive. Funding decisions will, according to HUD, be awarded based on "grantee capacity to execute projects, leveraging potential, and concentration of investment to achieve neighborhood stabilization."

The NSP was established to administer the provisions of the law and provide emergency funding through HUD's Community Development Block Grant (CDBG) program. With only 60 days from the July 30, 2008, notice to create a formula and program rule, HUD



Urban development (photo courtesy HUD)

worked closely with the Advisory Council on Historic Preservation (ACHP), the National Conference of State Historic Preservation Officers, and the National Trust for Historic Preservation to disseminate information to State Historic Preservation Officers (SHPOs) and potential recipients, including Tribal Historic Preservation Officers and Indian tribes. HUD posted a Web site dedicated to NSP that provided an explanation of the program to the potential NSP grant recipients, which number approximately 300 nationwide.

Soon after establishment of the NSP, HUD developed training materials and conducted training in a number of venues, including high-impact areas in Ohio, California, and Florida. Amended Action Plans were required of each participant in the NSP. The plans were required to include eligible activities that meet the three main purposes of NSP: financing of housing rehabilitation, land banking, and demolition of foreclosed properties that are vacant and abandoned. Only Action Plans submitted by the December 1, 2008, deadline could be considered, and unawarded funds were to be reallocated to other eligible recipients. HUD has observed that cities have been focusing on recently acquired new homes and on older and decaying neighborhoods.

Waivers of environmental review are not applicable to the NSP; therefore, each grantee must comply with Section 106. Grantees must act within the compressed time frames of the program, which requires funds to be spent within 18 months of HUD's approval of an Action Plan. The additional funding under ARRA will extend the NSP beyond the 18-month period of round one and establishes additional timelines within a three-year period from enactment of ARRA for round two.

Efforts are currently underway in several states to adapt existing CDBG Programmatic Agreements (PAs), at both the community and state levels, to encompass NSP activities. SHPOs, who in some instances are able to build staff capacity through NSP administrative or project delivery funds, are taking creative approaches to the streamlining of Section 106 in anticipation of high volumes of HERA and ARRA project reviews and PAs, including Web-based compliance initiatives currently being developed by the Ohio and Virginia SHPOs.

The ACHP is working with several states and communities to develop a variety of approaches, including PA and Memorandum of Agreement templates and adaptation of existing CDBG PAs to include NSP activities. The ACHP will post on its Web site a list of executed PAs so that preservation partners will have up-to-date information on state and local governments' compliance with Section 106 for the NSP.

The following Web-based tools have been offered by HUD:

1. NSP Web site and form for submitting questions on NSP

[www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/index.cfm](http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/index.cfm)

2. NSP FAQs

[www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspfaq.cfm](http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspfaq.cfm)

3. Community Planning and Development Field Office contact information

[www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/contactinfo/index.cfm](http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/contactinfo/index.cfm)

4. HUD Field Environmental Officers' contact information

[www.hud.gov/offices/cpd/environment/contact/localcontacts/](http://www.hud.gov/offices/cpd/environment/contact/localcontacts/)

5. NSP Section 106 Toolkit

[www.hud.gov/offices/cpd/environment/nsp\\_toolkit.pdf](http://www.hud.gov/offices/cpd/environment/nsp_toolkit.pdf)

6. Three training Webcasts on NSP and Section 106 Basics

[www.hud.gov/webcasts/archives/community.cfm](http://www.hud.gov/webcasts/archives/community.cfm)

# NEVADA

**Project:** Ongoing Case: Yucca Mountain Nuclear Repository Programmatic Agreement

**Agencies:** Department of Energy (lead); Nuclear Regulatory Commission

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

After many years of development and consultation, the Department of Energy executed a Programmatic Agreement for construction and operation of the Yucca Mountain Nuclear Repository at the end of March 2009.

The Department of Energy (DOE) has been consulting with the Advisory Council on Historic Preservation (ACHP), the Nevada State Historic Preservation Officer (SHPO), and many others over the past decade on its plans to construct a high-level radioactive waste repository at Yucca Mountain in southern Nevada.

The resulting Programmatic Agreement (PA), executed in late March 2009, provides a process for identification and assessment of effects to historic properties, and for extensive consultation to resolve adverse effects and deal with special situations—notably disturbance of human remains and post-review discoveries. The major potential for adverse effects in regard to the Yucca Mountain facility involves archaeological sites and historic properties of traditional religious and cultural significance to Indian tribes. The desert area of Nevada where the repository is located has been a part of DOE's secure Nevada Test Site, so there has not been much activity or development that would destroy or compromise historic properties.

This agreement addresses the issues DOE will face in completion of the repository and provides a roadmap to identify historic properties, assess effects to them, and consult to reach agreement on mitigation measures. The PA also contains provisions for curation of artifacts and records, for education and outreach for workers and people in surrounding communities, and for periodic reassessment of historic properties on Yucca Mountain.

While it appears that Congress is likely to cut funding for completion and then operation of the Yucca



Yucca Mountain (photo courtesy Department of Energy)

Mountain repository, and the facility may be shut down permanently, DOE wanted to go forward on this PA because it would also guide any closure or mothballing of the facility.

In addition to the Nevada SHPO, many Indian tribes were involved in the consultation. They include the Las Vegas Paiute Tribe, Moapa Band of Paiutes, Paiute Indian Tribes of Utah, Kaibab Paiute Tribe, Pahrump Indian Tribe, Colorado River Indian Tribes, Chemehuevi Indian Tribe, Timbisha Shoshone Tribe, Duckwater Shoshone Tribe, Ely Shoshone Tribe, Yomba Shoshone Tribe, Lone Pine Paiute-Shoshone Tribe, Bishop Paiute Tribe, Fort Independence Tribe, Big Pine Paiute Tribe, and Benton Paiute Tribe. The consultation also included the Las Vegas Indian Center, Inc.

The ACHP has been assisting DOE in meeting its Section 106 responsibilities regarding the Yucca Mountain repository since the 1990s.

For more information see: [www.ocrwm.doe.gov/ym\\_repository/index.shtml#0](http://www.ocrwm.doe.gov/ym_repository/index.shtml#0)

# NEW JERSEY

**Project:** Closed Case: Development of a bank branch within the Liberty Hall National Historic Landmark District

**Agencies:** Office of the Comptroller of the Currency

**Contact:** Blythe Semmer bsemmer@achp.gov

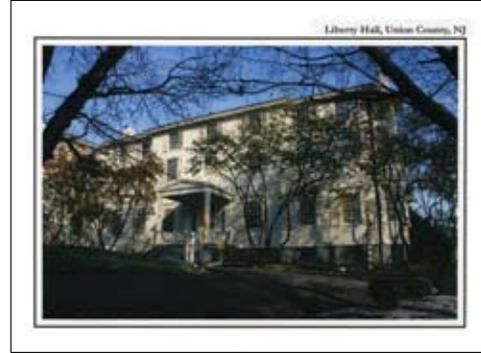
Several modifications in a proposal to develop a bank branch within a National Historic Landmark have resulted in creation of a Memorandum of Agreement and an improved outcome for the resource.

Liberty Hall is a National Historic Landmark (NHL) built in 1772 by William Livingston, a signer of the U.S. Constitution and the Revolutionary War era governor of New Jersey. It was later the home of the prominent Kean family. Today the house is a museum, largely intact and containing many original furnishings, textiles, toys, and tools from the Livingston and Kean families.

A portion of the 14-acre Liberty Hall Historic District in Union, New Jersey, is the proposed site for a new bank building, raising concerns that the historic landscape connected with the NHL will be adversely affected by the project. The Office of the Comptroller of the Currency (OCC) regulates the establishment of new branches by national banks and is the federal agency that coordinated the Section 106 consultation.

Although all the wishes of consulting parties could not be achieved in the project outcome, the Memorandum of Agreement (MOA) for this undertaking represents a significant commitment on the part of OCC and its applicant to modify the project design to minimize its direct and visual effects. The implementation of the project will also integrate interpretation and other preservation activities to mitigate the adverse effects on the NHL.

The parcel of land on which the proposed bank will be constructed is the former location of a historic house that was moved in the 1980s. When OCC made an

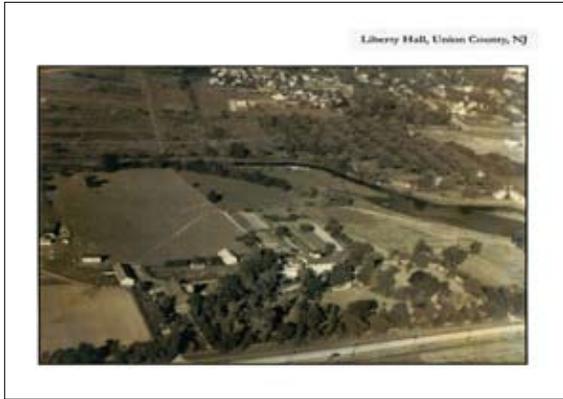


Liberty Hall (photo courtesy New Jersey State Historic Preservation Office)

adverse effect finding in June 2008, the branch was planned to be part of a larger commercial development. Community members voiced strong opposition to the encroachment of commercial construction and parking on this corner and opposed any development within the Liberty Hall district boundary. This undertaking faced similar pressures to others in which a private applicant seeks federal approval for a project carried out in an urban environment in that consultation had to be coordinated with concurrent schedules imposed by local administrative reviews and transactions outside the federal agency's purview.

Following the start of consultation to resolve adverse effects, the bank redesigned its proposal to eliminate additional commercial development, reducing the footprint of the new construction by about 7,000 square feet and cutting 2/3 of its planned number of parking spaces. Revisions to the landscaping plan provide for vegetative screening along the west side of the parcel facing the rest of the Liberty Hall acreage. The bank building was also repositioned on the site, creating a one-acre landscape buffer at the rear of the bank building. In response to comments raised by the New Jersey State Historic Preservation Officer (SHPO) and other consulting parties, the bank will place the buffer area under a conservation easement donated to the Union County Parks and Recreation Department.

Other mitigation measures include the design and installation of a large color mural of a historic scene or map from the Liberty Hall Foundation archives and accompanying narrative signage in the branch lobby. The bank will also contribute to a preservation proj-



1928 aerial photograph of the Liberty Hall property (photo courtesy New Jersey State Historic Preservation Office)

ect, to be developed in consultation with signatories to the MOA, aimed at achieving long-term preservation of Liberty Hall.

Given the adverse effects to the NHL, the OCC invited the Secretary of the Interior, represented by program staff in the National Park Service's Northeast Region, to participate in consultation. Other consulting parties included Concerned Citizens of Union County, Union County Historical Society, Liberty Hall Foundation, the City of Elizabeth Council, and several individuals. The ACHP determined that the direct effects to the NHL, combined with strong community concern about the need to limit effects to the historic landscape, merited its participation.

The MOA was executed in January 2009 by the OCC, New Jersey SHPO, the ACHP, the bank, and the NPS.

# TEXAS

**Project:** Closed Case: Fort Sam Houston National Cemetery Programmatic Agreement Expansion and Improvements

**Agencies:** Department of Veterans Affairs

**Contact:** Katry Harris kharris@achp.gov

Development of 40 acres of property for expansion of an existing Department of Veterans Affairs cemetery in San Antonio was facilitated through Advisory Council on Historic Preservation participation in Section 106 consultation resulting in the execution of a Programmatic Agreement on February 18, 2009.



Fort Sam Houston National Cemetery (photo courtesy Department of Veterans Affairs)

The National Cemetery Administration of the Department of Veterans Affairs (VA) acquired 40 acres of undeveloped land adjacent to the existing Fort Sam Houston National Cemetery in San Antonio, Bexar County, Texas. VA plans to develop this land for burials and to make improvements to the existing cemetery: repair infrastructure, construct new administration buildings, renovate the existing historic administration building, complete road improvements, and install new signage. The expansion and improvements will take place in two phases.

VA, the Texas State Historic Preservation Office (SHPO), and the Advisory Council on Historic Preservation (ACHP) participated in the consultation resulting in a Programmatic Agreement (PA). VA initiated Section 106 consultation with the Texas SHPO having already acquired the 40-acre parcel and having developed 95 percent-complete design plans. When the SHPO indicated that more time was needed to complete consultation, VA responded that there were actually two undertakings: the development of the new parcel and the improvements to the existing national cemetery. The Texas SHPO requested ACHP involvement to assist VA in interpreting the definition of undertaking in this situation. The PA was executed on February 18, 2009.

The PA addresses both phases of the undertaking, enabling VA to proceed with development of the 40-acre parcel in the short-term while providing a process

for further consultation regarding improvements within the historic cemetery to take place in coming years. The PA provides a clear definition of the two phases and provides opportunities for the SHPO, tribes, consulting parties, and the public to participate in the consultation regarding phase two.

In this case it was possible to use a programmatic approach for the two-phase undertaking to complete the Section 106 consultation in an expedited manner. However, the ACHP and VA's Federal Preservation Officer continue to work together to educate agency officials regarding the requirements of Section 106 and the imperative to begin consultations early in the planning process.

# UTAH

**Project:** Ongoing Case: West Tavaputs Full Field Gas and Oil Development

**Agencies:** Bureau of Land Management

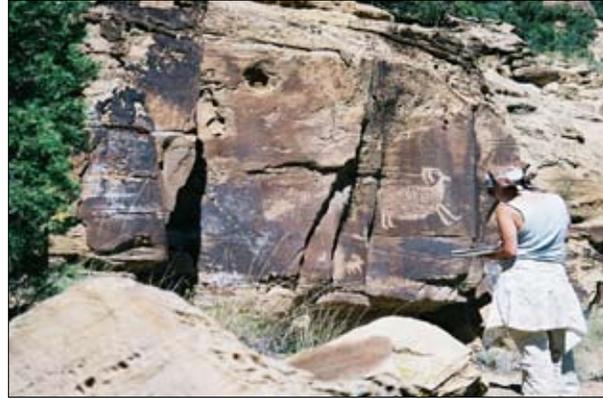
**Contact:** Nancy Brown nbrown@achp.gov

The Bureau of Land Management's proposed undertaking, the West Tavaputs Plateau Natural Gas Full Field Development Plan, provides for the development of approximately 138,000 acres for additional oil and gas drilling. The Section 106 issues are focused on how the dust from increased truck traffic would impact the prehistoric petroglyphs and archaeological sites in Nine Mile Canyon and the cumulative effect on the character of the area through increasing industrialization.

The Bureau of Land Management's (BLM) proposed undertaking on the West Tavaputs Plateau provides for the development of approximately 138,000 acres for additional oil and gas drilling in central Utah. Although the project would allow 750 additional wells on the plateau, Section 106 issues are focused primarily on the impacts of associated infrastructure developments. These issues include how increased truck traffic would impact the prehistoric petroglyphs and archaeological sites in Nine Mile Canyon and the cumulative effect on the character of the area through increasing industrialization. Significant public and media attention has been generated by the potential for adverse effects to rock art in Nine Mile Canyon as a result of dust generated by increased vehicle traffic on unimproved haul roads that serve as the entryway into the gas fields.

The BLM made a determination of adverse effect for the preferred alternative of the proposed undertaking. Earlier this year, the BLM state office expanded its Section 106 consultation on the proposed West Tavaputs Plateau Natural Gas Full Field Development Plan to include groups that had previously requested consulting party status to join the consultation.

The parties that have entered consultation represent a wide range of interests. They include the National Trust for Historic Preservation (NTHP), Utah Professional Archaeological Council, Utah Statewide Archaeological



An observer documenting a bighorn petroglyph (photo courtesy Jerry D. Spangler, Colorado Plateau Archaeological Alliance)

Society, Utah Rock Art Research Association, Colorado Plateau Archaeological Alliance, Nine Mile Canyon Coalition, Southern Utah Wilderness Alliance, State of Utah School and Institutional Trust Lands Administration, State of Utah Public Lands Policy Coordination Office, Carbon County Commission, Duchesne County Commission, and Bill Barrett Corporation (project proponent).

The BLM invited the Navajo Nation, Hopi Indian Tribe, Uintah and Ouray Tribes, and Paiute Indian Tribe of Utah to join, and will continue its government-to-government consultations with the tribes. The input of all consulting parties on issues such as the determination of the area of potential effects, inventory findings, and alternative transportation route analyses will enhance the BLM's ability to manage the nationally renowned historic properties in this area.

The Advisory Council on Historic Preservation (ACHP) became involved in the project in September 2008. Earlier that month, the NTHP had requested that the ACHP participate in the consultations, as had the Hopi Indian Tribe in April 2008 comments to the BLM. At that point, the BLM had been consulting with the State Historic Preservation Officer and interested Indian tribes for more than five years.

The BLM has determined the development of a Programmatic Agreement to resolve the adverse effects of this plan is the best way forward. The agency is pursuing that outcome through consultation that will allow it to avoid, minimize, and mitigate adverse effects to the historic properties in Nine Mile Canyon.





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ADVISORY COUNCIL ON HISTORIC PRESERVATION  
1100 Pennsylvania Avenue NW, Suite 803 · Washington, DC 20004  
Phone: 202-606-8503 · Fax: 202-606-8647 · [achp@achp.gov](mailto:achp@achp.gov) · [www.achp.gov](http://www.achp.gov)