

A WORKING CONFERENCE ON ENHANCING & STREAMLINING SECTION 106 COMPLIANCE & TRANSPORTATION PROJECT DELIVERY

SANTA FE, NEW MEXICO
FEBRUARY, 2004



by
Terry H. Klein,
and Lynne Sebastian, Ph.D.
SRI Foundation

Preservation Research Series 3

August 2005

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advancing historic preservation
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The recommendations and action items presented in this report were identified by participants at the Santa Fe conference. They do not represent the official recommendations or opinions of the Federal Highway Administration, the Advisory Council on Historic Preservation, any State Department of Transportation, any sovereign tribal government, the American Association of State Highway and Transportation Officials, or the National Conference of State Historic Preservation Officers. The pages presenting the conference recommendations are direct transcriptions of flip-chart notes written by participants, with some editing.



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1

BACKGROUND

In June 2002, a national transportation and historic preservation conference was held in Lexington, Kentucky. The conference was sponsored by the American Association of State Highway and Transportation Officials (AASHTO), the Federal Highway Administration (FHWA), the Great American Station Foundation, the Kentucky Heritage Council, the Kentucky Transportation Cabinet, the National Conference of State Historic Preservation Officers (NCSHPO), and the National Trust for Historic Preservation. The purpose of the conference was to explore how agencies and the public are using transportation enhancement programs, the management of historic transportation resources, and context sensitive solutions^{1, 2} to streamline transportation and historic preservation efforts and improve resource stewardship. Conference participants also discussed and shared information on best practices associated with the historic preservation review process. This conference was the first time that senior FHWA staff, State Historic Preservation Officers, and state Departments of Transportation (DOT) staff met jointly to discuss these topics.

In an effort to continue the dialogue on best practices begun in Lexington, a second, invitation-only, working conference was held on February 22 – 25, 2004 in Santa Fe, New Mexico. The conference was sponsored and funded by the FHWA, AASHTO, NCSHPO, and the SRI Foundation.

The SRI Foundation organized and facilitated the conference, with assistance from the URS Corporation. This report presents the results of the Santa Fe conference.

The focus of the Santa Fe conference was to develop effective strategies that streamline the historic preservation review process mandated by Section 106 of the National Historic Preservation Act. These strategies would also improve the delivery of transportation projects and enhance the stewardship of historic and archaeological resources.

The Federal Highway Administration (FHWA) lists environmental stewardship and streamlining as one of the agency's three "vital few" goals for the country's highway program.³ Environmental stewardship directs transportation agencies to improve project delivery without compromising environmental protection. Stewardship improves the environmental quality of transportation decision-making, and also involves taking advantage of opportunities to enhance environmental protection.^{3, 4}

Environmental streamlining is the term used for a new way of doing business that brings together the timely delivery of transportation projects with the protection and enhancement of the environment. First enacted into legislation for highway and transit projects with TEA-21, environmental streamlining is also being discussed in aviation reauthorization.

In its simplest terms, environmental streamlining consists of cooperatively establishing realistic project development time frames among the transportation and environmental agencies, and then working together cooperatively to adhere to those time frames. Because major transportation projects are affected by dozens of Federal, State, and local environmental requirements administered by a multitude of agencies, improved interagency cooperation is critical to the success of environmental streamlining.

Efforts currently underway within the U.S. DOT focus on solidifying the interagency partnership through a series of actions that include pilot efforts, process reinvention, alternative dispute resolution, and a focus on performance evaluation.⁴

Over the past several years, some state DOTs, State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Officers (THPOs) have worked together to put in place processes and tools that enhance and streamline compliance with Section 106 and its implementing regulations, 36 part CFR 800. Examples of some of these processes and tools include:

- Statewide Section 106 programmatic agreements;
- Procedures for early project coordination and communication;
- Computerized archaeological and historic architectural inventories and mapping (e.g., using Geographic Information Systems [GIS]);
- Computerized environmental decision-making tools (e.g., Florida's Efficient Transportation Decision-Making Process [ETDM]);
- Archaeological predictive models;
- Historic contexts for problematic resources (e.g. early twentieth-century suburbs, nineteenth- and twentieth-century agricultural properties); and
- State-DOT-funded Section 106 review positions within SHPOs.

The most popular tools are programmatic agreements and computerized cultural resource inventories.^{5,6} Historic contexts are the primary tool that SHPOs and DOTs would like to have, but currently lack.^{7,8}

In response to the popularity of programmatic agreements (PAs) as a mechanism to streamline Section 106 review, AASHTO's Center for Environmental Excellence created a PA "how-to" tool kit for state DOT and FHWA state division offices.⁶ The tool kit serves as a tutorial on how to most effectively work with the Section 106 consulting parties to create a PA, in addition to how to write an agreement document. The tool kit also includes several examples of transportation-related PAs from across the country.

A recent nationwide study by the National Cooperative Highway Research Program (NCHRP) found that state DOTs and SHPOs are expending considerable time and money on computerizing historic property inventories in order to access historic property information more quickly and efficiently for transportation decision-making.⁵ Surprisingly, however, the NCHRP study also found that historic preservation and transportation personnel rarely use these databases for making day-to-day decisions on historic resource significance and management. The NCHRP study also demonstrated that both state and federal agencies are developing different and often competing database programs and information technology (IT) solutions for the management of historic properties.

In 1999, the Transportation Research Board (TRB), Federal Highway Administration, and the National Park Service (NPS) sponsored a "National Forum on Assessing Historic Significance for Transportation Programs." The majority of the 190 historic preservation and transportation professionals attending the forum strongly supported the development of usable and up to date historic contexts.⁸ The importance of historic contexts was stressed again during the 2002 Environmental Research Needs in Transportation Conference held by the TRB. The conference's Cultural Resource Working Group identified "streamlining the evalua-

tion of cultural resources by using historic contexts” as the number one research need in transportation-related historic preservation efforts.⁷ This emphasis on historic contexts is surprising when contrasted with the findings of the above referenced NCHRP study, which included a nationwide survey of over 60% of the SHPOs and DOTs. The study found that SHPO and DOT staff do not regularly use historic contexts when evaluating the National Register eligibility of resources. Only 14% of the SHPOs and 22% of the DOTs report using historic contexts 100% of the time.

The DOTs...responded that they rely most heavily on consultants’ reports for significance

decision-making, and SHPO staff members rely mostly on their personal experience⁵

The NCHRP study brings into question the actual utility of some of the tools that many professionals describe as indispensable to the Section 106 compliance process. The 2004 Santa Fe conference participants considered the results of the NCRHP and other studies, and based on their own experiences and those of their staffs, evaluated whether or not a variety of approaches have the potential to streamline Section 106 compliance and transportation project delivery.

The following chapter provides more details on the objectives and structure of the Santa Fe conference.



2

THE SANTA FE CONFERENCE

Key parties in the Section 106 process were invited to the Santa Fe conference to share information on current practices and technologies and, more importantly, to make recommendations on how to reach a common objective. This objective was to develop effective strategies to enhance and streamline the historic preservation review process mandated by Section 106 of the National Historic Preservation Act. Implementation of any strategies identified by the conference participants should result in the most efficient use of agency personnel and funding, and lead to improvements in both historic preservation efforts and the delivery of transportation projects. The conference did not examine or make recommendations on changing current historic preservation or transportation laws and regulations, but rather focused on best practices for working within the current regulatory and statutory structure

Conference attendees included:

- NCSHPO's Executive Director and President
- SHPO representatives
- THPOs and tribal representatives
- FHWA's Federal Preservation Officer
- FHWA's Director, Office of Project Development and Environmental Review
- AASHTO's Director of Environmental Programs

- State DOT representatives
- Executive Director and staff members of the Advisory Council on Historic Preservation
- American Cultural Resource Association (ACRA) representatives (ACRA represents historic preservation consultants around the country)
- National experts in historic preservation and transportation information technology and management programs

A list of conference participants is provided in Appendix A.

The conference attendees came to the meeting prepared to discuss and evaluate historic preservation best practices across the country. Prior to the conference, attendees were sent a package containing information on a wide range of best practices from state DOTs, Tribal Historic Preservation Officers and SHPOs. These best practices were selected from the FHWA's stewardship/streamlining and historic preservation web sites, from the results of various NCHRP and Transportation Research Board studies and programs, and other sources.

The focus of the conference, as identified in consultation with the conference sponsors, was to improve and enhance integration of the four steps in the Section 106 process with transportation project delivery. The four steps are: identifying historic places, evaluating their National Register eligibility,

determining how they will be affected by a project, and resolving any adverse effects. The conference products were to include recommendations and very specific Action Plans on how to improve this integration. The specific issues to be discussed during the conference included:

- Survey/inventory methods
- Inventory, evaluation, effects, and mitigation documentation – what, when and why?
- Archaeological predictive modeling
- Agency review processes
- Evaluation of historic resource significance (i.e., National Register eligibility)
- Resolution of adverse effects
- Roles and responsibilities of the players
- Tribal participation and consultation
- Public involvement
- Information technology as a compliance/preservation tool
- Creative mitigation
- Effective use of programmatic agreements

The conference began with presentations from four speakers. Each speaker discussed one of the four themes that would structure the conference discussions:

- Balancing historic preservation and project delivery
- Focusing on the product, not the process
- Information: What do we need? When do we need it? How and where do we get it?
- How do we move information gathering and decision making earlier in the environmental compliance process?

After the four presentations, conference participants broke into small groups to discuss and brainstorm about three topics:

- Initiating the Section 106 process, identifying and evaluating historic properties

- Assessing effects and resolving adverse effects
- Pre-project planning and Section 106

Each group was told to discuss the following issues:

- In an ideal situation, what could be done at each stage in the Section 106 process to achieve the best possible balance between excellence in preservation and efficiency in project delivery?
- In real world situations, what are the symptoms of a Section 106 process that is out of balance?
- Given real world complications, what specific steps could be taken to deal with these symptoms and improve the balance?
- What tools (information, procedures, agreement documents, etc.) would we need to make this happen?

The first bullet asked the groups to imagine the best of all possible worlds. The other bullets asked the groups to work on bringing the current imperfect world closer to that ideal. The end product of each small group deliberation was a set of lists covering:

- The characteristics of an ideal Section 106 process focused on a balance between project delivery and resource protection.
- Symptoms of an out-of-balance process
- Steps to take to improve the balance
- Needed tools

After completing their discussions, conference participants reconvened and each group presented the results of their deliberations (See Appendix B for detailed notes from the small group discussions). As the small groups presented the results of their discussions, it became clear that the ideas and tools identified by the groups went well beyond the basic steps in the Section 106 process. Conference participants agreed that the way to improve the Section 106 process was to use tools and approaches that improved overall historic property stewardship and streamlined project delivery. The tools and approaches identified by the conferees included:

- mechanisms for integrating cultural resource issues into pre-project planning

-
- ideas for improving the use of historic contexts in resource evaluation
 - smarter and more creative mitigation measures
 - improving consistency in evaluations of eligibility and effect
 - increasing the public benefits of historic preservation compliance projects
 - developing guidance on tribal consultation
 - emphasizing context sensitive design in historic preservation compliance
 - fully funding the federal Historic Preservation Fund
 - creating a model DOT historic preservation information clearinghouse web site

These and other activities identified by the conference participants as potential measures to improve

both project delivery and stewardship were subsequently grouped together into a set of topics for the development of action plans. These topics were

- pre-project planning
- improving the Section 106 process and project delivery
- communication
- funding
- information technology/information management systems

The conferees then worked in groups to develop the action plans. These plans, as they were developed by the conference participants, are presented with only minor editing in the next chapter.



3

ACTION PLANS

Pre-Project Planning

Action #1

Recommend to the Environmental Streamlining Task Force that they direct states to adopt/institutionalize a communication process to share data and program priorities to integrate cultural and natural resources early in pre-project planning and programming. Each communication process will be state-specific, meeting the needs and programs that are unique to each state [The Task Force was established by Executive Order 13274, September 18, 2002].

Benefits - Could spin off into natural resources and other agencies, including Metropolitan Planning Offices and Regional Planning Commissions.

- Data sharing
- Priorities identified
- Areas of concern identified (geographical/topical)
- Developing areas of concern identified
- Agencies/tribes and state specific agency participants identified early in process (e.g., Metropolitan Planning Offices)

Who

Fred Skaer (FHWA) and John Fowler (Advisory Council on Historic Preservation (ACHP))

When

By March 2004

Definable Outcome/Product

- Task Force adopts recommendations
- Guidance to state offices, agencies, tribal governments, local planners to implement recommendations.
- Results in less conflict in programs and improved integration of planning and programs.

Action #2

Re-energize agencies/communities on the development and appropriate use of historic contexts.

- Convene practitioners
- Guidance package (toolkit) for SHPO/THPO/DOTs, to include:
 - Model programmatic agreement (PA) (stipulating process for developing historic contexts). PA could stipulate that historic context development is in lieu of/as mitigation
 - Guidance on public involvement associated with context development
 - Outline of what a historic context is
 - How to apply historic contexts
 - Scope-of-work for consultants to identify historic contexts

Concerns

- Are historic contexts being used?
- Do we need to follow whole process (e.g., submit multiple property nominations)?
- Costly effort with little use?

Who

Coalition: National Park Service (NPS), FHWA, NCSHPO, ACHP, National Association of Tribal Historic Preservation Officers (NATHPO), AASHTO

When

ToolkitOctober 2004 - October 2005
Convening PractitionersOctober 2005

Definable Outcome/Product

- Toolkit (see above)
- Convening practitioners
- States producing useful historic contexts and employing them in pre-project planning.

Action #3

Undertake research to examine pre-project planning models. Possible funding sources: National Cooperative Highway Research Program (NCHRP), AASHTO's Standing Committee on the Environment (SCOE).

Practical research options:

- Examine natural resource models (e.g., North Carolina's Ecosystem Enhancement Program) to determine if applicable to cultural resources in terms of pre-planning efforts
- Search for cultural resource practice:
 - Creative early planning
 - Creative early mitigation
- Conduct study on benefits, including cost savings, of pre-planning

Benefits

- Short term completion of studies through established research programs

- Low to moderate costs
- Relatively comprehensive examination
- Better projects/protection of historic resources

Who

AASHTO, SCOE, FHWA

When

April 2004 (topic to be presented at annual SCOE meeting)

Research - 12 months

Definable Outcome/Product

- Research reports (including SHPO/THPO)
- Presentations at conferences (e.g., SCOE, Transportation Research Board (TRB) annual/summer meetings)

Improving the Section 106 Process And Project Delivery

Action #1

Mitigation Improvements: Create joint ACHP/FHWA policy statement on:

- Why creative mitigation is good for resources, descendant communities, public benefits, and project delivery
- Encouragement/authorization for DOTs, SHPOs, THPOs to do creative mitigation
- Where to find good examples

Who

- ACHP and FHWA organize a working group involving primary stakeholders.

When

September 30, 2004 - issuance of policy

Recommended Follow-up Activities:

- Encourage other agencies to adopt the policy
- Develop mechanism for showcasing successful creative mitigations (on-going) and for information sharing

Action #2

Define consistent approaches for assessing eligibility and effects. Develop practice-based guidance on preparing:

- Eligibility statements
- Assessments of effects

Who

- NCSHPO to convene a working group comprising SHPO, THPOs, transportation agencies, National Park Service (NPS), ACHP, and the American Cultural Resource Association (ACRA)
- Broad comment and opportunities for additional constituencies

When

March 1, 2005

Action #3

Development and delivery of training for all Section 106 practitioners based on the guidance developed in Action #2:

- Web-based or video delivery
- Modular for property types
- Include assessment instrument

Who

SRI Foundation and cast of thousands for (1) and TBA for (2)

When

- (1) Training feasibility study . . . March 1, 2005
- (2) Course availableMarch 1, 2006

Action #4

Create state-based streamlining agreements. Encourage and assist state DOTs to develop streamlining agreements.

Examples:

- Delegation programmatic agreements (e.g., Certified Local Governments, Navajo Nation, Vermont, Ohio, California)
- DOT funded positions at SHPO
- Informal agreements - protocols, memoranda of understanding
- Programmatic approaches for categories of undertakings, properties, and effects, rather than case-by-case process

Who

- FHWA with assistance from AASHTO to encourage and assist state DOTs
- NCSHPO to disseminate information to SHPOs
- FHWA to request NPS assistance to inform tribes

When

Initial contact to FHWA divisions - December 31, 2004

Communication

Action # 1

Emphasize public benefit

Who

DOTs, SHPOs, and THPOs cooperate to publicize positive preservation outcomes.

When

Ongoing

Action #2

Create a list of best practices for creative preservation outcomes. Publicize examples through educational programs, publications, web sites, etc.

Who

FHWA, SHPOs, DOTs, THPOs

When

Ongoing

Action #3

Elicit and incorporate a community's preservation values into project outcomes.

Who

DOTs, SHPOs, communities

When

Early and ongoing

Action #4

Create series of guidance documents on tribal consultation:

- Best practices on FHWA web site
- One time regional meetings for FHWA/DOT, hosted by tribes

Who

FHWA/Advisory Council on Historic Preservation (ACHP)

When

Spring 2004 - FY05

Action # 5

Develop national model for tribal mentoring

Who

New Mexico SHPO/Confederated Salish & Kootenai Tribes (CSKT); New Mexico DOT

When

End FY05

Action #6

Emphasize historic preservation within context sensitive design guidance to identify and engage Certified Local Governments (CLGs), Metropolitan Planning Offices (MPOs), and key members of communities EARLY in project planning.

Who

FHWA; SHPO develop community contact list.

When

End of FY05

Funding

Action # 1

Obtain \$50 million from Historic Preservation Fund for State Historic Preservation Officers (SHPOs)

Obtain \$12 million from Historic Preservation Fund for Tribal Historic Preservation Officers (THPOs)

Who

Secretaries of Transportation, Housing and Urban Development (HUD), Department of Defense (DOD), Department of Energy, Federal Communication Commission (FCC), Health and Human Services (HHS) Department of Homeland Security, Department of Agriculture

- United South and Eastern Tribes (USET) and other Tribes
- National Governors Association (NGA)
- NCSHPO
- National Association of Tribal Historic Preservation Officers (NATHPO)
- Preservation Action (PA)

Lead Parties: John Nau – Advisory Council on Historic Preservation; John Horsley – American Association of State Highway and Transportation Officials

How

Letter(s) to Office on Management and Budget (OMB) requesting budget enhancement in Historic Preservation Fund for FY06

- 1) Secretary letter.
- 2) Letter from USET and other tribes.
- 3) NGA.

When

- 1) Spring 2004 lead parties meet with Secretaries.
- 2) Letter and best practice information sheet to OMB by summer 2004
- 3) Efforts monitored by NCSHPO, NATHPO, AASHTO

“Sound byte”

Historic Preservation Office (HPO)-sized set aside!!

Action # 2

Carve out HPO set aside from FHWA grant programs:

- Technology transfer program
- Environmental stewardship and streamlining program
- Transportation Enhancement program (with a guarantee percentage to go to transportation-related historic preservation efforts)
- Statewide planning and research funds

Who

FHWA, AASHTO, conference participants

Lead Parties: MaryAnn Naber (FHWA), Fred Skaer (FHWA); John Horsley (AASHTO)

When

FY05 and beyond FY05

Action # 3

Provide information to HPOs and DOTs of available funding sources (e.g., FHWA stewardship and streamlining funds, technology transfer funds, Transportation Enhancement funds, and statewide planning and research funds)

Who

FHWA, AASHTO, conference participants

Lead Parties: MaryAnn Naber (FHWA), Fred Skaer (FHWA); John Horsley (AASHTO)

When

Immediately!!

Action # 4

Present to Mary Peters (FHWA Administrator) and Congress examples of how pre-planning results in cost savings and improves the Section 106 compliance process and project delivery. Demonstrate through examples that up-front planning pays off in project delivery predictability and streamlining the review process. Demonstrate that pre-planning is more effective than traditional project-based inventory and evaluation.

Who

Transportation Research Board (TRB)/National Cooperative Highway Research Program (NCHRP), large private sector consulting firms, DOTs, Preservation Action, THPOs

Lead Parties: NCSHPO (Jon Smith (Indiana SHPO) and Allyson Brooks (Washington State SHPO))

When

Summer 2004

Information Technology/Information Management Systems

Action #1

Create model DOT information clearinghouse web page.

Designed to:

- Provide and query historic property information to identify, evaluate, determine effects, and resolve adverse effects.
- Obtain historic context reports and allow for updates – capture and enter data electronically.
- Formally link federal and state agencies and tribes (through, for example, a Memorandum of Understanding (MOU)) to assure development, implementation, management/update of information.
- Provide “best practices” information.
- Show examples of MOUs/agency Information Technology (IT) agreements and documents.
- Provide guidance on “staged approach” to IT system development, use of data, reliability of data.
- Include written reports or articles on positive and negative experiences in development of IT systems.

Attributes:

- Capture specific transportation project and Section 106 compliance costs, effects, benefits – to allow for FHWA to report on project successes and failures.
- When FHWA funding is used for transportation projects, would require state DOTs to provide information on project successes and failures – web page could provide one or more specifications for requirements for contractors (e.g., sample language) – to fill out data entry in specific way.
- Designed to share information from multiple sources.

- Share information on how to pay for state IT data plan development (perhaps show 2-3 examples).

Who and When	Who	When
1. Secure 3rd party (neutral) web site address	Eric Ingbar	3/31/04
2. Complete development of clearinghouse IT structure	IT Work Group	5/30/04
3. Develop scope of work for larger study/update	TBD	TBD
4. Secure FHWA and other partner funding to update and populate with new data (Phase II)	TBD	TBD
5. Roll out products through “webinar”	TBD	TBD

[A more detailed proposal for creating a clearinghouse is presented in Appendix C. This proposal was developed by the conference discussion group focusing on IT issues]

Action #2

Design Project Activity Tracking (PAT) data model.

Designed to:

- Enhance integration of transportation planning and historic preservation to answer questions about:
 - National Register eligibility of resources
 - Was historic property affected? How?
 - Treatment outcome?
 - Might also add information on such items as: Subject to easement? Status as of “x” date? Received historic preservation funding?
- Better address “environmental commitments” than present efforts
- Be useful for states that have high level of Information Technology sophistication, but also useful for states that need new elements (e.g., National Register evaluations, project tracking, cost benefits, etc.)

- Shared Information Technology/Information Management Systems that allow sharing of information and track decisions about projects and historic properties and historic preservation

Attributes:

- Be a model to share information about streamlining
- Will develop specific questions for business plan

Who and When

1. IT study committee designs prototype model. Optimally, have 2 or 3 state DOTs involved (e.g., Florida, Wyoming, California, North Carolina). Estimated to require 80 hours of donated time. To be completed by 3/31/2004.
2. Identify scope of work and cost estimate; secure FHWA funds to implement and provide completed business plan.

Action #3

Conduct feasibility study and pilot study for improving tribal Information Technology.

Designed to:

- Have locational data on religious or culturally significant areas (i.e., sensitivity areas to be avoided) for pre-planning
- Provide updated contact information for tribes with interest in historical areas outside of current tribal lands. Include map locations.
- Provide model process to develop IT capability of tribes for historic preservation efforts
- Be a marketing tool for future similar efforts
- Be an object on “IT Information Clearinghouse”
- Assess tribal systems and evaluate effectiveness. Identify areas for improvement.

Outcome:

Results provided to tribes only, via a conference/teleconference, or “webinar.”

Attributes:

Used as a way to foster more effective communication among tribes and Federal Highway Administration (FHWA), State Departments of Transportation (DOTs), State Historic Preservation Officers (SHPOs), etc.

Feasibility Study: Approach National Association of Tribal Historic Preservation Officers (NATHPO) and other tribal organizations (e.g., the Transportation Research Board’s ABE80 Committee on Native American Transportation Issues), and assess feasibility, support and interest for conducting a pilot study that 1) compiles information on current best practices on tribal-based IT historic preservation databases/systems and 2) determines if and how these databases/systems can be distributed to tribes that have no IT programs.

Pilot Study: If a decision is made to proceed with the pilot study, then IT Study Group develops scope of work, in consultation with NATHPO and other national and regional-level tribal organizations. The regional organizations/programs and key tribes that may be the most effective venue for the study includes:

- Confederated Salish & Kootenai Tribes
- Confederated Tribes of the Umatilla Indian Reservation
- Navajo Nation.
- Tribal colleges
- Tribal Technical Assistance Program, Institute for Transportation Management (Ronald Hall, Colorado State University)
- Indigenous Communities Mapping Initiative

Who

IT Work Group asks AASHTO whether feasibility and pilot studies fit within the scope of AASHTO's Tribal Consultation web site.⁹ If not, give to FHWA and ACHP for consideration.

When

Prospectus for the initial feasibility study is to be completed by March 30, 2004. Complete feasibility study by May 2004. Ensure FHWA funds pilot study, initiate by 11/1/2004 and complete by 10/30/2005.

4

NEXT STEPS

Several Action Plans include tasks that were to be completed in 2004. Unfortunately, this did not happen. The conference's recommendations were, nevertheless, shared with other historic preservation and transportation professionals across the country. SRI Foundation discussed the results of the conference at the 2004 annual meeting of AASHTO's Standing Committee on the Environment in Snowbird, Utah. At the 2004 annual meeting of the National Conference of State Historic Preservation Officers in Washington, D.C., Lynne Sebastian spoke about ways to improve the working environment within State Historic Preservation Offices. Her presentation included many of the recommendations of the Santa Fe conference (see Appendix D for a copy of Sebastian's NCSHPO presentation). In addition, the conference recommendations will be included in a soon-to-be completed National Cooperative Highway Research Program synthesis report on effective state DOT practices to streamline and improve the management of archaeological investigations. The SRI Foundation is writing this report for NCHRP.

In 2005, the SRI Foundation will work with the Santa Fe conference participants to prioritize the Action Plans and form volunteer working groups to implement the highest priority plans. Members of these working groups will include conference participants and other transportation and historic preservation professionals. The Foundation will serve as a clearinghouse for these group efforts. The results of

these efforts will be reported on AASHTO's Center for Environmental Excellence web site, FHWA's historic preservation web site, NCSHPO's listserv, the American Cultural Resource Association's "Members Only" listserv, and the SRI Foundation's web site. We will also keep the transportation and historic preservation communities apprised of our progress through the annual meeting of AASHTO's Standing Committee on the Environment; the summer meetings of the Transportation Research Board's environmental, historic preservation and Native American committees; the National Conference of State Historic Preservation Officer's annual meeting; and other venues.

Despite the lack of progress on implementing the Action Plans, participants still considered the conference to have been a resounding success because the discussions and Action Plans addressed issues that the participants must grapple with on a daily basis. Many participants noted that they planned to implement some of the conference recommendations as soon as they returned to their respective agencies and organizations. What participants found most exciting was the identification of actions that would truly streamline and improve the Section 106 process, and bring historic preservation and transportation project delivery into a better balance, by focusing on what Lynne Sebastian refers to in her NCHSPO presentation (see Appendix D) as the "preservation payoff." That is, focusing on those things that will make a difference in terms of

resource preservation. Sebastian notes that one of the greatest impediments to taking this approach to historic preservation

... is an excessive focus on process rather than outcomes. If you want to achieve the best for historic preservation ... do whatever it takes to become focused on the outcome not the

process. If I were suddenly declared to be the Preservation Queen and could mandate one single change in the way that compliance is carried out in this country, that would be it.

Let go of process, keep focused on outcome.

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APPENDIX A

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Santa Fe, New Mexico, February 22-25, 2004

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APPENDIX B

NOTES FROM SMALL GROUP DISCUSSIONS

Note: The following notes do not represent the official views or opinions of the Federal Highway Administration, the Advisory Council on Historic Preservation, any State Department of Transportation, any sovereign tribal government, the American Association of State Highway and Transportation Officials, or the National Conference of State Historic Preservation Officers. The following pages are transcriptions of flip-chart notes written by conference participants, with some editing.

INTRODUCTION

During the first half of the conference, participants met in small groups to brainstorm and discuss three topics:

- Initiating the Section 106 process, identifying and evaluating historic properties
- Assessing effects and resolving adverse effects
- Pre-project planning and Section 106

For each topic the groups examined the following issues:

- In an ideal situation, what could be done at this stage in the Section 106 process to achieve the best possible balance between excellence in preservation and efficiency in project delivery?
- In real world situations, what are the symptoms of a Section 106 and project delivery process that is out of balance?
- Given real world complications, what specific steps could be taken to deal with these symptoms and improve the balance?
- What tools (information, procedures, agreement documents, etc.) would we need to make this happen?

The first bullet asked the groups to imagine the best of all possible worlds, the other bullets asked them to work on bringing the current imperfect world closer to that ideal. The end product of each small group deliberation was a set of lists covering:

- The characteristics of an ideal Section 106 process focused on a balance between project delivery and resource protection.
- Symptoms of an out-of-balance process
- Step to take to improve the balance
- Needed tools

NOTES FROM SMALL GROUP DISCUSSIONS

TOPIC #1 – INITIATING THE SECTION 106 PROCESS, IDENTIFYING AND EVALUATING HISTORIC PROPERTIES

Ideal World:

- Achieve better coordination with NEPA review
 - Have better use of State Transportation Improvement Plans (STIPs) and improved consultation with Metropolitan Transportation Officials (MPOs)
 - Carry out pre-project coordination with affected groups, as way to coordinate input.
 - Have early coordination with transportation planners – working within communities
 - Use SHPO-generated State Historic Preservation Plans more effectively
 - Get better involvement of affected groups
 - Research questions help guide project related archaeological identification and evaluation efforts
 - Have earlier interagency coordination – “on the ground” coordination
 - Have early notification to tribes (using MPO mechanism)
 - Government-to-government tribal notification (with Federal Highway Administration (FHWA) as partner) is essential, but may develop follow-up process for closer work with state Departments of Transportation (DOTs)
 - Sponsor working groups on consultation (including the Federal government, tribes, state government agencies, and regional/local government representatives)
 - Fund tribal liaison positions in State Historic Preservation Offices (SHPO)
 - Have better training of local transportation staffs regarding cultural resource management (CRM) and consultation responsibilities
 - Identify cultural landscapes proactively
- Know where resources are; have database/GIS of known sites
 - Have sensitivity maps to predict need for tribal consultation. Have GIS overlays for tribal consultation
 - Have hot-linked videos of tribal elders
 - Have maximum information sharing with confidentiality
 - Have quick access to data
 - Access to broader cultural contexts for decision-making (e.g., National Register eligibility evaluations)
 - Good data – make good/best use of data collected in the past
 - Have enough information to make distinctions on significance
 - Know that preservation opportunities are out there
 - Local communities determine/know what is important
 - Every agency understands tribal stuff – treaty rights, etc. and larger context of environmental and project concerns
 - Abundant funding/resources – “new sources”
 - Change focus of historic property identification away from project-by-project
 - Continued feedback with community
 - Identification already completed before project planning begins
 - Know where all historic properties are
 - Data available to all and data are reliable
 - Project designed around historic properties
 - Good historic contexts, understanding of significance

Real World:

- We have not synthesized known information about historic properties
- SHPOs and Tribal Historic Preservation Officers (THPOs) are broke, or have little money
- As transportation projects are decentralized to the local level, have greater reliance on process for process sake
- No training on CRM concerns at local level
- There is a disconnect between project design and planning. Project design gets ahead of resource identification
- Don't have information needed to make intelligent decisions (such as better surveys)
- Access to some information (usually archaeological data) limited; data is often in paper form; when GIS access is available, it is available only in some states
- Tribal concerns – limited archaeological survey data is available showing burial and cemetery locations
- Project “Area of Potential Effects” (APE) definition often uses “survey right-of-way”; not defined as broadly as it should be, or by people trained to do it right
- State DOT staff often do not have access to historic property information to properly develop APEs.
- New staff/turnover affects quality/credibility of data
- Inability to access existing information
- Need to collect substantial amount of information for specific projects
- We can't relate specific properties to historic contexts
- Repetition in what sites are excavated
- SHPOs versus the rest of the world – information access is overlooking some stakeholders
- Timing – outreach to stakeholders needs to be earlier

- Tribal vs. archaeological values for archaeological sites
- Need tools for non-invasive testing/evaluation
- States lack information on above-ground resources
- Inconsistent survey methods
- Late community interest or identification of historic properties
- Increased information over time makes project planning more difficult
- Disputes over National Register eligibility costs time and money; sets precedent
- Tendency to overlook properties or inflate eligibility
- Unknown archaeological resources/buried sites – expensive, time consuming to identify
- Can never have complete all historic property identification

What Needs Improvement?

- More historic contexts need to be developed, as we have not done these for many years – those especially needed are for modern (1950s) era and thematic studies
- Tribal consultation with FHWA staff needs to occur earlier
- Archaeologists need to “get real” – they think everything is National Register eligible
- Better cultural resource identification/data access is needed
- Mapping of cultural landscapes
- “Traditional Cultural Properties/Places” (TCPs) identification – guidance in Bulletin 38 needs to be rewritten
- Better consultation process with tribes
- Process improvements should include development of programmatic agreements (PAs) for Categorical Exclusions and minor projects.
- Financial stability of tribal CRM offices and SHPOs needs to be improved – to be able to provide timely, quality input

- Better guidance on National Register eligibility, especially within NEPA process
- Better guidance needed on above ground resources, and specific issues, such as boundary determination
- Improved relationship-building with local historical societies; problem is reluctance at state DOT and engineer level
- Management taking responsibility for change. Help staff change how they do business.
- All agencies need to show leadership
- Better communication between SHPOs and DOTs
- Take long-term view, beyond specific projects
- Long range planning – DOTs and SHPOs/THPOs
- Be multidisciplinary
- Need to invest in updating data – getting good data into the database
- Wiser and more effective use of funding
- Collaborative problem solving
- Early communication/consultation with communities
- Alternative dispute resolution
- Field experience, mentoring, training relevant to transportation projects and planning
- Shared understanding of eligibility requirements/significance. Need good feedback loop
- Talk to the people!
- Get geomorphological information
- Use remote sensing
- Use spatial sampling
- Use predictive modeling
- Agencies need to make better use of available information. Agencies often do not use available information when making decisions.

Tools (Information, Procedures, Agreement Documents, etc.) Needed:

- Cash incentives, tied to Memoranda of Understanding (performance based)
- FHWA grant programs – perhaps “block grants” to develop preservation tools at state level:
 - At SHPO offices – fund high level liaison positions to achieve relationship building, systems coordination
 - At tribal offices – fund positions to attend scoping meetings
 - Money to be used to get key personnel to annual historic preservation/ transportation meeting, including MPOs
- Provide increased funding for technology enhancements:
 - GIS enhancements
 - Tribal access to shared data, via “data-sharing agreements”
 - Project management system that identifies specific cultural resources and people who should be involved in Section 106 consultation process
 - Historic context development (in electronic formats)
 - “Best practice” information – especially to help market new approaches at the state level
- FHWA directive to state DOTs to implement streamlining measures and report back on concrete solutions
- Training all parties
- Improving Information Technology to store project, historic property information
- Pay SHPOs to keep databases
- Contract specifications
- Contractor responsibility
- Quality control of information on site forms
- Uniform standards for site documentation
- Move to electronic data

- Communication between field, agencies, practitioners
- Consensus research
- Consistency; access to data for all parties in process
- Involve communities in surveys (following Vermont model; develop local advocates)

- Professional staff exchange programs (similar to Caltrans program with California SHPO)
- Funding SHPO positions by DOTs and FHWA
- Pre-qualifications and certifications of consultants
- Tool that tracks evaluations

TOPIC #2 – ASSESSING EFFECT, RESOLVING ADVERSE EFFECT

Ideal World:

- Using common sense to reach timely and cost-effective resolutions that have preservation benefits
- Better outcomes for the community
- Saving what deserves to be saved
- Agree on definitions of key words such as “effect” and “mitigation” – have different meanings for tribes
- All effects are identified early and happily and speedily resolved!
- If project-related adverse effects do occur, look at more creative mitigation than mitigation tied to the specific project. Examples might include:
- Development of Web encyclopedia
- Broader public education projects (e.g., oral histories, community histories)
- Tribal language studies
- Archaeological predictive/sensitivity models
- Laser Historic American Buildings Survey (HABS)/Historic American Engineering Records (HAER) measurement of historic buildings and structures
- 3-D visualizations on interiors and exteriors of historic properties
- Timely finding of “no historic properties affected”
- Predictability/flexibility
- Decisions that take into account planning efforts

- Avoidance of adverse effects
- Openness to all project alternatives
- Never be surprised by an adverse effect
- Public values heritage resources
- Public “steps up” to be heritage stewards
- Transportation projects create only beneficial effects
- “No adverse effect” findings become passé
- Communities (local, professional) cooperate in limiting and monitoring for adverse effects, especially indirect adverse effects

Real World:

- Disconnect between the qualities that make properties eligible and how evaluations of effects on properties are conducted
- Analysis of highway project alternatives does not often allow evaluation of alternative means of transportation (e.g., rail, bus, mass transit, etc.)
- Effects can be resolved, but leave unhappy parties; SHPOs can be squeezed between goals of transportation agency and tribes
- Can be expensive – too much money spent on the process, versus outcome
- Some historic properties not identified at all; parties get involved too late in the process
- Historic preservation concerns used as a tool by others (NIMBYs) with totally different goals
- Effect determinations can be distorted/manipulated by other procedural requirements, such as Section 4(f).

- Certain effects have outcomes not in the public interest (e.g., data recovery at archaeological sites – which results in their destruction)
- Effect determinations can be arbitrary and subjective
- Public groups think state DOTs have unlimited funding for mitigation
- Tribal participation in resolution of adverse effects - may mean different things to different tribes (ceremony, reburial, etc.)
- Political forces can influence/dilute the process; however, this may also bring project “back to reality,” with infusion of additional public involvement
- There is still weak analysis of cumulative and secondary effects on historic properties/lack of policy
- There are some instances where state DOT and SHPO staff go beyond what agency policy allows
- Untimely determinations of effect
- Disagreement about effects (Section 4(f))
- Shotgun approach to mitigation
- Consultation occurs too late in the process
- Limits options/increases expenses
- Public not invested in heritage
- Conflicting goals and hidden agendas among consulting parties
- Cultural differences
- Consulting parties fear of stating the truth
- Appeasement prioritized over preservation
- Not all properties can be effectively subjected to treatment
- “Cookbook” treatments persist, resulting in redundant data, monuments, bloated collections

What Needs Improvement?

- Better, more focused interaction of impacted groups, tribes, local governments

- Better definition and agreement among agencies on adverse effects, and terminology:
 - Visual effects
 - “diminish”
 - edges of property boundaries
- Obtain more input and written guidance from National Park Service (NPS) - National Register Branch on “diminishment of setting,” integrity of cultural landscapes over time
- More guidance on cumulative and secondary effects. Training to achieve consistency in determining secondary and cumulative effects
- Keep mutual interests in mind – don’t treat other agencies as the enemy!
- Is there a way to design mitigation that has broader public interest, and is not just linked to individual projects?
 - A “National Mitigation Fund” (e.g., off-site mitigation, federal agency-based)
- Need to realize increased public benefit in mitigation
- How do we know whether we are asking the correct archaeological research questions?
- Synthesis of known data still needed to refine research questions – but there will still be resistance to this from archaeologists and some federal agencies
- Process for frequently affected properties
- Develop models that demonstrate how to link effects to eligibility
- Thematic approach to resolving adverse effects
- Figure out how to “front load” SHPO/THPO input
- Early consultation
- Programmatic 4(f)
- Programmatic approaches to treatment
- Finding ways to get conditional “no adverse effect” findings
- Share successes for treating visual and other indirect effects

- Develop capacity, support for, and data basis for hard decisions
- Develop property and project-specific objective thresholds

Tools Needed:

- Objective standards on what makes an adverse effect
- Better education and interface with the NPS National - Register Branch is needed to help answer the following questions:
 - What is “diminishment of integrity”?
 - What are acceptable impacts on a property’s setting?
- Change funding restrictions away from project-by-project, to allow banking of mitigation funding (e.g., a “National Mitigation Fund”)
- Develop new technologies to reduce mitigation costs and increase public benefits (e.g. predictive/sensitivity models)
- Avoid effects by pre-planning
- Programmatic determinations
- Mitigation banking
- Land swaps

- Memoranda of Understanding (MOU) with tribes
- Drive road with SHPO and tribes
- Right-of-way acquisition on reservation – exchange for land elsewhere
- Conditions for avoiding adverse effects (e.g., “conditional no adverse effects”)
- Case studies – sharing examples that worked
- Top management notified about the “pros and cons” of adverse effects
- Incentives
- Joint development of plans
- 30 years of compiled information within a database
- Consensus guidelines; use of computer models/visual simulations
- Monitoring of programs with capacity for follow-up treatments
- Interpretation, education, documentation directed by community
- Mitigation banking, off-site mitigation, consensus research agendas, on-site curation

TOPIC #3 – PRE-PROJECT PLANNING AND SECTION 106

Ideal World:

- Public at large would be invested in long-range planning
- Projects succeed when resources are planned for/included
- Have proactive survey and context development that is not project driven with no funding constraints!

Real World:

- Lack of regional planning
- SHPOs can give spotty responses

What Needs Improvement?:

- Regional planning

- Provide information to the public on the statewide transportation plan

Tools Needed:

- Heritage education
- Business case comparisons of projects
- Examples of historic preservation objectives built into project planning
- Pooled funding from federal agencies that need/use data
- Use existing processes (State Transportation Improvement Plans (STIP) and MPO) to identify and engage stakeholders and combine with information from SHPO State Historic Preservation Plans. Use state transportation

-
- plan to reflect local/resource desires
- Develop state agency answers to the following questions:
 - What does the public want, in terms of transportation projects?
 - From an evaluation of existing historic contexts, what research questions should guide our archaeological survey needs and National Register evaluation efforts?
 - Develop new historic contexts – perhaps annually?
 - Develop existing and new technologies (GIS, building identification, etc.)
 - Have discussions with tribes about areas of concern, including identification of specific historic resource types. Jointly develop maps of “areas of concern” within tribal lands and place data into existing GIS systems, via execution of “data sharing agreements”
 - Obtain funding to complete and maintain Advisory Council on Historic Preservation’s (ACHP) Tribal Mapping and Consultation Project
 - Develop meetings where general transportation needs are identified and general preservation concerns and opportunities are discussed by state agencies and the public
 - Include state DOT tribal coordinator and state DOT CRM staff
 - Could be done regionally with tribes and regional transportation engineers
 - Provide funding for professional historic preservation staffing at the MPO level
- Sign Memoranda of Understanding (MOUs) with tribes on the process of consultation (e.g., who, what, when, where)
 - Evaluate quality of cultural resource data and use to determine where resurvey of historic properties should occur
 - Involve tribes, SHPOs, state DOTs, statewide historic preservation organizations to help identify future historic property survey needs
 - Improve available data
 - Complete statewide surveys and historic contexts
 - Archaeological predictive modeling
 - Synthesis of existing information
 - Programmatic Agreements
 - Minor projects
 - Overall operations – as in Vermont and California
 - Bridge survey and management
 - Tribal PAs and MOUs
 - Standard treatments
 - Lithic scatters
 - Piagi rings, bedrock mortars
 - Cross-training – engineering training for non-engineers
 - Funding mechanisms for pre-planning, non-project activities (e.g., studies, meetings, etc.)
 - Commitment to make national streamlining MOU happen (outside the Beltway) by all the signatories

APPENDIX C

Prospectus and Action Plan: Cultural Resource Information System Clearinghouse On-Line (CRISCO)

Prospectus

Many DOTs, SHPOs, and agencies are contemplating the creation, have created, or are in the process of creating, cultural resources information management systems. These systems have a variety of purposes, but most concern storing the inventory of known historic resources and investigations, capturing planning and mitigation actions. Substantial sums of money have been invested in these systems. Yet, there is no single location, or clearinghouse, where one can find relevant information on:

- IT system designs and architectures;
- Case histories providing information on implementing cultural resources information systems, including metrics on costs, benefits, and assessment of success and utility;
- Funding sources and partnerships for system creation, upgrade, and maintenance;
- Best practices in automation of cultural resources information;
- Examples of functioning systems and points of contact for information about them;
- Linkages to other general utility development projects (e.g., TRB Project 08-40 (02), ECREL prototype); and
- A bulletin board or forum providing questions, answers, and ideas.

This action plan proposes the creation of a clearinghouse web site that will contain nationwide collections of the information listed above. The information focus is on the project partner uses. Project partners are envisioned as AASHTO, FHWA, NCSHPO, NATHPO, and the Federal Geographic Data Committee (FGDC). Targeted users are envisioned as SHPOs, DOTs, large land-managing federal agencies (e.g., BLM), other federal agencies who routinely need historic property data (e.g., Federal Communication Commission, the Department of Housing and Community Development, and the Federal Energy Regulatory Commission), THPOs and Tribal organizations, Metropolitan Planning Organizations (MPOs), Regional Transportation Planning Organizations (RTPOs). This mix of partners and users is appropriate because together, they make decisions about transportation projects (SHPO and DOT always) and in the western U.S., most transportation projects outside of urban areas involve federal lands.

By creating the clearinghouse web site, we would ensure:

- No unnecessary duplication of effort;
- More rapid transmission and adoption of helpful IT ideas
- Identification of pitfalls and problems;
- Documentation of benefits and drawbacks to information system usage; and

- Faster, cheaper, start-up and upgrade times for system developers

This action plan will be accomplished in two phases. The first is to create an initial web site with key functionality in place. The second phase will develop a scope for a larger, richer, clearinghouse.

Success or failure of the clearinghouse will be measured in three ways:

- Utilization (number of queries, log-ins, forum posts);
- User questionnaires on site (pop-up questionnaires);
- Metrics on the number of new records (case studies, best practices, contributed links) added to the site; and
- Measurement will occur in 6 month intervals from inception.

Initially, the clearinghouse would be populated with summaries of current projects solicited from project partners, SHPOs, DOTs and large land-managing agencies. In Phase II, funding may be sought to back-populate with case studies and examples that

are already created. We propose that all new IT projects which create new information management systems or major system components of existing systems using FHWA dollars carry a requirement that they report to the “Case histories” and “design and architecture” parts of the clearinghouse.

Recommended Action Plan and Dates and Parties

Who and When	Who	When
1. Secure 3rd party (neutral) web site address	Eric Ingbar	3/31/04
2. Development clearinghouse structure	IT Work Group	5/30/04
3. Develop SOW for larger study/update	TBD	TBD
4. Secure FHWA and other partner funding to update and populate with new data (Phase II)	TBD	TBD
5. Roll out products through “webinar”	TBD	TBD

APPENDIX D

WHAT IS THE PRESERVATION PAYOFF?

by
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Remarks presented in a session entitled **An Alternate View of the Section 106 Review Process** at the 2004 Annual Meeting of the National Conference of State Historic Preservation Officers, Washington D.C. March 7, 2004

As many of you know, my work for the SRI Foundation involves a lot of traveling around the country, teaching workshops on Section 106 compliance and doing technical assistance projects for federal and state agencies, private industry clients, and sometimes SHPOs. I've learned several important things as a result of this broad perspective on historic preservation activities across the country, and I'm going to use some of those observations to structure my remarks today.

The Problems

For one thing, I've learned that people who haven't ever worked in a state or tribal historic preservation office have no idea of the pressures of the job. Section 101 of the National Historic Preservation Act provides a whole laundry list of things that SHPOs are supposed to do:

- provide technical assistance
- identify and nominate properties to the National Register
- administer grants
- provide public information, education' and training
- assist Certified Local Governments
- maintain a statewide inventory
- and so on and so forth

And the law blithely ignores the fact that all of this has to be done in an intense (and sometimes toxic) political climate, subject to endlessly competing public interests, with dwindling budgets and staffing.

Virtually everywhere I go, SHPO and THPO staffs are feeling exhausted, overwhelmed, and demoralized. Workloads continue to increase while budget crises in the states and flat or declining funding at the federal level leave historic preservation offices stretched thinner and thinner. The decision of the Minnesota SHPO to close the doors one day a month is only the most visible of a whole range of dreary measures being adopted to cope with this slow-motion train wreck.

Given this problem, one of the other thing that I've learned in the course of my travels is good news: almost no one in federal and state agencies and private industry anywhere in the country thinks that SHPOs aren't doing *enough* work. In fact, many of the people that I talk to express a fervent wish that SHPO would *stop* doing any number of things! Now SHPO bashing is nothing new, of course, it has a long tradition in venues like the American Cultural Resources Association listserv, ACRA-L. Back when I was still a Deputy SHPO, I first got to know a man who has since become one of my best friends when he used the phrase "pin-headed SHPO behavior" in a posting on ACRA-L. After a spirited

exchange of views off list, we discovered that we shared more points of agreement than disagreement about what is right with and wrong with the practice of historic preservation in this country, but it was touch and go at first.

For all that I've introduced this issue using a humorous but true story, it's a very serious issue and one that troubles me greatly. There is a lot of bad feeling and frustration and a depressing lack of collegiality and trust out there between SHPOs and those who should be their partners in preservation – agencies, consultants, and conscientious members of the development industries. I have friends in all those arenas of preservation, but I think my heart will always be in the SHPO world – I find that I often still say “we” when referring to the New Mexico Historic Preservation Division, even after all these years. And it hurts and depresses me when I travel and teach around the country and hear over and over again about the lack of trust and the absence of partnerships.

I suspect that most SHPO folks would say that the lack of funding and staffing is the most important issue that they face. Based on my observations over the past few years, though, I would argue that the lack of strong, positive relationships with preservation partners is an even greater threat to the long-term prospects for success of SHPO programs. Funding tends to be a cyclical issue (I *remember* the Ronald Reagan years and I see a number of faces around the room who remember those years, too); relationships of trust, once built and nurtured, are lasting.

In any event, by one of those rare, happy coincidences, it doesn't matter very much which of these problems – funding and staffing or lack of partnerships – you find more egregious. Many of the same solutions apply to both issues.

The Solutions

Let's first consider the problem of SHPO staff meltdown owing to funding and staffing cuts. When you have more to do than you can possibly manage, what's the solution? The obvious answer, “Stop

doing stuff!” isn't really obvious at all. When historic properties are threatened on every side, any decision that you make to give up doing things could mean that historic places will be damaged, diminished, or lost. How can SHPO staff reconcile such decisions with their mandate in 36 CFR part 800 to represent “the interests of the State and its citizens in the preservation of their cultural heritage”? And how can they reconcile such decisions with their own personal and professional dedication to preserving the past?

I would suggest that the ultimate answer to this question is triage based on a single question: What is the preservation payoff? Every decision at every level about how to allocate scarce staff time, funds, and other resources should be based on the answer to this question. SHPOs have a limited supply of bullets, both in terms of time and resources and in terms of ability to influence the actions of agencies, municipalities and others. Those limited supplies need to be expended carefully and where they can do the most good.

One of the greatest impediments to basing resource allocation decisions on relative preservation payoff is an excessive focus on process rather than outcome. If you want to achieve the best deal for historic resources and save whatever is left of your staff's sanity, do whatever it takes to become focused on the outcome, not on the process. If I were suddenly declared to be the Preservation Queen and could mandate one single change in the way that compliance is carried out in this country, that would be it. *Let go of process, keep focused on outcome.*

One of the things that I do during my Section 106 training workshops is to divide the participants up into small discussion groups and have them work through various compliance issues for a made-up “undertaking.” In the small group exercise on Resolving Adverse Effects, I ask them to begin by thinking about what each of the consulting parties in our “undertaking” will be bringing to the negotiation table. What does each party want? What issues will want to see resolved? What outcomes are they going to be trying to achieve?

And with a truly depressing regularity, the answer to my question “What does the SHPO want?” is “The SHPO wants to be sure that the process is done right.” As a former SHPO, I find this to be disheartening beyond words. Not a word about finding ways to minimize impacts on historic properties; not a word about representing the interests of the people of the state in preserving their heritage; not even any mention of preserving stuff, for heaven sake. Just: “The SHPO wants to be sure the process is done right.”

Did you know that a lot of agencies, consultants, and developers think that all you want is to be the Process Cop? When I was the New Mexico SHPO, my brother-in-law gave me this truly gorgeous police-style badge for Christmas. It has the state seal on it, and says “State Historic Preservation Officer” in very official looking lettering. But it was a JOKE designed to tease me about having a job title with the word “officer” in it, not a reflection of my view of my role in the compliance process!

Where does this perception that SHPOs want to be compliance cops come from? As Pogo used to say in the eponymous comic strip, “I have met the enemy and he is us.” When I was the SHPO I struggled frequently against the process-oriented attitude of some staff members, and in my current role as a consultant, I have to tell you that I have met process-compulsive, “pin-headed SHPO behavior” head-on more times than I want to remember.

Sure, it’s great to have consistency. It’s nice to establish standards for historic property identification and recording, for reporting the results of surveys and mitigation projects. But you know what? In terms of federal projects and 106 compliance, it’s not your responsibility to establish rules and standards, you don’t have the authority to do so, and trying to police this enormous process will suck every bit of the life and huge amounts of time out of your program.

I had a fellow on my staff at New Mexico SHPO who was one of the nicest guys you would ever want to meet and, unfortunately, also one of the most process-oriented human beings in the universe. It was like it was hard-wired into his brain, and

NOTHING I could do or say made any permanent or even long-term change in his modus operandi.

At least once a week he would come into my office ranting and raving about Agency X and some nefarious thing they had tried to sneak past him. He would go on and on until finally I would ask, “Did they protect the resources?” and he would answer, “Well, yeah.” And then I would ask, “Did they do something that vaguely resembles Section 106 compliance?” and he would answer “Well, yeah.” Finally, I would ask, “So what’s the problem?” And he would reply, “The PROBLEM is that they didn’t do part 2(a)(6/g)!!” or some such thing. And I would say, “And what would be the preservation payoff if we were to spend time and energy trying to make them do part 2(a)(6/g)? Would it make any significant difference in terms of resource preservation?”

And he would sigh and walk out my door. But the next day or the next week he would be back, and we would be having the very same conversation. Eventually we got to the point where he would come into my office, rant and rave for several minutes, then look at me and say, “But there is no preservation pay-off” and then turn and walk out without my ever having said a word. These discussions never fundamentally changed him – he couldn’t let go of his mania to be the compliance cop, and finally he left the agency.

The end result of a process focused, compliance cop attitude is that you spend huge amounts of effort on things that may make little or no difference in the preservation or protection of resources. And you develop entrenched, frustrating, conflict-ridden relationships with agencies and consultants.

Another process-oriented approach that drains SHPO resources and contributes little or no value to preservation of historic places is a stubborn insistence on reviewing everything. For example, how much time does your staff spend on case-by-case review of “no property” and “no effect” undertakings? In the larger scheme of things, how much do those reviews contribute to preserving the historic heritage of your state? Sure, every once in awhile

you “CATCH THEM” screwing up or, worse yet, trying to “GET AWAY WITH” something!! But how much time and energy and mind-numbing, morale-killing review of rote compliance went into finding that one mistake or sneaky effort?

And if, instead of all those case-by-case reviews, you had addressed these undertakings programmatically, what could those staff people have been doing that would really have contributed to preservation? Public programs? Technical assistance to private owners of important properties? Promoting use of tax credits? Synthesizing data? Making information more accessible for researchers, owners, and the public? You name it, there is a huge need for it, and I’ll bet it isn’t getting done to anywhere near the level that you would like. And to what extent is this happening because half of your staff is bogged down in nit-picking stuff that doesn’t really payoff in preservation of the resources?

So, why do people hold on to process and to the compliance cop role? For one thing it is easier; it’s clear cut, black and white, there are few hard decisions or choices. For new, less experienced staff it is comfortable and doesn’t require the knowledge and judgment that more complicated preservation issues require. But mostly people cling to the compliance cop role because there is an adversarial attitude toward agencies, contractors, and others who should, in fact, be viewed and treated as preservation partners.

A certain amount of “us” and “them” attitude is inevitable in any human interaction involving more than two people. But in the world of historic preservation this is a human failing that needs to be combated at every turn. SHPO offices, federal agency CRM programs, private consultants – we all are struggling to do more and more work with fewer staff and scarce dollars. We can’t afford the luxury of suspicion and sniping, of endless nitpicking and focusing on the details of process. There are plenty of enemies of preservation out there; we need to stop denigrating the other people who working to preserve the past and begin building stronger partnerships and relationships of trust with them. If you treat people like they are the enemy, they will become the enemy; if you treat them like allies and

partners in preservation, generally they will live up to your expectations.

Unfortunately, focus on process and adversarial relationships become a circular problem in which each feeds into and intensifies the other. The more that SHPO staff focus on enforcing process, rules and standards, and trying to “catch” agencies or consultants transgressing against the rules, the more agencies and consultants resent being treated like unprofessional idiots and destroyers of the past. So the agencies and consultants respond by tuning out the content of what SHPO says – including the really good ideas and helpful expertise that you have to offer. Instead of focusing on preserving the resources with SHPO as their partner, they become focused on process too. “What do we have to do to get this through SHPO?” becomes the critical question, not “What would be best for the resources and how can we get it done together?”

So what can be done? Work with your staff on two things: First, make a conscious effort to let go of the self-fulfilling prophesy that agencies and consultants don’t care as much about preservation as you do and have to be “watched” and policed. Work at building relationships of trust and treat people like partners in preservation, and that’s what they will become. Treat people like adversaries and that’s what they will be.

How do you go about building trust? You might suggest some of the following ideas to staff. First, avoid the obvious trust killers: Keep your promises; honor your commitments; admit your mistakes and remedy them, no matter what it takes. Express appreciation: Tell people what they did right as well as what they did wrong; remember to say thank you; acknowledge special effort – not only to the person who made the effort, but in an “atta boy” letter to the person’s boss. Be professional. Don’t gossip or snipe about people behind their backs; for one thing historic preservation is a small profession, and it’s bound to get back to him. For another, the person you are gossiping to will begin to wonder what you say about *her* when she isn’t around. Always keep professional disagreements professional; never let them become personal.

Another way to build trust is to invest in knowledge. Ensure that your staff have the skills they need and that they upgrade those skills as necessary. Consider staff exchanges; your staff could benefit greatly from spending some time working in the agencies they review and agency folks could get a real reality check from trying to do yours. Finally, invest in personal relationships. Meet face-to-face as often as possible. It is much harder to demonize a person if you get to know him or her. If something seems to be going wrong, drive over to the person's office or call on the phone and talk it out – don't sit around fuming or feeding your suspicions – and ask them to do the same.

The second thing that you can do to help your staff to focus on preservation payoff rather than compliance process is to spend some time with agency partners identifying shared preservation goals. Once you have identified the goals, work together on defining specific outcomes that you both want to achieve for those goals. And then (and this is the scary part for some SHPO staff) turn them loose to achieve those outcomes in their own way. Don't try to dictate how they do their jobs; if they are doing the right thing by the resources and working toward the outcomes that you all want, the means to those ends should be up to them. SHPO staff are stretched to the breaking point: critically important things that would truly contribute to preservation of historic places aren't getting done. Second guessing other preservation professionals is an expenditure of time and resources that we can't afford.

The funding and staffing crisis for SHPOs is reaching enormous proportions; something has to give. In these remarks I have suggested that what should give are attitudes and habits that do a disservice to the morale and mental health of SHPO staffs and, even worse, a disservice to the cause of preservation. Focus on outcome, not process; build trust with partners; agree on goals and trust people to achieve those goals in their own way; don't expend scarce

time and resources on things unless they contribute to the goals.

We all got into historic preservation in the first place because we care deeply about the places that are part of our shared heritage and because we understand that this heritage and these places add richness and meaning to people's lives. We need to be reminded occasionally about the true meaning and purpose of our work

As I mentioned, the very process-oriented staff member that I described was also a truly nice person. Nearly every year he volunteered for a lot of extra work organizing our annual Heritage Preservation Awards program. One year we were giving an award to a gentleman from a village in northern New Mexico who had devoted endless hours of work to preserving a lovely little adobe chapel in the village – hand-refinishing the benches and wooden ceiling beams, replastering the exterior with fresh mud plaster every few years – a life's work.

Sadly, the man passed away suddenly only weeks before the award ceremony. In his stead, his entire family – his wife and several children from their 20s down to grade school age – came forward to accept the award. His wife spoke simply, but very movingly of the man's love for this simple building and its importance to his family, his home, and his strong Catholic faith. And the whole family, including the teenaged boys in their macho, hip-hop, saggy baggy outfits, burst into tears.

With my own eyes brimming with tears, I looking at my disappointed process cop, whose eyes were overflowing as well. And I leaned over and whispered to him, "*This* is preservation payoff. This is what's important about what we do."

We need to put paperwork and process in the secondary role where they belong, and move our shared love for the past and our sense of service to the public back to the center of what we do.

