ENVIRONMENTAL HANDBOOK
(VOLUME 2)
CULTURAL RESOURCES

D R A F T

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ENVIRONMENTAL HANDBOOK (VOLUME 2) CULTURAL RESOURCES

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CHAPTER 1

GENERAL INFORMATION

1-1 INTRODUCTION

The consideration of cultural resources is a critical part of all phases of project development, construction, permitting, and maintenance activities. The California Department of Transportation (Caltrans) must comply with federal and state environmental laws and regulations designed to protect cultural resources significant in American archaeology, architecture, history, and Native American values.

To meet legal requirements for cultural resources management, Caltrans personnel must follow the guidelines outlined in the *Environmental Handbook*, Volume 2. Following is a synopsis of this handbook.

> *Cultural resources*: are tangible or observable traces of past human activity, **regardless of significance**, in direct association with a geographic location, including tangible properties possessing intangible traditional cultural values.

Chapter 1 – General Information

The first chapter introduces Volume 2. It summarizes federal and state historic preservation laws and provides general background information on cultural resources management. This chapter establishes Caltrans' cultural resources policies, and directs all units of the Department to follow these policies. Chapter 1 also describes the organization, roles and responsibilities, and staffing requirements that Caltrans uses to manage cultural resources.

Chapter 2 – Cultural Resource Procedures

Chapter 2 contains instructions for processing environmental documents in compliance with federal and state laws. It specifically discusses compliance requirements of Section 106 of the National Historic Preservation Act and its relationship to Section 4(f) of the Department of Transportation Act, and at the state level, the California Environmental Quality Act (CEQA) and the Public Resources Code. Parallel segments for federal projects and for state-only projects describe pertinent legislation and a step-by-step description of compliance procedures, including identification, evaluation, and mitigation. The chapter

discusses the types of reports required to document that cultural resources have been considered in Caltrans project planning.

Chapter 3 – Native American Cultural Studies

Chapter 3 presents Caltrans policy and procedures for the identification, evaluation, and treatment of Native American cultural resources, and for coordination with Native Americans regarding these resources. It describes pertinent legislation and regulations that address Native American concerns and resources, including the federal Native American Graves Protection and Repatriation Act, and discusses this law's relationship to other state and federal legislation. The chapter sets forth the policy and procedures for obtaining a Native American Advisor, the roles of Advisors and Most Likely Descendants, and the issue of confidentiality relative to Native American cultural resources. It also defines Caltrans' relationship with the California Native American Heritage Commission (NAHC).

Chapter 4 – Cultural Resources Identification

Chapter 4 discusses the process and procedures for determining the level of effort needed to identify cultural resources in within the project area. The chapter describes the types of cultural resources that Caltrans is expected to identify, and the appropriate sequence of steps to follow for determining whether recordation and evaluation would be necessary. It covers such topics as the need to define an Area of Potential Effect, background (or pre-field) research, initial archaeological and reconnaissance surveys, and methods for recording archaeological resources. The final section in the chapter offers guidance for requesting the appropriate cultural resources specialists to evaluate cultural resources that were identified in the initial steps as warranting evaluation.

Chapter 5 – Prehistoric Archaeological Resources: Evaluation and Treatment

Caltrans' methods and procedures for the evaluation and treatment of prehistoric archaeological resources are discussed in Chapter 4. There are sections that summarize Caltrans archaeological policies, and that describe: Caltrans procedures to define, and evaluate sites; conduct data recovery; and draft the pertinent technical reports. Guidance is offered for field safety, drafting Archaeological Survey Reports (**ASR**), Extended Phase I, Phase II, and Phase III proposals and reports, and data recovery plans. The chapter provides information on construction and maintenance monitoring, environmentally sensitive areas, archaeological permits, and archaeological procedures to follow in the event of late discoveries or for activities not related to projects.

Chapter 6 – Historical Archaeological Resources: Evaluation and Treatment

Chapter 6 details Caltrans' methods and procedures for evaluating and treating archaeological sites from California's historic period. There are sections that summarize Caltrans archaeological policies, and that describe: Caltrans procedures to define and evaluate historical archaeological sites; conduct archival research and interviews; evaluate sites without excavation; draft excavation proposes, conduct data recovery; and draft the pertinent technical reports. Guidance is offered for drafting Historical Resources Evaluation Reports (**HRER**) that contain historical archaeological sites, Excavation Proposals, Extended Phase I, and Phase II, and treatment plans and data recovery. There is also a section on field safety with particular emphasis on hazardous materials that may be encountered in historical archaeological sites.

Chapter 7 – Built-Environment Cultural Resources Evaluation and Treatment

Chapter 7 outlines Caltrans' methods and procedures for recording, evaluating and treating buildings, bridges, structures, objects, districts, complexes and linear features – all the non-archaeological sites. There are sections that summarize Caltrans history and architectural history policies, and that describe: Caltrans procedures to evaluate built cultural resources; the relationship between research and evaluation, and step-by-step procedures for processing HRERs. It also discusses the need for interdisciplinary teams for cultural resources that contain both built and historical archaeological components. Chapter 7 offers mitigation options to be considered when historic properties may be affected by proposed transportation projects. Lastly, the chapter also explains Caltrans' legal responsibility for maintaining its historic buildings and structures.

1-1.1 USE OF ENVIRONMENTAL HANDBOOK, VOLUME 2

District and Headquarters personnel responsible for identifying and evaluating cultural resources, processing cultural resources documents, and implementing all construction, maintenance and encroachment permit activities shall consult and comply with the standards and procedures defined in this volume.

Situations in cultural resources management not covered in Volume 2 should be handled on a case-by-case basis. Districts are encouraged to take advantage of Cultural and Community Studies Office (CCSO)expertise by consulting with its staff members when unusual situations occur. The CCSO is part of the Division of Environmental Analysis (DEA) located in Headquarters in Sacramento.

Volume 2 of the *Environmental Handbook* does not stand alone. It should be used with other project planning and development guides and references including: Volume 1 of the *Environmental Handbook*, the *Project Development Procedures Manual*, and the *Local Programs Manual*, Volume III, Appendix F (Protection of Cultural Resources).

Periodic reviews and modifications will occur when necessary to ensure that this handbook is in compliance with current federal and state historic preservation laws and regulations.

1-1.2 PURPOSE

The purpose of this handbook is to promote consistency, uniformity, and effective handling of cultural resources in the project development process. It is an instruction manual that defines the functions performed by cultural resources staff, both in the Districts and at Headquarters. Key areas covered in Volume 2 include:

- Caltrans policies and procedures regarding cultural resources.
- Compliance with federal and state historic preservation laws and regulations.
- Cultural resources management roles and responsibilities.

Definitions of key terms can be found in **Exhibit 1**. Common acronyms are identified in **Exhibit 2** and in various places within the text of the chapters.

1-1.3 TRANSPORTATION AND HISTORIC PRESERVATION

Caltrans is required to comply with federal and state historic preservation laws and regulations. What follows is a summary of the evolution of historic preservation laws and Caltrans' involvement in managing cultural resources under its jurisdiction.

Early in the twentieth century, the federal government enacted the Antiquities Act of 1906 to protect important historic resources. The Historic Sites Act of 1935 followed. Subsequent legislation at both the federal and state levels expanded and strengthened requirements to protect significant cultural resources.

In 1956, Congress passed the first significant federal historic preservation act dealing directly with transportation programs and cultural resources. Called the Federal-Aid Highway Act of 1956, the law authorized the use of federal funds to salvage archaeological or paleontological sites affected by highway

projects. For Caltrans, this act represented the earliest legislative mandate to protect archaeological resources.

In the mid-1960s, through "grass-roots" efforts, increased public concern and support for protection of significant cultural resources resulted in stronger and more comprehensive federal and state historic preservation legislation. The National Historic Preservation Act of 1966, the National Environmental Policy Act of 1969 (NEPA), and the California Environmental Quality Act of 1970 (CEQA) established environmental policy specifically addressing the impacts of human activities on the natural and built environment. These laws require public agencies to become more responsive to the effects of their actions on the environment, including important cultural resources.

Additional cultural resource protection measures contain specific provisions and procedures for the preservation, protection, and enhancement of significant cultural resources in transportation planning and development. Laws and regulations that govern the consideration and treatment of cultural resources are summarized in Section 1-2. A more comprehensive summary is found in **Exhibit 3**. Succeeding chapters in this volume describe compliance and implementation procedures.

When Caltrans was created in 1973, succeeding the Division of Highways, its enabling legislation set forth key concepts and principles for the Department. The legislation emphasizes consideration of the environment, and requires that "environmental impacts of transportation should be taken into consideration." The Director's Environmental Policy (1992) states that "Caltrans protects and enhances the environment." The Department evaluates the environmental benefits and consequences of its activities and implements practices that minimize environmental impacts."

The majority of Caltrans projects use federal funds or requires federal licenses or permits, and is therefore subject to federal environmental laws and regulations. Caltrans projects are also subject to the requirements of state environmental law. Caltrans' environmental process is designed to meet both NEPA and CEQA requirements. When projects have no federal involvement, only state environmental laws and regulations apply. The evaluation and treatment standards are similar for both federal and state-only projects, however, there is no concurrence with federal agencies in state-only projects.

1-2 HISTORIC PRESERVATION LAWS AND REGULATIONS

1-2.1 GENERAL POLICY

Both federal and state historic preservation legislation contain the same general policy: to preserve the quality of our historic and cultural environment by ensuring that cultural resources are given adequate consideration throughout the course of an undertaking, and by providing significant cultural resources with the best protection possible. Because Caltrans must comply with federal and state laws and regulations regarding cultural resources, the same policy forms the core of Caltrans' general cultural resources policy, as well. This general policy is more fully described in **Section 1-2.4**.

Understanding key historic preservation legislation can ensure compliance with the law and facilitate timely delivery of projects. Federal and state laws, their implementing regulations and Caltrans policies direct the consideration of cultural resources in transportation planning, development, construction, permit issuance, and maintenance activities.

Statutes are laws enacted by Congress or a state legislature. Regulations are rules and procedures that are established by a government commission, board, agency or department, to implement and carry out the intent of statutes. The authority to promulgate regulations is provided in the legislation creating the statute. Regulations have the force of law, but they cannot exceed the scope and intent of the legislation. Policies are statements of broad intention issued by government agencies to direct agency actions and activities.

The following briefly summarizes the primary historic preservation laws and regulations and policies governing Caltrans' treatment of cultural resources:

1-2.2 FEDERAL HISTORIC PRESERVATION LAWS AND REGULATIONS

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 AS AMENDED (NEPA)

[42 U.S.C. 4321 et seq]

The National Environmental Policy Act is the nation's broadest environmental law. NEPA applies to all federal agencies and most of the activities they manage, regulate, or fund that affect the environment.

NEPA includes cultural resources preservation within its general policy for environmental protection. It requires the preservation of important historic, cultural, and natural aspects of our national heritage, and maintenance, wherever possible, of an environment that supports diversity and a variety of individual choices. Cultural resources are considered in the preparation of all NEPA documents.

The Council on Environmental Quality established NEPA regulations, which can be found at 40 CFR §1500-1508.28.

NATIONAL HISTORIC PRESERVATION ACT OF 1966

[16 U.S.C. 470 et seq)]

The National Historic Preservation Act (NHPA) sets forth national policy for protecting historic properties. Under Section 106 federal agencies are mandated to take into account the effect of federal undertakings on historic properties owned by federal agencies or affected by federally funded or federally approved undertakings. The NHPA also established the National Register of Historic Places and state historic preservation programs administered by a State Historic Preservation Officer. It established the Advisory Council on Historic Preservation, an independent agency that is responsible for implementing Section 106.

The Advisory Council Section 106 regulations are found at 36 CFR §800 - 800.16. National Register Regulations are published in 36 CFR §60, and Determination of Eligibility Regulations are published in 36 CFR §63.

U.S. DEPARTMENT OF TRANSPORTATION ACT OF 1966

[49 U.S.C. 303 Section 4(f)]

The Department of Transportation Act specifically protects public park and recreation lands, wildlife and waterfowl refuges and historic sites. Under its provisions, a federally assisted highway project cannot adversely take property of these types unless it can be shown that there is no prudent or feasible alternative to doing so. Section 4(f) applies only when there is an actual taking of land from or constructive use of a historic property. Section 4(f) evaluation requires documentation of completion of the Section 106 process.

Section 4(f) Regulations are found at 23CFR §771.

OTHER FEDERAL LAWS AFFECTING CULTURAL RESOURCES

National Sites Act of 1935	16 U.S.C. Part 461 et seq.
Urban Mass Transportation Assistance Act of 1970	49 U.S.C. 1610
Archeological and Historic Preservation Act of 1974	16 U.S.C. 469-469c
American Indian Religious Freedom Act of 1978	42 U.S.C 1996
Archeological Resources Protection Act of 1979	16 U.S.C. 470aa-11
Native American Graves Protection and Repatriation Act	25 U.S.C. 3001-3013

These laws are briefly described in **Exhibit 3.**

1-2.3 STATE HISTORIC PRESERVATION LAWS AND REGULATIONS

CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970 (CEQA)

[PRC §21000 et seq]

CEQA is the foundation of environmental law and policy in California. It encourages the protection of all aspects of the environment, including historical resources by requiring state and local agencies to take into consideration the environmental effects of their actions. CEQA establishes that all government agencies must take actions necessary to provide the people of the state with historic environmental qualities.

The CEQA Guidelines are the implementing regulations for CEQA. They are part of the California Code of Regulations §1500 et seq. and are issued by the Governor's Office of Planning and Research (OPR) and the Secretary of Resources.

CALIFORNIA REGISTER OF HISTORICAL RESOURCES

[PRC §5024.1]

Public Resources Code §5024.1 establishes the California Register of Historical Resources. The register is a listing of all resources considered to be significant historic properties, that is, "historical resources" in the state. The California Register includes all properties listed or determined eligible for listing on the National Register, including properties evaluated under Section 106. Also, it may include, if nominated to the California Register and found to be significant by the Sate Historical Resources Commission, resources listed in local registers of historic registers or in local surveys. The criteria for listing are the same as those of the National Register. The California Register statute specifically provides that historical resources listed in, or that meet the criteria

for listing in, the California Register, are historical resources which must be given consideration under CEQA (see above).

The State Historical Resources Commission adopted the implementing regulations for the California Register, which can be found in CCR §4800 et seq.

STATE OWNED HISTORICAL RESOURCES

[PRC §5024 and 5024.5]

Public Resources Code PRC §5024 requires each state agency to prepare inventories of state-owned historical resources under its jurisdiction, and to "formulate policies to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction."

Under §5024.5, state agencies provide notice to, and confer with, the State Historic Preservation Officer before altering, transferring, relocating, or demolishing state-owned historical resources. All prudent and feasible measures must be adopted to avoid or mitigate adverse effects.

The State Historical Resources Commission has not adopted regulations for the implementation of these statutes.

EMERGENCY PROJECTS

[PRC §5028/ California Code of Regulations §15269]

No structure that is damaged due to natural disaster and that is listed on the National or California Registers, or on a local public register, can be demolished or destroyed unless it is an imminent threat to public safety or damage to adjacent property, and unless the State Office of Historic Preservation determines that it may be demolished.

The State Historical Resources Commission has not adopted regulations for this statute.

EXECUTIVE ORDER W-26-92

This order requires state executive branch agencies to take specific measures to preserve significant state-owned properties and to administer historic properties under their control, regardless of ownership, in a spirit of stewardship.

OTHER STATE LAWS AFFECTING HISTORICAL RESOURCES

PRC §5020.1	Historical Resources Definitions
PRC §5021/ 5031 et seq	State Historical Landmarks and Points of Historical Interest
PRC §5097.5	Disturbance of Archeological Sites
PRC §5097.9	Native American Heritage Commission

These laws are briefly described in **Exhibit 3**.

1-2.4 CALTRANS CULTURAL RESOURCE POLICIES

THE DIRECTOR'S ENVIRONMENTAL POLICY (1992)

The Director's Policy states that the Department evaluates the environmental benefits and consequences of its activities and implements practices that minimize environmental impacts. The policy intent is to identify, resolve and include environmental issues when planning transportation projects. It outlines the responsibilities of Caltrans executives and employees for promoting environmental awareness and carrying out the Department Policy in the course of their duties.

PROJECT DEVELOPMENT PROCEDURES MANUAL, LAST UPDATED IN 1999

The Department's position on the preservation and protection of important cultural resources is defined in the Section 1-5 "Project Development Philosophy." In the project development process, it is Caltrans philosophy to balance transportation needs with other societal values to ensure that economic, social, and environmental effects are fully considered along with technical issues when transportation projects are developed.

RESPONSIBILITIES TO IMPLEMENT CULTURAL RESOURCE POLICIES

Caltrans cultural resource policy is set forth in this handbook, the *Environmental Handbook*, Volume 2. All Caltrans activities, from project development and planning, through encroachment permit, construction, and maintenance activities, are subject to the policies and procedures outlined in this volume.

District Directors and functional managers shall implement Caltrans' cultural resource policy in encroachment permits, maintenance, construction,

and all project planning and development activities. Construction, maintenance, and encroachment permit activities generally have the greatest potential for impact. They can affect historical resources, including historic bridges still on the system, state-owned historic buildings, archaeological sites within existing right of way, and other properties in or adjacent to a project area .

1-2.5 GENERAL CONSIDERATIONS

In accordance with Caltrans cultural resources policy, Caltrans personnel must consider the following steps when undertaking an activity:

- **Identify significant cultural resources** early in the transportation planning and project development process.
- **Coordinate and cooperate with individuals and organizations** having a professional or cultural interest, and with agencies charged with the responsibility of preserving or enhancing these resources.
- **Evaluate the significance of cultural resources**, which may be affected by proposed projects.
- **Evaluate potential effects** of proposed transportation projects on cultural resources.
- **Discuss conclusions in environmental documents** regarding the significance of identified cultural resources and effect of proposed undertaking or project.
- **Develop project plans to avoid** significant cultural resources whenever possible.
- **Develop and implement mitigation measures** when avoidance is not practical.

Specific procedures to be followed in identifying and evaluating cultural resources and in developing mitigation plans are provided in the appropriate Chapters 2 through 7 of this volume.

CONSIDERATIONS IN SPECIAL CIRCUMSTANCES

The considerations listed above apply to normal project planning and implementation. There are two special circumstances that may require the different considerations and procedures:

Unexpected Discovery of Cultural Resources

Two chapters of this volume contain provisions for the discovery of previously unidentified cultural resources. **Chapter 2, Section 2-4.4** "Late Discovery," offers guidance to assist Caltrans personnel in planning for the possibility of

unexpected discovery of cultural resources and of unexpected effects on known historic properties. Chapter 5 **Section 5-9** and Chapter 6 **Section 6-12** outline procedures that shall be followed if previously unidentified archaeological resources are encountered during construction, maintenance, or encroachment permit work. Caltrans personnel shall follow the appropriate procedures outlined in these sections.

Emergency Undertakings

Procedures outlined in Chapter 2 **Section 2-4.2,** "Emergency Undertakings," outlines the steps to be taken in the event of an emergency or disaster. Emergency undertakings are essential and immediate responses to officially declared disasters. They must be implemented within **30 days** after the disaster occurred. For federal projects, the procedures in 36 CFR §800.12, or alternatively, 36 CFR §78, apply. For state projects the applicable emergency procedures are defined in the PRC §5028 and in the CEQA Guidelines at §15269.

1-3 CULTURAL RESOURCES ORGANIZATION AND FUNCTIONS

Caltrans' environmental policies were crafted to encourage coordination among the responsible units. The following section describes the organization and functions of the units responsible for cultural resources management within Caltrans, and identifies the roles and responsibilities of the cultural resources staff.

The responsibility for managing cultural resources under Caltrans jurisdiction is placed with the Environmental Branches at the District level and the Cultural and Community Studies Office (CCSO) in the Division of Environmental Analysis in Headquarters. This section of the handbook defines roles and responsibilities of cultural resources personnel and describes the appropriate personnel classifications and qualifications.

1-3.1 DISTRICT ROLES AND RESPONSIBILITIES

The District Environmental Branches independently administer and perform all cultural resources functions for the District, with assistance or review by Headquarters on request.

DISTRICT RESPONSIBILITIES

Districts have the ultimate responsibility for the quality and timeliness of all cultural resource studies, regardless of who prepared the studies. Duties and responsibilities include:

- Schedule and coordinate cultural resources tasks to meet project development milestones.
- Conduct cultural resources studies, using appropriately qualified personnel, as described in **Section 1-3.3** below.
- Prepare cultural resources reports as documentation for project compliance.
- Provide peer review of cultural resource studies by qualified District cultural resource specialists; or request Headquarters CCSO peer review when District lacks appropriate qualified cultural resource specialists.
- Approve and process Section 106 documents for federally funded projects.
- Approve and process CEQA documents for state-funded projects.
- Coordinate with the Federal Highway Administration (FHWA) and the State Historic Preservation Officer (SHPO) on Section 106 and CEQA documents processed by the District.
- Prepare Historical Resources Compliance Reports (HRCR) for PRC §5024 and §5024.5 review of projects affecting state owned resources.
- Conduct documentation and recordation of historic properties, as a No Adverse Effect condition or Adverse Effect mitigation measure, according to appropriate standards, as directed in Section 106 agreement documents, in Districts with appropriately qualified staff.
- Provide copies of all Section 106 and CEQA and PRC §5024 documents and all correspondence with outside agencies relative to the Section 106 and CEQA environmental compliance processes to Headquarters CCSO.
- Arrange and schedule assistance of Headquarters CCSO specialists for archaeological, historical, architectural, and bridge surveys and evaluations.
- Provide copies of Section 106 and CEQA documents when requesting Headquarters DEA and CCSO comments.
- Immediately notify Headquarters CCSO of all unusual situations, especially emergencies involving possible effects on cultural resources.
- Contract with California Native American Advisors, as needed.
- Review District Local Assistance reports/projects, and when appropriate, provide comments to suggest compliance with existing historic preservation laws.
- For Districts with qualified archaeologists:

- Approve District-prepared Extended Phase I proposal reports and District-prepared Phase II reports;
- Approve proposals to contract out Phase II reports;
- Review and approve Phase II and Phase III reports;
- Prepare archaeological scopes of work; and
- Approve archaeological scopes of work in archaeological excavation contracts.

DISTRICT ROLES

This section defines positions in the District Environmental Branch offices, which deal specifically with the management of cultural resources.

District Environmental Branch Chief

The District Environmental Branch Chiefs (DEBC) oversee and direct the cultural resources compliance process in the Districts. To assist in this process, each DEBC shall designate a Heritage Resources Coordinator (HRC) and a District Native American Coordinator (DNAC).

District Heritage Resources Coordinator

Each HRC serves as the designated source of information on the subject of cultural resources. The HRC is the District's communications liaison with Headquarters CCSO and may serve as the District advisor regarding cultural resources. The actual functions assigned to the HRC are at the discretion of the DEBC and vary widely by District.

As directed by the DEBC, HRCs may be charged with some or all of the following responsibilities:

- Track the progress of projects through the Section 106 compliance process;
- Schedule cultural resource studies;
- Process federal or state cultural resource compliance documents;
- Prepare cultural resource documents;
- Handle correspondence on cultural resource matters between the District, Headquarters and FHWA, providing Headquarters CCSO copies of all Section 106 and CEQA and PRC §5024 documents and all correspondence with FHWA, SHPO, Advisory Council on Historic Preservation (ACHP) and other outside agencies relative to the Section 106 and CEQA environmental compliance processes to Headquarters CCSO;
- Provide guidance on District cultural resource issues, including but not limited to:

- Maintaining cultural resources information pertinent to conducting cultural resources studies, such as updates of National Register and California Register listings and determinations of eligibility, California Historical Landmark and Points of Historical Interest, lists of locally designated historical resources;
- Acting as a clearinghouse for cultural resources information, distributing cultural resources-related general information, memos and guidance, such as National Register Bulletins and cultural resource management notes, to district cultural resources staff and DEBCs.

District Native American Coordinator

The DNAC is responsible for all Native American consultation, as well as documentation of Native American coordination in District environmental documents. During the field reconnaissance and resource inventory stage of environmental studies, the DNAC should solicit Native American concerns from any and all available sources. The roles and responsibilities of the DNAC are further defined in Chapter 3, Native American Cultural Studies.

District Cultural Resources Specialists

When appropriate, Districts will hire qualified professional archaeologists, historical archaeologists, architectural historians, or historians to conduct surveys and evaluations, and prepare reports that will be used to comply with appropriate federal and state historic preservation laws and regulations. Professional qualifications are described below in **Section 1-3.3**, Cultural Resources Staff Qualifications, and in **Exhibits 4 and 5**.

1-3.2 HEADQUARTERS ROLES AND RESPONSIBILITIES

The Cultural and Community Studies Office (CCSO) in the Division of Environmental Analysis (DEA) in Headquarters develops cultural resources policy and procedures, monitors implementation, and provides assistance to the Districts on request.

The office includes four branches:

- Cultural Studies Branch A;
- Cultural Studies Branch B;
- History, Architecture, and Community Studies Branch (HACS),
- Historical, Architectural Specialty Branch (HAS); and
- Native American Cultural Studies Branch (NACS).

HEADQUARTERS RESPONSIBILITIES

The major responsibility of the Cultural and Community Studies Office is to ensure that the Department's cultural resources programs, policies, and procedures comply with federal and state legislation. In addition, Headquarters CCSO is responsible for ensuring that work performed to assist the Districts meets District requirements and scheduling. The CCSO's functions include:

- Conduct prehistoric archaeological, historical archaeological, built-environment (such as buildings, bridges and other structures, landscapes) surveys for Districts requesting assistance. Provide peer review of CCSO-prepared survey reports, and Extended Phase I proposals and reports, prior to DEBC approval.
- Prepare archaeological scopes of work and excavation research designs, and undertake contract administration and monitoring for Districts requesting assistance.
- Develop guidance manuals, training courses, and workshops in consultation with the Districts, and assist the DEA training unit.
- Coordinate with FHWA, SHPO, the Keeper of the National Register, and the ACHP on Section 106 documents processed by Division of Environmental Analysis or at the request of the Districts.
- Conduct consultations and coordinate with the SHPO on all PRC §5024 activities; conduct PRC §5024.5 review as delegated by SHPO, and report annually to SHPO regarding all PR§5024 evaluations of state-owned resources.
- Inform the Chief, Division of Environmental Analysis, of all unusual situations, especially emergencies involving possible effects on cultural resources.
- Authorize archaeological excavations through preparation of proposals for Districts without qualified archaeologists.
- Upon District request, review cultural resource studies (including Historic Resource Evaluation Reports, archaeological Phase II and Phase III reports), Finding of Effect documents and Memoranda of Agreement.
- Prepare and process, review, or provide advisory comments on Section 106 and CEQA documents for Districts requesting assistance.
- Document historic properties according to appropriate standards as a No Adverse Effect condition or Adverse Effect mitigation measure, as directed in Section 106 agreement documents.
- Conduct joint activities, such as strategy meetings, with the Districts.
- Evaluate District cultural resources programs and activities if requested.

- Certify District cultural resources staff, including archaeologists, historical archaeologists, architectural historians and historians.
- Evaluate consultant cultural resources personnel qualifications at District request.
- Review and analyze pertinent historic preservation legislation.

HEADQUARTERS ROLES

The Cultural and Community Studies Office (CCSO) in the Division of Environmental Analysis (DEA) has on staff cultural resources specialists in the fields of prehistoric and historical archaeology, architectural history, history, Section 106 and PRC §5024 processing, and Native American coordination. These specialists provide service to the Districts and other Headquarters units needing assistance. Specific functions are defined below.

Section 106 Coordination – Cultural Studies Branches A and B

Each of the two Cultural Studies Branches, A and B, is responsible for specific Districts. In order to meet and complete environmental compliance requirements, each Branch has a Section 106 Coordinator who provides advice and assistance. The Section 106 coordinators assist the Districts by acting as liaison between the Districts and external agencies. On request, the coordinators provide information and guidance to District personnel on matters of Section 106 policy and procedure. The coordinators prepare Findings of Effect, and Memoranda of Agreement upon request from the District. They help guide projects through the Section 106 and CEQA compliance process, by demonstrating that due consideration has been given to the preservation and protection of identified historic properties and historical resources.

Historical, Architectural and Community Studies (HACS) Branch

Upon District request, the Historical, Architectural and Community Studies Branch conducts cultural resources surveys for the built environment, including buildings, bridges, structures, objects, complexes, linear features, districts and designed and historic landscapes, and prepares the appropriate cultural resources inventory and evaluation documents, prepares findings of effects and assist in developing mitigation measures for built environment historic properties and resources. Also upon request, the HACS Branch reviews cultural resources study documents, findings of effects and memoranda of agreement, and environmental documents for adequacy of identification, evaluation and treatment of built resources. The HACS Branch also provides community impact and Environmental Justice guidance, training and review of these issues in environmental documents.

Historical Architectural Specialty (HAS) Branch

The Historical Architectural Specialty Branch conducts consultations and coordinates with the SHPO on Caltrans PRC §5024 and PRC §5024.5 activities; conducts PRC §5024.5 reviews as delegated by SHPO, and reports annually to SHPO regarding all PRC §5024 evaluations of state-owned buildings and structures. The HAS Branch Chief serves as the liaison with SHPO on PRC §5024 issues. The Branch Chief serves as Caltrans representative to the State Historical Building Safety Board. Upon request, branch staff provides guidance and coordination with the appropriate outside agencies on the appropriate use of the State Historical Building Code, mitigation measures to avoid or reduce adverse effects to non-archaeological historic properties and historical resources; identification and ranking of character-defining features of historic properties and resources, language for protective covenants, historic property maintenance and rehabilitation standards, and Historic American Building Survey (HABS) and Historic American Engineering Record (HAER) documentation.

Native American Cultural Studies (NACS) Branch

The Native American Cultural Studies Branch provides policy, guidance, advice, training, and support to the Districts in working with Native American individuals, groups, and tribes on identifying and addressing cultural and environmental concerns. The Branch also works with Native Americans directly either to establish working relationships with DEA or, as requested by districts, to facilitate project delivery. The NACS Branch Chief serves as the Statewide Native American Coordinator for DEA, and serves as the Division's representative on the Department's Native American Advisory Committee. The Branch Chief is the Division's liaison with other Departmental units and Native American Liaisons to assist in developing an integrated and consistent approach to Native American relations, and is the liaison with the Native American Heritage Commission, State Historic Preservation Office, Advisory Council on Historic Preservation, Federal Highway Administration, U.S. Bureau of Indian Affairs, and other state and federal agencies regarding Native American spiritual and cultural resource concerns. The Branch Chief monitors and evaluates pertinent state and federal legislation and regulations, disseminates that information to the districts, and seeks to ensure that the Department is in compliance with such laws.

1-3.3 DISTRICT AND DIVISION OF ENVIRONMENTAL ANALYSIS, CULTURAL AND COMMUNITY STUDIES, SPECIALIST ROLES

The following cultural resource specialists provide professional and technical expertise in the identification, survey, evaluation and mitigation of effects on

cultural resources. The Headquarters CCSO has professional staff in all these specialized fields. All Districts have archeological staff, but vary in their staffing in other fields of expertise.

ARCHAEOLOGY

Staff archaeologists conduct and participate in archaeological surveys and excavations. Staff archaeologists prepare archaeological documents, review archaeological reports, and evaluate archaeological properties to determine potential eligibility for inclusion in the National Register of Historic Places or to determine whether archaeological resources meet the criteria for inclusion in the California Register of Historical Resources. They also prepare scopes of work for contracts, and administer and monitor archaeological studies performed by consultants. Additional responsibilities include reviewing other cultural resource specialist-prepared reports to ensure that archaeological sites are adequately treated.

HISTORICAL ARCHAEOLOGY

Staff historical archaeologists conduct and participate in historical archaeological surveys and excavations. They prepare historical archaeological documents, review historical archaeological reports, and evaluate historical archaeological properties to determine potential eligibility for inclusion in the National Register of Historic Places or to determine whether archaeological resources meet the criteria for inclusion in the California Register of Historical Resources. Staff historical archaeologists also prepare scopes of work for contracts, and administer and monitor historical archaeological studies performed by consultants. In partnership with historians and architectural historians, historical archaeological staff prepare Historical Resources Evaluation Reports (HRER) when cultural resources contain both historical archaeological components and built resources (buildings, structures, objects). Staff historical archaeologists also provide advice on any required historical archaeological studies, investigations, and excavations. Additional responsibilities include reviewing other cultural resource specialist-prepared reports to ensure that historical archaeological sites are adequately treated.

ARCHITECTURAL HISTORY

Architectural historians identify and evaluate built environment cultural resources (buildings, bridges, structures, objects, districts) and designed landscapes to determine potential eligibility for inclusion in the National Register of Historic Places or to determine whether these resources meet the criteria for inclusion in the California Register of Historical Resources. They

prepare Historical Resource Evaluation Reports for built environment resources and designed landscapes. When applicable, staff architectural historians work in partnership with historians and historical archaeologists when cultural resources include historical archaeological sites. They also review other cultural resource specialist-prepared reports to ensure that local architectural history and architecturally important resources are adequately treated. In addition and upon request, architectural historians assist in the preparation Findings of Effect, and Memoranda of Agreement.

HISTORY

Staff historians research and evaluate built environment resources to determine potential eligibility for inclusion in the National Register of Historic Places or to determine whether these resources meet the criteria for inclusion in the California Register of Historical Resources. These features may also include historic landscape features, transportation or industrial facilities, and other resources that do not readily adapt to architectural history evaluation formats. Staff historians assist historical archaeologists in background research for historical archaeological site evaluation and documentation. Staff historians prepare HRERs, and when applicable work in partnership with architectural historians and historical archaeologists when cultural resources include historical archaeological sites. They also review other cultural resource specialist-prepared reports to ensure that regional history or historic sites are adequately treated. In addition and upon request, architectural historians assist in the preparation Findings of Effect, and Memoranda of Agreement.

1-3.4 CULTURAL RESOURCES STAFF PROFESSIONAL QUALIFICATIONS

CIVIL SERVICE CLASSIFICATIONS

Caltrans environmental personnel are classified under State Personnel Board classification system within the Environmental Planner series. This series provides for generalist and specialist classes. The civil service classifications for specialists in cultural resources at the entry or associate level are Environmental Planner (Archaeology) and Environmental Planner (Architectural History). Historians may be hired in the generalist or architectural history classification, but must meet minimum professional qualification standards if assigned to duties as a specialist in that field. Generalists, as well as specialists, often coordinate and manage cultural resource document preparation and processing and provide liaison with FHWA.

STATE STANDARDS

The California State Personnel Board established state standards for the archaeology, architectural history, and generalist classes of the Environmental Planner series. People employed by Caltrans must meet the minimum requirements set by these specifications in order to perform duties in the fields of archaeology, architectural history, history, and related cultural resource functions. Caltrans must ensure that cultural resources specialists meet the appropriate minimum requirements when hiring and promoting cultural resources staff. See **Exhibit 4**.

FEDERAL STANDARDS

The Secretary of the Interior's Professional Qualification Standards (1983) established professional qualifications standards for cultural resource specialists involved in historic preservation activities at all levels of government. Federal standards are generally more stringent than the State Personnel Board standards. In addition to applying the state standards in hiring cultural resources staff, Caltrans uses the federal qualifications as a guide. Using both sets of standards is designed to provide a credible and competent staff, and to ensure that Caltrans staff meets the standards of the federal agencies that review Caltrans' work in cultural resources management.

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would require cultural resource specialist staff and consultants to meet the Secretary of the Interior's professional qualification standards, and outlines specific tasks that can be performed for each classification. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.

CALTRANS ARCHAEOLOGIST STANDARDS

Caltrans employees who perform primarily archaeological functions are subject to a third set of qualification criteria. These criteria designate working titles, not civil service classifications. They are based on the federal criteria and on guidelines set forth by the Society of Professional Archaeologists. They were developed to ensure that the Department's archaeological work is considered credible by review agencies, peer groups, and other outside groups that have knowledge and experience in dealing with archaeological resources (see **Exhibit 5**.

CHAPTER 2
CULTURAL RESOURCES PROCEDURES

2-1 INTRODUCTION

As part of its environmental policy, Caltrans considers historic properties and historical resources during the project development process. The treatment of historic properties is a sensitive part of the planning, development, and maintenance of transportation facilities.

Chapter 1 of this handbook describes federal and state laws and regulations concerning the treatment of historic properties significant in American history, archaeology, culture, architecture, and engineering. Chapter 2 describes how Caltrans complies with those laws and regulations.

Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR §800,{xe "Section 106"} provide the regulatory mechanism for considering historic properties on projects with federal involvement. Where there is no federal involvement, the California Environmental Quality Act (CEQA{xe "CEQA"}) and Public Resources Code{xe "Public Resources Code"} sections 5024 and 5024.5 are the primary regulations governing consideration of historical resources, supported by Executive Order W-26-92{xe "Executive Order W-26-92"}.

> The inclusive term used herein for all tangible traces of human activity, whether eligible, ineligible, or unevaluated, is **cultural resource**{xe "Cultural resources:definition"}.

Under Section 106, **historic property**{xe "Historic properties:definition"} means any cultural resource, including archaeological properties, which meets the criteria for listing on the National Register of Historic Places{xe "National Register of Historic Places"} (36 CFR §60), and includes properties that have been listed or have been determined eligible for inclusion in the National Register. State law identifies **historical resource**{xe "Historical resources:definition"} as a property which meets the criteria for listing on the California Register of Historical Resources, as well as resources that are designated as historic under local ordinances and resources that have been identified as significant in a local survey that meets the state Office of Historic Preservation standards{xe "California Register of Historical Resources"}. Resources, which are, determined ineligible for the

National Register may still meet the state criteria and require consideration under state law.

The process for considering cultural resources on state-only projects generally parallels that which is followed on federally funded or approved projects. Caltrans policy is to treat resources in the same manner regardless of funding source. The treatment of historical resources on state-only projects follows the federal standard although regulatory procedures differ (see sections 2-6 through 2-9).

This chapter focuses on the standard procedures used in the identification, evaluation, and treatment of historic properties and on the documents used in compliance procedures. Unusual situations may require case-by-case handling; consult the appropriate specialist in Headquarters' Cultural and Community Studies Office (CCSO) of the Division of Environmental Analysis (DEA) in such circumstances.

2-2 PROJECTS WITH FEDERAL INVOLVEMENT

2-2.1 INTRODUCTION

Section 106{xe "Section 106"} of the National Historic Preservation Act of 1966 (NHPA{xe "National Historic Preservation Act"}), as amended, requires federal agencies to take into account the effect of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation ({xe "ACHP "}ACHP) a reasonable opportunity to comment. The regulations implementing Section 106 are published in 36 CFR §800{xe "Section 106:regulations, 36 CFR 800"}.

Federal agencies{xe "Federal agencies"} are responsible for complying with Section 106, although they may delegate tasks to others. The term "agency" as used in describing the Section 106 process may mean either the federal agency itself **or** any party acting on its behalf, but the ultimate responsibility for complying with the law remains with the federal agency. For most Caltrans projects, the Federal Highway Administration{xe "FHWA "} (FHWA) is the federal agency involved. On occasion, other federal agencies are involved or may act as lead federal agency on a Caltrans project.

Since FHWA is the lead agency on the majority of Caltrans projects, the **term FHWA in this chapter is used to mean federal agency**. When other federal agencies assume the lead on Caltrans projects, they have the same Section 106 responsibilities as outlined in this chapter.

Within Caltrans, the District Environmental Branches are responsible for cultural resource studies, overseeing their preparation and transmittal to FHWA. However, District or Headquarters environmental staff or consultants under contract to Caltrans may prepare the technical studies and assemble reports for transmittal to the FHWA.

2-2.2 SECTION 106{XE "SECTION 106:OVERVIEW"} OVERVIEW

The Section 106 process begins as follows:

In consultation with the FHWA, the Project Development Team{xe "Project Development Team (PDT)"} (PDT, defined in the Project Development Procedures Manual) identifies any federal involvement on a project and determines the existence of an **undertaking**{xe "undertaking:definition of"} subject to Section 106.

Undertaking{xe "Undertaking"}**,** as defined by the 1992 amendments to the National Historic Preservation Act, means any project, program, or activity with federal funding or under the direct or indirect jurisdiction of a federal agency, including federal license, permit, or approval, or administered pursuant to federal agency delegation or approval and that can result in changes in the character or use of historic properties if any such properties are located in the project's Area of Potential Effects. Most Caltrans projects do have federal involvement{xe "Federal involvement"} and are thus subject to Section 106. Note that the federal **action** defines the undertaking, not the anticipated presence or absence of historic properties.

Next, the FHWA approves a map which establishes the project's **Area of Potential Effects**{xe "APE**:**definition"} (APE), the area within which the undertaking could cause changes in the character or use of historic properties, if any were present.

Qualified professional staff or consultants begin cultural resource studies to **identify** and **evaluate** cultural resources within the APE. They look for the findings of any previous studies, then conduct research and surveys as needed to identify any additional resources which require consideration.

In consultation with the State Historic Preservation Officer{xe "SHPO "} (SHPO), the FHWA applies the National Register criteria to any properties requiring evaluation and reaches agreement with the SHPO on National Register eligibility or ineligibility. Where the undertaking occurs on tribal lands and the tribe has assumed the Section 106 responsibilities of the SHPO, the FHWA consults with the Tribal Historic Preservation Officer (THPO). **Chapter 3**

provides more details on THPO involvement and consultation with Indian tribes.

If no historic properties{xe "No historic properties"} are identified within the APE, either because:

- there are no properties present which require evaluation, or
- the properties have been evaluated and determined ineligible,

The FHWA seeks SHPO concurrence in a finding that no historic properties are affected. (See **Section 2-5.3 and Exhibit 12**.

When historic properties are present, the FHWA, in consultation with the SHPO, applies the **Criteria of Adverse Effect{**xe "Effect, Criteria of "**}** to determine whether its proposed undertaking could affect those properties. If an effect is found, the FHWA, in consultation with SHPO determines whether the effect should be considered adverse. Undertakings will be found to have No Historic Properties Affected, No Adverse Effect, or Adverse Effect.

2-2.3 IDENTIFYING FEDERAL INVOLVEMENT{XE "FEDERAL INVOLVEMENT"}

The PDT, in consultation with the FHWA, determines if there will be federal involvement on a project, which will typically invoke an undertaking{xe "Undertaking"} subject to Section 106. In some cases, the decision will have been made earlier as part of developing the State Transportation Improvement Plan (STIP). The PDT makes a final decision on federal involvement as early as possible in the project development process.

An action by a U. S. Department of Transportation agency, such as FHWA{xe "FHWA"} or the Federal Transit Administration (FTA{xe "Federal Transit Administration (FTA)"}), usually triggers Section 106 on Caltrans projects. Most commonly, the action would be FHWA funding. On occasion, more than one agency will be involved, and a lead agency will then be identified.

Other federal agencies{xe "Federal agencies"}, however, may have involvement that would constitute an undertaking with or without FHWA participation. For example, a federal agency's permit requirement, such as an Army Corps of Engineers Section 404 (of the Clean Water Act) permit or a Forest Service or Bureau of Land Management use permit would also trigger Section 106.

On projects involving a permit from the U.S. Coast Guard{xe "U.S. Coast Guard permit"} and a historic bridge, early

coordination is essential. Such projects **may require preparation of an EIS**, regardless of other environmental documentation needs, based on a 1985 agreement between FHWA and the U.S. Coast Guard.

Federal involvement{xe "Federal involvement"} will be found in the following cases:

- any project on an interstate highway;
- any project where federal aid will be used for engineering, construction, or right of way;
- any project for which federal approvals, permits, or licenses may be required; and
- any project that affects access control or relinquishes or **disposes of property**{xe "Disposal of property:federal involvement in"} on right of way financed with federal funds.

FHWA or other federal agencies may also be involved in a project implemented in response to an officially declared disaster.

2-2.4 WORKING WITH SECTION 106{XE "SECTION 106:WORKING WITH"}

Federal agencies bear the responsibility for compliance with Section 106 for their undertakings, although they may delegate a portion of the actual work. Caltrans identifies, evaluates, and treats historic properties and prepares most required documents on behalf of FHWA{xe "FHWA"}. Caltrans identifies, evaluates, and treats historic properties and prepares most required documents on behalf of FHWA. Caltrans, in turn, may contract some work to others.

FHWA retains ultimate responsibility for Section 106 compliance on its undertakings, regardless of who prepares the documentation.

The Division of Environmental Analysis has specialists in the Section 106 process, archaeology, architectural history, and history and mitigation measures available to answer questions and to help Districts complete the requirements of 36 CFR §800. Districts are to rely upon these specialists as a first-line resource in answering project-specific questions and in developing compliance strategies for unusual Section 106 compliance situations. If necessary, Headquarters specialists may consult with FHWA or SHPO, especially for difficult or possibly precedent-setting situations.

Federal publications{xe "Federal publications:related to Section 106"} provide valuable assistance in working with the Section 106 process. Many are available on-line through the Advisory Council on Historic Preservation and the National Park Service Links to the Past, and include:

- National Register Evaluation Criteria
- Archeology and Historic Preservation*: Secretary of the Interior's Standards and Guidelines* (National Park Service, September 29, 1983)
- Revised Section 106 Regulations Text and Section 106 Summary
- Section 106 Flow Chart and Section 106 Explanatory Material
- Section-by-Section Questions and Answers
- Citizens Guide to Section 106
- Relationship Between E.O. 13007 Regarding Indian Sacred Sites and Section 106:
- Consultation on Recovery of Significant Information from Archeological Sites:
- Section 106 Consultation Involving National Historic Landmarks
- Consulting with Indian Tribes in the Section 106 Review Process
- Federal Alternate Procedures for Section 106

Older Section 106 guidance that is has some applicability includes:

- Preparing Agreement Documents*: How to Write Determinations of No Adverse Effect, Memoranda of Agreement, and Programmatic Agreements Under 36 CFR Part 800* (Advisory Council on Historic Preservation, September 1989)
- Public Participation *in Section 106 Review: A Guide for Agency Officials* (Advisory Council on Historic Preservation, February 1989)
- Identification of Historic Properties*: A Decisionmaking Guide for Managers* (Advisory Council on Historic Preservation, September 1988)

FHWA guidance{xe "FHWA:guidance documents"} on historic preservation issues includes:

- Section 4(f) Policy Paper (revised June 7, 1989)
- Guidance for Preparing and Processing Environmental and Section 4(f) Documents
- Section 4(f) - Constructive Use, (November 12, 1985)

2-2.5 MANAGING THE SECTION 106 PROCESS

Project Development formally initiates environmental studies, including cultural resource studies; by submitting plans showing proposed project

alternatives with best estimates of right-of-way requirements. The term "cultural resource studies{xe "Cultural resource studies:definition"}" (formerly called historical studies) describes all research and survey work for the full range of cultural resources.

Preliminary environmental and cultural resource studies should be undertaken early, at the Project Studies Report (PSR){xe "Project Studies Report (PSR)"} stage. Early studies involve such activities as walkovers and reconnaissance (windshield) surveys, supplemented by basic information on previously recorded cultural resources and archaeological sensitivity of the project area. Obtaining this information early in the process allows environmental consequences to be included in the factors governing identification of feasible alternatives. Early surveys can reduce project development time spent on alternatives that would obviously have unacceptable environmental consequences.

If information available at the PSR stage indicates that historic properties could be involved, every effort should be made to develop realistic project schedules{xe "Project schedules"}. Scheduling decisions should acknowledge the time required to complete the Section 106 process.

The time required achieving Section 106 compliance varies considerably. It takes little time for projects that do not require cultural resource studies or which have no potential to affect historic properties. It can take two years or more, however, to complete the process for projects requiring extensive work. Longer time frames may also be needed if contracting is involved.

Compliance time can be reduced by conducting early studies to help avoid alternatives that would affect excessive numbers of properties, by scheduling cultural resource studies as early as possible in the environmental process, and by careful delineation of APEs (neither too large nor too small) for the purpose of conducting environmental and cultural resource studies that are both efficient and legally defensible.

Coordination between the DEBC or the appropriate cultural resources staff in the DEB, the Caltrans Project Manager, and the FHWA Transportation Engineer or other federal representative is crucial throughout the process.

2-2.6 STRATEGY CONSULTATION

Informal initial strategy consultation can be useful in unusual, controversial, or complex compliance situations. These discussions or meetings between District and CCSO cultural resource specialists and managers or between District

staff and FHWA should be held before submitting formal paperwork. If issues arise which cannot be resolved, a strategy meeting with SHPO staff{xe "strategy meetings:with SHPO staff"} can be requested. On rare occasions, ACHP can participate, usually by phone.

Strategy consultation may be crucial under the following circumstances:

- when a project may involve human remains of concern to Native Americans;
- when there is disagreement among agencies over significance, effect, or treatment of historic properties on a complicated project; or
- when a project involves substantial local controversy.

The National Park Service{xe "National Park Service"} and U.S. Forest Service{xe "U.S. Forest Service"} have specifically requested to be involved in all Section 106 actions affecting land under their jurisdiction.

It may also be appropriate to discuss strategy{xe "Strategy meetings:with other agencies"} with other governmental entities; particularly land-managing agencies that have an interest in historic properties that Caltrans projects may affect.

Every effort should be made to solve issues internally without contacting SHPO,{xe "SHPO:routine coordination with"} as SHPO staffing levels do not allow for frequent individual discussion of historic property issues. To reduce the volume of routine calls to SHPO, District staff should instead call their CCSO Section 106 coordinator for advice on policy, procedures, eligibility, and effect issues or project status.

CCSO staff should initiate informal SHPO contact in most cases. In general, contacts should be limited to situations with complex or unusual issues, projects with high public interest, and circumstances in which appropriate application of the regulations is uncertain. District staff may contact SHPO directly in critical situations, such as a late discovery or emergency when immediate response is essential.

2-3 SECTION 106 PROCEDURES

2-3.1 INTRODUCTION

The Section 106 procedures{xe "Section 106:procedures"} follow the order laid out in 36 CFR §800. The steps are essentially linear, although in practice they

may overlap or be compressed. It is essential to be aware of where the project is in the process.

Throughout the discussion of Section 106 procedures, the term "FHWA" refers to the responsible federal agency, typically FHWA, **or** to Caltrans when acting on behalf of the FHWA, **or** to their combined efforts. The FHWA retains responsibility for compliance with Section 106 regardless of task delegation.

The Section 106 process may **conclude{**xe "Section 106:conclusion of process"**}** at various places in the process, when resolution is reached at any one of the following steps:

- the FHWA determines that its activity is not an undertaking subject to Section 106;
- the FHWA and SHPO agree that the project does not involve historic properties, when
    1. no properties of any kind are present, or
    2. all properties are ineligible for the National Register;
    3. historic properties are present but the undertaking will have no effect on them;
- the FHWA, SHPO, and ACHP agree that the project will have **no adverse effect** on historic properties;
- the FHWA, SHPO, and ACHP sign a **Memorandum of Agreement** on projects with an adverse effect on how to take effects into account; or
- on the rare occasions when **no agreement{**xe "Failure to agree"**}** is reached, the FHWA takes ACHP's written comments into account, decides whether to proceed with its proposed activity, and notifies ACHP of its decision.

2-3.2 NEED FOR CULTURAL RESOURCE STUDIES

Identifying historic properties involves four major steps, and FHWA must consult with SHPO on each of these steps:

a) Determining the scope of identification efforts [36 CFR §800.4(a)]

b) Identifying historic properties (which includes conducting cultural resource surveys) [36 CFR §800.4(b)]

c) Evaluating historic significance of the cultural resources in the APE using the National Register criteria [36 CFR §800.4(c)], and

d) Reporting the results of the identification and evaluation [36 CFR §800.4(d)]

For planning purposes, **Exhibit 6** matches the cultural resources specialists to the types of cultural resources that need to be considered. **Exhibit 7** provides

estimated lengths of time required to complete cultural resources studies, and **Exhibit 8** shows the sequential order of these studies.

2-3.3 SCOPE OF IDENTIFICATION EFFORTS{XE "CULTURAL RESOOURCE STUDIES:NEED FOR"}

The process under 36 CFR §800 begins when the PDT and the FHWA Transportation Engineer identify an undertaking subject to Section 106. See **Section 2.2.2** for the definition of an undertaking. Once it has been determined that an undertaking exists, the steps are initiated to identify any historic properties that might be affected by the project.

SETTING THE AREA OF POTENTIAL EFFECTS

As a result of the December 2000 revisions to the Section 106 regulations, **the procedures for Projects Having Minimal Area of Potential are no longer in effect and may not be used.**
As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a streamlined approach for project with little or no effect and that may change FHWA's approval process for setting APE limits. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA..

The first step in determining the scope of identification efforts and a critical step in conducting cultural resource studies is to establish the project's Area of Potential Effects (APE). The APE is the area within which the undertaking could cause changes in the character or use of historic properties, if any were present. Setting an APE is a prospective activity and the known or suspected presence or absence of actual historic properties is irrelevant at this stage.

The APE should define the boundaries of the area within which a proposed project might affect properties. It should be just large enough to include in their entirety all properties being studied, which could under any reasonable circumstance be affected by the proposed undertaking. See **Exhibit 13** for delineating an APE.

Typically, the APE for archaeological studies{xe "APE:for archaeological studies"} is the required right of way, plus areas subject to ground-disturbing activities, such as utility relocation and borrow sites. If the proposed project has potential for indirect effects, the archaeological APE may need to be extended, and consultation with SHPO early in the scoping process would be critical to making this determination. Consult the Headquarters CCSO Section 106 Coordinator if a question arises.

Buildings and structures can be affected by land use changes, and by visual, noise or atmospheric intrusions beyond the right of way. In most cases, the APE for buildings and structures{xe "APE:for buildings and structures"} will include at least the first row of properties beyond the construction limits and the new proposed right of way. It can be substantially larger or smaller when warranted by the nature of the project or other factors such as topography or property size.

While FHWA is responsible under 36 CFR §800.4(a)(1) for consulting with SHPO when on the determination and documentation of the APEs{xe "APE:set by FHWA"} for its undertakings, the District Environmental Branch usually develops preliminary APE maps{xe "APE:maps"} for review and approval by the FHWA Transportation Engineer. The FHWA Transportation Engineer officially sets the APE by signing the map.

> APE maps must be of a scale suitable to depict the boundaries of major project features (e.g., right-of-way, edge of pavement) relative to property boundaries.

Studies are conducted within the APE to identify the presence or absence of historic properties. When studies must begin prior to establishing the APE, District Environmental Branch cultural resource specialists, in consultation with the Project Development Team, may designate a **Study Area**{xe "Study Area"} (also called an **Initial APE**) for use in conducting cultural resource studies until an APE can be delineated. The Study Area should encompass all land that might possibly be included in the final APE.

If studies reveal a resource such as a potential historic district or archaeological site that extends beyond the designated APE boundaries, the entire resource must be recorded or studied as a whole, even if the APE may or may not eventually be formally revised to encompass the resource.

The Final APE would follow the Study Area when the FHWA Transportation Engineer signs APE map. The final APE map must be formally designated by the time the Historic Property Survey Report (HPSR{xe "HPSR:APE map in"}) is complete because the final APE map appears as an exhibit in the HPSR.

See **Exhibit 13** for guidelines for determining the APE.

SEEKING INFORMATION ON HISTORIC PROPERTIES

The next steps in determining the scope of identification efforts include seeking information from consulting parties and others who might have knowledge of resources in the project area (preliminary research), and gathering informa-

tion from Indian tribes regarding resources that might have cultural or religious significance to the tribe and might be eligible for the National Register. Section 106 regulations encourage agencies to employ a "reasonable and good faith effort" to identify historic properties. In deciding what constitutes a reasonable and good faith effort, the FHWA should consider the following factors:

- Past planning, research, and studies;
- Magnitude and nature of the undertaking;
- Degree of federal involvement;
- Nature and extent of potential effects on historic properties;
- Likely nature and location of historic properties within the area of potential effects;
- Applicable standards and guidelines;
- Confidentiality concerns.

GATHERING INFORMATION ON HISTORIC PROPERTIES (PRELIMINARY RESEARCH){XE "PRELIMINARY RESEARCH"}

The FHWA first looks for previously evaluated properties within the APE. Chapter 4 **Section 4-4** discusses preliminary research in more detail. At a minimum, however sources that are to be consulted on all projects include:

- National Register of Historic Places;
- California Register of Historical Resources;
- State Historical Landmarks;
- Points of Historical Interest;
- State and local inventories of historical resources;
- Caltrans Historic Highway Bridge Inventory, if applicable;
- The appropriate regional Information Center of the California Historical Resources Information System.

The regulations specifically call for the FHWA to consult with Indian tribes about properties that may have religious or cultural significance to them. **Chapter 3** discusses this process and Caltrans role in government-to-government consultation. Additional contacts for information about possible resources in the project area may include local societies, museum and members of the public.

Although 36 CFR §800.4 calls for agencies to request information from the SHPO, the California SHPO does not have staff or facilities to provide research services. By reviewing appropriate databases, consulting historical resource listings, and requesting records searches from Information Centers

and other sources, as described in **Chapter 4**, the FHWA is deemed to have complied with this requirement.

2-3.4 IDENTIFICATION OF HISTORIC PROPERTIES

Once the scope of identification efforts has been defined, and based on information that has already been gathered about cultural resources within the APE, it should be clear whether survey work is needed. If additional survey is needed, FHWA, in consultation with SHPO determines the level of survey effort that is needed, as well as the need to conduct phased identification. Phased identification may be necessary when the project has a number of alternatives, involves large land areas, or access to a resource is restricted. The latter often occurs when archaeological sites may be affected. See **Chapter 4** for more discussion.

HISTORIC CONTEXTS{XE "HISTORIC CONTEXTS"}

In order to identify resources not previously known research is undertaken to develop the historic context necessary to recognize possible significance. The results of the study are presented in an historical overview. The context statement presented in the historical overview leads directly to site-specific discussions of cultural resources in the APE.

Work on the historic context usually extends through the research and survey stage and is completed prior to evaluation of resources. **The context should be developed to the extent needed to understand the resources being studied**. It should be a focused and practical synthesis, providing the information needed to evaluate and compare properties within that context. **Chapter 4** contains more information on historic context.

FIELD SURVEYS{XE "SURVEYS"}

At the PSR stage, a walkover or a reconnaissance (windshield) survey, along with preliminary research{xe "Preliminary studies"}, can provide information on the likelihood of historic properties within a given corridor for comparison among project alternatives. This preliminary work should be pursued to the extent necessary to reveal the need for specific cultural resource surveys within an APE or Study Area. See Chapter 4 **Section 4-5**.

In practice, an archaeological survey is always conducted unless it can be shown that all ground surfaces within the APE have

Surveyors need to carry copies of any rights of entry paperwork when in the field. When a property owner or tenant objects to survey activity, or if a situation appears to present any threat, surveyors must leave the property immediately.

undergone substantial modern disturbance or unless the APE has been previously surveyed to appropriate standards. All unevaluated buildings or structures within the APE, regardless of date of construction, will be noted in the technical studies. The precise method for noting them ranges from brief textual description of the physical environment to detailed evaluations, depending on the age and type of resource. See **Chapter 7** for more information. All cultural resources within the APE that merit recordation and evaluation (when applicable) will be examined, recorded and evaluated by appropriate qualified cultural resource professionals.

Survey Access and Field Safety

Permits may be required for access{xe "Surveys:access"} to certain public lands. When it is necessary to enter private property, Caltrans should obtain permission from property owners or tenants. District Right of Way should handle all access requirements. A single District staff member should be designated as contact person to get access permission for all advance studies.

Safety{xe "Surveys:safety"} of employees and good relationships with the public are both prime considerations while conducting surveys or other fieldwork. All surveys and other fieldwork shall be conducted in keeping with the Code of Safe Field Practices. See Chapter 4 **Section 4-5.4**, Chapter 5 **Section 5-3.6,** Chapter 6 **Section 6-9.2** and **Exhibit 10** for specific information regarding survey access and field safety.

2-3.5 EVALUATION OF CULTURAL RESOURCES

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a streamlined approach for exempting certain cultural resources from evaluation, and updated professional qualification standards. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.

Next, in consultation with SHPO, the FHWA identifies cultural resources within the APE that require evaluation. All buildings and structures within the APE and all archaeological sites that cannot be avoided must be identified and, as applicable, recorded and evaluated. Buildings and structures must be examined regardless of age, ownership, or condition.

Under the "Caltrans Interim Policy for the Treatment of Buildings Constructed in 1957 or Later, dated June 1, 2001," qualified Caltrans staff architectural historians may use an abbreviated process for identifying buildings constructed in 1957 or later, or altered such that they appear to have been constructed after 1957 (see **Exhibit 15**).

QUALIFIED CULTURAL RESOURCE SPECIALISTS

It is Caltrans policy that all persons preparing evaluations, whether Caltrans staff or consultants, must meet the appropriate federal and state professional qualifications standards{xe "Professional qualifications standards"}, as established by the Secretary of the Interior, the State Personnel Board, and Caltrans (see Chapter 1 **Section 1-3.4** and **Exhibits 4 and 5** of this volume).

RESEARCH AND FIELD WORK

Archaeologists and historical archaeologists conduct archaeological research and fieldwork, and if necessary, excavations, to evaluate archaeological resources. Historians and architectural historians conduct historical research and field work to evaluate built-environment resources (e.g. buildings, structures, objects, and complexes).

When resources have the potential for multiple National Register associations (such as a mining complex with buildings, structures and archaeological sites), professionals from more than one discipline work together as a team to ensure that all pertinent resource values are adequately considered.

Qualified cultural resource professionals conducting evaluations apply **National Register eligibility criteria** (36 CFR §60.4){xe "National Register of Historic Places:eligibility criteria (36 CFR 60.4)"} to each resource. Because Caltrans (and consultants) prepare these evaluations for inclusion in technical reports subject to the FHWA's approval and supporting the FHWA's determination, proposed eligibility findings in the supporting documents need to be expressed as: properties "**appear**" eligible or ineligible for inclusion in the National Register. The FHWA will then change the wording to: properties "**are**" eligible or ineligible when the FHWA sends its official determination to SHPO for concurrence.

2-3.6 REPORTING IDENTIFICATION AND EVALUATION RESULTS

FHWA must consult with SHPO on the results of its findings. There may a number of findings:

- Scope of identification efforts - includes determination and documentation of the APE, results of seeking and gathering information on historic properties;
- Identification of historic properties – includes results of any surveys;

- Determinations of eligibility – FHWA has determined there are, or are not National Register eligible properties in the APE, based on the evaluations contained in the evaluation document(s)
- No Historic Properties Affected - there are no historic properties (National Register listed or eligible) in the APE;
- No Historic Properties Affected – there are historic properties in the APE but there no effects to them

TRANSMITTING NATIONAL REGISTER ELIGIBILITY FINDINGS

Caltrans transmits these findings to the FHWA, which reviews them, then submits the FHWA's determinations to the SHPO for concurrence. If the FHWA and SHPO agree on the determination of eligibility for a property, their joint finding constitutes a consensus determination for purposes of Section 106 compliance. If they disagree and are unable to resolve the disagreement, the FHWA must obtain a formal determination of eligibility from the Keeper of the National Register{xe "Keeper of the National Register"}.

NO HISTORIC PROPERTIES AFFECTED

If the FHWA and SHPO agree that no historic properties are present within the APE or the undertaking will have no effect on historic properties, Section 106 is concluded. It is important to consider the following factors in considering whether there will be an effect on historic properties within the APE:

- An effect does not have to be negative to be an effect;
- To have an effect, the undertaking must have the **potential to alter the characteristics that qualify the property for inclusion in the National Register**;
- The potential alteration does not have to be certain;
- Effects do not need to be direct and physical;
- Consideration should be given to changes that may occur in the reasonably foreseeable future.

SHPO 30-DAY REVIEW OF FINDING

The FHWA provides copies of its findings to the SHPO for review and SHPO has **30 days** to object. If there is no objection to the FHWA's finding of **no historic properties affected**, and then the Section 106 process is complete. However, SHPO objection to the finding triggers a finding of "historic proper-

ties affected." When historic properties may be affected, the FHWA proceeds to the next step, assessing whether the effects will be adverse.

EXPEDITED CONSULTATION

Typically, FHWA uses one document, the HPSR, to request SHPO's concurrence on several separate steps in the Section 106 process, which have been combined into one document. Each of these steps, however, has a separate 30-day review period. Under 36 CFR §800.3(g), FHWA can request an expedited consultation with SHPO on the scope of identification efforts through determination(s) of eligibility or "No Historic Properties Affected," but SHPO must agree that it is appropriate to do so and the public must have had an adequate opportunity to comment. The HPSR, however, needs to state FHWA is requesting an expedited consultation.

2-3.7 ASSESSMENT OF ADVERSE EFFECTS

To assess effects{xe "Effects, assessing"}, the FHWA applies the Criteria of Adverse Effect [36 CFR §800.5(a)(1) and (2)]{xe "Effect, Criteria of "} to determine whether its proposed activity will affect properties on or eligible for the National Register. There are two possible findings: no adverse effect and adverse effect.

According to the criteria, an **adverse effect** occurs when the **integrity of the historic property may be diminished** by the undertaking through alteration of the characteristics that qualify the property for the National Register. Such alteration can be caused directly as a result of the undertaking or indirect consequence.

Adverse effects include, but are not limited to:

- physical destruction, damage, or alteration, including moving the property from its historic location;
- isolation from or alteration of the setting;
- introduction of intrusive elements;
- neglect leading to deterioration or destruction
- transfer, sale or lease

NO ADVERSE EFFECT

A finding of no adverse effect is appropriate when:

- None of the undertaking's anticipated effects meet the criteria of adverse effect, or;

- The FHWA, after consultation, modifies the undertaking or agrees to conditions that will avoid adverse effects.

A finding of no adverse effect must be documented and forwarded to SHPO for their review. SHPO concurrence on the finding within **30 days** generally concludes the Section 106 process. SHPO disagreement with the FHWA's findings results in consultation and usually the FHWA changes its finding to agree that the project will have an adverse effect.

The FHWA is required to maintain a public record of the finding and carry out the undertaking in accordance with the finding. If the undertaking cannot be conducted consistent with the finding of no adverse effect, then the FHWA will have to reopen the Section 106 process.

ADVERSE EFFECT

An undertaking is considered to have an adverse effect when:

- An FHWA finds that any aspect of an undertaking meets one or more of the criteria of adverse effect;
- An FHWA agrees to change its finding of no adverse effect after a consulting party indicates its disagreement; or
- The ACHP reviews an FHWA's finding of no adverse effect and determines that the effect of the undertaking is adverse.

When a project will result in adverse effects to historic properties, the FHWA moves to the next step, resolving adverse effects. The purpose of this step is to continue consulting to reach agreement on measures that will enable the FHWA to proceed with its undertaking. The goal is to find measures that avoid unacceptable harm to historic properties.

2-3.8 RESOLUTION OF ADVERSE EFFECTS

When there is an Adverse Effect, the FHWA notifies ACHP and initiates consultation{xe "Consultation"} with the SHPO{xe "SHPO:as consulting party"}, seeking ways to avoid or reduce the adverse effect. Either the FHWA or the SHPO may invite ACHP{xe "ACHP"}{xe "ACHP:as consulting party"} to participate in the consultation, or ACHP may choose to participate without an invitation. Other interested parties{xe "Interested persons:as consulting parties"} may be invited to join the consultation, and must be invited under certain circumstances.

CONSULTATION TO DEVELOP AGREEMENT

The parties should make a good-faith effort to find acceptable ways to avoid or reduce the effects on historic properties. The FHWA, or its designee, gathers needed documentation, informs the public about the undertaking through its public involvement procedures, and works with the consulting parties to find a solution. The parties may agree to accept adverse effects when no reasonable alternatives are available and when the undertaking is in the best public interest despite effects on historic properties.

MEMORANDUM OF AGREEMENT

When the consulting parties have reached an agreement for avoiding, reducing, mitigating, or accepting adverse effects on historic properties, they sign a Memorandum of Agreement (MOA{xe "Memorandum of Agreement"}). **Caltrans{xe "Caltrans:as concurring party"} shall be a concurring party, therefore a signatory, to the MOA whenever it is required to perform any action as part of the agreement.**

When ACHP participates in the consultation, its execution of the three-party MOA{xe "Memorandum of Agreement:three-party"} concludes the Section 106 process. If ACHP is not a consulting party, the FHWA submits a signed two-party MOA{xe "Memorandum of Agreement:two-party"} for ACHP review. ACHP can accept the MOA, request changes to it, or issue written comments. If ACHP requests changes that are not accepted it will issue comments which the FHWA will consider in reaching a final decision on the proposed project. Before taking action, the FHWA will report its decision to ACHP.

2-3.9 IMPLEMENTATION OF AGREEMENT

If the Section 106 process has resulted in a signed MOA, the FHWA proceeds with its project according to the terms of the MOA{xe "Memorandum of Agreement:carrying out terms of"}. Caltrans and any other parties with responsibilities under the MOA usually **carry out the mitigation measures after the final environmental document is approved but before construction**. Within 90 days after completing all the required mitigation measures under the terms of an MOA, Caltrans reports to FHWA, SHPO, and ACHP on actions completed.

2-3.10 FAILURE TO AGREE AND TERMINATION

In the rare instances when the consulting parties fail to agree{xe "Failure to agree:on MOA"} on terms for an MOA, the consultation may be terminated.

In the event of termination, the FHWA shall request ACHP comments on the undertaking. The head of the FHWA (the Secretary of Transportation) must take into account ACHP's comments, after which the FHWA makes the final decision about how (or whether) to proceed with its proposed activity. After making its decision, the FHWA notifies ACHP.

ACHP{xe "ACHP:final response"} does not have veto power over a project. ACHP comments go to the highest levels of the federal government and can be a major obstacle to final agency approval of projects.

2-4 SPECIAL CONSIDERATIONS

2-4.1 CONSIDERING ALTERNATIVES

Preliminary studies{xe "Preliminary studies"}, such as walkovers and reconnaissance surveys, should be undertaken early in the planning and development process, at the PSR stage. In some situations, these preliminary studies will be sufficient to indicate that the environmental consequences of some alternatives{xe "Alternatives"} warrant dropping them from further consideration without expending additional effort.

Complete cultural resource surveys and any other necessary identification studies are undertaken for each project alternative formally considered in the environmental document. Each alternative should be studied to a roughly equal degree, in comparable detail.

Studies that are destructive by nature (e.g., archaeological test excavations) may be postponed until a preferred alternative has been selected, unless all proposed alternatives would affect a particular resource. Postponing test excavations pending selection of a preferred alternative avoids unnecessary damage to the resources, in accordance with Caltrans and FHWA's policy.

When the draft environmental document{xe "Draft environmental document:alternatives presented in"} is prepared, each alternative is presented in roughly equal detail, and the proposed treatment of each historic property that would be affected by each alternative is described in an appropriate level of de-

tail. A range of suitable mitigation options, rather than a precise commitment, may be presented if mitigation plans are not yet complete.

2-4.2 EMERGENCY UNDERTAKINGS

Section 106 responsibilities are not waived in emergencies{xe "Emergency undertakings"}, but alternative procedures outlined in 36 CFR §800.12 may be followed when the work proposed is an essential and **immediate** response to an officially declared disaster or state of emergency, **and** it is implemented within **30 days**.

DECLARED EMERGENCY

An emergency{xe "Emergencies:definition"} or a disaster must be officially declared by the President or the Governor in order to invoke 36 CFR §800.12 procedures.

Emergency situations also occur when there is an imminent threat to public health or property; rescue and salvage operations to preserve life and property are exempt from review.

The agency will notify SHPO and ACHP of the emergency undertaking and give them the opportunity to comment within **seven days**, if circumstances permit.

If the work will not be implemented **within 30 days** of the emergency or disaster, the undertaking must go through the standard Section 106 process. SHPO and the ACHP have indicated that they are willing to accommodate non-routine processing and to expedite reviews, however they will look for consideration of historic properties in project planning.

The DEB should immediately contact FHWA, or the FHWA involved, to determine appropriate procedures and initiate action. Some federal agencies may be able to make exceptions to their regular permitting process in a declared emergency. For example, permit requirements could be waived for repairs or replacement in kind, or a permit could be issued after the fact.

PROGRAMMATIC AGREEMENTS FOR EMERGENCY SITUATIONS

ACHP encourages federal agencies to develop Programmatic Agreements (PA) for taking historic properties into account under emergency{xe "Emergen-

cies:Programmatic Agreements for"} conditions. A PA would outline the procedures an agency would follow in response to disasters. It would identify prudent and feasible means to avoid or mitigate effects on historic properties, eliminating the need for lengthy consultation in emergency situations. Headquarters Cultural and Community Studies Office in the Division of Environmental Analysis will consider pursuing such an agreement with FHWA.

2-4.3 ENVIRONMENTALLY SENSITIVE AREAS

Environmentally Sensitive Areas (ESAs){xe "Environmentally Sensitive Area"} are locations of identified cultural, biological, or other resources that are to be protected by avoidance during Department activities. In the Section 106 process, an ESA is used chiefly to protect an **evaluated** archaeological property within or adjacent to an APE by avoidance during implementation of an undertaking. ESA protection of an archaeological site may form the basis for a No Effect finding.

> As a result of the recent revisions to Section 106 process, ESAs can only be used for **evaluated** resources and need to be protected from construction and other Caltrans activities.
>
> *FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a revised approach to using ESAs. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.*

In 1990, the Environmental Program (now the Division of Environmental Analysis) revised the guidelines for delineation and protection of ESAs. At the heart of the guidelines is the ESA Action Plan{xe "Environmentally Sensitive Area:ESA Action Plan"}. The DEBC should develop this plan in consultation with appropriate project development, construction, and maintenance personnel.

Careful use of ESAs is imperative:

- Failure to honor an ESA during construction may result in a reopening of the Section 106 process, causing project delays and jeopardizing continuing use of ESAs in general.
- Effective protection of a designated ESA may require such an extensive commitment of staff time that site evaluation and treatment might be a more prudent course of action.

Generally, ESAs adjacent to an APE are designed for protection from casual, inadvertent damage, peripheral to the project. However, APE boundaries should be reconsidered when designation of an ESA suggests a potential for project effects on the site.

The guidelines and format for the ESA Action Plan are presented in **Exhibit 34.**

2-4.4 LATE DISCOVERIES

Late discoveries most commonly occur when previously unidentified archaeological sites are uncovered during construction. In addition, other previously unknown resources could be discovered, or a project could be found to have unexpected effects on known historic properties.

If a late discovery occurs, work in the area of the resource must stop immediately. Caltrans should immediately notify FHWA, which notifies SHPO and ACHP.

FHWA is required to afford ACHP an opportunity to comment on project effects to newly discovered properties, as described under 36 CFR §800.11(b)(2). Caltrans will then develop an action plan that will be submitted to ACHP. The action plan takes into account the effects of the project on the property. The SHPO will be invited to assist in developing the action plan. **ACHP will provide interim comments on the action plan within 48 hours** of the request and final comments within 30 days.

If a project has potential for late discoveries{xe "Late discoveries:plan for"}, the FHWA is encouraged to develop a plan to deal with them (36 CFR §800.11[a]). Planning for late discoveries is undertaken as part of the consultation with the SHPO and ACHP. When discoveries are made after such a plan is in place, the FHWA need only proceed according to that plan.

Alternatives to this approach are available under 36 CFR §800. 11, but they tend to be time consuming or involve parties outside the usual Section 106 process and are consequently rarely used.

2-4.5 PROTECTING NATIONAL HISTORIC LANDMARKS

National Historic Landmarks (NHLs{xe "National Historic Landmark (NHL)"}) are properties of the highest level of national significance. Under Section 110{xe "Section 110"}(f) of the National Historic Preservation Act, federal agencies must give special protection to NHLs that may be affected by federal undertakings. Any NHLs within a project area must receive additional consideration, as described in 36 CFR §800.10.

When an undertaking may adversely affect a National Historic Landmark, the ACHP **must** be included as a consulting party to an agreement and **must** report

the outcome of the Section 106 process to the President, Congress, and Secretary of the Interior.

2-4.6 PUBLIC PARTICIPATION

The goal of public participation{xe "Public participation"} in the Section 106 process is to ensure that interested persons are able to learn about and voice their views on the effect of a project. Interested persons are defined as organizations and individuals that are concerned with the effects of an undertaking on historic properties. Evidence of coordination with all interested persons and the results of that coordination shall be documented in Caltrans Section 106 documents.

During the identification and evaluation stage, District Environmental Branch (DEB) staff identifies and invites interested members of the public{xe "Interested persons"} to provide information on cultural resources. The DEB must notify all consulting parties and members of the public who express an interest in the proposed project during pre-field research of the results of the identification phase, even when no historic properties are found within the APE. When historic properties are found that may be subject to project effects, persons who have expressed a demonstrated interest may want to continue participation.

CONSULTING PARTIES

The FHWA shall involve the following parties to participate as consulting parties in the consultation to resolve adverse effects to historic properties:

- SHPO [36 CFR §800.2(c)(1)]
- Tribal Historic Preservation Officer (THPO) for tribes that have assumed SHPO responsibilities when affected historic properties are on tribal lands, or representative of a (federally recognized) Indian tribe, when an undertaking will affect Indian lands or properties of historical or cultural value to the tribe on non-Indian lands [36 CFR §800.2(c)(2)];
- **Head of a local government**, when the undertaking may affect historic properties within the local government's jurisdiction (its area of authority or control) [36 CFR §800.2(c)(3)];
- **Applicants** for federal assistance (such as Caltrans), and applicants or holders of grants, permits, or licenses that are subject to Section 106 review [36 CFR §800.2(c)(4)];

Upon request and in consultation with the SHPO/THPO, the FHWA **may** invite others to participate as consulting parties in the consultation to resolve adverse effects to historic properties. Individuals and organizations with a demonstrated interest in the undertaking, due to their legal or economic rela-

tion to the undertaking or the affected historic properties, or their concern with the undertaking's effects on historic properties are in this category [36 CFR §800.2(c)(5)]. This may include for example owners who hold title to real property within an undertaking's APE, and private historic preservation organizations.

If a proposed project may affect federal or state lands{xe "Public lands:projects affecting"}, the appropriate land-holding agencies shall be contacted for information regarding historic properties on their land and shall be formally invited to be parties to any subsequent actions.

U.S. FOREST SERVICE AND NATIONAL PARK SERVICE AS CONSULTING PARTIES

The U.S. Forest Service{xe "U.S. Forest Service"} and the National Park Service{xe "National Park Service"} have requested to be consulting parties on all projects that affect historic properties on their lands. For such projects, Caltrans shall:

- Request information from the appropriate National Forest or National Park to assist in the identification of historic properties;
- Notify both the Forest Supervisor and the Forest Service Regional Forester or the National Park Superintendent and the National Park Service Regional Director of no property or no effect findings;
- Consult with the Regional Forester and Forest Supervisor or with the National Park Superintendent and National Park Service Regional Director on no adverse effect determinations; and
- Routinely invite the Regional Forester or the National Park Service Regional Director to be a consulting party for any project in which adverse effects will occur on historic properties in that jurisdiction.

PUBLIC PARTICIPATION PROCESS

Public participation{xe "Public participation:how to achieve"} in the Section 106 process may be achieved by using Caltrans' procedures for compliance with the National Environmental Policy Act (NEPA) and Caltrans project development process. Participation may include public meetings, hearings, or newspaper notices, although the degree of effort and timing may vary. Public comments and opinions and the FHWA's response to those comments must be included in the documentation for the public participation process.

2-4.7 REVIEW TIMES

Section 106 regulations (36 CFR §800) specify review times{xe "Project schedules:review periods "} for various stages in the process, but they should not be misinterpreted or underestimated. Below are some circumstances that can affect review times:

- The SHPO{xe "SHPO:review period"} interprets the 30-day review period as beginning when a document received in the office and date-stamped in. The review period ends when SHPO prepares a response for mailing. Allow for additional mail and handling time.
- Review time periods can also be viewed as cumulative. A single document presenting a) scope of identification efforts, b) eligibility evaluations, and c) finding of effect, could be considered as taking an aggregate review time of 90 days (30 days to review each of these stages in the consultation process).
- Review time lengthens if SHPO must request additional information or questions a finding. Clear, logical, well-documented, and well-justified findings help reduce delays.
- SHPO delays need not stop the review process. The regulations provide alternative processes to follow if SHPO fails to respond within the allotted time period or if there is failure to agree. However, alternatives may take even longer.
- The Advisory Council (ACHP) {xe "ACHP:review period"}also has 30- and 60-day review periods for projects that have effects on historic properties. ACHP review comes after SHPO's review. If ACHP has questions or objections, this also can extend review times.

It is best to start the process **early**, prepare adequate documents, and schedule enough time to allow for any complications or delays.

2-4.8 SECTION 4(F) AS IT RELATES TO SECTION 106

"USE" OF HISTORIC PROPERTY

- Section 4(f){xe "Section 4(f)"} of the 1966 Department of Transportation Act prohibits **use** of land from any historic property on or eligible for the National Register unless there is no feasible and prudent alternative to the use of land from the affect historic property and the project includes all possible planning to minimize harm. The implementing regulations are for Section 4(f) appear in 23 CFR §771. FHWA has issued in Guidance for Preparing and Processing Environmental and Section 4(f) Documents,

which can be downloaded. Prepared as part of the environmental document, a Section 4(f) evaluation may be required when there is a finding of Adverse Effect under Section 106.

The federal transportation agency determines whether Section 4(f){xe "Section 4(f):adverse effect under Section 106"} applies to specific projects. Under most conditions, a Section 106 finding of adverse effect{xe "Adverse effect:as *use* under 4(f)"} to a National Register listed or eligible property constitutes "use" under Section 4(f). Measures that would mitigate an adverse effect under Section 106 will generally also avoid "use" under Section 4(f).

FHWA may determine that Section 4(f){xe "Section 4(f):historic transportation facilities"} does not apply to restoration, rehabilitation, or maintenance of historic transportation facilities when

- FHWA concludes the work will not adversely affect the historical qualities of the facility, and
- SHPO and ACHP do not object to this finding.

Section 4(f){xe "Section 4(f):related to archaeological sites"} does not apply to archaeological sites that are determined important chiefly for their information value and have minimal value for preservation in place. This principle applies regardless of whether data recovery is undertaken. ACHP has determined, however, that while disturbances to archaeological sites known or likely to have human burials would constitute an adverse effect under Section 106, such disturbance would not require a Section 4(f) evaluation.

"CONSTRUCTIVE USE"

Section 4(f){xe "Section 4(f):constructive use"} also may apply when the effects are not direct impacts (or direct takes); such impacts are called a **"constructive use**." Constructive use means there are proximity (or non-direct) impacts to a historic property that are so severe that the property's features or attributes are substantially impaired. Adverse effects that are proximity impacts (such as visual, audible, or atmospheric effects) may are may not be considered constructive use under Section 4(f). It would depend on the magnitude of the effect and whether the proximity impact causes substantial impairment to the qualities that make the property eligible for the National Register.

FHWA's Washington, DC office determines whether proximity impacts constitute constructive use under Section 4(f). Such a determination requires approximately 6 months to process through FHWA. The DEBC should allow for that extra time when scheduling preparation of the environmental document.

The Section 4(f) evaluation is usually presented in the draft environmental document, but it may appear as a separate document. It must demonstrate why the alternatives to avoid a Section 4(f) property are not feasible and prudent, and describe the measures that will be taken to minimize harm to the Section 4(f) property.

Two nationwide programmatic Section 4(f){xe "Section 4(f):programmatic evaluations"} evaluations apply to historic properties (which can be downloaded from FHWA's Environment web-site):

- Programmatic Section 4(F) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges, which allows demolition of historic bridges if they are not National Historic Landmarks, there is no prudent and feasible way to save the bridge AND FHWA, SHPO and the ACHP have reached agreement on the project under Section 106.
- Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites, which pertains to undertakings with only minor effects on historic properties, which result in No Effect or No Adverse Effect findings under Section 106, SHPO agrees in writing to the finding and ACHP does not object to the finding of No Adverse Effect.

These programmatic Section 4(f) evaluations are contained in the Federal Register 48[163], August 22, 1983, pp. 38135-38140; and 52[160], August 19, 1987, pp. 31111-31119, respectively.

2-5 SECTION 106 DOCUMENTS

2-5.1 INTRODUCTION

Two primary documents{xe "Documents:in Section 106"} serve as compliance vehicles for the Section 106 process: the Historic Property Survey Report (HPSR) and the Finding of Effect.{xe "Finding of Effect"} The HPSR is a summary document for reporting the scope of identification efforts and evaluation of cultural resources with the supporting technical reports containing the detailed analyses appended to it. A Finding of Effect is prepared subsequent to the HPSR and is used to present an analysis of effect determinations when a project may affect historic properties.

2-5.2 HISTORIC PROPERTY SURVEY REPORT

INTRODUCTION

FHWA and Caltrans use the Historic Property Survey Report (HPSR){xe "HPSR:and effect findings"} as the primary document to fulfill several requirements of 36 CFR §800. It documents Caltrans/FHWA efforts to **identify** historic properties; **evaluate** the National Register eligibility of cultural resources, when there are resources that need to be evaluated; and document a finding of **No Historic Properties Affected**, if applicable.

In rare instances, with prior FHWA approval, it may be possible to streamline the Section 106 process for simple projects with no potential for disagreement or controversy by using the HPSR to document No Adverse or Adverse Effect findings. However, in almost all cases, such effect findings should be submitted in a separate Finding of Effect document, after the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) has concurred on the scope of identification efforts and adequacy of the evaluation efforts.

The HPSR{xe "HPSR:as cover document"} serves as a number of functions, in addition to being the cover document for the technical reports: The HPSR:

- summarizes the identification efforts, which includes documenting the Area of Potential Effects (APE) as set by the FHWA Transportation Engineer;
- summarizes the National Register eligibility conclusions for cultural resources described and evaluated in the attached reports and indicates that these supporting documents contain full technical details.

- Provides evidence of coordination with local Native American groups, local governments, historical societies, and other interested persons;
- provides evidence that FHWA and Caltrans have satisfied federal and state environmental laws regarding the identification of cultural resources; and
- analyzes a finding of No Historic Properties Affected when there are no historic properties within the APE or there in no effect on historic properties; and
- requests SHPO's comments and concurrence on the findings contained in the HPSR.

Because the majority of Caltrans projects for which HPSRs are prepared do not affect historic properties, this document, with its attachments, will be the only document for Section 106 compliance and would be the only document that SHPO reviews. Because the HPSR can address multiple issues in a single document, it can consolidate and reduce the number of documents needed for SHPO review, and can thus help reduce overall preparation, transmittal and review time.

An HPSR can vary greatly in length and complexity because the studies{xe "Cultural resoource studies:in HPSR"} necessary to identify cultural resources will also vary, depending on the project and the types of resources within the APE or Study Area. For example, cultural resource studies must be conducted when there are buildings or structures present. An archaeological study will be undertaken when a project would disturb the ground, but may not be required when the ground within the proposed project area is completely disturbed by prior modern construction. See **Exhibit 7** for a rough estimate of the length of time needed to complete the variety of cultural resource studies that might be necessary.

The body of the report can be very brief when summarizing attached technical reports. However, when the HPSR also is used to convey a No Historic Properties Affected finding, it must contain all information necessary to describe and support the finding.

The HPSR{xe "HPSR:content and organization"}'s content and organization should be monitored to ensure that it adequately serves necessary functions while limiting redundancies and simplifying the review process. For example, if voluminous sets of identical maps accompany each attached technical report, duplicates can be removed before submittal to SHPO. Tabs can also be used to guide reviewers to the various sections or attachments.

HPSR TYPES

Two types of HPSRs are prepared, depending upon the presence and type of cultural resources within the APE. The Negative HPSR is fairly straightforward and simple and is used only in very specific situations to report that there are no historic properties in the APE; those situations are outlined below. The Positive HPSR is used to report the existence of cultural resources that require more than a perfunctory identification effort, as described below.

Caltrans cultural resource specialists (or consultants) prepare the HPSR and supporting technical reports; Caltrans forwards the documents to FHWA for their review and approval. If the HPSR is negative, it is filed in district files. If it is positive, FHWA submits the document{xe "Positive HPSR:transmittal to SHPO"} to the SHPO. FHWA's memo transmitting the Positive HPSR requests SHPO's comments on the adequacy of the scope of identification efforts, determinations of eligibility findings for any cultural resources in the APE, and requests an concurrence on all the findings in the HPSR.

NEGATIVE HPSR{XE "NEGATIVE HPSR"}

The Negative HPSR was developed in an agreement between Caltrans, FHWA, and SHPO, dated March 1, 1984, to provide an appropriate format for reporting negative findings. When there are no cultural resources of any kind in the APE, or the APE contains no resources that require further study because they are excluded resources; a Negative HPSR is prepared to certify that no historic properties are located within the Project APE.

When to use the Negative HPSR

The **Negative HPSR** may be used when there are:

> If there are **any** archaeological sites within the APE, a Positive HPSR must be prepared regardless of disturbance or apparent lack of research values.

- **No** archaeological sites, buildings, or structures within or adjacent to the APE.
- Buildings or structures within or adjacent to the APE, but **only**:
  1. buildings treated under the "Caltrans Interim Policy for the Treatment of Buildings Constructed in 1957 or Later, dated June 1, 2001" (use restricted to Caltrans staff who meet the Secretary of the Interior's Professional Qualifications Standards for architectural history)
  2. buildings or structures previously determined not eligible for inclusion in the National Register

- Bridges in the APE that were 50 years old or older in 1986 and are listed as Category 5 in the Caltrans Historic Highway Bridge Inventory{xe "Caltrans Historic Highway Bridge Inventory"}

For the non-archaeological resources cited above, the Negative HPSR must include the following supporting documentation, as appropriate:

- a memo from a qualified Caltrans architectural historian stating that all the buildings in the APE qualified for treatment under the Interim Policy state above;
- evidence of the SHPO's previous concurrence on ineligibility, such as a copy of the concurrence letter; or the Keeper of the National Register's formal determination of ineligibility, such as the Keeper's "E.O. 11593" Form Letter
- a copy of the Bridge Inventory sheet listing the Category 5 bridges (the version available on-line through the Division of Environmental Analysis web-site also includes construction dates that evidence the bridge was 50 or more years old in 1986.

Use of the Negative HPSR format applies only to projects processed through either a Negative Declaration/Finding of No Significant Impact (ND/FONSI) or an Environmental Impact Report/Environmental Impact Statement (EIR/EIS). See **Exhibit 37** for procedures to follow for Section 106 compliance on Categorical Exemption/Categorical Exclusion (CE) projects.

Processing the Negative HPSR

District cultural resources specialists prepare the Negative HPSR{xe "Negative HPSR:processing"}, which the FHWA Transportation Engineer then reviews and signs. For projects handled under an ND/FONSI, the FHWA Transportation Engineer's approval and signature on the Negative HPSR completes the Section 106 process. The environmental document summarizes the results of the Negative HPSR and includes a statement that no historic properties were identified within the APE.

The District Environmental Branch retains the signed Negative HPSR and supporting documentation in its project files. The District HRC sends one copy of the Negative HPSR to the Cultural and Community Studies Office (CCSO) in Headquarters for filing.

If the FHWA Transportation Engineer disagrees with the findings and does not sign the Negative HPSR, the Transportation Engineer may ask for more supporting information or may send the Negative HPSR to the SHPO for consultation on the findings. In that case, processing procedures would be the same as for Positive HPSRs.

All projects requiring an EIR/EIS also require that both Negative and Positive HPSRs be submitted to FHWA for review and approval, then submitted to SHPO for review and comment. The SHPO's response letter to the findings in the Negative or Positive HPSR will be included in the EIS as an exhibit demonstrating Section 106 compliance.

Exhibit 18 contains the format for the Negative HPSR Form{xe "Negative HPSR:form"} that may be used instead of a narrative text.

POSITIVE HPSR

When cultural resources that require evaluation are present in the APE, **whether eligible or not**, the Positive HPSR{xe "Positive HPSR:findings"} is the vehicle for submitting the eligibility findings to the SHPO for concurrence. A **Positive HPSR** is written whenever the project does not qualify for the Negative HPSR. The Positive HPSR is used even if the resources present will not be affected by the proposed project. The presence of **any** archaeological site within or adjacent to the APE also requires a Positive HPSR.

In general, any reference to an HPSR means Positive HPSR, unless stated otherwise.

When to use the Positive HPSR

A **Positive HPSR**{xe "Positive HPSR"} is prepared when the APE contains:

- historic properties listed on or previously determined eligible for listing on the National Register of Historic Places; or
- any built-environment cultural resources that require evaluation; or
- any archaeological sites.

FWHA and Caltrans may use a Positive HPSR for various purposes:

- The HPSR may simply document survey findings, in which case FHWA requests that SHPO confirm the adequacy of the studies to date. This use is restricted to projects that involve **only** archaeological sites for which Phase II testing cannot be accomplished in a timely manner.
- FHWA may use it to obtain SHPO concurrence on FHWA's determinations of eligibility for resources that were evaluated during the survey phase.
- FHWA may also use it to document a finding of No Historic Properties Affected when there are no historic properties in the APE, or no historic properties will be affected by the project. If the HPSR is used to document this finding, SHPO's concurrence with the finding completes the Section 106 process.

Under most circumstances, National Register eligibility evaluations for built-environment resources (such as buildings, structures, districts and complexes) are included in the appropriate technical report that is attached to the HPSR. On occasion an archaeological site National Register eligibility evaluation that is based on research and surface survey information without test excavation is included in the appropriate HPSR technical report. The HPSR may report a finding that further studies are necessary to evaluate the eligibility of archaeological sites through testing.

A Positive HPSR{xe "HPSR:with archaeological sites"} is also used when archaeological sites in the APE will require Phase II test excavations to determine their National Register eligibility. In these circumstances, the HPSR documents the presence of potentially eligible sites within the APE and states that archaeological testing to determine eligibility will be undertaken if the selected alternative will affect the sites and the project cannot be redesigned to avoid them. After a test excavation is completed, a Supplemental HPSR{xe "Supplemental HPSR"} may be submitted with the test excavation report or a preliminary report, if necessary.

When the HPSR identifies historic properties that can be avoided through redesign of the project, or archaeological sites that can be protected by establishing ESAs, the HPSR can also document a No Historic Properties Affected finding.

If the EBC or higher management disagree with the conclusions of a staff-prepared HPSR, the HPSR may be rewritten. However, management may not change the findings of any signed underlying technical report without the author's express permission.

Processing the Positive HPSR

Both Positive HPSRs{xe "Positive HPSR:processing"} and Supplemental HPSRs{xe "Supplemental HPSR:processing"} are currently processed as follows:

The DEBC transmits three copies of the HPSR to the FHWA Division Administrator for processing.

The Caltrans letter to FHWA transmitting the HPSR will request FHWA's concurrence studies to date and any eligibility assessments, and request that FHWA forward the HPSR, requesting SHPO concurrence in the adequacy of the scope of identification efforts to date, as well as concurrence with and FHWA determinations of eligibility. If pertinent, the letter may request concurrence in the finding that no historic properties are affected by the project. (See sample transmittal letter in **Exhibit 36.**)

The District sends one copy of the HPSR to CCSO in Headquarters for filing, along with a copy of the transmittal memo.

After reviewing the HPSR{xe "HPSR:in consultation"}, FHWA prepares its findings and transmits them along with a copy of the HPSR to the SHPO, requesting concurrence on the adequacy of the scope of identification efforts to date, any determinations of National Register eligibility for affected cultural resources, and if applicable any effect determinations.

Consultation between FHWA and SHPO by means of the HPSR will typically result in one of the following:

- SHPO agrees that the scope of the identification efforts is adequate, and that the undertaking does not affect historic properties.
- SHPO concurs only in the finding that the scope of the identification efforts to date is adequate (generally when there are archaeological resources within the APE that require further evaluation through test excavation).
- SHPO agrees that scope of the identification efforts adequate, and concurs with FHWA's determination(s) of eligibility for properties within the APE.
- SHPO concurs with FHWA that the undertaking will not affect historic properties.

In the event that FHWA and SHPO do not reach agreement on FHWA's determination(s) of eligibility,{xe "Failure to agree"}{xe "Failure to agree:on eligibility"} FHWA must obtain a formal determination of eligibility from the Keeper of the National Register, whose determination is final. If SHPO objects to a finding of No Historic Properties Affected, the undertaking is considered to have an adverse effect, and FHWA must apply the Criteria of Adverse Effect, and continue consultation.

At the conclusion of consultation, FHWA sends the DEBC and CCSO the results of the consultation with SHPO along with a copy of the SHPO's letter. If the SHPO letter documents concurrence with FHWA's determination(s) of eligibility or provides evidence that FHWA has complied with Section 106, SHPO's letter is attached as an exhibit to the environmental document. A statement summarizing the consultation is also included in the environmental document.

Exhibit 17 provides an outline of the format and instructions for preparing an HPSR.

SUPPLEMENTAL HPSR

It is sometimes necessary to prepare a Supplemental HPSR{xe "Supplemental HPSR:format"} to account for project-related factors not treated in the original HPSR.

When to Use the Supplemental HPSR

Common reasons for preparing a Supplemental HPSR include the following:

- A project APE has been revised or enlarged, resulting in the need to consider cultural resources not covered in the original HPSR.
- A Phase II or preliminary report on an archaeological site has been completed, providing eligibility information that was not available in the original HPSR.
- The original HPSR requires revision because project has changed, there is a need for an environmental reevaluation, or there have been changes to a previously evaluated cultural resource.

A Supplemental HPSR follows the general format of the HPSR and includes all pertinent new or revised technical documents. It presents abbreviated information regarding the project generally and summarizes the findings of the original HPSR, but it will focus upon the results of identification and evaluation efforts within an expanded APE or upon the changed conditions which led to preparation of the Supplemental HPSR. If the change involves archaeological sites that have been subjected to Phase II excavations to assess eligibility, the Phase II or preliminary report will be attached to the Supplemental HPSR.

RELATIONSHIP OF HPSR TO CE

Projects handled, as a Categorical Exclusion (CE) under the National Environmental Policy Act may not require an HPSR. See **Exhibit 37** for procedures to follow for Section 106 compliance on CE projects.

2-5.3 FINDING OF EFFECT

Caltrans should begin to prepare the Finding of Effect as soon as it becomes reasonably clear that the document will be needed. While the responsibility for determining effect formally lies with FHWA, Caltrans prepares all Finding of Effect documents for federally funded Caltrans projects. FHWA uses the Caltrans-prepared Finding of Effect for its consultation with SHPO/THPO, and when applicable, ACHP.

A **separate** Finding of Effect (FOE){xe "Finding of Effect"} document is prepared when:

- a project is found to have an effect on historic properties, or
- a project will have no effect on historic properties but project effects were not dealt with in the HPSR, or
- SHPO/THPO objects to a No Historic Properties Affected finding.

It is advisable for District staff to coordinate with the FHWA Transportation Engineer on project effects and possible mitigation measures prior to finalizing the FOE.

The Finding of Effect assesses a project's effect on historic properties through application of the **Criteria Adverse Effect** [36 CFR §800.5(a)(1) and (2)]. In consultation with SHPO/THPO, the FHWA applies these criteria to determine if the project will have an adverse effect on historic properties. If an effect is found, the FHWA needs to determine which of the two kinds of effects the project would have on historic properties:

- No adverse effect, or
- Adverse effect.

If the APE contains more than one historic property, it is possible that the project may have no adverse effect on several historic properties, but an adverse effect on one historic property. The finding of effect document, however, will be at the highest level of effect found for any one historic property in the APE. For example, there are four historic properties in the APE and the project would have no effect on one historic property, no adverse effect on two historic properties and an adverse effect on one historic property. The project, overall, would have an adverse effect – the highest level of effect.

A single **Finding of Effect** is prepared for the project as a whole, but the report should contain a description and analysis of the individual effects to each historic property in the APE.

When the project would effects to historic properties, depending on the type and severity of the effect, Caltrans and FHWA may use the Finding of Effect document to:

- describe why the project effects do not meet the Adverse Effect, in which case the document would be a Finding of No Adverse Effect (FNAE), or
- propose modification of the project or conditions that would avoid adverse effects in a Finding of No Adverse Effect document, or

- propose measures to minimize or mitigate the adverse effects, in which case the document would be a Finding of Adverse Effect (FAE).

When historic properties could be adversely affected, Caltrans prepares a Finding of Adverse Effect for FHWA to submit to SHPO/THPO and the ACHP. The finding may be submitted alone, to be followed later by a Memorandum of Agreement{xe "Memorandum of Agreement"} (MOA) with proposed mitigation measures, or a draft MOA may accompany the FAE document. If accompanied by an MOA, the finding discusses mitigation measures and project alternatives considered but rejected, with reasons for decisions. The FAE document includes a summary of individual effect findings for all the historic properties in the APE, including any findings of No Effect.

The Caltrans letter to FHWA transmitting the Finding of Effect requests FHWA to consult with SHPO/THPO, and if appropriate, ACHP regarding the project's effects on historic properties in the APE. The District HRC sends a copy of the transmittal memo, along with Finding of Effect document, to the CCSO in Headquarters.

For Finding of Effect{xe "Finding of Effect:format"} format and content guidelines, see **Exhibit 33**.

FHWA's review of the Finding of Effect and consultation with SHPO/THPO will result in one of the following: Notification of No Historic Properties Affected, Finding of No Adverse Effect, or Finding of Adverse Effect.

NO HISTORIC PROPERTIES AFFECTED

A Finding of No Historic Properties Affected {xe "No Effect"}is appropriate when the undertaking will have no effect on historic properties, as defined in 36 CFR §800.16(i); in other words, the project will not alter the characteristics that may qualify the historic property for the National Register.

When the No Historic Properties Affected finding was not included in a previously submitted project HPSR, Caltrans prepares a separate Notification of No Historic Properties Affect for Section 106 compliance. Once FHWA receives this document from Caltrans, FHWA notifies the SHPO/THPO and all consulting parties, documents the finding, and makes the documentation available for public inspection.

Assuming FHWA has previously consulted with SHPO/THPO on the scope of identification efforts and evaluation, and upon receipt of the notice and documentation, the SHPO/THPO has 30 days to comment on the finding. If the SHPO/THPO objects within 30 days of receiving such notice and documentation, FHWA must notify all consulting parties that the project affects historic

properties and invite their views. FHWA continues consultation with SHPO/THPO and applies the Criteria of Adverse Effect to the project.

APPLICATION OF THE CRITERIA OF ADVERSE EFFECT

FHWA, in consultation with SHPO/THPO applies the Criteria of Adverse Effect [36 CFR §800.5(a)(1) and (2)] to determine if the effects will be adverse or not adverse.

NO ADVERSE EFFECT

ASPECTS OF INTEGRITY	
* Location	* Workmanship
* Design	* Feeling
* Setting	* Association
* Materials	

The Finding of No Adverse Effect {xe " No Adverse Effect"}applies when there will be an effect, but the effect will not alter any of the characteristics that qualify the historic property for the National Register in a manner that would not diminish property's seven aspects of integrity.

When effects are present but are not defined as adverse, the finding would be No Adverse Effect. Similarly, if there are effects but Caltrans and FHWA either propose modifications to the project or impose conditions to avoid adverse effects, the finding would be No Adverse Effect.

For example, when a data recover program will substantially preserve information contained in an archaeological site that is important only for its information value, a finding of No Adverse Effect would be reasonable. The data recovery plan, research design or a written commitment to prepare one for SHPO/THPO review must accompany the effect finding.

Conditions that are imposed to reach a No Adverse Effect finding might also include SHPO/THPO's review of plans (such as rehabilitation plans) to ensure consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

When FHWA and SHPO/THPO agree on a No Adverse Effect finding, FHWA submits the finding and documentation to ACHP for concurrence.

ADVERSE EFFECT

The Finding of Adverse Effect{xe " Adverse Effect"} (FAE) applies when the effect of the project may diminish the historic property's integrity, adversely affecting the characteristics that qualify the property for listing in the National Register.

When a project will have an adverse effect on historic properties listed in or eligible for listing in the National Register, the consulting parties execute a Memorandum of Agreement{xe "Memorandum of Agreement"} (MOA) to take project effects into account. In an MOA, the consulting parties agree on measures to avoid, reduce, or mitigate adverse effects on historic properties, or to accept such effects in the public interest. (See **Exhibit 35** for the MOA format.)

At a minimum, the consulting parties{xe "Consulting parties"} include FHWA{xe "FHWA:as consulting party"} and SHPO/THPO{xe "SHPO:as consulting party"}. Caltrans is a formal consulting party to the MOA when responsibilities are assigned to Caltrans in the MOA stipulations. ACHP{xe "ACHP:as consulting party"} may choose to participate in the consultation, or FHWA or SHPO/THPO may request ACHP participation. Other interested parties{xe "Interested persons:as consulting parties"}, such as the head of local government or the representative of a Native American tribe, must be invited to participate under certain circumstances and may be asked to participate at the discretion of the consulting parties.

MEMORANDUM OF AGREEMENT (MOA)

The MOA serves three important functions in the Section 106 process:

- It completes the process for a project on which an adverse effect will occur;
- It specifies the measures that will be implemented to mitigate, avoid, or reduce adverse effects on historic properties; and
- It establishes responsibility for implementing each of the measures.

The District Environmental Branch Chief (DEBC), or at the district's request CCSO Chief, submits the Finding of Adverse Effect to FHWA. The submittal may include a draft MOA, or an MOA may be prepared later. FHWA then notifies all consulting parties, including SHPO/THPO and ACHP that there is an Adverse Effect to historic properties and formally consults with SHPO/THPO seeking ways to avoid or reduce the Adverse Effect.

Any of the three major consulting parties (FHWA, SHPO/THPO, or ACHP) may prepare an MOA{xe "Memorandum of Agreement:draft"}. The DEB staff, or at the district's request CCSO staff, usually drafts an MOA on behalf of FHWA, to be submitted through FHWA to SHPO/THPO and ultimately to the ACHP. It may be rewritten several times in the course of the consultation process. Two-party MOAs{xe "Memorandum of Agreement:two-party"} are

used to reach agreement between FHWA and SHPO/THPO, while three-party MOAs{xe "Memorandum of Agreement:three-party"} are used to reach agreement when ACHP participates along with FHWA and SHPO/THPO.

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include standard mitigation measures. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.

On routine projects with predictable MOA stipulations, it is efficient to submit an MOA with the FAE document. For controversial projects, however, it may be prudent to submit the FAE alone, then to continue consultation with the SHPO/THPO regarding appropriate mitigation measures. The MOA would then be written following verbal agreement among the parties on appropriate mitigation measures. When the MOA is written after the Finding of Adverse Effect is submitted, the MOA submittal to ACHP must be accompanied by information on mitigation measures and project alternatives considered but rejected and the reasons for their rejection. Since the FAE should contain these discussions, submitting a copy of the FAE along with the MOA will satisfy this requirement.

Regardless of authorship, the MOA should be prepared in accordance with the current version of ACHP's *Preparing Agreement Documents*, and it should be submitted either as a separate document that is submitted when the Finding of Adverse Effect is submitted, or submitted on its own as described above.

The signed MOA is also crucial to the Section 4(f) evaluation for a project involving an adverse effect to a historic property. It is crucial because the MOA demonstrates that the consulting parties have completed all possible planning to minimize harm to the historic property.

FAILURE TO AGREE

If the consulting parties fail to agree, FHWA must request ACHP's comments on the project in lieu of an MOA. **Except in failure-to-agree{xe "Failure to agree"} situations, FHWA will not approve the final environmental document{xe "Final environmental document:with signed MOA"} without a signed MOA.**

2-5.4 RELATIONSHIP OF SECTION 106 TO THE ENVIRONMENTAL DOCUMENT

The Section 106 process usually progresses to the point where SHPO/THPO has concurred in any historic property eligibility determinations and has been

consulted regarding project effects on historic properties before FHWA gives its approval to circulate the draft environmental document{xe "Draft environmental document:and Section 106"}.

If archaeological sites are not a major factor in selecting a preferred alternative, eligibility and effect determination for archaeological sites may be deferred until after circulation of the draft environmental document. Because of concern for identifying potential Section 4(f) properties, sufficient information must be available to evaluate whether each site is important chiefly for what can be learned through data recovery or if it warrants preservation in place. For projects with multiple alternatives, the draft environmental document should explain the proposed treatment of historic properties for each alternative in appropriate detail.

Some flexibility does exist, but FHWA must approve any deviations from the standard Section 106 milestones in the draft environmental document.

Although the draft environmental document **may** be used in place of submitting a separate document as the vehicle to afford ACHP an opportunity to comment on a project, this approach is **not recommended** because of potential delays, the need for unwieldy detail on historic property effects and proposed treatments, dispersal of pertinent historic property discussions throughout the document, and the potential for complicating the environmental process.

The final environmental document{xe "Final environmental document:and Section 106"} must demonstrate that all requirements of 36 CFR 800 have been met.

If the preferred alternative has an effect on historic properties, the final environmental document must provide evidence of the outcome of consultation. It may present:

- a copy of ACHP's correspondence documenting agreement with a Finding of No Adverse Effect,
- a copy of a fully executed MOA, or
- a copy of ACHP's written comments on the project and FHWA's response to those comments.

Mitigation measures are carried out after the final environmental document is approved.

Discussions of historic properties in the environmental document should be clear, concise, and to the point. The environmental document should include summaries of the following:

- the results of surveys undertaken (if no survey was performed, explain why not);
- the number and type of National Register eligible or listed historic properties in the APE;
- the number and type of historic properties to be affected by the project; and
- the proposed treatment of those historic properties.

Include in the environmental document's appendix letters documenting SHPO/THPO and ACHP agreement, as appropriate. If no historic properties were identified, a statement so indicating is included in the environmental document, but no supporting documentation is required. The environmental document, however, should identify the methods used to arrive at that conclusion, such as the preparation of a Negative HPSR.

Special instructions exist for treating historic properties for Categorical Exclusion (CE) projects{xe "Categorical exclusions"}. CE–Section 106 Checklist/Memo to File can guide District staff through a series of decisions to decide whether and what type of HPSR will be required for a CE project. See **Exhibit 37** for the CE–Section 106 Checklist.

All back-up reports referenced in an environmental document must be made available to the public. This may include an HPSR. If an ASR contains information or mapping showing the locations of archaeological sites, however, the ASR shall be removed from **all** copies of the HPSR before it is circulated to the public. In its place, a page should then be inserted explaining that the ASR has been deleted because archaeological records are confidential. Section 6254.10 of the Government Code exempts archaeological records from public disclosure requirements.

It is important that cultural resources specialists who prepare cultural resources summaries for Section 106 documents also prepare the historic property summaries to be included in environmental documents. District cultural resource specialists should review historic property sections of environmental documents for clarity and completeness. Close cooperation will help ensure adequate and accurate summaries of Section 106 compliance in the environmental documents.

2-5.5 INTERNAL REVIEW OF SECTION 106 DOCUMENTS{XE "DOCUMENTS:REVIEW OF"}

The District Director has review and approval authority for all cultural resource compliance documents. Prior to submission to FHWA, these documents must be reviewed internally. District cultural resources specialists, or upon request, CCSO cultural resource specialists will review these documents. CCSO staff

will give such reviews the highest priority in work assignments, and will complete review within 10 working days of receipt of request. Districts may arrange routine review of documents with the appropriate CCSO Branch Chief.

When reviewing documents that will be submitted to comply with Section 106, it is necessary to remember the purpose of the submittal and the external agency reviews.

The document must present clear, factual information about the project, supported by technical studies that are professionally competent and trustworthy. External reviewers generally know only what is presented in the document. What seems obvious to specialists who prepared the studies isn't necessarily obvious to external agency reviewers. Caltrans-specific terminology and acronyms are not clear to everyone. External reviewers also have their own needs for particular items of information, such as individual property addresses that need to be entered into their databases in a specific way.

In general, reviewers will keep the following questions in mind:

- What is the project? Is it clearly described?
- Where is the project? Is it mapped and described?
- Why is the project proposed? Is it necessary and justified?
- Is the APE described, mapped, and justified?
- Are identification and survey efforts adequate?
    - For properties being evaluated: Are historic contexts adequately developed?
    - Are addresses (or similar locational information) listed for all properties?
    - Are properties shown on APE maps?
    - Are photos provided for built resources, such as buildings and structures?
- For each National Register eligible historic property, are all the following included?
    - Criteria under which found eligible
    - Reasons for eligibility
    - Level of significance
    - Period of significance
    - Contributors and non-contributors
    - Verbal property boundaries as well as National Register boundaries in graphic form in evaluation reports and delineated on the APE map(s)
- Who did the survey and evaluations?
    - Are their qualifications provided?
    - Do they meet appropriate professional standards?

2-6 STATE-ONLY PROJECTS

2-6.1 INTRODUCTION

Caltrans projects with federal involvement are subject to both federal and state law, but when there is no federal involvement, the historical resources compliance process is subject only to state law and regulation. Under state environmental law, consideration of historical resources is primarily carried out in the context of California Environmental Quality Act (CEQA) compliance. However, there are other applicable statutes as discussed below.

Consideration and treatment of significant historical resources under state law is similar to that of federal law, but there are important substantive and procedural distinctions between CEQA and Section 106 and NEPA. There are also differences in terminology.

CEQA requires state and local agencies to prepare multidisciplinary environmental impact analyses and to make decisions regarding the environmental effects of proposed actions based on those analyses. Cultural resources are one among several environmental areas that are analyzed in a CEQA document. The type of environmental document that is prepared for a plan or project depends on the complexity of the project and the potential for significant impacts in one or more areas of environmental analysis.

The lead agency under CEQA is responsible for resource evaluation, impact analysis and determining appropriate mitigation. For most Caltrans projects, Caltrans is also the lead agency. There is no formal process of consultation with the State Historic Preservation Office (SHPO) and thus no formal concurrence in determinations of significance and effect as there is under Section 106 of the National Historic Preservation Act. A lead agency, however, may hold informal discussions with these agencies or with other responsible agencies or members of the interested public prior to the circulation of a draft environmental document.

2-6.2 STATUTORY PROTECTIONS

The primary State environmental law that applies to Caltrans activities is the California Environmental Quality Act (CEQA) (Public Resources Code §2100 et seq). Other sections of the Public Resources Code require state agencies to inventory state-owned historic resources (PRC §5024), establish the California

Register, a state listing of significant historical resources, (PRC §5024.1) and require state agencies to consult with SHPO on projects affecting state owned historical resources (PRC §5024.5). The CEQA Guidelines (14 CCR §1500 et seq) provide guidance on implementing CEQA and the California Register regulations (14 CCR §4850 et seq) provide further guidance on using the California Register eligibility and integrity criteria and special considerations. Executive Order W-26-92 reinforces the requirements of PRC §5024 and 5024.5. State regulations are summarized more fully in Chapter 1, Volume 2 and are available in full in Volume 1 of the *Environmental Handbook*.

DEFINITION OF HISTORICAL RESOURCES UNDER CEQA

Under state law the State Historical Resources Commission for listing on the California Register of Historical Resources defines a historical resource under CEQA as a resource listed on or determined eligible. Although the criteria for listing on the California Register are the same as those for listing on the National Register, the California Register encompasses a broader range than the National Register as to types of resources that may be meet the California Register eligibility criteria. In addition to California Register listed resources and those found by the State Historical Resources Commission to be eligible for the California Register, **National Register listed and eligible properties are automatically included in the California Register, and are historical resources under CEQA**. This includes all properties that were determined eligible for listing in the National Register as a result of Section 106 compliance.

Since under state law only the State Historical Resources Commission can make determinations of eligibility for the California Register, SHPO has stated that Caltrans may not use that terminology in when it evaluates resources for CEQA compliance.
Caltrans documents need to state that a resource "is (or is not) a historical resource under CEQA because it meets (does not meet) the California Register criteria, as outlined PRC 5024.1."

Although not automatically listed in the California Register or automatically determined eligible by the State Historical Resources Commission as outlined in the California Register procedures, **historical resources under CEQA also includes resources listed in a local register** of historical resources and resources that are **identified as significant in local surveys that conform to State Historic Preservation Office standards**.

The presence of **any** cultural resources within a project area requires that cultural resource studies be initiated to determine whether any of these resources would be historical resources under CEQA.

2-7 STATE-ONLY PROCEDURES

2-7.1 STATE-ONLY COMPLIANCE PROCESS OVERVIEW

When there is no federal involvement in a project, Caltrans prepares a Historical Resources Compliance Report (HRCR). The District Environmental Branch Chief (DEBC) determines if cultural resource studies are necessary, based on the guidance outlined in this volume of the *Environmental Handbook.*

The HRCR has the following functions. It:

- details identification efforts,
- describes any identified significant historical resources,
- discusses why they were assessed as significant,
- determines the effect of the project on each resource, and
- describes the measures proposed to mitigate project effects on each resource.

Information from the HRCR is summarized in the draft environmental document, where a concise discussion of historic resource identification, significance, effect, and mitigation appear. The HRCR serves as the technical document that supports the conclusions contained in the environmental document.

2-7.2 NEED FOR CULTURAL RESOURCE STUDIES

STATUTORY EXEMPTIONS UNDER CEQA

CEQA allows two types of exemptions, statutory and categorical. Statutory exemptions are projects specifically excluded from CEQA review by the State Legislature. These exemptions are listed in PRC §21080 et seq and in the CEQA Guidelines in §15260. Statutory exemptions apply to any project that fall under its definition regardless of the project's potential impact to the environment. **If a project is statutorily exempt, no cultural resource studies are required.**

CATEGORICAL EXEMPTIONS

Categorical exemptions are classes of projects that generally are considered not to have potential impacts on the environment. The Secretary of Resources identified categorical exemptions, which are defined in the CEQA Guidelines §15300-15331).

If a project has the potential to cause significant impacts to historical resources, categorical exemptions do not apply.

To determine if there are significant historical resources in the project area, and if so, if they may be significantly impacted by the project the DEB staff, or upon request, the Cultural and Community Studies Office (CCSO) staff in the Headquarters Division of Environmental Analysis (DEA), prepares an HRCR. If the HRCR concludes that no significant historical resources are present or, that such resources, although present, will not be significantly impacted, and an exemption is otherwise warranted, the DEBC prepares a Notice of Exemption and there are no further actions under CEQA.

NEGATIVE DECLARATION AND THE EIR

If no exemption applies, a cultural resources analysis must be included in one of the following types of documentation:

- Negative Declaration (ND),
- Mitigated Negative Declaration (Mitigated ND), or
- Environmental Impact Report (EIR).

2-7.3 STUDY AREA

The Project Engineer, in consultation with the DEBC and the District Heritage Resource Coordinator (HRC) establishes a legally sufficient study area that takes into account the potential direct and indirect effects of the project upon historical resources. This study area is similar in extent to an Area of Potential Effects (APE) that is established for a federal project, however, under CEQA there is no formal APE. See **Exhibit 13** for guidance in setting study area limits.

2-7.4 IDENTIFICATION OF HISTORICAL RESOURCES

Historical resources should be identified and evaluated as early as possible in the project development process. CEQA requires early involvement so that environmental issues may be taken into consideration in the project design

process. Caltrans policy also requires early involvement. Early involvement allows lead-time for project redesign, selection of alternatives and incorporation of mitigation. It also allows time to complete historical resource compliance without jeopardizing project delivery schedules, considering such factors as seasonal limitations on surveys and archaeological excavations. A test excavation and report for an archaeological site on a state-only project, for instance, may take seven to fourteen months to complete, depending on whether the work is done in-house or by a consultant.

RESEARCH

Before undertaking fieldwork, qualified cultural resources specialists conduct preliminary research{xe "Preliminary research:state-only projects"} looking for previously identified cultural resources. See Chapter 4 **Section 4-4** for sources of information that must be consulted in the effort to identify cultural resources within the Study Area.

Qualified Caltrans cultural resources staff or appropriately qualified consultants conduct research to establish the historic context{xe "Historic contexts"} for evaluating each resource. Studies should be developed to the extent needed to understand and compare properties within that context. The results of this research are documented in the HRCR.

SURVEYS

Qualified Caltrans cultural resources staff or appropriately qualified consultants established the need for cultural resources surveys through pre-field research and a preliminary field trip. A survey is undertaken whenever any buildings or structures lie within the study area, unless those properties have been previously evaluated. All buildings and structures are surveyed regardless of age, integrity, or apparent value. However, see Chapter 4 **Section 4-2.5** and **Exhibits 14 and 15** for a discussion of resources that might qualify for exemption from evaluation.

Guidance on conducting preliminary archaeological and reconnaissance surveys, prehistoric archaeological surveys, historical archaeological surveys and built-environment surveys appear in Chapter 4 **Section 4-5**.

2-7.5 EVALUATION OF CULTURAL RESOURCES

HISTORICAL RESOURCES UNDER CEQA

The following resources are already considered historical resources under CEQA:

- Listed or determined eligible by the SHRC for the **California Register** (including all National Register listed and eligible properties);
- Listed in a **Local Register** of Historical Resources under local ordinance or resolution; or
- Identified as **significant in a local survey** that meets Office of Historic Preservation standards (including that the survey is less than 5 years old or have been updated less than 5 years ago)

If new information surfaces, or physical conditions have changed such that a re-evaluation of a historical resource is warranted, these types of resources will likely continue to be historical resources for purposes of the Caltrans project. Their existence in the Study Area, however, needs to be documented in the HRCR.

In addition to identifying the above listed historical resources within a project Study Area, Caltrans must ensure that any other cultural resources in the Study Area are evaluated.

EVALUATION CRITERIA UNDER CEQA AND PRC §5024

Caltrans evaluates the cultural resources in the project Study Area using the criteria outlined in PRC §5024.1, as well as the relevant sections of the California Register regulations adopted by the State Historical Resources Commission in the California Code of Regulations (14 CCR §4850 et seq). These regulations, however, also contain nomination procedures that do not apply to Caltrans projects.

Relevant sections of the California Register regulations that Caltrans uses to **evaluate** historical resources include:

- 14 CCR §4850.1 – Purpose;
- 14 CCR §4851**(a)** - Historical Resources Eligible for Listing in the California Register of Historical Resources (14 CCR §4851); and
- 14 CCR §4852(a) through (e) - Types of Historical Resources and Criteria for Listing in the California Register of Historical Resources.

Because the eligibility and integrity criteria provided in the California Register regulations cited above are so similar National Register criteria, *National Reg-*

ister Bulletin 15 can provide valuable guidance in how to interpret these criteria. See also **Exhibit 16**, which compares the California Register regulation wording to that found in the National Register criteria and *National Register Bulletin 15*.

All evaluations are recorded and evaluated using the appropriate DPR 523 inventory forms, which are attached to the HRCR. In addition, summary conclusion is documented in the HRCR. For each cultural resource, state whether the property meets, or does not meet, the California Register criteria as outlined in PRC §5024.1. Add these conclusions to any existing California Register listings or determinations identified earlier.

If a historical resource meets the California Register criteria, include which criteria apply (Criteria 1,2,3 and/or 4), briefly describe how it meets these criteria, include the level of significance, the period of significance, contributing and non-contributing elements of the resources, and a textual description of the historical resource's boundaries. The boundaries must be depicted on the DPR 523 inventory form map, as well as on the Study Area map.

It is Caltrans policy to conduct apply both the National Register criteria and the California Register criteria simultaneously when conducting evaluations. Conclusion sections of the HRCR and on the appropriate DPR 523 inventory forms will need to state whether a resource appears to be eligible for the National Register, as well as to state whether a resource is a historical resource under CEQA because it meets California Register criteria as outlined in PRC §5024.1. The simultaneous use of National Register and California Register criteria is needed for compliance with PRC §5024, and can save time and effort in having to reevaluate resources, should a state-only project become a federal undertaking.

> Caltrans, as a lead state agency on its projects, makes the determination as to whether a resource it evaluates is a historical resource under CEQA. It is not SHPO's determination. SHPO, however, can comment on that determination as part of the CEQA process.

2-7.6 DETERMINATION OF PROJECT EFFECTS

The effect of the project on each historical resource is determined by applying the criteria of significant effect set forth in state law and regulation. Public Resources §5020.1(q) defines "substantial adverse change" in an historical resource to mean:

- demolition,
- destruction,
- relocation, or

- alteration such that the significance of the resource would be impaired.

California law is explicit that a substantial adverse change in the significance of an historical resource is a significant impact on the environment.

Any activity that would result in the destruction of a historical resource's characteristics would be a significant impact in CEQA analysis when those characteristics justify the historical resource for

- inclusion in, or eligibility for the California Register,
- inclusion in a local register (if designated under local ordinance or resolution), or
- identification as significant in a local survey that meets OHP standards,

Be aware that the word "adverse" is used differently in federal and state terminology. The federal "**Adverse Effect**" defines a **class** of actions despite mitigation; CEQA guidance, on the other hand, specifies that a project that adversely affects a historical resource has a significant **effect on the environment**, but mitigation can reduce the effect.

Potential effects are identified and analyzed in the HRCR.

2-7.7 DETERMINATION OF APPROPRIATE MITIGATION

CEQA requires that state and local agencies avoid or minimize significant adverse impacts environmental impacts whenever feasible.

Mitigation measures should avoid, minimize, rectify, reduce or compensate for physical impacts to resources. CEQA encourages the use of measurable performance standards that facilitate mitigation monitoring. In considering historical resource mitigation it should be noted that maintenance, repair, stabilization, rehabilitation, restoration or preservation is considered to mitigation below a level of significance only when the work is consistent with the *Secretary of the Interior's Standards for the* Treatment of Historic Properties *With Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings.*

> If mitigation below a level of significance can be accomplished by changes in project design and can be incorporated into the project, a negative declaration (ND) can be prepared. To be feasible a measure must be capable of being accomplished in a successful manner in a reasonable period of time.

Because CEQA requires that physical impacts must be avoided or lessened by mitigation, Historic American Building Survey (HABS) or Historic American Engineering Record (HAER) recordation does not mitigate below a level of significance in the case of demolition or destruction. But, it may lessen impact in cases of alteration.

CLASS 31 PROJECTS

If the **only** activity under consideration is maintenance, repair, stabilization, rehabilitation, restoration or preservation of a historical resource and the work is done according to the *Secretary of the Interior's Standards for the Treatment of Historic Properties* cited above, the project is considered a Class 31 project and is categorically exempt from CEQA.

ARCHAEOLOGICAL SITES

Under CEQA, avoidance is the preferred mitigation for archeological sites. The CEQA Guidelines §15126.4(b)(3) provide discussion of archeological mitigation. When data recovery is the only feasible alternative a data recovery plan must be prepared that provides for recovery of scientifically consequential information prior to any excavation. Data Recovery Plans are filed with the California Historical Resources Regional Information Center, but are not reviewed or approved by them.

Data recovery is not required when the lead agency determines that already-completed studies have adequately recovered the site's important information. Mitigation cost limitations do not apply to public agencies that comply with CEQA provisions regarding mitigation of significant effects.

Provisions for dealing with accidental discovery of archeological sites in the course of construction should be included among the mitigation provisions.

Include the plans for mitigating project impacts in the HRCR.

TIMING WITH CEQA ENVIRONMENTAL DOCUMENTATION

The data recovery plan should be completed prior to the circulation of a draft environmental document. However, in some cases test excavations and data recovery plan preparation may require more time than is available before circulation of the draft environmental document. When a data recovery plan cannot be completed prior to draft circulation, the plan must be completed no later than by the time the final environmental document is certified.

2-7.8 TRANSMITTAL AND REVIEW OF DOCUMENTS

The DEBC approves the HRCR, which is then filed in the District office. The District HRC transmits one copy to the CCSO in Headquarters for its files.

2-7.9 STATE-OWNED CULTURAL RESOURCES

PROJECTS REQUIRING PRC §5024 COMPLIANCE

When there are state-owned buildings and structures within the Study Area, the HRCR is also used to comply with PRC §5024. Caltrans is required to inventory all buildings and structures in its right-of-way before approval of any undertaking that would:

- alter their original features or fabric,
- transfer,
- relocate or
- demolish these resources

IDENTIFICATION AND EVALUATION

As with CEQA compliance, compliance with PRC §5024 entails identification and evaluation of the state-owned buildings and structures within the Study Area, and assessment of the effects to buildings and structures that meet the criteria for inclusion in the National Register of Historic Places, or is eligible as a state historical landmark.

Caltrans needs to evaluate state owned buildings and structures to determine whether they meet National Register and California Historical Landmark criteria.

> While the 1992 revisions to the Public Resources Code and 1998 revisions to CEQA established the California Register of Historical Resources criteria as the criteria by which to evaluate resources for purposes of CEQA, the language to PRC 5024 was **not** amended.
>
> In order to comply with PRC 5024, Caltrans needs to evaluate its state-owned resources to determine whether the resources meet the criteria for inclusion in National Register or are eligible as state historical landmarks [PRC 5024(a) – (d)].

SHPO REVIEW AND COMMENT

Under PRC §5024.5, Caltrans must provide SHPO with a notice and summary of project involving state-owned buildings and structures. The HRCR contains the summary of the state-owned historic buildings and structures and the summary of potential effects to the resources. Project and activities that may affect

state-owned historic buildings and structures and that require SHPO review and comment include:

- alteration of their original features or fabric,
- transfer,
- relocation or
- demolition

The HRCR includes proposed measures that are prudent and feasible and that would avoid or mitigate adverse effects to the state-owned historic buildings and structures. In addition, the HRCR needs to provide evidence that Caltrans has consulted with the State Historical Building Safety Board, as appropriate.

> PRC 5024(f): Until such time as a structure is evaluated for possible inclusion in the inventory pursuant to subdivisions (b) and (c) of Section 5024, **state agencies shall assure that any structure which might qualify for listing is not inadvertently transferred or unnecessarily altered.**

The DEBC submits the HRCR and its accompanying transmittal letter to SHPO and requests SHPO's review and comment on whether the proposed project would adversely affect the state-owned historical resource(s). SHPO has 30 days from receipt of adequate documentation to review and comment on the proposed project and mitigation measures, if applicable.

The DEBC also submits one copy of the HRCR to the Chief of the Historical Architectural Specialty Branch in the CCSO at Headquarters. This is needed because this branch of the CCSO is responsible for updating the Caltrans master list of state-owned historical resources and for submitting an annual report to SHPO of PRC §5024 inventories and activities.

The District Environmental Branch maintains SHPO's written comments in its files, and forwards a copy of the comments to the Chief of the Historical Architectural Specialty Branch in Headquarters CCSO for filing.

According to PRC §5024.5(d), if Caltrans refuses to "propose, consider, or adopt prudent and feasible alternatives to eliminate or mitigate adverse effect on historical resources," SHPO must report these instances to the Office of Planning and Research for mediation.

In the past, DEBCs submitted all PRC 5024 and 5024.5 documentation to one person in Caltrans who was specifically named by SHPO as the delegated PRC 5024.5 authority. His duties included review all eligibility assessments, relocations, rehabilitations, transfers and demolitions of state-owned historical resources when there was no federal involvement. The Cultural and Community Studies Office and SHPO are negotiating revisions to this delegated authority in order to continue streamlining the review process under PRC 5024. Consult the District

Environmental Branch Chief or the Chief of the Historical Architectural Specialty Branch for the current status of this authority under PRC 5024.

As a state agency with jurisdiction by law under CEQA, SHPO has the opportunity to review and comment on effects to historical resources during the draft environmental document public review period. SHPO receives a copy of all state agency environmental documents filed through the State Clearinghouse. However, districts also should include SHPO on their mailing list for any draft environmental documents that include historical resources analysis.

2-8 SPECIAL CONSIDERATIONS UNDER STATE LAW

2-8.1 LATE DISCOVERIES

CEQA encourages agencies to make provision for archeological sites accidentally discovered during construction. Such provisions should be included in HRCR and in the mitigation section of the environmental document. Standard provisions include 1) work in the area of the resource must stop immediately, and 2) a qualified cultural resources specialist conducts an evaluation of the site. If the resource is assessed as significant, Caltrans ensures that plans for mitigating project effects are immediately developed.

In the case of accidental discovery, the District Construction Branch notifies the DEB staff. The DEB BOTH carries out evaluation and determines appropriate mitigation, or requests the CCSO in Headquarters to do so. Caltrans may consult with SHPO.

If construction cannot continue in the area of the significant resource until mitigation occurs, the DEBC or District HRC notifies the Construction Branch to this effect.

2-8.2 EMERGENCY PROCEDURES

An emergency is a situation of clear and imminent danger that threatens the loss of or damage to life, health, property, or essential public services.

PRC §5028{xe "Public Resources Code:5028"} outlines procedures to follow when a structure listed on a national, state or local register of historic places is damaged during a natural disaster**. In declared emergencies, a structure cannot be demolished, destroyed, or significantly altered** (except for restoring its historical value**), unless the structure presents an imminent threat to**

the public or to adjacent property, or unless the SHPO determines those actions may be taken.

The SHPO's determination is based on relevant factors, including the historical significance of the structure, the extent of the damage, and the costs involved. The SHPO also considers recommendations provided by a team of local historic preservation experts. The SHPO's determination must be made within **30 days** after the structure was damaged, or **30 days** after the receipt of the application from any local government agency requesting the determination, whichever occurred later.

CEQA emergency exemptions apply to projects undertaken: 1) to prevent or mitigate an emergency, or 2) to address disaster-damaged or destroyed properties. But, the emergency exemptions do not apply to projects that alter a significant historical resource unless the condition of the resource itself constitutes an emergency, as defined by PRC § 21060.3.

2-9 STATE-ONLY DOCUMENTS

Caltrans prepares a single document, the Historical Resources Compliance Report (HRCR) to document Caltrans' historical resource consideration and compliance efforts under California law. Under specified circumstances, described below, the HRCR may be augmented by a second document, the Mitigation Plan{xe "Mitigation Plan"}.

In preparing historical resource sections of the final environmental document, any comments received from SHPO, other public agencies, or the interested public, as well as any additional information that has become available, are to be taken into consideration.

2-9.1 HISTORICAL RESOURCES COMPLIANCE REPORT

The Resources Compliance Report (HRCR) discusses all aspects of historical resource compliance: resource identification, significance, effect, and mitigation. District cultural resources staff typically prepares the HRCR. **Exhibit 32** outlines the HRCR format and content. Copies of all survey-level historical resource reports are attached to the HRCR.

After a brief project description and summary of findings, describe all cultural resources identified within the project Study Area, and refer to attached individual cultural resource reports. Next, assess the significance of each resource, providing adequate information to understand any importance, without excessive detail. Identify any state-owned resources that are subject to PRC §5024.

When a resource such as an archaeological site is important for the information it contains, present a concise statement on the research issues that could be addressed by studying the resource, and describe how the data at the resource can address these issues.

The HRCR effect statement describes how the project would physically affect historical resources. Include any indirect effects, such as increased noise or introduction of elements out of character with a resource that could affect the resource's significance.

Finally, discuss mitigation efforts to be undertaken to offset project effects. The report should indicate whether the proposed mitigation would reduce project impacts below a level of significance.

When proposing data recovery, summarize the data recovery plan in the HRCR. Archaeological proposals for data recovery or test excavations are prepared as separate documents. The data recovery proposal fulfills the CEQA requirement for a data recovery plan. District cultural resources staff typically writes the Mitigation Plan.

The historical resources sections of the draft environmental document summarize the information contained in the HRCR. The draft environmental document states that the HRCR is on file at the District office for public review.

2-9.2 INTERNAL REVIEW OF DOCUMENTS

The District Director has review and approval authority for all CEQA-related historical resources compliance documents. CCSO cultural resource specialists will review these documents upon request. They will give such review the highest priority in work assignments, and will complete review within 10 working days of request. Districts may arrange routine review of documents with the appropriate CCSO Branch Chief.

2-9.3 RELATIONSHIPS BETWEEN ENVIRONMENTAL DOCUMENTS

The HRCR must be complete by the time the environmental document is circulated to the public. When PRC §5024.5 review is involved, send the HRCR to SHPO **before** circulating the draft environmental document, so that SHPO comments can be incorporated. Allow SHPO **at least 45 days** before circulating the environmental document to comfortably accommodate their 30-day review period.

Because PRC 5024.5 consultation with SHPO must be complete by final environmental document approval, initiate SHPO review as early as possible.

The historic resource compliance process is complete upon approval of the final environmental document Caltrans will carry out mitigation after final environmental document approval but before construction begins.

2-10 NEPA AND CEQA JOINT COMPLIANCE

Caltrans projects that have federal involvement also must comply with state environmental law and regulations. In general, this joint compliance is integrated at the time the joint NEPA/CEQA documents are prepared. While NEPA and CEQA are similar in concept they differ in terminology, procedures, and substantive mandates to protect the environment. In general, when preparing joint compliance documents, agencies apply whichever standard; state or federal is the most stringent. In preparing cultural studies, apply the federal standard when preparing preliminary studies and Section 106 compliance documents.

However, there are some areas in which the state requirements differ from federal standards. The criteria for listing in the California Register of Historical Resources are the same as the criteria for listing in the National Register of Historic Places.

Surveys and evaluations that meet the federal standards generally satisfy CEQA and PRC 5024 requirements.

What is considered a historical resource under CEQA is broader and more encompassing than what are considered historic properties that meet the criteria for listing in the National Register of Historic Places. CEQA Guidelines, at CCR §15064.5, provides that the following are historical resources under CEQA:

- **Resources designated under a local ordinance or resolution**. These same locally designated resources, however, might not be eligible for listing in the National Register.
- **Resources identified as significant in locally adopted surveys** that conform to Office of Historic Preservation standards. However, they might not meet National Register criteria.

Likewise, the California Register criteria, as outlined in the California Register regulations at CCR §4852(d), include special considerations for types of cultural resources that normally are not considered eligible for listing in the National Register, such as:

- **moved** buildings, structures or objects;
- historical resources **achieving significance within the last 50 years**;
- **reconstructed** buildings; and
- historical resource **surveys**.

See **Exhibit 16** for more detailed information on the conditions under which these resources would meet the California Register criteria, and would be considered historical resources under CEQA.

Under California law, demolition or destruction of a historical resource is a significant impact and cannot be mitigated below a level of significance by HABS/HAER recordation. See **Section 2-7.7** of this chapter.

Native American burials in California are under the jurisdiction of the Native American Heritage commission. PRC §5097.98 governs the actions that Caltrans must take when burials are identified in a project area, or when they are accidentally discovered. Although the treatment of burials is exempt form CEQA, the CEQA Guidelines at CCR §15064.5(d) and (e) provide assistance in complying with the applicable statutes. Chapter 3 **Section 3-5.3** discusses the requirements for treating Native American burials.

CHAPTER 3
NATIVE AMERICAN CULTURAL STUDIES

3-1 INTRODUCTION

The consideration of Native American concerns, ideas, beliefs and values in the development of Caltrans highway projects is an important part of the project development process. This chapter provides Caltrans policies and procedures for complying with various state and federal historic preservation laws, regulations, and guidelines that involve Native Americans. These policies ensure that

- Native Americans are involved in all aspects of identifying, evaluating and treating Native American historic properties (i.e., properties eligible for the National Register of Historic Places or are historical resources under CEQA because they meet the criteria for inclusion in California Register of Historical Resources) and
- Native Americans determine the treatment of Native American human remains, associated grave artifacts, and sacred objects that may be unearthed by Caltrans activities.

Also presented are Caltrans policies and procedures (a) for identifying and treating resources that are not eligible for the National Register, but are culturally significant, and (b) for providing Native American access to sacred sites and plant gathering areas located within Caltrans right of way. Although any group, ethnic or otherwise can be involved in the historic preservation or environmental process, Native Americans are singled out because of a historical fact — they were here when the EuroAmericans arrived and encroached upon their homelands. Their sacred and traditional places are tied to the landscape that we now inhabit.

Caltrans' historic preservation coordination efforts with Native Americans involves consultation with federally recognized tribes and California Indian traditional cultural leaders, unrecognized groups, and individuals on concerns they have regarding Caltrans' activities. Simultaneously, these efforts are also directed towards identifying other cultural concerns and areas of cultural significance that a proposed project may impact, and which need to be addressed under environmental law. Consultation includes efforts to protect areas important to Native Americans that may be unrecognized by people outside the culture, including sacred sites, plant-gathering areas, and historic properties re-

ferred to as traditional cultural places. Often the existence of such places are confidential, and their identification and management can therefore be problematic and sensitive. Caltrans, through its Environmental, Maintenance, and Right of Way Programs and Offices, seeks to ensure that Native Americans have access to such sites. Caltrans also seeks individuals to monitor archaeological excavations of prehistoric sites, and works per State law with Indians identified as Most Likely Descendents to develop appropriate treatment of the remains and associated grave artifacts if Native American human remains are discovered during any Caltrans activities.

3-2 BACKGROUND

California was home to more than 300,000 Indians at the beginning of Spanish colonization in 1769. These Native peoples composed at least 60 different tribes (**Figure 3-1.1**), and spoke as many as 80 languages that were differentiated into an indeterminable large number of dialects. Lifeways varied, closely paralleling the rich environmental resources of the state. Subsistence activities included the gathering of plant and animal foods, hunting, marine and fresh water fishing, as well as the collection of a variety of coastal resources. The relative abundance of natural resources allowed for a large Native population, as well as the development of an elaborate ceremonial, religious, and material culture.

Decline in Population

Like other Native people in the Western Hemisphere, the Indians of California declined following the entrance of EuroAmericans. Between 1770 and 1900 the Native population fell from 300,000 to 20,000, a decline of over 90% of their original population (Cook 1978:91). The collapse and social disruption of Native culture was due primarily to: (1) development of the Mission system (1769-1834), (2) the opening up of land for settlement after the 1848 War with Mexico, (3) the rapid influx of immigrants to California after the discovery of gold in 1848, and (4) exposure to devastating EuroAmerican diseases.

Statehood and Land Title

The 1848 Treaty of Guadalupe Hidalgo at the end of the war between the United States and Mexico did not include any provisions protecting Indian land title. The United States government initiated attempts to resolve this. However, once the Gold Rush was on and California became a state, the government became less inclined to pursue this issue and in actuality circumvented any fair resolution. Almost all California Indians were deprived of protected land title because they were not notified of a provision of the Lands

Claim Act of 1851. This provision stated that all lands with invalid claims, or claims not presented in two years after the Act, would become public domain, which is what happened to Indian lands in 1853. Lands of certain bands of Mission Indians were protected by early Spanish and Mexican land grants and retained by those bands (California Indian Legal Services 1993).

In 1852, the United States Senate refused to ratify 18 treaties previously negotiated with 139 chiefs or headmen of California tribes. The tribes were prevented from knowing of the refusal because the treaties were also placed under seal. The treaties would have established a land base for the California Indians and would have also conferred formal recognition of the tribes. In 1905, the public was informed of the 18 treaties.

Rancheria System

Between 1906 and 1910, funds were provided through a series of appropriation Acts to purchase small tracts of land in the central and northern parts of the state for the landless Indians in those areas, establishing the Rancheria System in California. Nearly fifty years later, the federal government attempted to terminate the status of 41 California rancherias under the Rancheria Act of 1958. Termination was a federal Indian policy in the 1950s and 1960s designed to end the tribes' special relationship with the federal government and to subject them to state laws. Tribal land was converted into private ownership, and in most instances sold (Canby 1988). In 1967, the newly established California Indian Legal Services sought to reverse through litigation the termination of the California rancherias. Twenty-eight of the 41 rancherias have since been restored (California Indian Legal Services 1993).

Advisory Council on California Indian Policy

This brief and incomplete synopsis of the federal government's policy towards California Indians provides a background to the situation today — that in addition to federally recognized land based tribes, there are many California Indian groups and individuals without a land base and/or without federal recognition. In 1994, the Advisory Council on California Indian Policy, composed of representatives of federally recognized, terminated and unacknowledged tribes was established by Public Law 102-416, for the expressed purpose of holding a series of statewide meetings to hear the special concerns of California Indians and to develop recommendations to Congress for ensuring that the needs of California Indians

> Today, approximately 250,000 Native American, Eskimo and Aleut reside in California's 58 counties; perhaps half these numbers are Indians indigenous to California.

are being met. The Council issued its final reports and recommendations addressing the social, political, and economic status of California Indians to Congress in September 1997 (Advisory Council on California Indian Policy 1997).

Many Indians living in urban areas were displaced from other states under the Bureau of Indian Affairs "relocation" program in the 1950s. Through this program, Indians received grant money to leave reservations and seek work in metropolitan centers, which had been perceived as a solution to the reservations' high rate of unemployment.

California has 104 federally recognized tribes and over 45,000 federally recognized California Indians. The majority of Indian Trust Land, reservations, and rancherias are located in California's Northwest region, the North Coast Ranges, and in the southern California desert region. An estimated 35,000 to 75,000 Indians in the State do not have federal recognition.

The Department of Housing and Community Development provides updates periodically of the *Field Directory of the California Indian Community* (Department of Housing and Community Development 1996). The Field Directory gives the location of each reservation and rancheria, including land holdings, population, type of tribal government and current representatives. It is also the source of the statistics provided above. The Cultural and Community Studies Office in Headquarters Division of Environmental Analysis will distribute updates of the Field Directory to the Districts, as they become available.

FIGURE 3-1 Map of Tribal Territories [to be added]

3-3 COORDINATION ROLES & RESPONSIBILITIES

3-3.1 CALTRANS – HEADQUARTERS AND DISTRICTS

Headquarters and each of the Districts have staff who are designated specifically to assist in the implementation of Caltrans' Native American policies and to ensure that Caltrans complies with applicable federal and state laws and regulations concerning Native American cultural issues.

Headquarters

The Headquarters statewide Native American Coordinator (NAC) works in the Cultural and Community Studies Office (CCSO) in Headquarters. The NAC's responsibilities are:

1) to assist the Districts on request in all interactions with the Native American Heritage Commission (NAHC), the Office of Historic Preservation (OHP) and all other public agencies, and
2) to provide direction to the Districts on Native American affairs, including transmittal of pertinent legislation and information as it becomes available.

Districts

Each District has a designated Native American Coordinator (DNAC) under the direction of the District Environmental Branch Chief (DEBC). The DNAC is responsible for ensuring that Native American consultation regarding cultural resources occurs and that documentation of contacts and consultation for cultural resources is included in environmental documents. Early and continuous coordination is emphasized. During the field reconnaissance and resource inventory stage of environmental studies, the DNAC solicits Native American concerns from available sources, as appropriate. The NAC will provide advice and assistance on request. The NAHC may be contacted directly by the DNAC.

North and Central Region Liaisons

The North and Central Regions have created additional avenues for establishing effective communications with Native Americans. Native American Liaison positions have been established in the Fresno office (District 6) of the Central Region (also includes Districts 5, 9, and 10) and in the Eureka office (District 1) of the North Region (also includes Districts 2 and 3). The liaisons assists the Regions' DNACs in their efforts to establish good working relations with the Native Americans in their districts, as well as assist Headquarters efforts to establish a government-to-government relationship with tribes.

3-3.2 NATIVE AMERICAN HERITAGE COMMISSION (NAHC)

The Native American Heritage Commission (NAHC) was established in 1976 by state statute to preserve and protect burial sites and other places of special cultural or spiritual significance to Native Americans. The Commission, its powers, duties, and responsibilities, are described in Chapter 1.75 of the Public Resources Code (PRC), Sections 5097.91-5097.99. Under PRC §5097.95, each state and local agency is to cooperate with the Commission in carrying out its duties under this chapter. Caltrans works cooperatively with the NAHC

concerning all Caltrans property and projects that may involve burial sites or elements of cultural or religious significance to Native Americans.

The NAHC consists of nine members, of which at least five Commissioners are elders, traditional people or spiritual leaders. Members are nominated by a Native American organization, tribe or group, and are appointed by the Governor with the advice and consent of the Senate. The Governor appoints the Commission's Executive Secretary. A major responsibility of the NAHC is to identify and maintain a catalogue of places of special religious or social significance to Native Americans, and of known gravesites and cemeteries of Native Americans on private lands.

NAHC Authority and Responsibilities

The NAHC's legal authority includes making recommendations to encourage private property owners to protect and preserve sacred places in a natural state and to allow appropriate access to Native Americans for ceremonial or spiritual activities. The NAHC is authorized to assist Native Americans in obtaining appropriate access to sacred places on public lands and to **aid state agencies in any negotiations with federal agencies** for the protection of Native American sacred places on federally administered lands in California.

Other major responsibilities of the NAHC include assisting landowners and Native Americans in developing agreements or mediating disputes regarding the respectful treatment and disposition of Native American human burials, skeletal remains and associated grave artifacts, and **designating a Most Likely Descendent when Native American human remains are discovered** (see Section 3-4.3, this chapter).

3-3.3 STATE OFFICE OF HISTORIC PRESERVATION (OHP)

The OHP Native American Heritage Coordinator, in consultation with the Federal Highway Administration (FHWA), is responsible for ensuring that Caltrans' Historic Property Survey Reports (HPSR) and subsequent Section 106 documents under review include documentation that demonstrates effective Native American coordination.

3-3.4 TRIBAL HISTORIC PRESERVATION OFFICE (THPO)

The 1992 Amendments to the National Historic Preservation Act provide for a tribe to assume all or any part of the specified functions of the State Historic Preservation Office (SHPO) if certain criteria are met with respect to tribal lands (Section 101(d)(2)).

SHPO functions that a tribe may undertake include advising and assisting federal and state agencies in carrying out their historic preservation responsibilities. Procedures for tribal programs will eventually be outlined in 36 CFR §61.8 and §61.9, currently reserved sections in the proposed revision of 36 CFR §61 as published in the October 2, 1996 *Federal Register*.

> Tribal lands are all land within the exterior boundaries of any Indian reservation and all dependent Indian communities.

YUROK THPO

On August 5, 1996, the Yurok Tribe was granted SHPO status by the Secretary of the Interior. Caltrans will consult under Section 106 with the Yurok Tribe on all properties, both Yurok and non-Yurok, on and within the boundaries of the Yurok Reservation. This review will also suffice for consideration of historical resources under California State law on federally funded projects.

3-3.5 BUREAU OF INDIAN AFFAIRS (BIA)

When an archaeological investigation is planned on a federally recognized reservation or rancheria, the BIA may become involved, and Native American matters may be coordinated through that office. Reservations and rancherias however, have the option of adopting their own regulations that may not require BIA involvement. **The BIA will issue any Archaeological Resources Protection Act (ARPA) permits needed for any planned archaeological excavation or inadvertent discovery of human remains** as provided for under the Native American Graves Protection and Repatriation Act (NAGPRA) on non-tribal land within the exterior boundaries of a reservation or rancheria.

3-3.6 MOST LIKELY DESCENDENTS

When the NAHC is contacted by a county coroner upon the discovery of human remains likely to be Native American, the NAHC designates a Most Likely Descendent, or a person or persons believed to be the most likely descended from the deceased, **Caltrans confers with the Most Likely Descendent on the respectful treatment and disposition of remains** discovered during any of its activities.

3-3.7 TRADITIONAL CULTURAL LEADERS

Traditional cultural leaders are Native Americans that are acknowledged by their tribe, group, or community as having traditional knowledge of their cul-

ture. Traditional cultural leaders are consulted regarding areas and resources of concern to them.

3-3.8 FEDERALLY RECOGNIZED TRIBES

Tribes acknowledged by the federal government to have a government-to-government relationship with the United States and have specific responsibilities, powers, limitations and obligations, are referred to as federally recognized tribes. Federal agencies must consult with these Indian tribes regarding properties of traditional religious and cultural importance. A list of federally recognized tribes is periodically provided in the Federal Register, the last notice appeared in the Wednesday, November 13, 1996 issue. Tribes without this status can petition the Bureau of Indian Affairs to be acknowledged as a federally recognized tribe, a process that has shown to be long, arduous, and expensive.

3-3.9 CONSULTING PARTIES

The State Historic Preservation Officer, Indian tribes, local governments and applicants for federal assistance, permits, licenses, and other approvals are entitled to actively participate as consulting parties during Section 106 review. Other individuals and organizations with a demonstrated interest in the project may participate in Section 106 review as consulting parties "due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties." Their participation is subject to approval by the responsible federal agency.

3-3.10 NATIVE AMERICAN MONITOR

The Native American Monitor is a liaison between Caltrans and the local Native American community with whom Caltrans may contract on a project by project basis to participate and obtain first hand knowledge of archaeological surveys, excavations, and construction in areas of potential or known cultural sensitivity to Native Americans. The Native American Monitor should be knowledgeable about his or her culture and its traditions, and be familiar with archaeological practices, federal and state laws, and regulations regarding Native American cultural concerns.

3-4 LAWS, REGULATIONS, AND GUIDANCE

Caltrans is routinely involved with activities that may occasionally threaten or accidentally expose, or encroach upon archaeological and other resources of

cultural value to Native Americans. Understandably, the discovery of human remains is a particularly sensitive concern to Native people. Responsive to State law, Caltrans practices are compatible with current federal laws and guidance on handling burials. This section summarizes the federal and state laws specifically as they relate to Native American concerns.

3-4.1 FEDERAL LAWS AND REGULATIONS

NATIONAL HISTORIC PRESERVATION ACT AS AMENDED THROUGH 1992

The 1992 amendments to the National Historic Preservation Act (NHPA) enhance the recognition of tribal governments' roles in the national historic preservation program, including adding a member of an Indian tribe or Native Hawaiian organization on the Advisory Council on Historic Preservation (ACHP).

The NHPA amendments

- clarify that properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for the National Register;
- reinforce the provisions of the Council's regulations requiring the agency to consult with Indian tribes on properties of religious and cultural importance; and
- extend these provisions to Native Hawaiian organizations.

The 1992 amendments also specify that the ACHP can enter into agreement with tribes that permit undertakings on tribal land to be reviewed under tribal regulations governing Section 106, a provision similar to allowing federal agencies to develop their own counterpart regulations noted in 36 CFR §800.15.

Regulations implementing the NHPA (36 CFR §800) state that a federal agency (FHWA and Caltrans acting on its behalf) must consult with any Indian tribes that attach religious and cultural significance to historic properties that may be affected by an undertaking, **regardless of location**. For any undertakings occurring on or affecting historic properties on tribal lands, the THPO, or if a THPO is not designated, the tribal representative, are signatories, along with FHWA, and if participating, the SHPO and/or the ACHP, to any Section 106 Memorandum of Agreement.

SECTION 4(F) OF THE 1966 DEPARTMENT OF TRANSPORTATION ACT

Section 4(f) applies to historic properties that are listed or determined eligible for listing in National Register, which would include any properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that are National Register listed or eligible. See Chapter 2, Section 2-4.8 for a discussion of Section 4(f).

NATIONAL ENVIRONMENTAL POLICY ACT

The National Environmental Quality Act (NEPA) requires agencies to consider both positive and negative effects of their actions on the environment, including consideration of the broader cultural environment beyond historic properties and beyond place. This includes consideration of social cohesion, relation of community to patterns of local land use, social institutions, behavior, community values, lifeways, and beliefs and would include Native American concerns in these categories.

ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979

The Archaeological Resources Protection Act of 1979 (ARPA) and implementing regulations requires land holding federal agencies to notify federally recognized Indian tribes before a permit is issued for the archaeological excavation of sites of religious or cultural importance to them in national parks, wildlife refuges, or forests, or on Indian lands.

Federally recognized tribes must be notified **30 days before the issuance of a permit** for excavations on public land, and on Indian lands, the **consent** of the Indian tribe or individual **must be obtained before the permit is granted**.

Uniform rules and regulations were published by the Departments of the Interior (43 CFR §7), Agriculture (36 CFR §296), and Defense (32 CFR §229), and the Tennessee Valley Authority (18 CFR §1313) in the January 6, 1984 *Federal Register*. The Federal land manager is to meet, upon request, with the Indian tribe or group in that 30 days to discuss their concerns.

The regulations also state that the federal agency may also notify any other Native American group that is known by the agency to consider the sites to be of cultural or religious importance. The intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony from federal lands and tribal lands must follow both the requirements of ARPA and NAGPRA. The Bureau of Indian Affairs will issue any ARPA permits needed for excavation on private lands within the exterior boundaries of Indian reser-

vations. Caltrans must obtain the appropriate permits whenever excavation is planned on federal or Indian Lands.

THE NATIVE AMERICAN GRAVE PROTECTION AND REPATRIATION ACT OF 1990

The Native American Graves Protection and Repatriation Act (NAGPRA) became effective November 16, 1990. NAGPRA addresses the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to Native American human remains and certain cultural items with which they are affiliated. The Act directs federal agencies and museums to identify, in consultation with Native Americans, the cultural affiliation of Native American human remains and associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony, in holdings or collections under their possession (i.e., physical custody) or control (i.e., having sufficient legal interest). Ultimately, the intent is to repatriate the human remains and other cultural items to the appropriate lineal descendants or tribe.

Right to Ownership

The Act also statutorily establishes Native American right to ownership of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony which are excavated or discovered on Federal or tribal lands after November 16, 1990. A Review Committee, also established by the Act, determines the disposition of either unclaimed or unaffiliated human remains or cultural items, and reviews disputed claims. The committee includes three Native Americans, three scientific/museum representatives, and one general member. The legislation forbids the participation of federal employees on the committee.

NAGPRA Regulations

The regulations (43 CFR 10 §10) for carrying out the Act were published in the *Federal Register* on December 4, 1995. The regulations establish definitions and the consultation procedures for lineal descendants, Indian tribes, Native Hawaiian organizations, museums and Federal agencies to follow to carry out the Act. "Draft Recommendations Regarding the Disposition of Culturally Unidentifiable Human Remains and Associated Funerary Objects" were published in the *Federal Register* on August 20, 1996.

NAGPRA only applies to FHWA when a Federal-aid project is located on tribal or Federal lands. Since FHWA does not control or possess any collections, the repatriation provisions of NAGPRA for collections obtained prior to 1990 do not apply to FHWA. Caltrans, however, is working with universities

on repatriation of human remains and associated items recovered from collections generated by Caltrans activities. Most of the collections with human remains are those obtained prior to 1976. After 1976, Caltrans worked with Most Likely Descendants pursuant to California law on the respectful treatment and disposition of human remains. For on-going or future projects, FHWA will reimburse costs associated with inventory, identification, and repatriation as an environmental mitigation expense.

JOINT RESOLUTION ON AMERICAN INDIAN RELIGIOUS FREEDOM

In 1978, the U. S. Senate and House of Representatives recognized that the passage of laws meant to conserve and preserve natural species and resources unintentionally impinged on the free exercise of religion for Native Americans. These otherwise "worthwhile" laws limited Native Americans' access to sacred sites and prohibited the use and possession of sacred objects necessary to practice their religion. The House and Senate passed a joint resolution which states that, " . . . henceforth, it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions . . . including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites". The resolution also states that the President directs federal departments and agencies to evaluate their policies and procedures in consultation with Native traditional religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious rights and practices.

From this joint resolution, came the American Indian Religious Freedom Act of 1978 (AIRFA) [P.L. 95-341 and Amendments of 1994 P.L. 103-334] which states, "it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites."

The effect this federal legislation has had on Caltrans is minimal, since it basically duplicates the provisions of PRC Section §5097.9, discussed in Article 3-4.3 **California State Law** of this chapter.

EXECUTIVE ORDER 12898 – FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS (1994)

This Executive Order 12898 directs federal agencies to develop an agency-wide environmental justice strategy that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The Executive Order (E.O.) created an Interagency Working Group to offer consistent guidance to federal agencies in developing the administration, interpretation, enforcement, and research of an environmental justice strategy to encourage cooperation and coordination among the agencies conducting research, and to hold public meetings for the purpose of fact finding, receiving public comments, and conducting inquiries concerning environmental justice. The E.O. directs federal agencies to use existing data systems and develop cooperative agreements with state, local, and tribal governments in order to share information and to avoid unnecessary duplication of efforts.

Consultation and coordination with federally recognized Indian Tribes on issues addressed in the E.O. is also required.

EXECUTIVE ORDER 13007 - INDIAN SACRED SITES

President Clinton signed E.O. 13007 on May 24, 1996, ordering federal agencies managing federal lands to implement procedures to

- accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners,
- to avoid adversely affecting the physical integrity of such sacred sites, and
- to ensure that reasonable notice is provided of any proposed action that may restrict future access or use or could adversely affect the sites.

The agencies were to report to the President any necessary changes to facilitate meeting these requirements and any procedures identified to facilitate consultation with appropriate Indian tribes and religious leaders and the expeditious resolution of disputes relating to adverse agency action on such sites on Federal lands. The E. O. affirms the Executive Memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments." The definition of a sacred site as a "narrowly delineated", i.e., small, bounded location, and requirement that a tribe or an individual tells the land agency about the site are two elements in the Executive Order that are considered problematic. See also the ACHP's publication, "The Relationship

Between Executive Order 13007 Regarding Indian Sacred Sites and Section 106." This is discussed further under Section 3-5.7, **Confidentiality.**

3-4.2 FEDERAL GUIDELINES RELATING TO NATIVE AMERICANS

On January 11, 2001 revised Section 106 regulations took effect. The Advisory Council on Historic Preservation's Section 106 guidance material following is based on previous regulation but is still generally relevant when assessing a federal undertakings impact on historic properties. When available, a summary of guidance issued for the January 11, 2001 will supplant the following.

ADVISORY COUNCIL ON HISTORIC PRESERVATION GUIDANCE

Section 106 Participation by Indian Tribes and Other Native Americans (1988)

This fact sheet, based on the 1986 version of the regulations, specifies how Indian tribes, traditional cultural leaders, and other Native American groups are provided the opportunity to participate in the Section 106 review of federal undertakings. The fact sheet also notes that the regulations encourage federal agencies, SHPOs, and the ACHP itself, to be sensitive and sympathetic to the special concerns of Indian tribes in historic preservation issues on and off Indian lands.

Regulation definitions singled out include definitions of **Indian lands, Indian tribe, Interested Persons,** and **State Historic Preservation Officer**. Terms not defined in the regulations, but clarified in the Council's Fact Sheet, *Section 106*, Step-by-Step, and repeated here include **other Native American, Section 106 review,** and **traditional cultural leader.** In general, the regulations require federal agencies to seek information from tribes and interested persons that are likely to have knowledge or concerns with historic properties in the area, and are to inform the tribes and interested persons consulted of the agency's determinations of eligibility and effect.

If a tribe has established formal historic preservation procedures for activities on Indian land as well as on non-Indian land of importance to them, compliance with Section 106 should, to the extent feasible, be consistent with those procedures. Tribes can also be a Tribal Historic Preservation Officer (THPO) with complete or partial Section 106 responsibilites. Tribes may wish to establish standing agreements with agencies and SHPOs that specify how the tribe can be consulted with respect to particular areas, properties, property types, or undertakings. When an undertaking affects Indian lands, the Federal agency is

to invite the tribe to consult and concur in any agreement. The tribe and other Native American groups can also be invited to be consulting parties on non-Indian land.

Public Participation in Section 106 Review: A Guide for Agency Officials (1989)

The Public Participation in Section 106 Review guide is based on the 1986 version of the regulations, but is still relevant. It reiterates the distinction between "interested persons" and the general public and encourages coordinating public participation in Section 106 review with public participation procedures established under NEPA or other pertinent statute.

The general principles of public participation are that it is supportive of historic preservation objectives, recognizes that both agency and the public have responsibilities, **encourages a flexible approach**, and is commensurate with the scale and type of undertaking involved, its potential effect, the likelihood of historic properties to be present, and the kinds of public interest present. In the guidance on making documentation available to the public, the issue of confidentiality is discussed.

The "interested persons" sections are particularly relevant to the involvement of Indians in the Section 106 review process. The regulations require agencies to seek information from parties that are likely to have knowledge or concerns with historic properties in the area, particularly during the identification and evaluation phases. Interested persons are also consulted regarding a project's effect findings as well as ways to resolve adverse effects. See Chapter 2 and *Section 106*, Step-by-Step for further information.

Treatment of Archaeological Properties, A Handbook (Part II, Section IV and Part III, Section XII) [1981]

In the review of projects involving archaeological properties, the ACHP ensures that all due consideration is given for any non-archaeological historical or cultural values the property may represent. For example, if an archaeological property is also valuable to a local community for cultural reasons, appropriate weight to this value will be given in decision making (Part II, Section IV). This guidance also notes that archaeological excavations should "relate positively to non-archaeological concern with the area and its archaeological properties," including religious and other cultural concerns of Native Americans (Part III, Section XII). Directly impacting a site is an adverse effect that often is mitigated by data recovery. Part II, Section X outlines under what circumstances a data recovery program could result in a finding of No Adverse Effect and under what circumstances such a finding would not be appropriate.

This last finding includes situations where the property is "known or thought to have historic, cultural, or religious significance to a community, neighborhood, or social or ethnic group that would be impaired by its disturbance" (B)(3)(d). Part III, Section X underscores the need to make a systematic effort to find and consult with appropriate representatives when a demonstrable ethnic affinity exists between recovered human remains and living groups.

Section 106 Regulations User Guide: Consulting with Indian Tribes in the Section 106 Review Process (1999)

Consulting with Indian Tribes in the Section 106 Review Process outlines the specific provisions incorporated into the June 17, 1999 revised Section 106 regulations for federal agencies (FHWA and Caltrans acting on its behalf) to involve Indian tribes when actions occur, or affect historic properties, on tribal lands, and for consulting with Indian tribes, on and off tribal lands, throughout the Section 106 process. It has not yet been updated to reflect the January 11, 2001 regulations. It is anticipated that the main change will be a distinction of the roles of Indian tribes that have assumed the responsibility of SHPO on their tribal lands (i.e., THPOs) from that of tribes that have not.

Key points of this User's Guide

- The agency must make a reasonable and good faith effort to identify tribes to be consulted,
- Historic properties of religious and cultural significance may be located on ancestral, aboriginal or ceded lands of Indian tribes, and
- The agency must consult with any Indian tribe that may attach religious and cultural significance to a historic property regardless of its location,
- Consultation must be respectful of tribal sovereignty and is conducted in recognition of the government-to-government relationship.

The guidance proceeds to outline the role of Indian tribes in the initiation of the Section 106 process, in the identification and evaluation of historic properties, and in the assessment and resolution of adverse effects. The FHWA must consult with the tribe on all findings, and in the resolution of adverse effects. The tribe can request the ACHP to review any of the FHWA's findings, or to participate in consultation in the resolution of adverse effects. The involvement of tribes in the development of program alternatives is also outlined.

Protecting Historic Properties: A Citizen's Guide to Section 106 Review (2001)

This Citizen's Guide is based on the January 11, 2001 regulations and explains the Section 106 review process, who and what is involved, and how citizens

can involve themselves in the review, and influence decisions about Federal projects that affect properties they value.

The guidance explains the process for becoming a "consulting party," other than those specifically named in the regulations, namely the SHPO, THPO, tribes, local governments, and applicants for federal assistance, permits, licenses, and other approvals. As noted earlier in this chapter, other individuals and organizations with a demonstrated interest in the project may participate in Section 106 review as consulting parties "due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties."

The FHWA, in consultation with the SHPO, and if on tribal land, in consultation with the THPO or tribe, decides who will be a consulting party. How to contact the ACHP and what to do when an agency is out of compliance with Section 106 is also included in the guide.

FEDERAL HIGHWAY ADMINISTRATION GUIDANCE

Federal Highway Administration – Guidance on Relations with American Indian Tribal Governments (Indian Task Force Report – February 4, 1998)

(To be inserted later)

NATIONAL PARK SERVICE GUIDANCE

The National Park Service has many publications that are relevant to cultural resources studies. Most of the publications listed below are available on-line.

Archaeology and Historic Preservation: Secretary of the Interior's Guidelines for Archeological Documentation

The Archaeology and Historic Preservation Standards and Guidelines stress that archaeological documentation needs to be “responsive to the concerns of local groups (e.g., Native American groups with ties to specific properties).” Archaeological research designs should provide for appropriate ethnographic research and consultation and should consider concerns expressed previously during identification and evaluation phases. If coordination with local or other interested groups had not previously occurred, the research design “should anticipate the need to initiate appropriate contacts and provide a mechanism for responding to sensitive issues, such as the possible uncovering of human remains or discovery of sacred areas."

These guidelines can also be found in the *Federal Register*, vol. 48, No. 190, Thursday, September 29, 1983, pp. 44734-44737.

National Register Bulletin 15: Guidelines for Applying the National Register Criteria for Evaluation Bulletin 15 (Revised 1991)

National Register Bulletin 15 contains guidance for assessing significance and integrity when evaluating a cultural resource's National Register eligibility. Prehistoric archaeological sites are most often eligible for listing in the National Register under Criterion D (information potential). Archaeological sites and other places significant to Native Americans can also be found eligible for listing under any of the other four criteria. For example, properties may have significance under Criterion A if they are associated with events, or series of events, significant to the cultural traditions of the community, under Criterion B if they are associated with individual Native Americans who made a specific important contribution to history or important mythological figures, or under Criterion C if the property demonstrates distinctive characteristics of a type, period or method of construction or possesses high artistic values, such as a petroglyph or pictograph site.

Religious properties [Criteria Consideration (a)] are usually not considered for listing in the National Register to avoid any "judgment by government about the validity of any religion or belief." These properties can be eligible for listing, however, if they meet the requirements of Criterion Consideration (a), given in Bulletin 15, in addition to meeting one of the four National Register Criteria and possessing integrity.

A Native American religious property can be eligible under Criterion A (Events) if it is significantly associated with traditional cultural values. A property or natural feature important to a traditional culture's religion and mythology is eligible if its importance has been ethnohistorically documented and if the associations are not so diffuse that the physical resource cannot be defined adequately. An example of this type of historic resource could be a natural feature from which a particular group is believed to have originated. Another criterion for which a Native American religious site could be eligible is association with a person important in religious history (Criterion B), if that significance has scholarly, secular recognition, or is important in other historic context, or if it can yield important information about the religious practices of a cultural group or other historic themes. Other Criteria Considerations, as listed in Bulletin 15, could also apply to places significant to Native Americans. Please refer to Bulletins 15 and 38 (mentioned below) for further discussion.

National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties

National Register Bulletin 38 contains guidance for assessing significance in a historic property type called a Traditional Cultural Property or Place (TCP). Many Native Americans prefer "place" because "property" connotes ownership, a concept that is often antithetical to cultural beliefs. A TCP is generally defined as a place that is eligible for inclusion in the National Register because it is associated with cultural practices or beliefs that are rooted in a community's history, and are important in maintaining the cultural identity of that community. TCPS are associated with any kind of community: ethnic (e.g., a Jewish community in Florida), religious (e.g., Mormons), etc. Most identified to date are Native American sacred sites.

Often the community can only identify a TCP, or by certain members of the community, that ascribe significance to it, as there are often no associated physical characteristics that can be identified by the uninitiated.

A TCP must be a place, i.e., a physical location. Although intangible attributes are considered, purely intangible attributes are not TCPs. Evaluating and assessing the integrity of a TCP involves looking at the property through the eyes of the community that values it; it is not an academic judgement. The presence of a TCP does not need to be known prior to efforts to identify historic properties, since factors such as private acquisition, acculturation, or colonization might have restricted access to and knowledge of such places through time. Field visits may jog memories resulting in the identification of a place that meets the definition of a TCP.

A TCP is eligible for the National Register if

- it meets at least one of the four evaluation criteria;
- has integrity; and
- is at least 50 years old.

A place that is not eligible for the National Register as a TCP may still be a place with cultural significance ascribed to it by a community and would be considered under other laws, such as NEPA or California Public Resources Code §5097.9. Intangible values such as religious values and lifeways still require consideration under other statutes, such as AIRFA.

Executive Memorandum of April 29, 1994, Government-to-Government relations with Native American Tribal Governments

This April 1994 Memorandum offers guidance to executive departments and agencies to ensure that they operate within a government-to-government relationship with federally recognized Native American tribes. Executive

departments and agencies are to consult openly and candidly, in a "knowledgeable, sensitive manner respectful of tribal sovereignty" with tribal governments on proposed actions that affect tribal rights or trust resources and ensure that the tribes' rights and concerns are considered during the development of such plans, projects, programs, and activities. The Executive departments and agencies are to work cooperatively with each other to accomplish the memorandum's goals, remove impediments to accomplishing the goals, and design solutions and tailor programs to address specific or unique needs of tribal communities.

3-4.3 CALIFORNIA STATE LAW

PUBLIC RESOURCES CODE §5097.9

The primary California State Law guiding Caltrans Native American policies and practices is Chapter 1.75 of the Public Resources Code, §5097.9-5097.991, *Native American Historical, Cultural and Sacred Sites*. This law discusses the Native American Heritage Commission and its power, roles and responsibilities, mentioned earlier in the chapter. It also requires cooperation of state and local agencies with the Commission in carrying out its duties and prohibits a public agency from interfering with the free expression or exercise of Native American religion or causing severe or irreparable damage to any Native American "sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine" unless shown to be necessary for the public interest. The NAHC has the power to bring an action against a public agency if it appears that these prohibitions are or will be unmet.

It is an unfortunate convergence of facts that Native American burials are often unmarked and thus disturbed during earth moving activities. Activities frequently undertaken by Caltrans are restricted in location so that avoidance of burials is difficult if not impossible. In the event that human remains, including isolated, disarticulated bones or fragments, are discovered during any Caltrans activity, whether it is during maintenance, construction, or an archaeological excavation, certain steps must be taken, following the provisions of Health and Safety Code §7050.5 and PRC §5097.98, and/or PRC §5097.94 as provided below.

It is a felony to obtain or possess Native American artifacts or human remains from a grave or cairn except as otherwise provided by law or in accordance with an agreement reached pursuant to PRC §5097.94 or PRC §5097.98.

PRC §5097.98

Under PRC §5097.98, the NAHC designates immediately a person or persons it believes to be the most likely descended from the deceased. Within 24 hours of being notified, this person may, with the permission of the property owner, inspect the remains. The Most Likely Descendant also recommends means for treating and disposing with appropriate dignity, the human remains and associated items. If the NAHC does not identify the descendent, or the descendent does not make a recommendation, or the landowner does not accept the recommendation, and any mediation attempted fails to provide the landowner acceptable measures, the landowner is to reinter the remains on the property in an area not subject to further disturbance.

PRC §5097.94

The NAHC also should assist landowners in developing agreements with appropriate Native American groups for the respectful treatment and disposition of human remains. If such an agreement is desirable, the NAHC will provide a list of all Most Likely Descendents to be consulted regarding the agreement. All the Most Likely Descendents attest to this agreement by affixing their signatures to it. In the absence of such an agreement, the NAHC designates a Most Likely Descendent after the remains are discovered, and the steps outlined in PRC Section §5097.98 are followed.

PRC §5099.991

PRC §5097.991 *Repatriation of Native American remains and associated grave artifacts* simply states that "It is the policy of the state that Native American remains and associated grave artifacts shall be repatriated."

Caltrans is in the process of repatriating human remains and associated items found in its curated collections. Since the mid 1970s, the wishes of the Most Likely Descendents for the treatment and disposition of human remains and associated burial items have been followed, and repatriation is not an issue.

HEALTH AND SAFETY CODE §7050.5

If any human remains are exposed, Health and Safety Code §7050.5 requires that no further excavation or disturbance occurs in the area and that the county coroner is called so that the coroner can verify that the remains are not subject to medical jurisprudence. Within 24 hours of notification, the coroner calls the NAHC if the remains are known to be or thought to be Native American.

HEALTH AND SAFETY CODE §7054(C)

This law, which states that any person who deposits human remains in any place other than a cemetery is guilty of a misdemeanor, does not apply to the reburial of Native American human remains under an agreement between the landowner and the Most Likely Descendent developed pursuant to PRC §5097.94(l) or under PRC §5097.98.

3-4.4 LOCAL GOVERNMENTS AND ORDINANCES

Under Section 106 regulations, Caltrans is required to consult with local governments regarding historic properties (36 CFR §800.4 (a)(1)(iii)). Consultation on findings of adverse effects requires that the head of a local government be included (for example, the mayor of a city, the chief executive of a county government, or his/her designee) when the affected historic properties are within the local government's jurisdiction (36 CFR §800.5(e)(1)(i)).

In addition, several California counties and some cities have adopted local ordinances protecting Native American resources. These include Humboldt, Inyo, Marin, Mendocino, Napa, Santa Barbara, Santa Clara, and San Joaquin counties.

3-5 CALTRANS NATIVE AMERICAN POLICIES

Caltrans cultural resources policy is to exercise all practical means to avoid, and if avoidance is not possible, to minimize adverse effects of transportation projects upon significant cultural resources. It is also Caltrans policy to avoid, or minimize, adverse effects to resources identified as important to the Native American community that may not be eligible for the National Register but are important to maintaining the Native American culture. Such resources include plant or other gathering locations

> Districts should work towards establishing an on-going relationship with Indian tribes, as well as other Indian groups and individuals, with cultural concerns in their districts.

Pursuant to the NHPA and Section 106 regulations, Caltrans consults with Indian tribes, other Native American groups and individuals, and traditional cultural leaders who are likely to have knowledge or concerns with historic properties in Caltrans right-of-way. Under PRC §5097, Caltrans works with the Native American Heritage Commission in its efforts to protect sacred sites, ensure Native Californians access to sacred sites, and provide for the respectful treatment of human remains and associated grave artifacts. FHWA and Caltrans also ensure that the appropriate Native

Americans are consulted concerning sacred items or items of cultural patrimony as provided for in part by NAGPRA, prior to curating an archaeological collection. FHWA and Caltrans also ensure that Indian tribes and other Native Americans as appropriate are consulted per NAGPRA for excavations on federal or tribal lands. Caltrans policy is based on these laws.

To implement these policies, at minimum, efforts to identify Native American concerns are conducted early in the planning stages of a project to ensure that Native American cultural values are considered.

Caltrans policy regarding different aspects of Native American involvement is outlined below according to subject. Implementation of these policies is addressed in Section 3-6, **Procedures.**

3-5.1 CONSULTATION

It is Caltrans policy to consult with Indian tribes and other Native American groups and individuals on any proposed Caltrans project that may potentially affect historic properties or "cultural resources of interest to Native Americans." Historic properties are those properties that are listed in have been determined eligible for listing in the National Register of Historic Places. Historical resources under CEQA are resources that meet the criteria for inclusion in the California Register of Historical Resources. "Cultural resources of interest to Native American" include resources that may not be eligible for listing on either register but are important to Native Americans in maintaining their culture. A location where plants used for food, basket materials, or medicinal purposes are gathered is an example of such a resource. The project area may be of known archaeological or Native American cultural sensitivity; however, the lack of known resources does not supersede the need for consultation.

> Cultural Studies personnel are encouraged to establish long term relationships with Indian tribes, groups, and individuals to establish mutual trust, provide for effective and efficient communication, and to better address concerns regarding projects, particularly those with short time frames.

Consultation with Native Americans begins early in, and continues throughout, the life of the project.

3-5.2 MONITORS

It is Caltrans policy to solicit the services of a Native American Monitor for

- archaeological surveys of areas of high cultural sensitivity, such as burial grounds, sacred or ceremonial areas, or where Native Americans have expressed a strong concern for cultural resources.
- all Caltrans excavations, including Extended Phase I, Phase II and Phase III studies.
- construction activities where the presence of resources of concern to Native Americans has been identified and a commitment has been made for a Native American to monitor during ground-disturbing activities.

3-5.3 HUMAN REMAINS/ASSOCIATED ARTIFACTS

Caltrans complies with provisions of NAGPRA on federal or tribal lands regarding the treatment and disposition of human remains and associated grave artifacts when encountered during the course of an archaeological excavation or any ground disturbing activity. Pursuant to PRC §5097.98, Caltrans also complies with the recommendations of the Most Likely Descendent per PRC §5097.98 regarding the treatment and disposition of human remains and associated grave artifacts when encountered during the course of an archaeological excavation or any ground disturbing activity on state lands.

The Native American Heritage Commission (NAHC) maintains a Sacred Lands Inventory. All burials and reburials must be recorded on the Sacred Lands Inventory Form (**Exhibit __** to be inserted later) and the form is submitted to the NAHC.

3-5.4 SACRED ITEMS/ITEMS OF CULTURAL PATRIMONY

Caltrans will follow the provisions of NAGPRA regarding the treatment of sacred items or items of cultural patrimony.

3-5.5 AVOIDANCE OF TRADITIONAL CULTURAL PROPERTIES

Where feasible, it is Caltrans policy to avoid cultural resources that are of value to Native Americans**.** Caltrans will make every effort to avoid burial areas, as well as sacred, religious or ceremonial sites. Where such sites cannot be avoided, Caltrans must identify Native American concerns, and reach agreement on the appropriate treatment.

3-5.6 ACCESS TO SACRED SITES; GATHERING SITES

The NAHC 1979 report to the Legislature succinctly stated "Equally important (as burials) to California Indians are those places of traditional, spiritual or so-

cial importance (such as prayer sites, ceremonial sites and shrines), areas important in folklore and legend, or areas attributed with special or unique powers of sacredness. To ensure that Native American culture is not lost, it is essential for Indians to have continued access to traditional sacred places, many of which are located on lands now owned by non-Indians or are under control of various public authorities."

Pursuant to PRC §5097.9 and where feasible and appropriate, Caltrans ensures Native American access to such sites described above when they are located on Caltrans-owned land or are traversed by a State highway.

Caltrans has a program to identify gathering locations within and adjacent to the Caltrans right-of-way and a policy to prohibit herbicides in these areas. Caltrans Maintenance, where possible, is willing to work out trimming plans that will assist in stimulating the necessary plant growth. Each District has Landscape Specialists who contact local Native Americans to discuss gathering and issue permits. This program undergoes an annual review process resulting in an Annual Vegetation Control Plan.

3-5.7 CONFIDENTIALITY

The issue of confidentiality has two sides. On one side, Native Americans are often reluctant to reveal the location of a sacred or traditionally important site for a variety of reasons. Reasons may be a belief that revelation may bring harm to that site or to the person who revealed the site's location, or would reveal the location of a scarce and precious resource to a competing interest. For instance, some basketweavers do not reveal the location of their gathering locations even to other basketweavers. On the other side, however, these sites cannot be protected if their existence is not known.

Although state and federal laws provide for protecting the confidentiality of this information, the only iron clad guarantee that an agency can make that the information will not be revealed is if it is never obtained in the first place. Therefore, if at all possible within the restraints of a given project, Districts needs to develop innovative and flexible approaches to identify areas that should be avoided without the requirement for complete location information. DNACs need to work with design engineers to on approaches that would successfully avoid these sensitive locations. If this is not possible, Districts must make every effort to ensure the confidentiality of obtained information is only disclosed on a "need to know" basis, including the exact locations of burials, or sacred, ceremonial or religious places.

Section 304 of the NHPA states that federal agencies can withhold from public disclosure information on the location, character, or ownership of a historic re-

source if that disclosure may cause a significant invasion of privacy, risk harm to the resource, or would impede the use of a traditional religious site by practitioners. When that information is developed to comply with Sections 106 or 110(f) of the NHPA, the Secretary of the Interior must consult with the ACHP concerning disclosure and who may or may not have access to that information.

The records of Native American graves, cemeteries, and sacred places maintained by the NAHC and records that relate to archaeological site information are exempt from public disclosure (California Government Code §6254(r) and §6254.10).

3-5.8 POSSESSION, CURATION, AND DISPLAY OF ARTIFACTS

It is Caltrans' policy not to obtain human remains and associated grave artifacts, sacred objects or objects of cultural patrimony. **Human remains and associated grave artifacts recovered from state lands are respectfully treated and disposed of according to the wishes of the Most Likely Descendent**, whether the human remains and associated artifacts are discovered during fieldwork or post-fieldwork in the laboratory or during construction. On private lands and upon consideration of the Most Likely Descendant's recommendations, the landowner determines the respectful treatment and disposition of the human remains and associated grave artifacts.

For remains discovered during construction or other activities, the DNAC notifies the NAHC, obtains the name of the Most Likely Descendent if no one has been previously designated, and contacts the Most Likely Descendent.

Following NAGPRA regulations, FHWA and Caltrans give custody of human remains and funerary objects discovered on federal or tribal lands to the known lineal descendent(s), or if lineal descendents are not known, in a specified order of priority. That order is with

(a) the Indian tribe if discovered on tribal land;
(b) the tribe that can show the closest cultural affiliation;
(c) the Indian tribe aboriginally occupying the land; or
(d) the tribe that can show a stronger cultural relationship.

As defined in the NAGPRA regulations, the appropriate tribe determines the treatment and disposition of the human remains. This is usually outlined in a pre-excavation Action Plan that was developed as a result of consultation.

It is Caltrans' policy to ensure that the appropriate traditional cultural leaders and group determine the treatment and disposition of sacred objects and objects of cultural patrimony, as defined by NAGPRA. Although not covered by state

law, sacred objects and objects of cultural patrimony, and the collections of which they are a part will not be accepted for curation by curational facilities subject to NAGPRA regulations. Caltrans, therefore, repatriates sacred objects and objects of cultural patrimony. The custody of sacred objects and objects of cultural patrimony recovered from federal or tribal lands follows the order of priority specified above, and their treatment and disposition is also outlined in a NAGPRA Action Plan.

For all other cultural artifacts retrieved during Caltrans excavations, it is Caltrans' policy to ensure that the collections are properly curated following the federal curation regulations (36 CFR §79), for collections obtained from federal land under an ARPA permit, and following the State Historical Resources Commission's guidelines for all other collections. Caltrans will consult with appropriate Native American groups regarding such curation plans, as outlined in 36 CFR §800. Caltrans seeks public, private, or Native American maintained repositories that provide secure permanent storage and ready access to users.

Caltrans will not display disinterred skeletal remains, grave artifacts, or other objects that Native Americans regard as traditionally sacred.

The appropriate Native American group must grant approval for the use of any photographs and detailed drawings of human skeletal remains, associated grave goods or sacred objects prior to their public display, or use for interpretive or reporting purposes. The documentation of human remains should be included as a separate appendix to the main body of a report and should not be available for public distribution unless there is a scientific or cultural interest and when the Native Americans agree to publication.

3-6 PROCEDURES

Use the following procedures to

- comply with state and federal laws, regulations and guidelines regarding Native American cultural concerns;
- ensure Native American participation in the Section 106 process; and
- identify cultural resources within Caltrans right of way that Caltrans will seek to protect.

The procedures include those for consultation, hiring monitors, and discovery of human remains during any Caltrans activities.

District Cultural Resources staff or District Native American Coordinator generally handles Native American coordination rather than Caltrans consultants.

This avoids putting the consultant in a position of having to justify the Caltrans project or having to speak for Caltrans on issues of a sensitive nature. A consultant, however, is not precluded from coordination if district staff judge this to be appropriate.

For all projects that have the potential to affect resources of concern to Native Americans, the DNAC ensures that the NAHC is notified of the proposed project by form letter (**Exhibit __** to be inserted later). The NAHC will refer to the Sacred Lands Inventory file and notify the District within xxx weeks if they have a record of a sacred land within the proposed project's Area of Potential Effects (APE). Caltrans' efforts to consult Native Americans and the results of that consultation must be summarized in the Section 106 documents used to document identification, evaluation, or treatment of archaeological sites or Traditional Cultural Properties.

3-6.1 CONSULTATION

Consultation means that FHWA or Caltrans acting on its behalf actually confers with the tribes and interested persons on the proposed project and its potential for impacts on cultural resources within the project APE. Caltrans communicates any changes in the project APE to the tribes and interested persons. This may require renewed consultation if some time has passed. Caltrans can initiate consultation by any means for instance, by letter, telephone call, and personal visit or by a semi-annual notice. If there is no response to the initial contact, a telephone call or personal visit should be made. The amount of effort to consult should reflect the scope of the project and the degree of cultural sensitivity of the project APE. A phone call may be adequate. Other projects may involve more intensive and extensive consultation. The Districts should consider contracting with an ethnographer, if it appears appropriate to do so, if the project is complex or there are Native American issues.

> The DNAC must keep a record of consultation, noting
> - who was involved,
> - when and where it took place,
> - what was discussed.
>
> Other staff members must ensure that they inform the DNAC of all consultation efforts.

Successful consultation with tribal leaders, traditional leaders or elders often requires personal visits. A field review of high sensitivity project areas with representatives from the local Native American community may be necessary. In general, these reviews enhance the District's sensitivity to traditional values and land use practices, as well as sensitivity to features that are not readily ap-

parent to the archaeologist or documented in the historic or ethnographic literature.

When consulting, Caltrans staff shall keep in mind cultural events that may be occurring throughout the year, as well the need for tribal groups to meet and discuss any information provided them or requested from them. These activities may delay a response. Also many tribal members or Native American consultants work on tribal business with Caltrans and other agencies in addition to their regular occupations, and cannot respond within short time frames that agencies have frequently tried to impose on them.

Districts should strive to develop optimal relationships by talking to tribal leaders and other Native American groups and individuals and establish with them how best to consult. Each tribe, group, or individual has different protocols for interacting with agencies. These efforts, although perhaps extensive or intensive in the short run, should ultimately develop a good trust relationship and smooth the way for both Caltrans and the tribe and other consulting parties * in future consultations.

Consultation means communicating to the Native Americans the purpose of the project, archaeological survey results, proposed excavations, and excavation results. Their concerns regarding historic properties or other cultural resources in the project area are solicited. Efforts should be made to work around their concerns if confidentiality is an issue, as discussed in Section 3.5-7. Caltrans provides documents upon request.

The consultation record must be included, or referenced if confidentiality is an issue, in Historic Property Survey Reports, subsequent 106 documents, and environmental documents as appropriate.

3-6.2 OBTAINING A MONITOR

The NAHC will assist Caltrans in providing information about the appropriate tribal group and traditional cultural leaders for specified areas, but will not recommend any individuals for monitoring positions. Each DNAC should develop a list of tribes, groups, or individuals known to have a cultural affinity within the Districts' territory. Sources of information for this list include the NAHC, Native American organizations and agencies, other Federal or state agencies, other DNACS, and the Field Directory of the California Indian Community (CDHCD 1996) and updates.

3-6.3 HIRING A MONITOR

Caltrans has a sole source authorization/advertising exemption for contracting with Native Americans to monitor archaeological excavations and construction when appropriate. Caltrans generally hires Monitors through the "non-credit card process," formerly known as a "confirming service contract process" or through a regular service contract.

The former process can be used if payment does not exceed $999.99 per contract, and does not exceed a total of $5000 per year for a single vendor or service. Paperwork is essentially limited to the Monitor filling out a drug free workplace form and a vendor form, and subsequently submitting invoices for work completed. If the work will exceed the $999.99 limit, a regular service contract is needed. These contracts take up to a month to put in place. Native American contracts are specifically exempted from the requirements for competitive bidding on contracts. Costs should be charged to the project for which the Monitor is hired.

The job description, procedures, and expectations may be outlined in a monitoring agreement (**Exhibit __** to be inserted later).

The DNAC or lead project person approves any timesheets and travel expense claims submitted by the monitor, submits them to the accounting office, and ensures payment in a timely fashion. As with all contractors, unsatisfactory performance is documented and reported to the DEBC.

3-6.4 HUMAN REMAINS/ASSOCIATED ARTIFACTS

The following steps are to be followed when human remains, including disarticulated bone, are encountered during an archaeological excavation, construction, maintenance or encroachment permit work on state owned land. These steps can be included as stipulations in contract specifications.

Caltrans shall

- Cease work in the vicinity of the human remains.
- The lead person on the project (for instance, field director, resident engineer, maintenance supervisor, or permit engineer) ensures that the DEBC or DNAC is immediately contacted.
- The lead person, DEBC or DNAC telephones the Coroner and the NAHC. Although the coroner has the ultimate responsibility to contact the NAHC, the Caltrans calls the NAHC at this time to provide them with information on the discovery, and to assure them that appropriate action is being taken. Coroner may or may not inspect the remains. If the coroner inspects the

remains and determines that the remains are not Native American and/or are determined to be a result of wrongful death, the coroner may either take possession of the remains for further inquiry, release them to next of kin, or order the body to be reinterred. After the above action, work may resume on the excavation project.

- If the Coroner determines that the remains are Native American, the Coroner notifies the NAHC of the findings. The NAHC immediately notifies the Most Likely Descendent.
- The Most Likely Descendant inspects the remains and makes a recommendation to the lead person on the treatment of remains and associated grave goods.
- The lead person ensures that the recommendations are followed. After the appropriate actions are taken, the excavation work may resume.

CHAPTER 4
CULTURAL RESOURCES IDENTIFICATION

4-1 INTRODUCTION

District Heritage Resource Coordinators (HRCs) are responsible for determining if cultural resource studies are required for a given project, and coordinating any required work with the appropriate cultural resource specialists. The HRCs work under the direction of and, in consultation with District Environmental Branch Chiefs (DEBCs). Identifying resources that might be affected by a particular project is the first step in the both the federal and state compliance processes.

Resource identification should take place as early as possible in the planning process, once a Study area has been defined or an Area of Potential Effects (APE) is established. The goal of this initial phase is to

- identify all cultural resources that may require legal scrutiny
- determine whether technical studies are needed and
- determine what kinds of expertise will be required to conduct the technical studies (recordation and evaluation).

Identification efforts come before the recordation and evaluation processes, which are discussed in **Chapters 5-7**. The purpose of the identification step is to determine whether there are any cultural resources in the APE that could possibly meet state and federal criteria for historic significance, without "guessing or assuming in advance" which resources are significant. Identification efforts, therefore, needs to be broad and prospective in nature.

This chapter discusses the types of resources that should be identified, the geographic area that needs to be examined (APEs and Study Areas), and the three principal methods that Caltrans uses to ensure that cultural resource identification efforts are adequate. Those methods consist of background research, reconnaissance (windshield) surveys, and pedestrian archaeological reconnaissance. The chapter then describes how to bring in the cultural resource specialists when technical studies are required and briefly discusses National and California Register evaluation criteria and determinations of eligibility. The final section mentions opportunities for combining cultural resources documents.

4-2 TYPES OF RESOURCES

Efforts to identify cultural resources in the project Study Area or APE need to take into account all types of cultural resources.

4-2.1 FEDERAL AND STATE TERMS

For Caltrans purposes the term **"cultural resource** means any tangible or observable evidence of past human activity, **regardless of significance**, found in direct association with a geographic location, including tangible properties possessing intangible traditional cultural values. This broad definition is meant to ensure that all potential **historic properties** subject to consideration under Section 106 of the National Historic Preservation Act of 1966 and its implementing regulations (36 CFR Part 800) and **historical resources** subject to consideration under the California Environmental Quality Act of 1970 will be recognized and given appropriate consideration.

Once a cultural resource is evaluated, if it is found to be significant, it is then called a historic property, a historical resource or a significant historical resource under CEQA, depending on whether federal and/or state regulations apply. See sidebar.

Historic property	• Federal term • District, site, building, structure, or object • Significant in American history, architecture, engineering, archaeology, or culture • National, state, or local level of significance • Meets National Register criteria • Includes properties that have been listed or determined eligible for listing in the National Register of Historic Places
Historical resource	• State term • Object, building, structure, site, area, place, record, or manuscript • Historically or archaeologically significant, or significant in other specific aspects of California life • Meets California Register criteria. • Includes resources that have been listed in or determined eligible for listing in the California Register of Historical Resources by the State Historic Resources Commission
Historical resource under CEQA	• State term specific to CEQA • National Register & California Register listed and eligible properties, • Resources designated as historic under local landmark ordinances • Resources identified as significant in local survey meeting Office of Historic Preservation Standards.

Referring to the National Register and California Register criteria, which are quite similar, can further refine the definition of "cultural resource". [See **Exhibit 16** which compares the criteria.] While any human modification of the environment has at least some potential to meet those criteria, several factors including age, integrity, and relative importance of a property may be used eliminate resources that do not require identification. **Section 4-4.6** discusses those factors. **Exhibit 14** is a list of resources that do not require identification. In general, if there is any doubt about the application of the principles outlined in **Section 4-4.6** and **Exhibit 14**, identify the resources. For example, it may be difficult to determine the age of many resources without research or specific expertise.

NATIONAL REGISTER DEFINITION OF RESOURCE TYPES

The National Register and California Register criteria for evaluation use the same categories for types of cultural resources: Building, structure, object, site and district. The following definitions have been excerpted from National Register Bulletin 15:

BUILDING - "A building, such as a house, barn, or similar construction, is created principally to shelter any form of human activity. 'Building' may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn." *(Examples: houses, stables, garages, city halls, commercial buildings, factories, hotels, and mills, train depots)*

STRUCTURE - "The term 'structure' is used to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter." *(Examples: bridges, tunnels, gold dredges, fire lookout towers, canals, dams, power plants, silos, systems of roadways and paths, kilns, earthworks, and bandstands)*

OBJECT - "The term 'object' is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment." *(Examples: sculpture, statuary, monuments, boundary markers, and fountains)*

SITE - "A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure." *(Examples: habitation sites, rock shelters, cemeteries, gardens, battlefields, ruins of historic buildings and structures, mining sites, shipwrecks, locations of treaty signings, trails, designed landscapes, and land areas having traditional cultural significance)*

DISTRICT - "A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development." *(Examples: college campuses, central business districts, large forts, industrial complexes, rural villages, canal systems, large farms, ranches, estates or plantations, transportation networks, large landscaped parks, and collections of habitation and limited activity sites)*

RESOURCE TYPES BY DISCIPLINE

These resource types may be found significant for a variety of reasons that include their history, architecture, archaeology, engineering, and cultural associations as defined in the National Register Criteria for Evaluation. The following discussion divides the universe of cultural resources into broad categories that correspond with the types of expertise typically needed to evaluate such properties. Those categories include:

- **Prehistoric archaeological resources** (evaluated by prehistoric archaeologists; see **Section 4-2.2**);
- **Historical archaeological resources** (evaluated by historical archaeologists; see **Section 4-2.3**);
- **Built environment resources** (evaluated by historians and architectural historians and sometimes historical archaeologists in collaboration with historians; see **Section 4-2.4**); and
- **Traditional Cultural Properties** (most commonly evaluated by ethnographers; see **Section 4-2.5**);

In addition, some minor resources do not merit recordation or evaluation and are discussed in **Section 4-2.6**.

4-2.2 PREHISTORIC ARCHAEOLOGICAL RESOURCES

Prehistoric archaeological sites are sites, buildings or structures produced prior to Western entry into the region, or somewhat later Native American sites characterized by substantially pre-Western types of material residues. This definition specifically focuses on the research values of such properties, which presupposes the presence of a concentration of tangible physical remains. Those remains may take the form of deposits of cultural material or features found in or on the surface of the ground. Such resources should be recorded during archaeological surveys and must be evaluated by specialists trained in the field of prehistoric archaeology. Districts comprised of groups of prehistoric archaeological sites are also appropriately evaluated by prehistoric archaeologists. The foregoing definitions also recognize the fact that prehistoric archaeologists are trained to investigate Native American sites, occupied

or used both before and after those aboriginal populations had direct or indirect contact with literate colonists.

Prehistoric archaeological sites are typically distinguished from isolated finds by criteria such as the density of cultural materials present. Sites typically have concentrations of material that can be distinguished from isolates and extensive very low density scatters (so-called "background noise") common in some parts of the state such as the Modoc Plateau and Long Valley. Their notation in the Archaeological Survey Report, without formal recordation typically exhausts the research value and potential legal significance of isolates.

Some Native American sites may have traditional cultural values that require evaluation by an ethnographer or other trained specialist. Those sites are commonly referred to as Traditional Cultural Properties (TCPs), as discussed separately below in **Section 4-2.5**.

4-2.3 HISTORICAL ARCHAEOLOGICAL RESOURCES

Historical archaeological resources are sites, historic occupations and activities where the **location itself** possesses archeological value regardless of the significance of any existing historic-era building or structure that may be at the site. Historical archaeological resources normally will be more than 50 years by the time final planning decisions have been made for a project. This definition specifically focuses on properties that possess some kind of cultural deposits and/or complex of features, whether surficial or buried, whose only value is in archaeological research. Historical archaeological resources should be recorded during archaeological surveys. If evaluation is warranted the resources must be evaluated by qualified historical archaeologists. Qualified historical archaeologists also evaluate districts that contain groups of historical archaeological resources. In urban areas, historical archaeological resources frequently are buried and historical archaeologists need to use the guidance outlined in **Chapter 6** to identify, record and/or evaluate such resources.

Some types of historic deposits and features do not merit identification as discussed below in **Section 4-2.6**. These “exempted resources” generally can be distinguished from historical archaeological resources because clearly defined associations are absent, they have lost integrity, or there is very low density of materials present. Some examples of these exempted resources are materials tossed by the roadside, isolated historic items, and mixed deposits of modern and historic materials.

There are several other types of cultural resources discussed in **Section 4-2.4** below that may be important not only for their archaeological research value, but because they may have historic, architectural, or engineering associations.

While there may be physical remains associated with resources such as cemeteries, designed landscapes, battlegrounds, mines, canals, roads, trails, and farmsteads, evaluation of these resources likely will require collaboration between historians, architectural historians and historical archaeologists. For example, when a resource might possess archaeological values and historic, architectural or engineering associations, a historical archaeologist and a historian or architectural historian needs to be included on the evaluation team.

4-2.4 THE BUILT ENVIRONMENT

For Caltrans purposes the historic-era built environment means buildings, structures, objects, and non-archaeological sites, as well as districts composed of these resources. These "built" resources generally consist of intact, standing buildings and structures, as well as associated minor features such as landscaping, fences, outbuildings, and other structures or objects that could contribute to the importance of the larger property. Built environment resources typically are visible in aerial photographs and on APE maps that delineate building and structures by their footprints. They are also identified when conducting a reconnaissance survey, as well as through background research. Some may be noticed when the archaeological survey is conducted. In most instances, historic-era built environment resources are not recorded during the identification phase. Instead their locations are plotted on project mapping and they are referred to qualified architectural historians or historians for recordation and evaluation.

The historic-era built environment also includes shipwrecks, designed landscapes, cemeteries, cultural landscapes, mines, battlefields, the locations of important historic events such as treaty signings, and other locations that may also include historical archaeological or traditional cultural values. Their evaluation likely will require the collaboration of cultural resource specialists in the fields of history, architectural history, and historical archaeology. The District Environmental Branch Chief and HRC must consider the nature of the potential historical associations to determine the level of identification effort and evaluation, as well as which cultural resource specialists will be required conduct these activities. The persons conducting the reconnaissance survey or archaeological surveys should note the resource on project mapping and notify the DEBC that the resource needs to be referred to the appropriate cultural resource specialist(s).

The term "ruin" is used here to refer to any construction that can no longer be used for its original function due to a loss of structural integrity. Ruins of built resources are considered sites and they may be evaluated either by historical archaeologists, historians or architectural historians. Examples of ruins include a building without a roof and two or more collapsed or missing walls, an aban-

doned ditch system that can no longer convey water, or the foundations of a gold mining and milling operation. Some minor structures, that exist in isolation either by design or through loss of other associated built elements, may not require recordation at all. See **Section 4-2.6** and **Exhibit 14** for a discussion of these exempt resource types.

4-2.5 TRADITIONAL CULTURAL PROPERTIES (TCPS)

Traditional Cultural Properties (TCPs) are a special category of cultural resources that are associated with the traditional cultural practices or beliefs of a living community. They may consist of buildings, structures, objects, sites, or districts that are rooted in a community's history and are important in maintaining the continuing cultural identity of that community for more than 50 years. As such, a traditional community such as a Native American tribe, ethnic neighborhood, or town defines their importance. TCPs also may be the locations of important events that contain no physical remains. TCPs are typically identified through background research and oral testimony and most appropriately evaluated by ethnographers, although some historians, archaeologists, and other cultural resource specialists may have suitable training to conduct necessary research.

As a general, rural areas are most likely to contain properties that have traditional cultural importance to American Indian communities, while urban areas are more likely to contain properties that are significant to ethnic and other traditional groups.

Examples of TCPs include a

- location associated with the traditional beliefs of a Native American group about its origins, cultural history, or the nature of the world;
- rural community whose organization, buildings and structures, or patterns of land use reflect the cultural traditions valued by its long-term residents; or
- location where a community has traditionally carried out economic, artistic, or other cultural practices important in maintaining its historic identity.

District Native American Coordinators (DNACs) are responsible for identifying potential Native American TCPs, while District HRCs should coordinate the identification of other types of potential TCPs through background research and contacts with interested groups such as historical societies and fraternal, cultural societies, etc. **Section 4-4** describes the standard approaches that should be used in such background research efforts. TCPs should be referred to the appropriate cultural resource specialists for recordation and evaluation,

as described in **Chapters 3, 6** and **7**. The qualified cultural resource specialists will decide whether a TCP merits formal recordation.

4-2.6 EXEMPT RESOURCES

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a streamlined approach for exempting certain cultural resources from evaluation. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.

Resources that do not require recordation or evaluation are those that categorically appear, under ordinary circumstances, to possess little or no potential to be meet the criteria for either the National Register of Historic Places or California Register of Historical Resources. Law does not require expending time and money recording and evaluating such unimportant resources, nor is there demonstrable public benefit in doing so. For those reasons it is reasonable and prudent to concentrate on the identification of resources that have some real potential for eligibility.

The list of exempt resources, presented in **Exhibit 14**, typically does not warrant any identification, recordation or evaluation effort. They appear on this list due to several factors, including their age, lack of integrity, lack of functional association with a larger potentially eligible resource, and absence of important associations or values.

Minor resources that exist in isolation or have lost their association with a larger resource type usually can be exempted from further recordation and evaluation efforts. For example, isolated archaeological finds and minor features such as an isolated mining prospect pit need not be noted or recorded unless identification of such properties is a requirement of a permit condition. Other criteria, such as loss of integrity and the absence of significant historical associations, must be applied with greater circumspection, since there might be research values (potential to yield <u>significant</u> information) under National Register Criterion D and California Register Criterion 4. Questions concerning the need to identify particular resources should be referred to Headquarters Section 106 coordinators in the Cultural & Community Studies Office (CCSO) of the Division of Environmental Analysis.

4-3 DEFINING AN APE OR STUDY AREA

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a streamlined approach for that may change FHWA's approval process for setting APE limits. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.

The APE is the area within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any are present. Determining the APE is the first step in determining the scope of identification efforts, and it is a prelude to initiating cultural resource surveys. The Section 106 process requires that SHPO be consulted regarding the determination of the APE [36 CFR §800.3(a)], and it is strongly advised that Caltrans work with the FHWA Transportation Engineer to coordinate consultation with SHPO early in the scoping process. This step can minimize delays later when the results of the identification and evaluation efforts are sent to SHPO for review and comment.

FHWA is responsible for establishing the APE for its undertakings and for consulting with SHPO on the determination of documentation of the APE. However, the District Environmental Branch usually develops the APE maps for review and approval by the FHWA Transportation Engineer. The FHWA Transportation Engineer officially sets the APE by signing the map. APE maps must be of a scale suitable to depict the boundaries of major project features (e.g., right-of-way, and edge of pavement) relative to the boundaries of any identified cultural resources.

If an APE has not already been defined, the DEBC and HRC, in consultation with the Project Development Team, may designate a Study Area to use when conducting cultural resource studies until an APE can be delineated. However, the final APE map must be formally designated by

SETTING THE APE

- **Consult with SHPO early in the Scoping Process**.
- APE limits define the area within which a proposed project <u>might</u> affect historic properties.
- APE limits should be just large enough to include in all cultural resources being studied that could, (under any reasonable circumstance) be affected by the proposed undertaking.
- APE limits include both the archaeological and the built-environment limits.
- Draw the APE limits around the parcels, instead of through them.
- Include all cultural resources that <u>might</u> be impacted.
- Don't exclude resources because someone is "guessing in advance" that they are not significant. Cultural resource specialists will conduct studies to determine significance.

the time the Historic Property Survey Report (HPSR) is complete, and the map appears as an exhibit in the HPSR. See Chapter 2 **Section 2-3.3 and Exhibit 13** for a more detailed discussion of APEs.

4-3.1 ARCHAEOLOGICAL APE LIMITS

The APE for archaeological studies is the area that would be directly impacted by the project. Typically, this is required right of way, plus any other ancillary areas subject to ground-disturbing activities, such as utility relocations, staging areas, and borrows sites. If the proposed project has a potential for indirect effects, the archaeological APE sometimes may need to be extended. Consult the Headquarters Section 106 Coordinator if a question arises.

Caltrans and FHWA should consult with SHPO to ensure that the APE for archaeological sites is adequate for the project prior to submitting the HPSR to SHPO for comment. Caltrans, FHWA and SHPO want to strike a balance between setting an adequate APE when the extent of buried deposits is unknown and avoiding unnecessary disturbance to a site, such as digging outside the APE or doing too much (or not enough) excavation.

4-3.2 BUILT ENVIRONMENT APE LIMITS

Because buildings and structures can be affected by land use changes, visual, noise, or atmospheric intrusions outside the right of way, the APE for buildings and other structures will typically include at least the first row of properties that would be outside the right of way when the project is completed. Construction of new freeway interchanges or elevated sections of roadway, for instance, have a high profile that might be visible from buildings outside the right-of-way or construction limits.

The APE also can be substantially larger or smaller when warranted by the nature of the project or other factors such as topography or property size. If there is a potential historic district or archaeological site that extends beyond the designated APE boundaries, the entire resource must be recorded or studied as a whole. For instance, a linear resource, such as a historic designed parkway whose southern end is within the designated APE, might extend for a mile or so beyond the APE. The historical significance of the entire parkway would need to be evaluated, but the APE would not be extended to encompass the entire resource; the APE would include just the portion that truly falls within the area of potential effect. See **Exhibit 13**.

As with archaeological resources, Caltrans and FHWA should consult with SHPO early in the scoping process to determine adequate APEs for built resources. This is particularly important when a project is complex, there is a

dense concentration of built environment resources, or a project has high visibility or is controversial.

4-4 BACKGROUND RESEARCH

Conduct background research prior to reconnaissance and archaeological surveys as a means to guide identification and evaluation efforts. Report the results of this background research in an Archaeological Survey Report (ASR) and, where appropriate, in a separate memorandum to the DEBC that identifies the need for evaluating built resources and TCPs. The scope of that background research will depend on the magnitude of the undertaking, the extent of potential effects to historic properties, the relevance of previous cultural studies in the vicinity, the availability of documentary information, and the number and types of properties that can be reasonably anticipated. In all cases where cultural resource identification efforts are required for a project, certain minimum levels of background research must be carried out and more detailed research is sometimes necessary. That research serves several important purposes:

1) Identify the potential existence of **all types of cultural resources** in the APE or Study Area;
2) Determine what **additional identification and evaluation measures** may be required;
3) Identify the need, if any, for more detailed historical and/or ethnographic research to **identify cultural resources that are concealed or not physically manifest**, such as buried archaeological sites and TCPs.

The following sections describe the standard background research that should be performed prior to all reconnaissance and archaeological surveys and the circumstances that may dictate more extensive pre-field background research. The following discussion is not intended to be exhaustive, but instead lists sources that should not be overlooked during identification efforts. Some sources such as the Caltrans Historic Highway Bridge Inventory need only consulted when those types of properties are known to exist. However, most of the described sources should be routinely consulted to determine the likely presence of cultural resources prior to field inspections.

4-4.1 STANDARD SOURCES OF INFORMATION

Complete the following minimal background research for all projects that require cultural resource identification efforts. Additional research may be appropriate for particularly sensitive regions, as discussed in **Section 4-4.3** below. The Regional Information Centers of the California Historical Resources

Information System (CHRIS) maintain some of the sources of information listed below. Request this information specifically as a component of the record search.

1) National Register of Historic Places – This is also accessible through the National Park Service, National Register Program Recent Listings web site (updated weekly) or from CHRIS Information Centers. District HRCs are responsible for keeping this information up to date in their respective districts. Additionally, all National Register listings are available on-line through the National Register Information System (NRIS) database.
2) **Determinations of Eligibility for National Register of Historic Places** – This information is maintained in the Office of Historic Preservation (OHP) electronic database and hard copies are distributed quarterly to the CHRIS Information Centers. For previous determinations on FHWA/Caltrans projects, double-check the OHP database findings against the OHP comment letter for a particular project. These letters should be either in the District environmental files or in the Division of Environmental Analysis's files at HQ. District HRCs are responsible for keeping this information up to date in their respective districts.
3) **California Register of Historical Resources** – These listings appear in the State Historical Resources Commission (SHRC) agendas and minutes available on-line through the OHP web site or by contacting the OHP for a copy of the minutes. CHRIS Information Centers also maintain this information. District HRCs are responsible for keeping this information up to date in their respective districts.
4) California Historical Landmarks – Published by the OHP in 1995, and the 1995 edition is available on-line. Subsequent listings appear in the SHRC minutes available on-line through the SHRC web-site or by contacting the SHPO for a copy of the minutes. CHRIS Information Centers also maintain this information. District HRCs are responsible for keeping this information up to date in their respective districts.
5) **California Points of Historical Interest –** Published by the OHP in 1992. Subsequent listings appear in the SHRC minutes available on-line through the OHP web-site or by contacting the OHP for a copy of the minutes. This information is also maintained at CHRIS Information Centers. District HRCs are responsible for keeping this information up to date in their respective districts.
6) **Local Registers of Historic Resources –** Consult, at a minimum, the following two guides to local surveys to ascertain if any locally identified or registered resources are present. The first is OHP's *Survey of Surveys: A Summary of California's Historical and Architectural Resource Surveys* (1989). It lists local architectural surveys that were funded through National Park Service grants through 1989. The second is direct contact with

local government planning departments, historical commissions, or historical societies for more current information on local ordinances and registration programs. District HRCs are strongly encouraged to maintain a file with copies of locally designated landmark lists for counties and communities in their districts.

7) Caltrans Highway Bridge Inventory – This inventory is available on-line through the Caltrans Environmental web-site and includes both state-owned and local agency-owned bridges. Printouts in HSLALL format also should be available in the district structures units as well as in the Cultural & Community Studies Office in HQ. The state highway bridge log and the local agency bridge log are also available on-line and contain information on bridge type and whether a bridge has been widened.

8) **Archaeological Inventory –** CHRIS Information Centers maintain this inventory that includes inventory records and reports of survey and excavation projects. A record search should identify previously recorded sites and surveys within a one-mile radius of the study area and obtain copies of records for all recorded resources within one-quarter mile.

9) **General References –** Works such as *Historic Spots in California*, by Hoover, Rensch and Rensch, fourth edition, revised by D.E. Kyle, 1990, and *California Place Names*, by Erwin G. Gudde, 1969 should be consulted.

10) **Old Maps –** Consult the following maps routinely:

11) Highway as-built plans older than 50 years;

12) USGS topographic quadrangles older than 50 years;

13) Government Land Office (GLO) plats (available at U.S. Bureau of Land Management offices); and

14) Diseños or post-1850 survey maps of Mexican ranchos (if applicable). HQ has microfilm of diseños and rancho surveys.

15) **Aerial Photographs –** These provide good information on extant built resources and may even reveal the ruins of earlier constructions and other relevant features.

16) **Ethnographic Sources –** Consult published ethnographic syntheses such as Volumes 8-11 of the Handbook of North American Indians and Alfred Kroeber's *Handbook of the Indians of California* (1925) for the locations of ethnographic sites and potential Native American TCPs.

17) **Coordination with the DNAC –** This coordination should take place prior to any field survey as detailed in **Section 4-4.2** below.

Consult the following additional sources of information if the project is likely to include any of the following resources types or land areas:

1) **Shipwrecks –** Consult the State Lands Commission if project facilities will cross navigable waters that may contain shipwrecks.
2) **Government Lands –** Other land managing government agencies with jurisdiction in or adjacent to the project area often have cultural resource staff that are likely to have the most current information about cultural resources within their jurisdictions.

Additional background research may be warranted in regions of high historical archaeological site sensitivity such as urbanized areas and the Mother Lode. In such cases, additional research such as that described in **Section 4-4.3** should be considered.

4-4.2 NATIVE AMERICAN COORDINATION

The District Native American Coordinator (DNAC) should carry out several tasks during the identification phase of a project, in close coordination with other background research efforts. These tasks should include contacts with potentially interested Native American groups and the Native American Heritage Commission (NAHC). Good faith efforts to contact Native American groups may entail telephone, in person, or written contacts depending on the complexity of a project and the rapport established with particular groups. Contact the NAHC for information about any resources listed in their Sacred Lands files. DNACs will also typically take responsibility for consulting background ethnographic sources for a project such as those discussed in **Section 4-4.1** above. The purpose of this coordination is to identify any potential Native American TCPs or other resources in the project APE or Study Area, as well as to define any concerns that may require attention under the auspices of the guidance found in **Chapter 3**.

4-4.3 ADDITIONAL SOURCES OF INFORMATION

When a project is in a historically or ethnographically sensitive region, it may be appropriate to augment the routine background research with additional historical and/or ethnographic pre-field research. Sensitive regions include, but are not necessarily limited to the historic portions of urban areas, mission or pioneer settlements, the locations of historic commercial or industrial facilities (e.g., the entire Mother Lode gold mining region), and areas likely to be associated with the activities of traditional cultural groups. Additional sources of information that may be useful for identifying resources in such regions include, but are not limited to:

1) **Historic fire insurance maps** – A complete set of Sanborn Fire Insurance Company maps for California cities is available in the Cultural and Com-

munity Studies Office at HQ, as well as in special library collections in university campuses around the state. They are also available to on-line to authorized users of subscribing institutions, such as the University of California at Santa Barbara, through Bell & Howell Information and Learning Company.

2) **County histories** – The Thompson and West series is an example of such histories;
3) **Local historical societies**, libraries, history museums, and local historians;
4) **Old maps** such as county maps, mineral surveys, etc.

Where there is a strong potential for buried archaeological deposits, it is often necessary to combine identification, evaluation, and treatment efforts as discussed more thoroughly in **Chapters 5 and 6**. That scenario is particularly common in urbanized settings that contain historical neighborhoods, but may also pertain to prehistoric archaeological sites covered by urban sprawl. In such cases an archaeologist with appropriate expertise should be consulted to prepare a treatment plan (where buried finds are fairly likely) or a plan for discoveries (where there is only a moderate potential for encountering remains), as appropriate. The suspected presence of buried archaeological resources may be mentioned in an Archaeological Survey Report (ASR), but no recordation should be attempted during that identification work in the absence of actual physical evidence. Site inventory records are appropriately prepared when the presence of buried archaeological resources is actually verified during the implementation of a Treatment or Discovery Plan.

4-5 INITIAL SURVEYS

4-5.1 RECONNAISSANCE SURVEY

Reconnaissance (also called windshield) surveys may be conducted to verify the presence of historic built resources identified through background research and to identify any additional properties that may merit evaluation. These surveys, along with preliminary research, can provide information on the likelihood of built resources within a given corridor for comparison among project alternatives. This preliminary work should be pursued to the extent necessary to reveal the need for the specific built resource evaluation efforts discussed in **Chapter 7**. Resources requiring attention should be marked on project mapping for purposes of referral to qualified experts. The results of a reconnaissance survey and any relevant background research should be conveyed to the DEBC in a memorandum identifying whether evaluation of built resources or TCPs will be required.

4-5.2 ARCHAEOLOGICAL FIELD SURVEY

This section provides specific guidance regarding archaeological field survey methods and the preparation of Archaeological Survey Reports (ASRs). In practice, an archaeological survey is always conducted unless it can be shown that all ground surfaces have undergone substantial modern disturbance or the APE or Study Area has been previously surveyed to appropriate standards. The purpose of the archaeological survey is to identify and record all resources that meet the National Register definition of a site, with the exception of TCPs. Archaeological surveys should also make note of any historic-era built resources and TCPs that require referral to other experts.

Nearly all ground-disturbing projects are surveyed in the field for archaeological resources according to Caltrans policy. This includes projects in areas that may be rated as having "low archaeological sensitivity" by other agencies such as Information Centers. The risk of project delay from late discovery of archaeological resources in low-sensitivity areas is not offset by the small amount of time saved by not surveying. Plowed fields and graded areas should be surveyed, because undisturbed portions of sites may still exist within those areas. In some urban areas, where no original ground surface is exposed, background research should still be conducted to determine whether previously recorded sites are known, and to identify the potential for buried sites that may require identification measures other than a pedestrian archaeological reconnaissance.

Some projects do not require archaeological surveys. The most straightforward case is in situations where adequate surveys previously have been completed. If a survey is not performed, the reasons should be documented in a memo that will be placed in the project file and, if appropriate, attached to the HPSR. For CE projects, the CE - Section 106 Checklist/Memo to File should be used (**Exhibit 37**).

4-5.3 PRE-FIELD PREPARATIONS

Preparations for archaeological surveys include:

1) defining the APE or study area on project mapping;
2) researching appropriate records and literature;
3) identifying Native American concerns;
4) securing the required permission for the survey from public agencies and private landowners; and
5) making physical and schedule arrangements for the survey.

If possible, background research is always conducted in advance of archaeological field surveys to ensure that surveyors are adequately informed about the types of resources they may be required to identify in the field. Archaeological surveyors should also fully coordinate their efforts with those conducting reconnaissance surveys to minimize any possible duplication of effort. Under special circumstances, Native American participation in the field survey may be appropriate.

Survey Access

For survey access to certain public lands, permits may be required. When it is necessary to enter private property, the districts need to obtain permission from property owners or tenants. It is recommended that District Right of Way handle all access requirements involving private lands. The DEBC should designate a single cultural resource staff person for a particular project to coordinate with Right of Way staff regarding access permission for all advance studies. In the field, carry copies of any rights of entry paperwork. If a property owner or tenant objects to survey activity, or if a situation appears to present any threat, leave the property immediately. Safety of employees and good relationships with the public are both prime considerations while conducting surveys or other fieldwork. Any safety factors or access restrictions, which limit a surveyor's ability to conduct a full professional survey, may be explained in the ASR. All surveys and other fieldwork shall be conducted in keeping with the Code of Safe Field Practices (see *Environmental Handbook*, Vol. 1, Appendix A-6). Any safety factors or access restrictions, which limit a surveyor's ability to conduct a full professional survey, may be explained in the appropriate technical report.

4-5.4 FIELD SAFETY

Consider health and safety issues before conducting any fieldwork. The Environmental Code of Safe Practices (Appendix A-6 of the Environmental Handbook, Volume 1) presents field safety policy for environmental personnel. The code adopts the safety procedures (Section 1-04) discussed in the Caltrans Survey Manual of August 1983 (see **Exhibit** 10). The code covers most potential hazards encountered during archaeological surveys, but special mention should be made of hazardous wastes and other unsafe physical conditions at some historical archaeological sites.

Chemical Contamination or Toxic Waste

Historical archaeological sites associated with industrial activities may contain chemical contamination or toxic waste. Dangerous substances, often used in industrial processes, may remain at a site or in the soil. The possible presence

of such substances may not be revealed in background research, so consider soils at any industrial processing area as potentially contaminated and avoid substances in containers or leaching from the soil. Report suspected toxic wastes to the District Hazardous Materials Coordinator.

Wells, other depressions, and mine shafts also pose considerable risk to surveyors. Mine shafts can be hundreds of feet deep and are often partially or wholly obscured by brush and other debris. They may contain contaminated air, gases, and unstable structural members or walls. Surveyors should avoid walking over piled debris or into dense stands of vegetation that may obscure such deep depressions. Buildings also may contain deteriorated and weakened structural members. Entry into such structures should be avoided. Never climb on wooden stairs or other parts of dilapidated buildings.

4-5.5 FIELD METHODS

Surveyors should look for evidence of all the types of resources mentioned in **Section 4-2** above, but recordation efforts should be restricted to resources that meet the definitions given for prehistoric and historical archaeological sites. Built resources and TCPs should be noted on project mapping and referred to appropriate experts for evaluation. Archaeological field survey strategies should include on-foot visual inspection of 100 percent of the APE (or Study Area) with regularly spaced transects. Exceptions to complete coverage include areas which cannot be safely accessed or afford no ground visibility. These include dangerously steep slopes, dense underbrush, stands of poison oak, and areas, which are paved, or under water. The presence of small areas excluded from survey should be noted in the ASR; more extensive areas should be plotted on the Study Coverage Map. If buried sites are expected, the ASR should mention that fact and indicate the need for any further studies that may be required to test for the presence of such resources, prepare treatment plans, or plan for discoveries during construction.

Parallel transects are the most common survey method. The lead archaeological surveyor determines the transect spacing on the basis of ground visibility, lateral visibility, and area sensitivity for prehistoric remains. Maximum spacing should not be more than 25 meters; an interval of 15 meters is commonly used in many areas. If systematic linear transecting is not practical; zigzagging to ensure coverage is appropriate.

Isolates are generally not formally recorded. Before fieldwork, the Lead Archaeological Surveyor should define what constitutes an isolate, as this may vary from region to region, and may differ from OHP's definition of "less than three associated artifacts." **Exhibit 14** includes examples of resources that ordinarily would not merit identification or recordation. General Caltrans

practice has been to note the characteristics of isolates in the ASR and plot them on the Study Coverage Map. Formal isolate record forms, photographs, and illustrations are prepared only under unusual circumstances or for exceptional finds such as a fluted projectile point. Some public land-holding agencies, as part of their use permits, may require that archaeologists record isolates when surveying on their lands. In all other cases, the decision to formally record isolates rests with the lead archaeological surveyor and should be based on the specific information potential of the find.

Collection of Artifacts

Artifacts are generally not collected during surveys. If collection of an artifact is considered necessary, a written justification and a plan for curation must be submitted to the DEBC for prior written approval. Collection of diagnostic artifacts may be a condition of some federal survey permits, in which case the archaeologist will abide by the stipulations of the permit. Collection of artifacts on private lands also requires the written permission of the property owner, to whom the artifacts belong. Collection is generally reserved for rare or unusual items of significant research value. Unauthorized collection of artifacts is prohibited by Caltrans policy, may subject the collector to disciplinary action, and may be a violation state or federal law.

4-5.6 ARCHAEOLOGICAL RESOURCES THAT SHOULD BE RECORDED

Recordation efforts at this stage in the technical studies generally should be restricted to resources that meet the definitions given for archaeological sites. Other types of resources (built environment resources and TCPs) should be noted on project mapping `and referred to appropriate cultural resources specialists for recordation and evaluation. Isolated finds and exempt resources (see **Exhibit 14**) are generally not recorded. Prehistoric and historical archaeological sites should be recorded in detail using the DPR 523 forms. Instructions for completing the DPR 523 series forms are contained in the Office of Historic Preservation's *Instructions for Recording Historical Resources* (1995).

The specific kinds of forms used to record a property will depend on the nature of the project and the type and complexity of the resource. The minimum level of documentation for all cultural resources is a Primary Record (DPR 523A) and Location Map (DPR 523G). That minimal documentation is usually all that is required for studies conducted at the PSR or PSSR stage and for minor resources that have no real potential for eligibility to the National Register or California Register.

RECORDING ARCHAEOLOGICAL SITES

For project development studies, archaeological sites should be recorded in detail and other historical resources are referred by the DEBC and HRC to the appropriate qualified historical archaeologist, architectural historian and/or historian. Detailed recordation of archaeological sites should minimally consist of a:

- **Primary Record** (DPR 523A),
- **Archaeological Site Record** (DPR 523C),
- **Sketch Map** (DPR 523K), and
- **Location Map** (DPR 523J),

If the following types of features are present, recordation may also require the use of:

- **Rock Art Record** (DPR 523G) and
- **Milling Station Record** (DPR 523F)

Very large and complex historical sites composed of multiple components or features should be recorded as districts. Use a Primary Record, Location Map, and **District Record** (DPR 523D) to document districts, with individual records also prepared for each major contributing element that falls within the APE of a project. Minor elements of the district usually do not require individual records if they can be adequately described on the District Record.

The minimal documentation of historical archaeological resources that include linear features may be supplemented with a Linear Feature Record (DPR 523E) for the ruins of linear structures (e.g. water conveyance system, railroads, trails, and roads ruins) or the use of an Archaeological Site Record and Sketch Map for other historical archaeological sites. Reasonable efforts should be made to ascertain the entire extent of any archaeological linear resource that is documented using records such as historic maps and aerial photographs or inspection points at easily accessible locations along the resource. Information about the entire resource should be summarized on a Primary Record and Location Map to the extent known, while detailed field documentation of the portion of the resource within the APE or Study Area and any other inspection points should be marked on Linear Feature Records.

When recording prehistoric and historical archaeological sites the following considerations apply:

1) If practicable, the <u>entire</u> property should be recorded, even when portions of that resource fall outside the initial APE/Study Area. Under those circumstances it may be appropriate to expand the Study Area. For very large and complex resources (i.e., districts and linear resources) it may be ade-

quate to define the overall extent and general configuration of the property without recording features outside the APE in detail;

2) For the purposes of field recordation, site boundaries may be drawn as lines encompassing all of the associated physical remains. Historical information should be used to the fullest extent possible when defining the limits of historic-era resources. Parcel, claim, and easement boundaries may each have relevance for determining the boundaries of a historical resource;
3) It is not necessary to describe every item observed, but a representative sample of the various types of materials present at a resource should be provided. Some effort should be made to describe and, where appropriate, illustrate or photograph diagnostic materials such as projectile points, beads, and marked historic period artifacts. For resources with multiple features or activity areas, observations regarding associated cultural materials should be given separately for each recorded locus because those locations may differ in age;
4) Describe the building materials and construction techniques of ruins of the built environment. Qualified historical archaeologists, architectural historians, or historians can assist with describing these ruins, as appropriate;
5) Record all observable ground disturbances in and adjacent to archaeological deposits, including subsequent construction of buildings or roads. Plot all disturbance and modern features present at the site on the sketch map;

NOTATION ON MAPPING WHEN BUILT ENVIRONMENT RESOURCES PRESENT

When sites are associated with an intact building, structure, or bridge, the built remains also should be noted on the Primary Record, but detailed recordation of such elements will be accomplished by qualified architectural historians or historians. Recordation of properties with built and archaeological elements should be coordinated with qualified historians or architectural historians as described in **Chapter 7**. Questions about appropriate levels of documentation should be referred to Headquarters Section 106 Coordinators when they arise.

It is Caltrans policy that statements of significance regarding a site's National and California Register eligibility and the extent of archaeological sites are not determined on the basis of site record information. All such evaluations are the result of field visits by qualified archaeologists and more extensive studies as appropriate. However, isolates when they are recorded or mentioned in an ASR may be evaluated as categorically ineligible for the National Register and California Register. Specific recommendations for further work should not be included in the ASR. If recommendations are to be made, they should be included in a memorandum transmitting the final ASR to the DEBC.

4-5.7 ARCHAEOLOGICAL REPORTING

Use the Archaeological Survey Report (ASR) to document archaeological survey results, with the exception of built resources and TCPs. Be sure to append copies of all previously- and newly prepared site records to the ASR. Guidelines for the format and content of negative and positive ASRs are found in **Exhibits 19 and 20**, respectively. Persons conducting archeological surveys who identify built resources and TCPs (not previously identified in background research or reconnaissance surveys) should report this information in a separate memorandum to the DEBC.

When to Use a Negative ASR

When no archaeological sites or other historic resources are documented within or adjacent to the APE or Study Area, prepare Negative ASR. A standard form is used to document the negative survey, unless special circumstances warrant preparing a narrative report. The discovery of isolates does not result in a positive survey; if isolate record forms have been prepared, these are appended to the negative ASR form.

When to Use a Positive ASR

When one or more archaeological sites or other historical resources are identified within or immediately adjacent to the APE or Study Area, either during the survey or through background research, prepare a positive ASR. The report should briefly discuss the results of background research including the modern environment, paleoenvironment, archaeology, ethnography, and history of the study region as appropriate. These background sections serve to provide a context for understanding the sites identified in the study. Irrelevant or unnecessarily detailed information is not to be included in the report. The ASR should briefly describe and discuss each recorded resource individually in the text.

When to Use a Supplemental ASR

Prepare a supplemental ASR if additional survey is required after preparation of an initial ASR. The supplemental report follows either the negative or positive format, depending on the results of the additional survey. If both the initial and the supplemental survey were positive, the supplemental ASR does not repeat the background sections of the initial report, provided no further background research was needed. Supplemental ASRs are numbered sequentially: First Supplemental ASR, etc.

Primary Numbers and Trinomials

For any newly recorded cultural resources, permanent primary numbers and, as appropriate, District HRCs obtain site trinomials from the appropriate Information Center before the ASR is completed. If this would create an unacceptable delay, temporary numbers may be used, with documentation of the request for permanent numbers appended to the report.

Maps

All ASRs should attach at least three maps:

- **Study Vicinity Map**, depicting study vicinity in relation to the county or District;
- **Study Location Map**, showing the area surveyed on the appropriate USGS quadrangle (at its original scale); and
- **Study Coverage Map** showing the area surveyed and the boundaries of identified cultural resources on detailed project mapping.

4-5.8 REVIEW AND DISTRIBUTION OF ASRS

The District EBS reviews and approves Negative ASRs. Review ensures that the report is acceptable and that the maps depicting the APE or Study Area and the area surveyed are accurate. If the report was drafted by an archaeologist certified only at Level I, it must be reviewed and signed by an archaeologist certified at Level II or higher. If the District does not have an archaeologist on staff certified at this level, the report is reviewed and signed by a qualified archaeologist in another District or Cultural & Community Studies Office (CCSO) at HQ before it is approved in the District.

Positive ASRs are reviewed carefully within Caltrans because FHWA and SHPO will generally evaluate them. The preparer must obtain peer review from a Caltrans archaeologist certified at Level II or higher before submitting it for approval to the DEBC. Peer review ensures that the report follows the format and content guidelines provided in **Exhibit 38**; that it meets professional standards in field methods, site recording, and reporting; and that it fulfills the requirements of the identification step of 36 CFR 800.

For peer review, a minimum of 10 working days is generally required. If there is no response within that time, the District or CCSO, depending on where the report has been produced may finalize the report. For a CCSO-prepared ASR, in addition to peer review, the DEBC has 10 working days to review and approve the report. If CCSO's comments are not received in the District within the review period, it can be assumed that the District approved the ASR.

The HRC sends one copy of each approved positive or negative ASR to the appropriate Cultural Studies Branch in the CCSO for filing and one copy of each report to the appropriate Information Center. The peer reviewer should be identified in the memo transmitting a positive ASR to the CCSO. If recommendations concerning the resources were made in a memo transmitting the ASR to the DEBC, a copy of this memo should also be sent to the CCSO.

4-5.9 IDENTIFICATION OF BUILT ENVIRONMENT RESOURCES AND TCPS

TCPs, buildings, structures, objects, and districts composed of such elements **should be noted, but not formally recorded** during a reconnaissance or archaeological survey. When such previously unidentified resources are observed during an archaeological field survey their location should be plotted on project mapping and a brief note should be made regarding the type of resource discovered. The reconnaissance and/or archaeological surveys also need to disclose the presence of these resources to the DEBC in a memorandum as soon as practical after the fieldwork has been completed and generally prior to completion of an ASR. The DEBC then refers such resources to the appropriate cultural resources specialist(s) for evaluation, as discussed in **Section 4-6.1**.

4-6 CULTURAL RESOURCE EVALUATIONS

The process for requesting evaluations, the criteria used for evaluating cultural resources and the need for a definitive determination of eligibility is the same for all types of resources. What follows will apply to all cultural resources within a project APE for which evaluations are deemed necessary.

4-6.1 REQUESTING EVALUATIONS

The DEBC is responsible for requesting evaluations of any identified resources that are likely to be affected by a proposed undertaking in consultation with the HRC. Those requests are based on all information gathered through background research, reconnaissance survey, and archaeological survey as reported in any memoranda, ASRs, and letters that transmit ASRs with associated recommendations.

DEBCs must seek the expertise of appropriate cultural resources specialists for any required evaluations, in keeping with the guidance in **Section 4-2**. Prehistoric archaeologists evaluate prehistoric archaeological sites using the guidance offered in **Chapter 5**. Historical archaeologists evaluate historical archaeo-

logical sites using the guidance in **Chapter 6**. Historians or architectural historians evaluate buildings, structures, objects, and groups of such resources (districts) using the guidance provided in **Chapter 7**. Other historical resources are evaluated by historians, architectural historians, or historical archaeologists, working individually or in collaboration, depending on the kinds of historical associations or research values that may be linked to a resource in question, using guidance in **Chapters 6 and 7**. Ethnographers most appropriately evaluate TCPs, although other suitably trained cultural resources specialists may conduct such assessments.

See **Exhibit 6** to determine which specialists are needed for the various cultural resource types.

Requests to conduct evaluations should be accompanied by project mapping and any relevant background information such as memoranda and ASRs that may identify the subject resources. Adequate time should be allotted for such evaluations in project development schedules. This need for careful scheduling is particularly critical for resources that may require archaeological excavation programs to complete required evaluations. See **Exhibit 7**.

4-6.2 EVALUATION CRITERIA

Once preliminary identification efforts and research, reconnaissance and archaeological field surveys have confirmed the presence of cultural resources within the APE that need to be evaluated. Caltrans uses two sets of evaluation criteria simultaneously:

- **National Register of Historic Places criteria** – to comply with federal laws and regulations and with the state's PRC §5024.
- **California Register of Historical Resources criteria** – to comply with CEQA and other relevant state regulations whether a project is a joint federal and state project or just a state-only project.

- National Register criteria are expressed in capital letters [such as Criterion A].
- National Register Criteria Considerations are expressed in lower-case letters contained in parentheses [such as Criteria Consideration (a) – religious properties].
- California Register criteria are expressed as numbers [such as Criterion 1].

Because the National Register and the California Register criteria identify similar types of resources (see **Section 4-2** above) and are largely parallel similar standards and procedures apply to both kinds of evaluations. Both require a cultural resource to have significance as revealed in the background research and established in the historic contexts in the project area. In the National and

California Registers, the quality of significance in these resources needs falls under the general themes of history and prehistory including but not limited to culture, architecture, engineering, science, economics, agriculture, education, politics, military.

NATIONAL REGISTER CRITERIA	CALIFORNIA REGISTER CRITERIA
A. **Events** that have made a significant contribution to the broad patterns of our history; or	(1) **Events** that have made a significant contribution to the broad patterns of California's history and cultural heritage.
B Lives of **persons** significant in our past; or	(2) Lives of **persons** important in our past.
C. Distinctive characteristics of a **type, period, or method of construction**, **work of a master, high artistic values**, or that represent a **significant and distinguishable entity** whose components may lack individual distinction; or	(3) Distinctive characteristics of a **type, period, region, or method of construction, work of an important creative individual, or possess high artistic values**.
D. Yielded, or may be likely to yield, **information important in prehistory or history.**	(4) Yielded, or may be likely to yield, **information important in prehistory or history**."

Likewise, the both sets of criteria have exceptions to what can be considered eligible for inclusion. These exceptions mostly address resource types rather than significance and are called Criteria Considerations in the National Register and Special Considerations in the California Register. See **Exhibit 16** for a comparison of the National Register and California Register eligibility requirements.

In addition to being significant and meeting one of the four criteria for eligibility the National and California Registers require that a resource have integrity. As defined in National Register Bulletin 16A (Appendix IV: 3) integrity is "authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period." A historic property must retain enough of its essential physical features to convey its significance. In Section 106 language this is expressed as "the characteristics of a historic property that qualify the property for inclusion in the National Register" [36 CFR §800.6(a)(1)].

> A property's **essential physical features** are those elements that define
>
> - **WHY** it is significant (the applicable National Register Criteria and Areas of Significance) and
> - **WHEN** it was significant (Period of Significance).

Integrity is the manifestation of the significant period, the significant themes, and contexts developed in the overview sections of the cultural resource evaluation documents. This is common to all historic property types, including archaeological sites. However, the "essential physical features" will vary, depending the type of resource (building, structure, site, object or district) and why it is significant. For most non-archaeological re-

sources, essential physical features are visible and can readily convey the resource's historic appearance. Essential physical features of prehistoric and historical archaeological sites may be buried or the values are not as readily apparent.

Resources that appear to retain a satisfactory level of integrity should be researched to the extent necessary to determine the resource's design value and potential association with important events and people. Research on ownership, historic use, period of potential importance, design, and other relevant information should be conducted as appropriate.

National Register Bulletin 15*: How to Apply the National Register Criteria for Evaluation* offers excellent guidance in determining significance and assessing integrity and the backbone of the guidance Caltrans uses when evaluating cultural resources for National Register eligibility.

Caltrans uses the National Register Bulletin series, published by the National Park Service, to supplement the *Environmental Handbook*, volume 2 because the series sets the national standards in how to identify and evaluate cultural resources for using the National Register criteria. In addition, the series offers excellent guidance when using the California Register criteria to comply with state law. The following Bulletins are available on-line (note some have a series number while others do not):

- National Register Bulletin 15: How to **Apply the National Register Criteria** for Evaluation
- National Register Bulletin 16A: How to **Complete the National Register** Registration Form (contains information on historic themes as well as how to count contributing and noncontributing elements)
- National Register Bulletin #16B*:* How to Complete the National Register Multiple Property Documentation Form
- National Register Bulletin #18*:* How to Evaluate and Nominate Designed Historic Landscapes http://www.cr.nps.gov/nr/publications/bulletins/nr18_toc.htm
- National Register Bulletin #19*:* Reviewing National Register Nominations http://www.cr.nps.gov/nr/publications/bulletins/nrb19.htm
- National Register Bulletin 20: Nominating **Historic Vessels and Shipwrecks** to the National Register of Historic Places
- National Register Bulletin #22*:* Guidelines for Evaluating and Nominating Properties That Have Achieved Significance Within the Past Fifty Years
- National Register Bulletin #23*:* How to Improve the Quality of Photographs for National Register Nominations

- National Register Bulletin #28*:* Using the UTM Grid System to Record Historic Sites
- National Register Bulletin 30: Guidelines for Evaluating and Documenting **Rural Historic Landscapes**
- National Register Bulletin #32*:* Guidelines for Evaluating and Documenting Properties Associated with Significant Persons
- National Register Bulletin 36: Guidelines for Evaluating and Registering **Archeological Properties**
- National Register Bulletin 38: Guidelines for Evaluating and Documenting **Traditional Cultural Properties**
- National Register Bulletin #39*:* Researching a Historic Property
- National Register Bulletin #40*:* Guidelines for Identifying, Evaluating, and Registering America's Historic Battlefields
- National Register Bulletin #41*:* Guidelines for Evaluating and Registering Cemeteries and Burial Places
- National Register Bulletin #42*:* Guidelines for Identifying, Evaluating and Registering Historic Mining Properties http://www.cr.nps.gov/nr/publications/bulletins/mihome.htm
- National Register Bulletin: How to Prepare National Historic Landmark Nominations http://www.cr.nps.gov/nr/publications/bulletins/nhl/nhlstart.htm
- National Register Bulletin: Guidelines for Evaluating and Documenting Historic Aviation Properties http://www.cr.nps.gov/nr/publications/bulletins/avhome.htm
- National Register Bulletin: Defining Boundaries for National Register Properties (with Appendix, Definition of National Register Boundaries for Archeological Properties) http://www.cr.nps.gov/nr/publications/bulletins/boundaries/
- National Register Bulletin: Telling the Stories: Planning Effective Interpretive Programs for Places Listed in the National Register of Historic Places

4-6.3 DETERMINATIONS OF ELIGIBILITY

All evaluations of cultural resources within a project APE must contain a definitive statement as to whether the resources meet the National and California Register criteria. Evaluations for most non-archaeological resources must contain a statement of eligibility or non-eligibility in the HPSR and supporting cultural resources studies. For some resources, however, the evaluation and statements of eligibility need to be phased and submitted to SHPO for review and concurrence at a later stage in the environmental process. Such resources

may include archaeological and historical archaeological sites or resources for which access is restricted.

In order to comply with the Section 106 regulations, a determination of eligibility requires certain information about a resource that is obtained during historical and, where applicable, archaeological research. Section 106 regulations refer to the federal guidelines for determining eligibility, found in 36 CFR 63. According to the "Guidelines for Level of Documentation to Accompany Requests for Determinations of Eligibility for Inclusion in National Register" published with 36 CFR Part 63, this information must contain substantive information on the resource, including a description of the resource, statement of significance, photographs and a map. If a case is being made for why a resource is eligible for inclusion in the National Register, the information must also contain specific boundaries, its significance under National Register Criteria, and an explanation of why the resource is eligible for listing in the National Register. Although 36 CFR Part 800 regulations no longer require submission of a separate Request for Determination of Eligibility, the same level of information is required to obtain SHPO concurrence on eligibility determinations.

Eligibility information is contained in the HPSR and supporting reports and DPR 523 forms for the cultural resources being evaluated. More detailed discussion regarding what constitutes an appropriate level of documentation is contained in Chapter 5 for prehistoric archaeological resources, Chapter 6 for historical archaeological resources and Chapter 7 for built-environment resources.

4-7 COMBINING CULTURAL RESOURCE STUDY DOCUMENTS

There are situations in which a project APE contains cultural resources that are comprised of both archaeological sites and built resources, such as buildings, structures or linear features. There are other situations when an APE might contain predominantly buildings, but there might be one or two other resources like ruins of a building or a section of a canal. In the past, Caltrans prepared separate documents for different type of resource. This resulted in a duplication of background research efforts, mapping and text within the documents themselves. Duplication of effort should be avoided whenever possible, particularly with regard to historical research and collection of data. Mapping and historical overviews often overlap between documents. Additionally, projects often occur in areas where cultural resources reports have been prepared for other Caltrans projects.

4-7.1 GENERALIZED HISTORICAL OVERVIEWS IN EXISITNG CULTURAL RESOURCES DOCUMENTS

Instead of rewriting general historical overviews, it is acceptable to excerpt relevant portions of historical overviews from earlier reports covering the same geographical area. It is necessary, however, to properly cite the text as coming from the older report. Often the earlier reports established the significant themes for an area; these significant themes would not change and would not require additional research. For example, there have been a series of highway projects in Fresno in the past twenty years. General historical overviews in earlier Caltrans documents (HPSRs, ASRs, Historic Architectural Survey Reports, etc.) that summarized Fresno's general growth, prehistory and history could be excerpted. By excerpting established historical overviews, cultural resources specialists can efficiently use their time researching pertinent themes that have not already been established.

4-7.2 COMBINED DOCUMENTS

Evaluations of cultural resources that contain archaeological sites as well as built resources need to be fully coordinated among the appropriate cultural resources specialists. For instance, evaluating historical archaeological sites and buildings or structures often requires the same kind of historical research. Excavation at sites with both prehistoric and historic components also requires full coordination and integrated planning.

Historical Resources Evaluation Reports (HRERs) routinely incorporate proposals for excavation programs when they are required. HRERs also may be combined with other types of reporting formats if appropriate. For example, a combined ASR/HRER may be used when the only cultural resources in a project area are prehistoric and historical archaeological sites. Test excavations at multi-component (prehistoric and historic) archaeological sites should be coordinated whenever possible and the documentation can be combined. In this situation, an HRER may sometimes incorporate a testing proposal that covers both prehistoric and historic excavation. All necessary report elements can be combined in a single report drawn from the appropriate formats for the Archeological Survey Report and the HRER.

In cases where a combined report is prepared, the document should contain all of the required elements of each report type. Appropriately qualified staff should write the separate contributions. The reporting requirements for each discipline should be accommodated in a flexible manner. In general, a uniform citation style should be selected for a multi-disciplinary report.

CHAPTER 5
PREHISTORIC ARCHAEOLOGICAL RESOURCES: EVALUATION AND TREATMENT

5-1 INTRODUCTION

At least 12,000 years of human occupation are represented in California's prehistoric archaeological sites. These resources form an irreplaceable source of knowledge of the prehistoric events, peoples, and lifeways of the region.

Caltrans' cultural resource policy is to avoid and, if avoidance is not possible, to minimize adverse effects of transportation projects upon significant cultural resources. Chapter 5 provides information on the procedures and documents used to implement this policy and to comply with state and federal laws and regulations, with respect to prehistoric archaeological resources.

5-2 LAWS AND REGULATIONS

Caltrans prepares cultural resources studies to comply with the California Environmental Quality Act of 1970 (CEQA) and Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended. Chapter 2 discusses the general regulatory context of this work. Chapter 3 discusses laws relating to the involvement of contemporary Native Americans with archaeological resources.

The release of specific archaeological site location information to the public is forbidden by federal statute. Section 304 of the NHPA states that the head of any federal agency (e.g., FHWA, and Caltrans acting on its behalf) shall withhold from disclosure to the public all information relating to the location or character of historic resources whenever they determine that disclosure may create a substantial risk of harm, theft, or destruction to the resource.

Information on site locations is also exempt from public access as provided by the *California Public Records Act* (Public Resources Code 6254.10).

5-3 STANDARDS, WORK, AND SAFETY

5-3.1 QUALIFICATIONS FOR ARCHAEOLOGICAL ROLES

All Caltrans archaeological work must be performed by individuals who are qualified to do that work. Four levels of professional expertise are recognized on the basis of education, experience, understanding of the Section 106 process, and familiarity with Caltrans' cultural resource policies, procedures, and goals (**Exhibit 5**). The levels and the professional roles associated with them are

- Level I: Crew Member
- Level II: Lead Archaeological Surveyor
- Level III: Excavation Crew Chief; Principal Investigator for Extended Phase I; Consultant Monitor; or Construction Monitor
- Level IV: Principal Investigator for evaluation or data recovery excavations.

Caltrans staff archaeologists are certified as to level of expertise by submitting a completed Caltrans Certification Questionnaire for evaluation by the Chief of the Cultural and Community Studies Office (CCSO) in Headquarters.

FIGURE 5-1
ARCHAEOLOGICAL ROLES AND QUALIFICATION LEVELS

	Survey	**XPI**	**Evaluation**	**Data Recovery**	**Construction Monitoring**
Principal Investigator	II, III, IV	III, IV	IV	IV	III, IV
Senior Author of Report	II, III, IV	III, IV	IV	IV	III, IV
Crew Chief	II, III, IV	III, IV	III, IV	III, IV	III, IV
Crew Member	I, II, III, IV	I, II, III, IV	I, II, III, IV	I, II, III, IV	I, II, III, IV
Peer Reviewer	II, III, IV	III, IV	IV	IV	III, IV
Contract Coordinator	III, IV	III, IV	III, IV	III, IV	III, IV

5-3.2 STANDARDS FOR DOCUMENTS

Later sections of this chapter discuss the standards for completing and evaluating various Caltrans archaeological studies and documents. These standards

are based on guidance in the Secretary of Interior's Standards and Guidelines, the California Office of Historic Preservation (OHP) publications *Archaeological Resource Management Reports (ARMR): Recommended Contents and Format* (DPR 1989) and *Guidelines for Archaeological Research Designs* (DPR 1991).

5-3.3 CONFIDENTIALITY OF INFORMATION

Information on the specific locations of archaeological sites should be made available only on a "need-to-know" basis. Individuals who legitimately need this information to meet their project responsibilities may include Caltrans environmental branch chiefs and generalists, project managers and engineers, environmental consultants, and Native American groups.

As a general rule, archaeological site records, maps, and aerials depicting exact site locations are limited to technical documents, such as archaeological survey and excavation reports. These documents are not available to the general public but may be consulted by qualified researchers at the District Environmental Branch (DEB), CCSO, and the Information Centers of the California Historical Resources Information System (CHRIS). The Information Centers require all researchers who use the records to sign an *Agreement of Confidentiality* form, which states that they will not disclose specific site locations to unauthorized individuals or in publicly distributed documents without written consent of the State Historic Preservation Officer (SHPO).

Exact locations are only given for those sites that are directly involved in the project, even in technical documents. A map that depicts the location of nearby sites to illustrate an excavated site's regional context must not show detail that would allow a reader to find the sites on the ground.

Management documents such as Historic Property Survey Reports (HPSRs) may need to extract information from technical documents but should exclude sensitive materials. Technical documents should not be appended to copies, which may circulate outside the path of FHWA/SHPO review, and documents attached to copies in that path should be labeled as confidential.

Technical archaeological documents are often cited by title in bibliographies, which are accessible to the general public. Because of this, the report titles should not include exact location information (such as post miles, a bridge name, or a road intersection) that will reveal the location of sensitive archaeological sites.

5-3.4 TYPICAL HOURS AND ELAPSED TIME FOR STUDIES

The amounts of staff work and schedule time required to complete the different sorts of archaeological studies vary greatly, depending on a range of factors, which often cannot be anticipated in advance. The size of the project, the number and complexity of the sites involved, changes in project schedules or design, delays in ancillary studies, and conflicting workload priorities are all potentially important factors.

Several analyses of Caltrans projects have been made to provide rough estimates for work and schedule requirements. These estimates are summarized in the table below and in **Exhibit 7**.

FIGURE 5-2

ESTIMATED WORK HOURS AND ELAPSED TIME FOR ARCHAEOLOGICAL STUDIES			
Product	**Schedule Months**	**Hours (standard)**	**Hours (range)**
Archaeological Survey Report (negative)	1.5	40	*
Archaeological Survey Report (positive)	6.0	300	0 - 1070
Extended Phase I Report	6.0	360	0 - 1576
Archaeological Evaluation Report	12.0	1768	*
Data Recovery Report	42.0	*	*
* estimates not available			

5-3.5 CCSO ASSISTANCE WITH STUDIES

Headquarters Division of Environmental Analysis's CCSO provides archaeological assistance to the Districts when requested. This assistance includes providing staff for surveys, excavations, other fieldwork, consultant monitoring, and laboratory work, report writing, and peer review of reports. To request assistance, the District Environmental Branch Chief (DEBC) should send a memo to the appropriate CCSO Branch Chief which states:

- the type of assistance needed;
- basic information on the highway project, including county, route, post miles, and expenditure authorization;
- project maps showing the project's location and limits;
- District contacts for the project, including the project manager, project engineer, and environmental generalist;

- target date for completion of the requested service;
- priority status of the proposed project in relation to other assistance work being done by CCSO for the District.

5-3.6 FIELD SAFETY

Caltrans' philosophy is that "no field activity shall be considered so important or urgent that…any safe practice will be compromised." The lead archaeologist on a field crew is responsible for ensuring that the crew is aware of safety hazards, concerns, and precautions.

- For work in remote or dangerous localities and in hazardous areas or conditions, safety procedures include the "buddy system" on surveys and daily communication with a supervisor.
- For excavations deeper than 150 cm (5 ft.), shoring, or acceptable alternatives to shoring, in conformity with the Division of Occupational Safety and Health (OSHA) standards, must be used. The principal investigator on excavations can also request a safety review by the District Safety Officer.

Additional information on safety practices can be found in:

- *Environmental Handbook*, vol. 1, Appendix A-6, "Code of Safe Field Practices";
- *Maintenance Manual*, Chapter 8, "Protection of Workers" (including Article 8.37 on trench safety);
- *Equipment Manual*, Chapter 17, Article 17.02;
- *Construction Manual*, Chapter 1, Section 1-60, "Safety";
- Caltrans Survey Manual, Section 1-04 (environmental hazards and safe hand tool use). See relevant excerpts from this manual in **Exhibit 10**.

5-4 IDENTIFYING PREHISTORIC SITES (PHASE I)

The identification phase of prehistoric archaeological studies is conducted together with the identification of other cultural resources. The procedures to be followed -- records search, background research, field survey, recordation, preparation of a positive or negative Archaeological Survey Report, review, and distribution -- are discussed in Chapter 4, "Cultural Resources Identification." **Exhibit 9** depicts the number of copies of archaeological documents that need to be sent to FHWA, SHPO, CCSO, the appropriate Information Center and Native American Groups.

5-5 DELIMITING PREHISTORIC SITES (EXTENDED PHASE I)

An Extended Phase I (XPI) study is an extension of the identification phase, meeting the requirements of 36 CFR 800.4(b) "to identify historic properties within the area of potential effects" and similar requirements under CEQA.

The XPI study is conducted to determine

1) whether a site extends into the project's Area of Potential Effects (APE), or
2) if the site does extend into the APE, whether the portion within the APE is so disturbed that it would no longer have a potential to contribute to eligibility for the site as a whole.

This type of study is not appropriate if surface indications suggest a reasonable likelihood that an undisturbed subsurface deposit does exist in the APE. An XPI is also not appropriate for evaluating the significance of a site. The proper vehicle for the evaluation of the site is the Phase II test excavation. The District determines the need for an XPI; the CCSO is available for consultation on this decision.

The XPI study includes the preparation of a proposal, fieldwork, laboratory work, and preparation of a report on the study results. The results are summarized in the HPSR or Historical Resources Compliance Report (HRCR), to which the Extended Phase I Report is appended.

The typical work effort for fieldwork and reporting of an XPI study is 360 hours. The typical elapsed time for producing a final product is 180 calendar days (6 months).

5-5.1 EXTENDED PHASE I PROPOSAL

An Extended Phase I (XPI) Proposal is prepared and peer-reviewed by qualified prehistoric archaeologists, and approved by the DEBC prior to excavations. The proposal should indicate the reasons for the XPI study, the field methods to be used, and the basis that will be used to determine when the study goals have been met and fieldwork can cease.

Because of the limited scope of the XPI study, background information, research designs, and discussions of regional research questions are not appropriate. However, the proposal should include curation plans, arrangements for a Native American Advisor and estimates of the time and personnel required to complete field, laboratory, and reporting tasks. Proposal length

should not exceed a few pages. Guidelines for preparing the proposal are provided in **Exhibit 21**.

Methods of excavation for this phase of study may include any combination of standard archaeological techniques, including surface scrapes, auger holes, shovel test pits, rapid recovery units, standard control units, and trenching. The proposal should explain how the specific methods selected, including the type, number, and placement of study units, will achieve the study's goals.

A biologist should review the XPI Proposal to ensure that no impacts to biological resources would result from archaeological excavation.

Peer review of the XPI Proposal by a qualified (Level III or IV) archaeologist is required prior to its submittal to the DEBC for approval. The reviewer should ensure that the proposal clearly defines the goals of the study, the methods to be used, and factors that will determine the scope of the study. A minimum of 10 working days is allowed for peer review, with longer periods allowed at the discretion of the District.

5-5.2 PRE-FIELD PREPARATIONS

Pre-field preparations include obtaining maps and/or aerial photographs, securing permits and curation agreements, and coordinating with Native American Advisors. Additional pre-field preparations are found on the excavation checklist **(Exhibit 11)**.

Maps and/or aerial photographs of sufficient detail are necessary to document the XPI fieldwork and to show the relationship of site limits to the project APE. Mapping should be at scale (e.g., 1":20', 1":50') suitable to serve as a base map for the XPI Report.

Required permits must be obtained before beginning fieldwork. For liability reasons, written permission from private landowners is necessary if the fieldwork is conducted on private land. Artifacts are also legally the property of the landowner and are returned to the owner unless a written agreement is obtained for Caltrans to retain and curate the recovered artifacts. To meet professional responsibilities, every effort should be made to obtain such permission for curation. Permit requirements, procedures, and responsibilities are discussed in **Section 5-10.**

If possible, a curation agreement with an approved facility should be in place before fieldwork commences. The DEBC reviews and approves the curation agreement.

The District Native American Coordinator (DNAC) notifies the appropriate Native American group and provides it with the opportunity to participate in the XPI study.

Minimal qualification for directing the XPI study is Level III (Principal Investigator, Extended Phase I). Qualifications standards for the principal investigator and for crewmembers (Level I) are outlined in **Exhibit 5**.

5-5.3 FIELDWORK AND LABORATORY ANALYSIS

The field and laboratory work should follow the proposed plan. Because minimal recovery of archaeological materials is usual, laboratory work will probably be limited to washing, basic identification of materials and artifact types, cataloging the materials, and the tabulation of their quantities.

If a Phase II study is to be undertaken soon after the XPI fieldwork because of positive results from the latter, the full processing and analysis of the XPI collection may be deferred for inclusion with the Phase II collection. However, if any uncertainty exists as to whether the Phase II study will be made, or if any substantial time will elapse before it is begun, the XPI collection should be separately processed and reported. Caltrans is committed to complete documentation of the collection, regardless of changes in highway project plans.

5-5.4 EXTENDED PHASE I REPORT

The Extended Phase I (XPI) Report should explicitly address the issue for which the work was undertaken: the relation of the site limits to the project's APE and/or Area of Direct Impact (ADI), and the integrity of the deposit within the APE or ADI. If the study has redefined the limits or nature of the archaeological site, a revised archaeological site record should be appended to the report. Additionally, the report should provide basic documentation concerning any cultural materials that were recovered and the nature of the cultural or noncultural deposits, which were encountered.

Recommendations for further work should not be included in the XPI Report. Such recommendations, if any, should be given in the memo transmitting the final report to the DEBC.

Guidance for the format and content of XPI Reports is provided in **Exhibit 22**.

5-5.5 REPORT REVIEW

Peer review of the XPI Report by a qualified (Level III or IV) archaeologist is required prior to submittal to the DEBC for approval. An XPI Report is reviewed to ensure that it meets Section 106 or CEQA compliance needs and professional standards. Peer review should evaluate

1) whether the study followed the scope of work proposed,
2) the adequacy of the field techniques used,
3) the report's clarity, logic, and consistency with Caltrans reporting standards, and
4) whether the goals of the study have been met. A minimum of 10 working days is allowed for peer review, with longer periods allowed at the discretion of the District.

5-5.6 REPORT DISTRIBUTION

Exhibit 9 indicates the required distribution of archaeological documents. The District HRC sends one copy each of the approved XPI Proposal and XPI Report to the appropriate Cultural Studies Branch Chief in CCSO in Headquarters. The accompanying transmittal memo identifies the peer reviewers of documents. If the transmittal memo to the DEBC provides any recommendations concerning the resource, a copy of the memo is also sent to CCSO. The District HRC also sends one copy of the approved XPI Report to the appropriate CHRIS Information Center.

5-6 EVALUATING PREHISTORIC SITES (PHASE II)

Federal agencies are required under 36 CFR 800 to consider the effects of an agency's undertaking on properties included in or eligible for the National Register, and to afford the ACHP a reasonable opportunity to comment on the effect finding. For sites that cannot be avoided by the project, CEQA Guidelines §15064.5 also provide for the evaluation of their importance and CEQA Guidelines §15126.4(b) provide for mitigating project effects to important sites. The National Register criteria (36 CFR 60.4), when applied to evaluate the site's eligibility to the National Register, evaluate the site's importance as defined by CEQA Guidelines §15064.5 as well.

If project impacts to an archaeological site cannot be avoided, a Phase II study may be undertaken to evaluate the site and to assess potential project effects on it. A Phase II study may consist of test excavations and other work for these objectives. The results of a Phase II study are presented in an Archaeological Evaluation Report which is appended to an HPSR or HRCR.

Archaeological sites are most commonly determined eligible based on National Register Criterion D, because they "may be likely to yield information important in prehistory or history." In some cases, other National Register criteria may apply to archaeological sites as well. Sites with National Register qualities other than information potential may be subject to Section 4(f) of the Department of Transportation Act of 1966 (see Chapter 2, Section 2-4.8, FHWA's Section 4(f) Policy Paper and FHWA *Technical Advisory* T6640.8A included as an appendix in Volume 1 of the *Environmental Handbook*).

The Phase II study generally consists of fieldwork, analyses of the recovered material, and preparation of a report. The Archaeological Evaluation Report documents the study activities, presents the results and their interpretation to professional standards, and provides justification for a determination that the site is eligible or not eligible for the National Register (or is a historical resource under CEQA) and, if eligible, that the project will or will not adversely affect the site. If a site has previously been determined eligible/significant, a Phase II study may still be needed to gather the information necessary to address project effect. The District determines if a Phase II excavation is needed, in consultation with appropriate CCSO staff if appropriate.

To evaluate a site's eligibility, the study normally must address the entire site, not just the portion of it in the APE. However, to address project effect and design mitigation measures, sufficient study must be focused specifically on the portion of the site within the APE.

For state-only projects, under CEQA Guidelines, it is possible to combine Phase II and Phase III (data recovery) work in a single phase. The Phase II/Phase III Proposal for this approach will specify the conditions under which test excavation would phase into data recovery. CEQA Guidelines also allow for Phase III studies to be conducted without a preceding test excavation if the site is clearly an important resource. The nature of the research to be conducted must be apparent, obviating the need for data generated by a Phase II study. The appropriateness of combining Phase II and Phase III work, or of proceeding directly to Phase III, will be decided by the DEBC on a case by case basis, before any fieldwork.

Time Required to Conduct Studies

The Phase II study may be done by in-house staff, by academic institutions, or by contracted consultants. The recommended work standard for fieldwork and reporting of a Phase II study is 1,768 person-hours, or the equivalent of one person-year. The typical elapsed time for producing a final product, in-house, is one calendar year. These time frames indicate the crucial position a Phase II excavation occupies on the Section 106 compliance path.

Minimum qualifications must be met for project personnel, including the principal investigator (Level IV), crew chief (Level III), and crew members (Level I). The standards for each level are outlined in **Exhibit 5**.

5-6.1 EVALUATION WITHOUT EXCAVATION

Prehistoric archaeological sites usually require test excavation to determine whether they qualify for inclusion in the National Register. However, there are cases in which a determination can be made without Phase II excavation.

A site may be determined to be eligible for inclusion in the National Register on the basis of

1) information generated in previous excavations,
2) unusual and important surface characteristics, such as rock art,
3) ethnographic or ethnohistoric information, or
4) existing stratigraphic exposures indicating the presence of important subsurface constituents, such as human burials.

In unusual circumstances, a site may be determined ineligible without subsurface testing; based on depositional circumstances, which preclude the presence of any subsurface cultural deposit.

The basis for a conclusion that a site is eligible or ineligible must be thoroughly and convincingly documented. Caltrans does not have a report type specifically for this situation. In complex cases, use of a modified Archaeological Evaluation Report format may be appropriate, while in simple cases, a memorandum may suffice. The document must be prepared and signed by a prehistoric archaeologist qualified at Level IV, and peer reviewed by a similarly qualified archaeologist. It will be attached to the HPSR or HRCR.

There are both potential advantages and potential disadvantages in evaluating eligibility without excavation. Omitting a Phase II study may substantially reduce costs and schedule time. It may eliminate disturbances to portions of a site, which will not be affected by the highway project. In some circumstances, Native Americans may request that test excavations not disturb a site. However, if the proposed eligibility determination is not accepted by reviewing agencies and test excavations are ultimately required, the adverse consequences for the project's schedule may be severe. Test excavations also serve to evaluate project effects and to assist in the design of appropriate data recovery programs, and these objectives may be more difficult to meet if Phase II test excavation is bypassed.

5-6.2 PROGRAMMATIC TREATMENTS / CARIDAPS

Some Phase II studies may be accomplished through resource-specific programmatic treatments developed and coordinated by OHP. These programmatic treatments, called CARIDAPS or *California Archaeological Resource Identification and Data Acquisition Programs*, establish procedures for the efficient identification, recording, and management of certain archaeological resource classes that contain limited but useful data.

The implementation of a CARIDAP serves to satisfy the historic compliance process, eliminating the need for Phase II or Phase III studies. However, specific site criteria identified in the CARIDAP must be met. The results obtained in applying the CARIDAP may dictate a need for further Phase II evaluation or Phase III data recovery.

The only CARIDAP presently in use deals with sparse lithic scatters (DPR 1988). For this CARIDAP to be applicable, the site must meet the following criteria:

1) it must contain only flaked stone, and lack other classes of archaeological material (such as groundstone, fire-affected rock, pottery, bone, or shell);
2) it must be smaller than 10,000 m^2 in area;
3) it must lack a substantial cultural deposit, as defined by the program; and
4) it must have surface artifact densities less than or equal to three items per square meter.

For copies of the Sparse Lithic Scatters CARIDAP, contact the Office of Historic Preservation, P.O. Box 942896, Sacramento, CA 94296-0001, or (916) 653-6624.

5-6.2 ARCHAEOLOGICAL EVALUATION PROPOSAL

An Archaeological Evaluation Proposal is prepared and peer-reviewed by qualified prehistoric archaeologists, and approved by the DEBC prior to excavations. The proposal should state the goals of the study, and clearly link the anticipated field and laboratory work to those goals.

Because a Phase II study will evaluate the research potential of a site, the proposal must present sufficient background information, a realistic and site-specific research design, and a discussion of relevant regional research issues. Arrangements for Native American Advisors, curation plans, permits, and estimated time and personnel requirements are also addressed. Guidelines for preparing the proposal are provided in **Exhibit 23**.

A biologist should review the Archaeological Evaluation Proposal to ensure that no impacts to biological resources would result from archaeological excavation.

Peer review of the Archaeological Evaluation Proposal by a qualified (Level IV) archaeologist is required prior to its submittal to the DEBC for approval. The reviewer should ensure that the proposal contains a clear definition of study goals, considers appropriate regional research concerns, and specifies a realistic level of effort and timeline to meet the goals. A minimum of 10 working days is allowed for peer review, with longer periods allowed at the discretion of the District.

5-6.3 PRE-FIELD PREPARATIONS

Pre-field preparations include obtaining necessary maps and/or aerial photographs, securing the proper permission or permits and curation agreements, and coordinating with the Native American Advisor. Additional pre-field measures may be found in the checklist provided as **Exhibit 11**.

The appropriate maps or aerial photographs are obtained from the project engineers or through the District or Headquarters Photogrammetry units.

The principal investigator confirms that the proper permits are secured if the study will occur on private, federal, or other public lands, or within the coastal zone. The timeframe for pre-field preparations must allow for the permit processing. See Section 5-10 for an expanded discussion on permit requirements, procedures, and responsibilities.

It is often desirable that a curation agreement with an approved facility be in place before fieldwork commences. The DEBC reviews and approves the curation agreement.

The DNAC arranges for the Native American advisor, but the principal investigator or crew chief is responsible for day-to-day liaison in the field. Monitoring agreements may be prepared before fieldwork which provide guidance on procedures to be followed in the event human remains are encountered. See **Chapter 3**, "Native American Cultural Studies," for further pertinent information.

5-6.4 FIELDWORK AND LABORATORY ANALYSIS

The fieldwork and laboratory analysis are to follow the proposal's plan. If changes are deemed necessary, a justification should be written and submitted to file.

Phase II laboratory studies must be detailed enough to meet professional standards and to provide the data necessary to evaluate site integrity, research potential, and National Register eligibility or CEQA significance. Some specialized analyses may require separate consultant contracts.

5-6.5 ARCHAEOLOGICAL EVALUATION REPORT

The Archaeological Evaluation Report provides the basis for determining whether a site is eligible for inclusion in the National Register or is a historical resource under CEQA, and if it is eligible, whether the proposed project will adversely affect it. To accomplish this, the report describes the fieldwork, data analyses undertaken, and the conclusions derived from them, and demonstrates, based on this information, that the site does or does not possess the additional information potential to address significant research questions, and that the portion of the site in the APE does or does not contribute to that potential. Guidance for the content of Archaeological Evaluation Reports is found in **Exhibit 25**.

In rare instances, a Preliminary Archaeological Evaluation Report may be used when there is limited time for Section 106 or CEQA compliance. This report provides a preliminary evaluation of the site's research potential based on the fieldwork and initial laboratory analyses. The DEBC determines the need for a preliminary report. This report attached to an HPSR or HRCR, presents sufficient factual data to enable the responsible agencies to make a determination concerning site eligibility and project effects. The preliminary report does not replace an approved final report. Guidance for the content of Preliminary Archaeological Evaluation Reports is found in **Exhibit 24**.

Also in rare instances, full presentation of Phase II findings may be deferred for inclusion in a Data Recovery Report. However, there must be assurance that full reporting will occur in a timely fashion. Changes in project plans or elimination of the need for data recovery will not alter Caltrans' responsibility to report the Phase II results.

Specific recommendations for further work should not be included in the Archaeological Evaluation Report. Such recommendations, if any, should be given in the memo transmitting the final report to the DEBC.

A revised archaeological site record, incorporating information gained during Phase II studies, is to be prepared, appended to the Archaeological Evaluation Report, and also filed separately with the appropriate CHRIS Information Center.

5-6.6 REPORT REVIEW

Archaeological Evaluation Reports and Preliminary Archaeological Evaluation Reports are reviewed by at least one District or CCSO archaeologist qualified at Level IV before being submitted to the DEBC for approval. Draft and final versions of each report are usually prepared.

The excavation reports are reviewed for professional adequacy in field and laboratory techniques, reasonableness of analysis and interpretation, quality of presentation, consistency with Caltrans and OHP standards, and adequacy for the Section 106 consultation process (if applicable). The reviewers should focus on substantive concerns in the report. A minimum of 30 calendar days is generally allowed for review of Archaeological Evaluation Reports, with longer periods allowed at the discretion of the District.

Peer review of Archaeological Evaluation Reports by archaeologists outside Caltrans is acceptable, but it is rarely used. Reports may benefit from review by outside archaeologists knowledgeable in the prehistory of the region, but there is seldom sufficient time to secure such a review and still meet Section 106 compliance schedules. For specific information on outside peer review, see **Exhibit 39**.

5-6.7 REPORT DISTRIBUTION

Exhibit 9 summarizes the required distribution of copies of the final Archaeological Evaluation Report. The District HRC provides one copy of District-approved final report to the appropriate Cultural Studies Branch Chief in Headquarters CCSO, and transmits another copy to the regional CHRIS Information Center. Policies on the publication and external distribution of reports are summarized in **Exhibit 39**.

The transmittal memo to Headquarters CCSO that accompanies the Report identifies the archaeologist who performed peer review. If a transmittal memo to the DEBC made recommendation concerning the resource, this memo should also be sent to appropriate Cultural Studies Branch Chief in Headquarters CCSO.

5-7 ARCHAEOLOGICAL DATA RECOVERY (PHASE III)

The potential contribution of a prehistoric site to archaeological research can be preserved, at least in part, through an excavation program designed to recover the important information. This research program is referred to as data

recovery, or as a Phase III study. Under 36 CFR 800, as revised May 18, 1999, data recovery at an archaeological site is no longer the basis for a finding of "no adverse effect" to the site. However, data recovery continues to be an important measure to mitigate adverse effects, when avoidance of impacts is not feasible. Phase III excavation occurs within the APE, mostly within the ADI, and rarely outside the APE.

Increasing emphasis is being given to the importance of disseminating the results of data recovery programs directly to the interested public beyond professional archaeological audiences. Some of the methods that have been used to achieve this goal include (a) public visits and media coverage during data recovery excavations, (b) lectures to school, avocational, Native American, and local community groups, and (c) preparation of exhibits, booklets, and videos. Such public involvement measures must take into account confidentiality and safety requirements.

A Data Recovery Plan, documenting the scope and character of the proposed Phase III study, is attached to the Finding of Effect which culminates the Section 106 review process for federal projects. Phase III excavation normally occurs after final approval of the project's environmental document, but before project construction. A letter report certifying successful completion of fieldwork is to be submitted to the Division Administrator, FHWA California Division, within five days of the termination of pre-construction field activities, signaling that construction can begin. The Data Recovery Report is typically produced after project construction.

The time frame for a Data Recovery program, from initiation of the field study to the final report, averages 15 months, with 12 months generally the minimum. The different characteristics of archaeological sites can shorten or extend these estimates.

Phase III studies may be conducted by in-house staff, but are most frequently contracted out to academic institutions or consultants, because the complexity and comprehensiveness of required studies are beyond the time availability of in-house staff. Minimum qualifications for principal investigator, (Level IV), crew chiefs (Level III), and crew members (Level I) must be met by the individuals filling those functions. The standards for each level are outlined in **Exhibit 5**.

Capping a site with culturally sterile fill is a mitigation measure that may reduce the amount of Phase III data recovery required. Phase III excavations should be conducted to recover a reasonable record of what will be buried. This avenue is appropriate only if no further impact will occur to the site; otherwise, full data recovery is appropriate. This procedure is in accordance with Principal III. 4., and Principal VIII. 1. of the ACHP's 1980 *Treatment of Ar-*

chaeological Properties, A Handbook. Although the CEQA Guidelines allow for capping sites without prior excavation, it is Caltrans' practice to recover a sample before fill at all sites.

5-7.1 DATA RECOVERY PLAN

A Data Recovery Plan (DRP) is prepared as an attachment to the Finding of Effect for the project. It serves to get concurrence of FHWA and SHPO that the objectives and scope of the proposed Phase III study are appropriate mitigation measures. The Data Recovery Plan contains less detail on fieldwork, laboratory work, and costs than is appropriate in an excavation proposal. Guidelines for preparing the plan are provided in **Exhibit 26**.

Peer review of the Data Recovery Plan by a qualified (Level IV) archaeologist is required prior to its submittal to the DEBC for approval. The reviewer should ensure that the plan addresses appropriate regional research concerns, clearly defines the study goals, and specifies a realistic level of effort and timeline to meet those goals. A minimum of 10 working days is allowed for peer review, with longer periods allowed at the discretion of the District.

5-7.2 PHASE III PROPOSAL

The Phase III Proposal builds on the previous Phase II study (if one occurred) and on the Data Recovery Plan, and may reference appropriate portions of those documents without repeating them. The proposal describes and justifies the specific work needed to implement the Data Recovery Plan. Guidelines for preparing the proposal are provided in **Exhibit 27**.

A biologist should review the Phase III Proposal to ensure that no impacts to biological resources would result from archaeological excavation.

Peer review of the Phase III Proposal by a qualified (Level IV) archaeologist is required prior to its submittal to the DEBC for approval. The reviewer should ensure that the proposal addresses appropriate regional research concerns, clearly defines the study goals, and specifies a realistic level of effort and timeline to meet those goals. A minimum of 10 working days is allowed for peer review, with longer periods allowed at the discretion of the District.

5-7.3 FIELDWORK AND LABORATORY ANALYSIS

Intensive fieldwork and detailed laboratory analyses are often needed to realize the objectives of the data recovery program. On the other hand, work may also be more narrowly framed than in an evaluation program, because it builds on

the previous Phase II testing and focuses on the specific research questions identified for the data recovery program.

Field and laboratory procedures will follow those defined in the Phase III Proposal, with appropriate allowance for unexpected information opportunities or problems that may arise.

5-7.4 DATA RECOVERY REPORT

Data recovery is archaeological research undertaken to mitigate the adverse effects of a proposed project. The final report presents the contributions, which this excavation has made, toward creating a more complete picture of regional prehistory. Future avenues for research should also be identified.

Whereas archaeological survey and evaluation reports are addressed primarily to review agencies, Data Recovery Reports are addressed primarily to those interested in the research. For this reason, more flexibility is appropriate in the way in which data recovery results are presented. Guidelines for preparing the Data Recovery Report are provided in **Exhibit 28**, but modifications of these guidelines that will facilitate appropriate dissemination of the study results should be considered, in consultation between the report author and prospective peer reviewers.

A revised archaeological site record is prepared, documenting changed information about the site as a result of the Phase III studies. This record is filed with the appropriate CHRIS Information Center.

5-7.5 REPORT REVIEW

Data Recovery Reports must be peer-reviewed by a qualified (Level IV) archaeologist prior to its submittal to the DEBC for approval. The reviewer should ensure that the report adequately documents all aspects of the Phase III investigations, addresses the identified research goals, and presents its conclusions in a clear and logical manner.

Peer review of Data Recovery Reports by members of the archaeological community outside Caltrans is often used. The peer reviewers are selected for their regional and/or specialized expertise. The decision to submit the report for outside peer review is made by the DEBC. **Exhibit 38** contains the standards for outside peer review.

5-7.6 REPORT DISTRIBUTION

Refer to **Exhibit 9** for a table outlining the distribution of archaeological documents. In sending the copy to FHWA, the transmittal letter should document that commitments concerning the distribution of the report which were made in the Finding of Effect, Data Recovery Plan, or Memorandum of Agreement have been fulfilled. **Exhibit 39** summarizes policies on the publication and external distribution of reports.

5-7.7 OTHER DATA RECOVERY COMMITMENTS

Some data recovery programs include elements designed to inform the public during or subsequent to the excavations, such as site visits, lectures, exhibits, or publications. The steps taken to fulfill these commitments, and the degree of success in meeting their objectives, should be documented both for Caltrans and for other parties to the data recovery program, such as FHWA, SHPO, and Native American groups. Appropriate means of documentation may include memoranda, letters, or formal reports.

5-8 COORDINATING CONSULTANT STUDIES

Archaeological studies are often conducted for Caltrans by academic institutions, other agencies, or contracted private consultants. These studies involve a District or CCSO archaeologist as coordinator. If CCSO is participating in the administration of the archaeological study or providing peer review of reports, it may be appropriate that CCSO personnel also coordinate the fieldwork, so that they can develop a better understanding of the nature of the resource involved.

The archaeological coordinator acts as a liaison between the consultant and Caltrans. The coordinator must have a thorough understanding of the scope and goals of the work and the requirements of the contract. The coordinator's in-the-field contact with the consultant provides first-hand knowledge of the personnel and methods involved. Any schedule slips or speed-ups are identified, and there is an opportunity to initiate consultation and negotiation if changing field situations demand it. However, the coordinator does not supplant the consultant's field director in matters of professional judgment, unless violations of standard professional practices threaten the credibility of the final report. Differences between the coordinator and the field director that are not resolved in the field are referred to Caltrans' contract manager and the consultant's principal investigator.

ASRs, XPI Proposals and Reports, Archaeological Evaluation Proposals and Reports, Data Recovery Plans, Phase III Proposals, and Data Recovery Reports prepared by consultants are submitted to the District Environmental Branch and/or Headquarters CCSO for peer and DEBC review. Caltrans has a minimum of 10 working days for the review. Caltrans will notify the consultant of approval or have requested revisions. If revisions are necessary, Caltrans will establish with the consultant the time frame for re-submittal of the corrected document.

5-9 MONITORING CONSTRUCTION

Significant archaeological resources may be uncovered as grading occurs at a known site or at a previously inaccessible location with a high archaeological potential. An archaeologist may be assigned to monitor construction work, to treat such newly discovered resources.

Effective monitoring requires that the archaeologist work closely with Caltrans' and the contractor's field personnel, and in some cases with Native American monitors. All participants need to understand clearly the nature of the archaeological concerns at the location, the various participants' responsibilities, the construction schedules and procedures, and a chain of command for dealing with any new archaeological discoveries.

Safety concerns are particularly important in construction situations. The archaeological monitor must be adequately aware of the operating methods of heavy equipment, adjacent traffic conditions, safety policy with respect to exposed cuts and trenches, and hazardous materials potentially present at the site.

If significant archaeological remains are encountered, it may be necessary to divert construction work temporarily away from the location of the finds, in order for the finds to be properly assessed, documented, and/or recovered. Because delays may seriously impact the construction schedule, the archaeological monitor should have a clear understanding of the thresholds for such discoveries. Contingency arrangements may include having the appropriate excavation gear available at the site and having a plan to mobilize additional archaeological assistance.

Any archaeological specimens that are recovered will require analysis, reporting, and curation. In part for this reason, it is generally undesirable to recover materials which will not be interpretively significant or which are redundant with those previously documented for the site.

There is no standard Caltrans format for reporting on construction monitoring. The amount of documentation that is appropriate will vary. At a minimum, the

monitor should prepare a memorandum to the files, to document that the mandated monitoring was performed. The memorandum should specify the archaeological monitors and their qualifications, the dates of monitoring, the portions of the project area for which monitoring was done, the conditions of work, the results in terms of any archaeological remains encountered, and any other relevant observations. If significant artifacts or features are encountered and are either documented or recovered, a more formal and extensive report is appropriate, following the general guidelines of the Data Recovery Report (**Exhibit 5-8**).

5-10 ARCHAEOLOGICAL STUDY PERMITS

Permits are required before conducting archaeological studies on public or private lands. The Caltrans Right of Way agent or lead archaeologist obtains the permits for surveys, excavation, and curation of recovered collections. Depending on the scope of the proposed work, a general description of the work may be noted in the permit application form, or a proposal may be attached to it.

The primary federal agencies requiring permits for Caltrans projects are the Bureau of Land Management (BLM), the United States Forest Service (USFS), and the National Park Service (NPS). State agencies that may require permits include the California Coastal Commission (CCC), the Department of Parks and Recreation (DPR), and the Department of Fish and Game (DFG). Figure 5-3 outlines the permits required and the processing time to expect.

Permit applications are reviewed by the permitting agency to ensure that the application is complete, the proposed work is appropriate, and the personnel, organization, and curation facility are qualified. Individuals who meet Caltrans Level IV qualifications should qualify to direct excavations.

Figure 5-3

GOVERNMENTAL PERMITS				
	For survey	**Lead time**	**For excavation**	**Lead time**
Federal				
USFS	Special Use Permit	4-6 weeks	Special Use Permit	8-10 weeks
NPS	Special Use Permit	4 weeks	Special Use Permit	8 weeks
BLM	Fieldwork Authorization	1-2 weeks	Cultural Resource Use Permit, (Fieldwork Authorization)*	8-10 weeks
State				
DPR	DPR 412	4-6 weeks	DPR 412	8-10 weeks
other	(contact agency)		(contact agency)	
*** use of form varies**				
USFS = U.S. Forest Service; NPS = National Park Service; BLM = Bureau of Land Management;				
DPR = Department of Parks and Recreation				

5-10.1 FEDERAL LEGISLATION

Permits for archaeological studies on federal land may be issued under the following legislation and implementing regulations, depending on the agency involved:

- *Organic Administration Act of June 4, 1897 (Chptr. 2,30 Stat 11, as amended, 16 U.S.C. 473-475, 477-482, 55 1)* in part directs the Secretary of Agriculture to protect National Forests and regulate their occupancy and use. The permit is issued under the provisions of 16 U.S.C. 551.
- *The Federal Land Policy and Management Act of 1976 [FLPMA] (P. L. 94- 579; 43 U.S.C. 1701-1784)* provides in part for the periodic and systematic inventory of public lands and their resources, and the management of the resources in a manner that will protect the quality of the land. The permit is issued under 43 U.S.C. 1732 and Section 302(b) of P. L. 94- 579.
- *Archaeological Resources Protection Act of 1979 [ARPA] (P. L. 96-95; 93 Stat 721; 16 U.S.C. 470 aa-11; 36 CFR 229; 43 CFR 7)* provides primarily for the protection of archaeological resources on public lands and Indian lands. A permit is required for the surface collection and/or excavation of sites 100 years or older (16 U.S.C. 470cc). The implementing Uniform

Regulations for ARPA were published in the *Federal Register*, Volume 29, No. 4, Friday January 6, 1984, with supplemental regulations issued in the *Federal Register*, Volume 52, No. 55, Monday, March 23, 1987. Identical regulations for the different federal landholding agencies appear under different titles of the Code of Federal Regulations; thus the implementing regulations for the USFS (Department of Agriculture) is 36 CFR 229, and the regulations for the BLM and the NPS (Department of the Interior) can be found under 43 CFR 7.

All ARPA permit applications that involve collection and excavation, and some that involve surveys, are submitted by the permitting agency to the Native American group for whom the site or area may have cultural or religious significance for a 30-day review and comment period.

5-10.2 BUREAU OF LAND MANAGEMENT (BLM) CULTURAL RESOURCE USE PERMIT

The BLM issues permits for two levels of study. The non-collection survey/recordation permit, issued under FLPMA, authorizes nondisturbing pedestrian survey and limited subsurface probing for mapping purposes only (i.e., determination of boundaries). No collection of artifacts, except isolated artifacts not associated with an archaeological site, is allowed under this permit.

Caltrans has a statewide non-collection survey/recordation permit for survey on BLM lands. The archaeologist conducting the survey must notify the appropriate BLM Field Office Manager before fieldwork and may be required to submit a fieldwork authorization request (see below). The authorization to conduct fieldwork may be granted immediately, or it may take one to two weeks.

An ARPA permit is issued on a project-specific basis for activities that may disturb the research potential of the site. These activities include limited testing, excavation, and collection. Two copies of the application, including supporting documentation, are submitted to the State Director, California State Office, Sacramento. The application package is submitted by the BLM to the designated Native American group for a 30-day review period. Applicants should anticipate a period of 8-10 weeks before an ARPA permit is granted. This allows for review by the Native Americans and the BLM and for inter-agency transmittals of the application.

The BLM permitting process involves two levels of approval. The state headquarters of the BLM approves an application for the Cultural Resource Use Permit, and the Deputy State Director, Division of Natural Resources, signs the permit. Once the permit is issued, the applicant must request authorization

from the appropriate BLM Field Office before initiating fieldwork. This serves to ensure that the schedule of the permitted activity does not conflict with other concurrent activities or conditions in the field. The Field Office Manager is notified either by submitting a Fieldwork Authorization request form (which describes the personnel involved, location, and period of the proposed fieldwork) or by a phone call to the Manager. The nature of the activity and the policy of the particular Field Office determine whether a fieldwork authorization form will be necessary or a phone call will suffice. The appropriate BLM Field Office Manager must authorize any fieldwork under this permit before fieldwork commences.

5-10.3 U.S. FOREST SERVICE SPECIAL USES PERMITS

The USFS issues permits under the Organic Administration Act of 1897 or ARPA, as outlined in 36 CFR 251.50 *Special Uses Permits.* The procedures and requirements for obtaining a permit vary between Forests, as does Forest organizational structure.

Special Use Permits are issued for two levels of study: survey (included limited subsurface testing for boundary definition); and surface collection, testing, or data recovery excavations. For either type of permit, the lead archaeologist initiates the application process by contacting the appropriate Forest Archaeologist.

Permits for surface collection or excavation are submitted by the Forest to the Pacific Southwest Region headquarters for review, approval, and issuance of the permit. The permitting process may take several months.

The application for a survey permit is reviewed and approved by either the Forest Supervisor or the District Ranger. A review period of 30 days can be anticipated.

The project archaeologist is to notify the District Ranger of the date fieldwork will be initiated. The District Ranger approves this date in writing.

5-10.4 NATIONAL PARK SERVICE CULTURAL RESOURCE SPECIAL USE PERMITS

Permit requirements of the National Park Service for surveys depend on the nature and scale of the proposed project. The NPS issues permits under ARPA for all collection or excavation. To initiate the permit process, call the appropriate Park office and the Pacific West Regional Office. Two copies of an application and attachments are prepared and sent to the Pacific West Regional

Director for approval. The time for processing the permit is typically four weeks for survey and eight weeks for excavations.

5-10.5 CALIFORNIA DEPARTMENT OF PARKS AND RECREATION PERMITS

DPR for archaeological investigations or collection within the boundaries of state parks or beaches require a permit. This permit is issued for surveys under a DPR Resource Management Directive. Permits for excavations are issued under the provisions of PRC 5097.5, which states that permission is necessary to excavate or remove any archaeological, paleontological or historical feature situated on public lands from the agency having jurisdiction over that land.

Four copies of an "Application and Permit to Conduct Archaeological or Paleontological Investigations/Collections on Lands of the State of California (DPR 412)" are submitted to the District Superintendent or to the Supervisor of the Cultural Heritage Section. The permit is reviewed by the District Superintendent and the Supervisor of the Cultural Heritage Section and by the Manager for Archaeological Collections if the requested permit is for an excavation. Review period is ten working days. The Regional Director signs approval of the permit. Once the permit is granted, the District Superintendent or designee must be contacted before beginning fieldwork.

5-10.6 COASTAL COMMISSION PERMITS

Archaeological excavation undertaken in the coastal zone may require a permit under the authority of the California Coastal Act of 1976 (Division 20, Public Resources Code). The California Coastal Commission may issue a Coastal Development Permit for archaeological undertakings. When appropriate, the permit requirements may be waived. To determine whether such a permit is needed, contact the appropriate District Office of the Commission.

The Commission for some cities and counties has approved local Coastal Plans (LCPs). The CCC District Office can indicate whether the permit must be obtained from a local agency. Archaeological requirements for permits issued under various LCPs vary.

5-10.7 CALIFORNIA DEPARTMENT OF FISH AND GAME PERMITS

In rare cases, permits from DFG may be required for archaeological excavations involving streams or rivers. If an archaeological excavation is conducted in a stream or riverbed or on adjacent banks, a 1601 Permit may be required. When considering the use of wet screening, it should be noted that some

streams are off-limits for any such use because of their sensitivity to siltation; others have various seasonal restrictions, and still others permit unrestricted use. If the excavation will include wet screening that allows archaeological deposits to flow into the watercourse, a Suction Dredge Permit may be required. The appropriate Fish and Game Regional Office should be contacted to determine whether a permit is needed.

5-10.8 RIGHT OF ENTRY PERMITS / PRIVATE LAND OWNER PERMISSION AGREEMENTS

A District Right of Way agent normally obtains Right of entry for archaeological studies on private land. Alternatively, this is sometimes done by the lead archaeologist. Agreement should be reached early as to who will be responsible for getting these permits, because substantial time may be required to obtain the permits for large surveys,

The Right of Way agent contacts the private land owner and seeks permission to enter, explaining the proposed survey or excavation activities, the duration of access, and the archaeological project's potential effects on the property. Permission to survey may be obtained orally. Written permission is required for all excavations, in order to protect the owners against damage or interference with possession or use of the property, and to absolve them of liability in the event of accident.

Ways of obtaining the permission to enter and the proper attitude to maintain are discussed in Chapter 1, Section 1-03 (Public Relations) of the Caltrans Survey Manual. Relevant portions of this section are excerpted in Exhibit 2-11. If there are verbal objections to survey work, or if written permission for excavations cannot be obtained, the DEBC and the CCSO Chief should be notified. It is possible to obtain entry through the Right of Eminent Domain, but this is used only judiciously.

Archaeological materials recovered from private lands are legally the property of the landowner and may be retained by him or her. Caltrans must obtain written permission from the property owner to properly curate the recovered material. Failure to obtain this permission will not adversely affect achieving project compliance. However, Caltrans must try to ensure that archaeological materials will be stored properly, and that they will be accessible to qualified researchers upon request. Every effort should be made to convince the landowner of the value of proper curation for all site artifacts.

CHAPTER 6
HISTORICAL ARCHAEOLOGICAL RESOURCES: EVALUATION AND TREATMENT

6-1 INTRODUCTION

This chapter presents Caltrans' policies and procedures regarding the evaluation and treatment of historical archaeological resources, including sites and districts composed of historical archaeological sites. The historic era is defined as the period following initial Euro-american exploration in the region beginning in 1541. Sites, as used in this chapter, specifically encompass both historical archaeological sites and those with possible traditional significance (Traditional Cultural Properties or TCPs).

These procedures are oriented primarily toward compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended. However, the treatment of historical archaeological resources for projects without federal involvement is also discussed in a concluding section.

The Historical Resources Evaluation Report (HRER) is used to document evaluations of all types of historical archaeological resources, based on background research and surface observations. **See Exhibit 30** for detailed instructions for completing an HRER.

The HRER can be expanded by attaching archaeological testing proposals for Extended Phase I and Phase II excavations where such studies are required. Separate reporting formats are then used to document the results of such excavations, plan for data recovery or discoveries, and report the results of data recovery (Phase III) studies using the guidance in this chapter.

This chapter begins by discussing the qualifications needed to evaluate different types of historical archaeological resources. Subsequent sections then discuss the evaluation process for historical archaeological resources that do not require excavation, the preparation of HRERs, the evaluation process for historical archaeological resources requiring excavation, treatment procedures necessary to complete the Section 106 process, and compliance procedures for state-only projects.

6-2 PROFESSIONAL QUALIFICATIONS

6-2.1 HISTORICAL ARCHAEOLOGICAL RESOURCES

As with prehistoric archaeological resources, the values typically associated with historical archaeological resources provide a basis for determining the kind of qualifications likely to be needed for their evaluation and, where appropriate treatment. The Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (*Federal Register* 48[190]: 44738-44739) define professional qualification standards for the historical archaeology. See Chapter 1 **Section 1-3.4** and **Exhibit 5** for discussion of these minimum standards and guidelines, as well as for certification levels. Pending revisions of those standards are likely to recognize other disciplines including Ethnography. Certification as a Level II historical archaeologist is generally required to assume lead responsibility for the evaluation of historical archaeological sites. Historic era Native American archaeological sites also may be evaluated by a prehistoric archaeologist certified at Level IV. Historical archaeologists qualified at Level I may evaluate historical archaeological sites that do not require excavation and may also be qualified to evaluate TCPs lacking buried archaeological deposits depending on their experience. Historians are trained in historical research, provide valuable assistance with background research for evaluations of historic era archaeological sites, and need to be consulted prior to evaluating these resources.

6-2.2 TRADITIONAL CULTURAL PROPERTIES

Ethnographers most appropriately evaluate sites that may have traditional values (potential TCPs), although others with suitable training in anthropology, history, or folklore may also be qualified to assess such resources. Persons with the appropriate education and experience in history, historical archaeology, or architectural history working in collaboration may evaluate other types of cultural resources such as ruins of buildings and structures, cultural landscapes, battlefields, cemeteries, and the locations of important events. See Chapter 4 **Section 4-2.5** and discussion of these resources in **Chapter 7**.

Appropriately qualified specialists in the districts or in headquarters may conduct evaluations of historical archaeological resources. Teams also may be created from a combination of district and headquarters staff. Requests for assistance from headquarters staff should be sent to the Chief of the Cultural and Community Studies Office (CCSO).

6-3 GATHERING INFORMATION

The amount and types of information needed to complete the evaluation of a historical archaeological site will depend on the type of resource, its integrity, and the quality of available information about it. Resources that are clearly ineligible for the National Register either because of restricted values or substantial loss of integrity may be evaluated by appropriately qualified staff with a Letter Report, as discussed in **Section 6-5**. The information gathered during the identification phase described in **Chapter 4** might sometimes be sufficient to make such summary evaluations without further research. All other evaluations of historical archeological resources are documented in an HRER. See **Section 6-6**.

Supplementary archival research, interviews, and in some cases archaeological excavation may be needed to complete the evaluation of resources that cannot be assessed solely with the data provided in an ASR or memorandum. For resources that can be evaluated without archaeological excavation, the HRER documents the historical context used to evaluate the property and justifies a finding of eligibility or ineligibility. A proposal for any necessary archaeological excavation is appended to an HRER when historical research and survey data are insufficient to complete an evaluation or establish the boundaries of a historical archaeological site as discussed in **Section 6-6.2** below.

It is important to note that historical research (which may encompass both archival research and interviews) <u>precedes any type of archaeological excavation program</u>. The nature of the resource, amount and quality of available archival information, and current research problems will determine whether archaeological excavation may be appropriate and necessary. When archaeological excavation is conducted to determine site boundaries (e.g., Extended Phase I studies) or complete an evaluation (e.g., Phase II studies), that work is reported according to the instructions provided in Chapter 5. Take into consideration the supplementary guidance offered in **Sections 6-6.2, 6-7, 6-8 and Exhibits 22, 24, 25, 26 and 28**.

6-3.1 ARCHIVAL RESEARCH

The likely area of significance of a historical archaeological resource and its physical condition guide the amount and depth of historical research needed. It is important to develop the proper historical context and to identify the site-specific data that allows its placement within that context. It is also important to consider the scope and findings of previous research and to pose specific, questions of regional importance or theoretical issues, and to identify data requirements that can be used to measure the significance of the resource(s).

Historical research should be conducted in collaboration with qualified historians, as described earlier in the chapter. In conducting historical research, secondary sources should be used first. Next, use primary sources, as needed, to develop suitable focus and site-specific details. It is often appropriate to consult secondary sources prior to seeking detailed information from primary sources. Secondary sources may help focus the research effort by revealing useful sources of information, informants, and other details. The following repositories and secondary sources are often helpful in that regard:

Secondary sources

- Published state, regional or local histories, such as Thompson and West, Bancroft, *etc. – in state, university and local libraries;*
- Appropriate industrial and technological histories;
- The WPA State Guidebook – *in state, university and local libraries;*;
- Unpublished historical or archaeological research reports – *Usually found in state and federal agency files.*
- Prior historical and archaeological reports for the vicinity;

Primary Sources

- National Register, California Historical Landmark and other nomination forms for listed properties, as well as historic survey records. – *Office of Historic Preservation files*
- Local historical surveys – *Housed at city and county offices.*
- Historic American Building Survey (HABS) and Historic American Engineering Record (HAER) survey data. – Bancroft Library at UC Berkeley has a collection; Caltrans also has some data, some is available on-line through the HABS/HAER web-site.

Gathering property-specific information will usually entail some use of primary sources. The depth of research conducted in primary records will depend on the particular values a historical archaeological resource is likely to possess and the availability of secondary information about it. Consult CCSO staff in Headquarters regarding sources located in Sacramento.

Some primary sources such as Caltrans as-builts; U.S. Bureau of Land Management land status, mining, and old Government Land Office survey plats and notes; and historic U.S. Geological Survey quadrangles may have been consulted during the identification phase discussed in **Section 4-4**. Additional repositories and primary sources are described in Chapter 7 **Section 7-4.3**.

SITE-SPECIFIC STUDIES

Site-specific studies should include information on property ownership, period(s) and type(s) of indicated use, and descriptive information concerning the physical features that existed at the site during the historic period, and modifications or disturbances to the resource that may have affected its integrity. The nature of the particular resource and its integrity will determine the type of information needed for the site-specific study. If the property has good integrity and will require excavation to determine its eligibility, detailed research is normally required to provide a context for framing important questions that will be used to evaluate the research potential of the property.

INTERVIEWS

Interviews with knowledgeable informants often provide essential information for determining the eligibility of historical archaeological sites and TCPs. As such, it is important to make reasonable efforts to identify knowledgeable individuals, gather relevant information, and critically evaluate that data. Professional training and interviewing experience are prerequisites for those gathering oral history information. Appropriate ethical practices must be observed throughout the interview process to guard against breaches of confidentiality, to facilitate the rapport with the informant and to built his/her trust are all essential for effective data collection.

The views of informants are particularly crucial when evaluating TCPs because "it is necessary to try to understand traditional places **through the eyes of those who value them** (emphasis added)" (Parker 1993:1, emphasis added). Informants also frequently provide valuable information about other kinds of resource types, particularly those occupied within living memory. In both cases, informants may provide valuable information about historic activities and resource values, the kinds of physical evidence likely to be present at a property, and the integrity of the resource.

When conducting interviews, it is always important to keep the confidentiality of the information in mind. Ethical practices should be routinely observed to minimize potential breaches of trust that may jeopardize the privacy of the informant or the integrity of a resource. The following practices are recommended whenever interviews are conducted:

- Give informants an opportunity to review and correct a transcript or notes taken during every interview;
- Obtain permission before conducting any audio or video taping of an interview;

- Ask informants about the confidentiality of the information they have provided and how they would like to see it reported/protected.
- Provide each informant with a copy of any reports, transcripts, and tapes produced as a result of an interview, if the report is not confidential and does not contain the results of other interviews.

As with any other line of evidence, critically review interview data before using it in the evaluation of a resource. Biases may be introduced as a result of a wide variety of factors including, but not limited to:

- the informant's perception of a project, interviewer, or Caltrans;
- faulty memory;
- deliberate misrepresentations or exaggerations;
- the way questions are phrased; and
- faulty transmission of second-hand information.

Interviews and Traditional Cultural Properties (TCP)

Reasonable efforts should be made to identify and contact knowledgeable informants when evaluating a TCP. That effort should include contacts with key representatives of the traditional culture. For other historical archaeological sites, an initial effort should be made to identify informants and assess their knowledge about a resource, particularly if an excavation program is proposed. Appropriate contacts may include current and former property owners or their heirs, local historical societies, and technical experts in fields such as the history of technology.

HISTORICAL OVERVIEW

The **historical overview** consists of a broadly stated chronological history of the present study area, focusing on initial settlement, economic development, historic events that occurred in the area, factors of industrial and commercial development, transportation and supply networks, and other salient aspects of the area's history that may have a bearing on understanding the importance of the property under consideration. This overview should focus on significant patterns that may be represented by the resource. Lengthy discussions that lack relevance should be avoided.

RESEARCH ISSUES

Research issues are incorporated in the historical context if the historical archaeological resource may have the potential to yield important information as required in Criterion D. The research issues should survey previous research

concerning the type of property in question and formulate important unanswered (or only partly answered) questions that cannot be addressed through historical research. There should be some realistic potential to address any questions posed at the site(s) under investigation. Clearly defined data requirements should be the basis for assessing the potential value of any remains discovered at the property. Detailed knowledge of the social history and life course of a resource is often required to formulate research issues for historic-era occupation sites.

6-4 EVALUATION OF HISTORICAL ARCHAEOLOGICAL RESOURCES

6-4.1 EVALUATION CRITERIA AND INTEGRITY

Historical archaeological resources may be determined eligible for inclusion in the National Register under any of the four criteria. See sidebar. These four criteria of significance are determined by developing the appropriate historical contexts that seek to explain the importance of a property or group of related properties through knowledge of their historical circumstances. Historical contexts identify the period of significance, geographic scope, and historical themes that are used to assess the importance of particular types of properties. Context development should be sufficiently broad to address all potential areas of historical significance defined in the National Register criteria. However, the themes developed in a historical context should concentrate on the essential physical features or important information a resource is most likely to possess.

National Register Criteria Summary

(a) **Events** - that have made a significant contribution to the broad patterns history
(b) **Persons** significant in our past; or
(c) **distinctive characteristics of a type, period, or method of construction**, **work of a master, or that possess high artistic values**, **significant and distinguishable entity whose components may lack individual distinction;** or
(d) Information important in prehistory or history.

Evaluations of historical archaeological resources require a closely integrated assessment of both physical and historical evidence. It is rarely appropriate to conduct extensive historical research when a site is unlikely to possess sufficient integrity to either convey its significance under Criteria A, B, or C, or yield important information about history under Criterion D. Conduct a physical inspection of a resource early in the evaluation process before too much effort is invested in historical research.

The effort spent on historical research and the assessment of physical remains should be sufficient to fully substantiate the findings of the evaluation effort, while remaining commensurate with the condition (integrity) of the site. For sites with severely compromised integrity, research should be limited to gathering basic facts that will support a finding of ineligibility. Reasonable consideration should always be given to the potential for concealed or buried historical archaeological deposits, even in cases where little surface evidence is discovered during a surface reconnaissance.

CRITERIA A, B, OR C

For historical archaeological sites, eligibility under Criteria A, B, or C normally requires retention of the site's essential physical features and historic appearance as judged in relation to the seven aspects of integrity (see sidebar). Loss of integrity exists on a continuum and must be viewed in a comparative framework that takes into account other surviving examples of the type of historical archaeological site being evaluated. The severity of impairment, combined with the scarcity of the resource type will influence whether the site still has the ability to convey its importance under any of those criteria. For resources that consist primarily of unmodified natural settings (e.g., some TCPs,), integrity is assessed in relation to the likely appearance of the property during the site's period of significance.

Aspects of Integrity

* Location	* Workmanship
* Design	* Feeling
* Setting	* Association
* Materials	

Properties that appear to retain integrity, as described in Chapter 4 **Section 4-6.2** and *National Register Bulletin 15*, should be researched to the extent necessary to determine the site's design value and potential association with Criteria A, B or C. Information on ownership, historic use, period of potential importance, design, and other relevant information should be sought as appropriate.

When evaluating cultural or historic landscapes, both land use processes and the components of such resources should be taken into consideration during the evaluation. Refer to *Caltrans General Guidelines for Identifying and Evaluating Historic Landscapes*, as well as to National Register Bulletin 30.

CRITERION D

With the possible exception of TCPs and the locations of important events that have left little if any tangible evidence, most historical archaeological sites will require some consideration of research importance to be eligible under Crite-

rion D. In addition to historic-era archaeological sites, resources such as battlefields, cemeteries, shipwrecks, and cultural landscapes have all yielded important information. For this reason, an interdisciplinary team composed of a historical archaeologist(s) and historian(s) or architectural historian(s) is required to evaluate these types of cultural resources.

Research value is assessed within a historical context and consequential questions that may be answered by the remains found at a historical archaeological site. Those questions may consist of filling gaps in current historical and archaeological information or amplifying or correcting current understandings. As such, the historical archaeologist preparing research designs or contexts must examine previous scholarship on the subjects and take into consideration the availability and potential biases of accepted historical knowledge.

> Information derived from a historical archaeological site's research value must be significant.
>
> It must be data that cannot be obtained from the written record or from more intact examples of the resource type.
>
> The information must be able to add to our understanding of the historic context or theme it represents.

Deagan (1982) has identified five broadly defined "avenues of inquiry" that reflect the major research directions currently pursued within the discipline of historical archaeology. The Keeper of the National Register in *National Register* Bulletin 36 has recognized those research domains as important. They consist of historical supplementation: the reconstruction of past lifeways, the study of cultural processes, the refinement of archaeological methods, and interpretation of the cognitive systems of past societies.

For historical archaeological sites eligible under Criterion D, including studied for their information potential, less attention is given to their overall condition, than would be required under Criteria A, B, or C. There are always cultural and natural processes that alter the deposited materials and their spatial relationships. Under Criterion D, integrity is based upon the site's potential to yield specific data that addresses important research questions or in the research design for projects meeting the Secretary of the Interior's Standards for Archeological Documentation [paraphrased from National Register Bulletin 15 – assessing integrity]. To address important questions in history, integrity of location and materials is normally required.

6-4.2 EVALUATION WITHOUT EXCAVATION

When a historical archaeological resource is located in the Area of Potential Effect (APE) of a project and effects to it cannot be avoided; the resource must be evaluated. Additionally, such resources are also evaluated when avoidance is possible in order to determine whether the resource is significant enough to warrant avoidance. In some cases, the need for evaluation may be avoided, if the value of the site is limited to its research potential and an Extended Phase I (XPI) investigation reveals that the boundaries of the property are outside of the area directly impacted by project construction. The justification for an Extended Phase I study is discussed in **Section 6-5** below.

All four National and California Register criteria and their exceptions may apply to the evaluation of historical archaeological resources covered in this chapter. See Chapter 4 **Section 4-6.2** for general discussion of National and California Register Criteria. Guidance for applying the National Register Criteria to the kinds of resources covered in this chapter can be found in the National Register Bulletin Series, especially:

- National Register Bulletin 15: How to **Apply the National Register Criteria** for Evaluation
- National Register Bulletin 16A: How to **Complete the National Register** Registration Form (contains information on historic themes as well as how to count contributing and noncontributing elements)
- National Register Bulletin 20: Nominating **Historic Vessels and Shipwrecks** to the National Register of Historic Places
- National Register Bulletin 30: Guidelines for Evaluating and Documenting **Rural Historic Landscapes**
- National Register Bulletin 36: Guidelines for Evaluating and Registering **Archeological Properties**
- National Register Bulletin 38: Guidelines for Evaluating and Documenting **Traditional Cultural Properties**

Information gathered as a result of identification activities such as background research, reconnaissance survey, and archaeological survey will usually need to be supplemented with additional research in order to complete evaluations of all but the most compromised resources. That additional research may include more archival research, interviews with knowledgeable individuals, and archaeological excavation, depending on the nature and complexity of the resource and the quality of available historical information. Because of the expense and time involved in archaeological excavation programs, testing is normally undertaken only when there is a clear potential that the work will yield important information.

Historical research always precedes excavation because it provides the justification for any necessary excavation program.

Historical archaeological resources that have clearly lost their integrity and lack historical importance or the ability to address important research topics may be determined ineligible using the Letter Report format discussed below in **Section 6-5**. Care should be taken to consider eligibility for both the California Register and National Register before filing a Letter Report. Resources that do not appear to be individually eligible also should be assessed for their potential to contribute to historic districts.

Resources that retain some level of integrity or are likely to contain buried deposits must be evaluated in a HRER.

The following sections discuss the National Register Criteria as they apply to historical archaeological resources, the scope and types of information needed to complete evaluations, and legitimate uses for the Letter Report format. **Exhibit 30** contains HRER content and formats guidelines.

6-4.3 DETERMINATIONS OF ELIGIBILITY

The information required for historical archaeological sites includes the site type and period of significance, site description (size, depth, structure/organization, features, and the nature of the cultural deposits), a discussion of site boundaries and the methods by which they were defined, integrity of the site and its immediate environment, summaries of known archaeological data within the site, and the extent of any previous excavation. A historical context must be developed to establish any important research questions the data from the site can be expected to address.

The statement of significance should normally address the entire site, and consider appropriate historical themes such as commerce and industry, transportation, or exploration and settlement. National Register Bulletin 16A and the Office of Historic Preservation's "Instructions for Recording Historical Resources" contain a list of "areas of significance" from which historical themes can be derived. Sites likely to have research importance under Criterion D will require more refined discussions of important research topics. A summary of the potential research contributions should be given to support eligibility under Criterion D. When discussing whether a historical archaeological site is eligible, the seven aspects of integrity, their relative importance and their ability to convey a resource's significance need to be included in discussion.

6-5 LETTER REPORTS FOR RESOURCES THAT ARE NOT ELIGIBLE

Once appropriate historical research and a field survey have been completed it is possible to determine that some historical archaeological sites are potentially ineligible for inclusion in the National and California Registers. Ineligibility, at this stage, may be a result of the following factors:

1. demonstrated loss of site integrity;
2. absence of historical associations or important design value; and
3. demonstrated lack of archaeological research potential.

While an archaeological survey may be able to record information in the field to document a loss of site integrity, appropriately qualified specialists (usually historians and historical archaeologists) must evaluate the latter two qualities. If it is determined that a historical archaeological site lacks meets at least two of these factors, the results of the evaluation are included in a Letter Report. See **Exhibit 29**.

Many historical archaeological resources are likely to fall into this category. Be careful to avoid blanket assumptions as to lack of historical associations or archaeological research potential until adequate information regarding a resource's historical context and associations can be established. For instance, unassociated tailings piles, isolated refuse dumps, mine test pits, and rock walls, are all likely to be determined potentially ineligible for the National Register. However, some examples of those resources types such as a rock wall delineating the boundary of a Mexican rancho may be potentially eligible because of their important historical associations with themes developed in a historical context.

Letter Reports must be peer reviewed by an appropriately qualified cultural resources specialist prior to District Environmental Branch Chief (DEBC) approval. Ten days are normally allowed for peer review. If the peer reviewer does not provide comments within this time frame, the Letter Report is considered adequate and may be approved by the DEBC.

Upon approval, the District HRC sends four copies of the Letter Report to the appropriate Section 106 Coordinator in Headquarters CCSO who forwards a copy FHWA, SHPO, and the appropriate Information Center of the California Historical Resources Information System, and retains one copy for Division of Environmental Analysis files. The District HRC files the Letter Report in district files.

6-6 THE HISTORICAL RESOURCES EVALUATION REPORT

The Historical Resources Evaluation Report (HRER) is used to document evaluations of historical archaeological resources as well as historic-era built resources. (See Chapter 7 for built resources documented in the HRER). The HRER for historical archaeological resources should be combined with a proposal for Extended Phase I or Phase II excavation when such work is needed to complete an evaluation. The nature of the values a resource may possess will determine the kinds of expertise needed to evaluate it. Coordination with other cultural resource specialists, such as historians, architectural historians or ethnographers, is appropriate and necessary for resources with multiple values. A reasonable effort should be made to assess all potential areas of significance.

The format and content of an HRER will depend on the types of resources that are being evaluated and the need for archaeological excavation. When eligibility is evaluated without excavation, attach the evaluation to the HRER. HRERs containing an excavation proposal will refer to the proposal that is included as an attachment. The abbreviated Letter Report format in **Exhibit 29** should be used for resources that clearly lack eligibility and do not required detailed context development, as discussed in **Section 6-5**.

6-6.1 HISTORICAL RESOURCES EVALUATION REPORTS WITHOUT EXCAVATION

In this situation, the HRER documents whether a historical archaeological site meets National Register and California Register criteria when excavation is not warranted. Its purpose is to present enough information to support a determination of potential significance, or lack thereof. HRERs that document eligibility without excavation are most commonly used for sites that have lost integrity or are important for reasons other than their research significance. An HRER is also occasionally prepared to document the eligibility of a historical archaeological site without test excavation.

Excavating historical archaeological sites is an expensive and time-consuming activity that may sometimes be avoided. Loss of integrity, a preponderance of informative surface archaeological deposits, or the results of prior excavation work may all provide adequate grounds for a finding of eligibility or ineligibility having to excavate. Even if some buried deposits are anticipated, the importance of some historical archaeological sites (that consist largely of surface deposits) often can be addressed without excavation. For example, an Inyo County aqueduct construction camp was determined eligible under Crite-

rion D based solely on the abundant and relatively intact surface deposits found there.

Care should be taken to address all potential areas of significance at historical archaeological sites. Sites that commonly possess varied historical associations and archaeological research value include historical archaeological sites associated with traditional values; battlefields, cemeteries; designed and cultural landscapes; and the ruins of buildings and structures. In these cases, an interdisciplinary team would need to be formed to evaluate the resource, as described in **Section 6-6.3** and Chapter 7 **Section 7-7.1.**

> An important battle site that is eligible under Criterion A should also be evaluated under Criterion D.
> Such sites also typically possess archaeological remains such as fortifications, associated camps, and scatters of expended munitions that can reveal how the battle progressed and the living conditions of the combatants.

The amount of detail required in an HRER will vary considerably. For example, a lengthy discussion of nineteenth century shipbuilding and subsequent uses of the site was required to establish that a San Francisco shipyard had lost integrity. In a different case in a nearby town, research documented that the meager remains of a domestic occupation site were associated with a shopkeeper's 1930s house. Not only were the remains disturbed, but also their historical associations and context indicated that research potential was lacking. The document for that historical archaeological resource was only a few pages long.

The finding for a historical archaeological site with little or no historical associations or archaeological significance must be documented adequately enough to support the agency's determination of ineligibility. For FHWA (other federal agency), this is a determination that the resource is not eligible for inclusion in the National Register. For Caltrans (or other lead agency under state law), this is a determination that the site is not a historical resource for purposes of CEQA. The level of detail should be adjusted to fit the circumstances. Information included in the HRER and supporting documentation should be thorough enough to adequately establish the historical context within which the resource is evaluated, include site-specific information and the reasons why the site is ineligible.

6-6.2 HISTORICAL RESOURCE EVALUATION REPORTS WITH EXCAVATION PROPOSALS

When the historical archaeologist conducting the evaluation of a historical archaeological site concludes that either an Extended Phase I or a Phase II archaeological test excavation is needed, based on the criteria discussed below in **Section 6-7**, the HRER should include a **Proposal** to accomplish that work. The test excavation proposal should be appended to the HRER. See **Exhibits 21** (XPI proposal), **23** (Phase II proposal) and **30** (HRER format).

However, if the Phase II work will be performed by individuals or institutions other that the cultural resources specialist(s) that prepared the HRER, the HRER can be appended to the Phase II proposal when the proposal is prepared. This would avoid duplicating in the Phase II proposal the historical context with research questions that are contained in the HRER.

6-6.3 JOINTLY PREPARED HRER – RESOURCES WITH BUILT AND ARCHAEOLOGICAL COMPONENTS

When buildings, structures, or objects are components of a cultural resource that contains archaeological deposits and/or features, the evaluation of the built and archaeological elements are combined in a jointly prepared HRER. In such cases, a team composed of an architectural historian or historian and a historical archaeologist will collaborate and share responsibility for the evaluation. A team leader shall be assigned to coordinate the research effort and report preparation.

When the cultural resource contains predominantly historical archaeological components, the historical archaeologist will be the team leader. When the resource contains predominantly historic-era built resources such as buildings, structures, objects, designed landscapes, the historian or architectural historian is the team leader.

In both situations, the architectural historian or historian will have primary responsibility for findings about the built elements of the resource and aspects of significance related to Criteria A, B, C and D when archaeological elements are not involved, while the historical archaeologist will have primary responsibility for findings about the archaeological elements and values related to Criterion D. The outcome of the collaborative effort will either establish the ineligibility of a resource by consensus, or define one or more areas of significance to support a finding of eligibility.

See Chapter 4, **Section 4-7.2** for more information about combined documentation, as well as Chapter 7 **Section 7-7.1**.

6-6.4 HISTORICAL RESOURCES EVALUATION REPORT REVIEW AND DISTRIBUTION

All HRERs including those with Extended Phase I (XPI) or Phase II Proposals must be peer reviewed by qualified cultural resources specialists with appropriate professional expertise before the DEBC approves them. A qualified historical archaeologist must peer review HRERs that document the evaluation of cultural resources with archaeological remains, either with or without an XPI or Phase II Report. HRERs that also include built environment resources, as described in **Chapter 7**, must be peer reviewed by qualified cultural resources specialists in the appropriate discipline, such as historian or architectural historian. Ideally, when HRERs contain both historical archaeological and built resources, a cultural resource specialist who is outside the discipline of the specialist who prepared the HRER should conduct a peer reviewed to ensure the HRER adequately considers the full range of potential historical associations and values that may be associated with the subject resource(s).

Peer reviewers should ensure that the HRER will meet the needs and expectations of outside review agencies, such as SHPO and that the HRER:

- adequately discusses the scope of identification efforts;
- presents substantive and concise information regarding the evaluation efforts;
- and contains a definitive statement of whether the evaluated cultural resource(s) meet National and California Register criteria; or
- identifies the need for further testing or excavation in order to make an eligibility determination, if applicable; and
- contains appropriate level of mapping and photographs.

A minimum of ten working days is generally allowed for internal peer review. Longer review periods may be allowed with the consent of the requesting DEBC. Districts without appropriate staff expertise shall submit a request for CCSO peer review to the Chief of the Cultural and Community Studies Office in Headquarters.

The staff or consultant responsible for preparing the HRER and, if applicable, the Phase II Proposal, or Phase II Report, will then prepare a final document that takes into account timely comments on their draft. The final HRER and relevant attachments is then submitted to the appropriate DEBC for approval.

The accompanying transmittal memo should summarize the major findings in the HRER and identify the peer reviewer. The requesting DEBC approves all HRERs, which then become part of the summary document, the HPSR.

When Headquarters CCSO cultural resources specialists prepare the HRER, CCSO should make a minimum of five copies so that the district HRC can attach them to the distribution copies of the project HPSR that will be transmitted to FHWA and SHPO, the appropriate Information Center, District and Headquarters DEA files, plus any additional copies the District requires. When HRERs are prepared in the district, the District HRC should ensure that the appropriate number of copies are made and attached to distribution copies of the HPSR as outlined above. See **Exhibit 7**.

6-7 TEST EXCAVATIONS

When the evaluation of a historical archaeological site cannot be completed on the basis of historical research alone, test excavations need to be conducted to:

- **establish the boundaries** of the resource relative to a project's direct impact area (Extended Phase I Studies or XPI) or
- **evaluate the research potential** of the property (Phase II Studies).

Test excavations are only conducted when their results are essential to determining the site's ability to address important research topics. Testing is not warranted for historical archaeological sites that:

- lack integrity and/or clearly defined historical associations (context);
- lack research potential (e.g., sites with little or no cultural deposits); or
- can be adequately evaluated using historical information and surface inspection.

Where possible, historical archaeological sites should be evaluated without excavation, using the guidance offered above in **Sections 6-4.2 and 6-6.2** because of the cost and time commitments associated with all types of test excavation programs.

XPI and Phase II studies follow similar procedures, differing primarily in their scope and objectives. The scope and objectives of each type of study are discussed in **Section 6-7.2**. Because archaeological excavations require large commitments of time and resources, both XPI and Phase II testing procedures must be justified in the proposal that is attached to the HRER. See **Section 6-8** for a discussion of how to prepare proposals for these studies. Planning and conducting archaeological testing programs at historical archaeological sites follow many of the same procedures already considered in **Chapter 5**. Unique

requirements for work at historical archaeological sites are discussed in separate sections covering pre-field preparation and fieldwork (**Section 6-9.1**), field safety (**Section 6-9.2**), laboratory analysis (**Section 6-10**), and reporting requirements (**Section 6-11**).

6-7.1 TIME REQUIRED TO CONDUCT XPI STUDIES AND PHASE II INVESTIGATIONS

When excavation is required, adequate time must be allocated for testing programs. Assuming the work is a typical XPI study at one site and adequate project mapping is available at the inception of that work, the average XPI study takes 180 calendar days. Based on the same criteria, Phase II investigations normally require 360 calendar days. Special circumstances such as restrictions on entry associated with endangered species may significantly lengthen these time frames.

6-7.2 SCOPE AND OBJECTIVES

The objectives of a test excavation program should always be clearly stated and justified, with specific thresholds defined to establish when the work can be considered to have met those goals. If a combined XPI/PII Proposal has been prepared and approved, an XPI study may be expanded into a Phase II evaluation program when potentially significant archaeological deposits are encountered in the project's impact area. It is often helpful to prepare for that eventuality in cases where time is of the essence and there is uncertainty regarding the outcome of an XPI study.

EXTENDED PHASE I GOALS

Extended Phase I studies of historical archaeological sites are small-scale archaeological investigations with narrowly defined goals. These investigations are conducted solely to determine the presence or absence of potentially important sub-surface cultural deposits and if the deposits extend into the project APE. They are <u>not</u> conducted to evaluate the sites. If potentially important cultural deposits are encountered, full evaluation of the resource normally will require Phase II excavations. An XPI study may be expanded into a Phase II testing program in cases where the proposal has been specifically designed to accommodate that eventuality.

An Extended Phase I study is typically undertaken to establish the presence or absence of potentially significant historical archaeological deposits within the project's impact area. This type of study occurs when deposits are expected, but cannot be confirmed or precisely located using historical research and sur-

face inspection alone. However, a Phase II investigation is appropriate when artifacts and features indicate a former homestead occupation or mining camp extend into the APE, but the presence and location of subsurface archaeological deposits and features cannot be confirmed from surface indications.

While extended Phase I studies are not carried out in order to determine whether the site is potentially eligible for inclusion in the National Register, data (or the lack of it) recovered from an XPI study, may sometimes be used to determine that a site is ineligible for listing in the National Register. When a historical archaeological site is known or likely to contain subsurface deposits within the project's impact area and it has the potential to address important research topics, a Phase II investigation should be conducted. Normally Phase II studies are also needed to complete the evaluation of a site when the results of an XPI study are positive.

The premise for a XPI study is that there is a fairly low, but nonetheless possible chance that potentially important archaeological deposits extend into the project's direct impact area. The typical XPI study will establish that whether there are potentially significant archaeological deposits in the project's direct impact area. This may be predicated on the absence of potentially significant cultural deposits or a substantial loss of integrity. In both cases, site limits are redrawn, or for management purposes, the area subject to the XPI test may be established as a noncontributing element of the unevaluated site.

PHASE II GOALS

Given the expense and length of time required for full Phase II archaeological excavation programs, such studies are used to evaluate historical archaeological sites only when

- there is a clear potential that such work will yield important information **not available from other sources**, and
- the site's research **value cannot be adequately assessed** using with information **from its surface manifestations**.

The decision to conduct a historical archaeological test excavation program is based on the

- anticipated presence of intact historic-era archaeological deposits in the project impact area and
- likelihood that it contains data that can be used to address important research topics in history.

The likely research potential of a historical archaeological site is determined by assessing the:

- identifiable historical associations;
- diversity, abundance, and types of cultural materials expected to be present; and
- anticipated depositional integrity of the archaeological site.

The absence of identifiable associations and/or research potential is typically documented without excavation. Rather, it is based on archival research and surface inspection. Where a site is likely to contain important data, but the presence of intact deposits in the ADI is uncertain, an XPI study may be more appropriate. Some sites consisting largely of surface deposits, which may be potentially eligible for their research value, often can be effectively evaluated without excavation, as described in **Section 6-4.2** above.

Phase II excavations are generally appropriate when there is likelihood that reasonably substantial, intact subsurface archaeological deposits can be clearly associated with a historically documented occupation or activity. Sites that lack clear historical associations are not likely to warrant excavation because there is little prospect that they can address any important questions in history. In a similar vein, sites that are likely to possess meager quantities and limited types of cultural material are also unlikely to address important research topics. Surface evidence and the types of historical activities known to have taken place at a site are used to assess this potential.

The Phase II archaeological study is usually undertaken to evaluate whether the resource is eligible for inclusion in the National Register of Historic Places. It is also used to assess project effects on the resource. The Phase II study normally should address the entire resource, although it will often concentrate on particular areas expected to contain subsurface deposits.

6-8 PREPARATION OF PROPOSALS

When an Extended Phase I (XPI) or Phase II study is justified, the XPI or Phase II excavation proposal should be attached to the HRER. These proposals must be prepared by or under the direction of a qualified historical archaeologist. Likewise, a qualified historical archaeologist is responsible for implementing the work. When XPI or Phase II studies involve historical archaeological sites that are associated exclusively with Native American use, either a historical archaeologist or an appropriately trained prehistoric archaeologist may prepare the proposal.

6-8.1 EXCAVATION PROPOSAL CONTENTS

The excavation proposal must include a:

- concise historical context,
- preliminary research design, and
- work plan.

The historical context may be excerpted from the historical context in the project HRER to which the proposal is attached, or incorporate the historical context in the HRER by reference. If the historical context is incorporated by reference the HRER and proposal must remain together as one document package.

A qualified historical archaeologist must peer review the proposal prior to the DEBC's approval of the document and its subsequent implementation. Requests for peer review may be submitted to EBCs who supervise qualified historical archaeologists either in district environmental branches or in the Headquarters CCSO.

The level of detail required for a given proposal will depend on the

- type of work that is proposed (XPI or Phase II),
- complexity of the resource, and
- scope of anticipated project impacts to that resource.

In general, XPI study proposals should be much simpler than those prepared to justify Phase II studies. **Exhibits 21 and 23** contain supplementary guidance on scope and contents of proposals for XPI and Phase II studies. All proposals should include specific provisions for obtaining necessary entry rights and permits.

Curation Plans

Work plans in the proposals should include provisions for curating recovered specimens. Serious consideration should be given at the proposal stage as to what materials will be subject to retention, will be discarded, or will not be collected during field excavation. It may be entirely appropriate to discard many materials with low research value (e.g., nails, undiagnostic fragments of glass, etc.) once they have been catalogued for purposes of data analysis. It is generally inappropriate to curate collections generated from XPI studies unless they produce positive results that will lead to a Phase II study. It is rarely appropriate to curate collections from Phase II studies that result in a determination of ineligibility. Phase II study collections from National and California Register eligible sites almost always require curation.

Guidelines for Curation are found in Curation of Federally-Owned and Administered Archeological Collections (36 CFR Part 79, originally published in the

Federal Register, Vol. 55, No. 177, September 12, 1990). California has also adopted state curation guidelines that should be consulted when the plan is being prepared. District management, usually the DEBC, reviews and approves the curation plan.

6-8.2 EXTENDED PHASE I PROPOSALS

When an Extended Phase I (XPI) study is justified at a historical archaeological site, an XPI Proposal is prepared and attached to the HRER. The proposal follows the same format as would be prepared for a prehistoric archaeological site. It states why the XPI study is needed, the field methods to be used, and the basis for determining when the study goals have been met and fieldwork can cease. Since an XPI investigation should be limited in scope, the proposal should be brief.

Phase I (XPI) Proposals should include the

1) **goals** the work is to achieve;
2) **methods** to be used;
3) **thresholds** used to establish when the study has achieved its objectives;
4) availability of **qualified personnel**, whenever possible; and
5) **schedule** for completing the work.

The introduction to the proposal should indicate the study's goals and why an Extended Phase I, rather than a Phase II, study is appropriate. The HRER historical context can be excerpted in the document and should supply the historical context, site description, and a brief discussion of the resource's potential importance in relation to current research topics.

> Protracted discussion of regional research questions in the XPI is inappropriate and unnecessary.

The scope of work in the proposal should define the methods to be used. Flexibility is most important, and a combination of mechanical excavation, surface scrapes, auger holes, shovel test pits, rapid recovery units, and control units may be required. Since minimal recovery of archaeological materials is anticipated, proposing only limited laboratory work is appropriate. Curation plans should be included in the event that potentially significant deposits are encountered and a follow-up Phase II study is needed.

6-8.3 PHASE II PROPOSALS

Phase II proposals require more complete development of a research context against which to measure any remains that are encountered. Because such

work is conducted with the expectation that potentially significant deposits and features may be found research questions should be developed to cover all areas of potential importance. Define the explicit data requirements for each topic. In order to fairly assess its research potential, the scope of a Phase II excavation must consider the property as a whole.

A qualified historical archaeologist should prepare the Phase II Proposal, in consultation with historians, architectural historians, or other specialists, if a project team has been formed. In cases where excavation is planned at a historical archaeological site associated exclusively with historical Native American use, either a prehistoric or historical archaeologist can prepare the Phase II Proposal.

The Phase II Proposal should include

1. **reasons** the Phase II study is needed;
2. **goals** of the investigation;
3. **field and laboratory methods** to be used;
4. **historical research methods**;
5. **basis for determining when goals have been met** and fieldwork can cease; and
6. a **curation plan**.

Test excavations at historical archaeological sites must address the site as a whole, although the particular research objectives may direct excavations to specific areas, components or features within the site. Other features may not warrant any investigation beyond noting their presence. Archival sources should be reexamined for historic maps and photos that may reveal important features.

6-9 PRE-FIELD PREPARATION AND FIELDWORK

Pre-field preparation includes the activities outlined in the excavation checklist in **Exhibit 11**, such as securing:

- Permits
- Access rights
- Detailed project mapping
- Appropriately qualified crew
- Equipment
- Facilities
- Supplies
- Transportation

These requirements largely duplicate those discussed in Chapter 5 **Section 5.5.2.** However, some additional considerations bear mention here with regard to excavations at historical archaeological sites.

Testing historical archaeological sites requires a great deal of methodological flexibility to permit maximum information yield. Proposals should be designed to allow considerable freedom in choice of field methods, especially with regard to excavation unit size and shape. Fieldwork should then follow the approved proposal.

6-9.1 FIELD METHODS

Field methods for testing historical archaeological sites sometimes differ from those used to sample prehistoric archaeological sites. The types of sampling strategies commonly used at prehistoric archaeological sites (particularly random sampling) are often not very useful when investigating historical archaeological sites, since sample units may more appropriately be the identified features themselves. It may be necessary to expose broad areas of the site, or features within the site, in order to locate features or artifact concentrations before actual excavation.

Some historical archaeological sites require exploratory trenches or grading to provide information on site stratigraphy and feature location. Trenching may be an essential first step for investigating sites with long occupations where there may be buried components, flood deposits or other vertically stratified elements. Others (such as single component sites) may require shallow block exposures or broad excavations that have the potential to reveal a maximum number of subsurface and surface features.

Subsurface features may be located by means of trenches, shovel tests, auger tests, or probes with metal rods in search of changes in soil compaction, color or constituents. They may also be discerned by using metal detectors and geophysical techniques, although such procedures require the use of experienced analysts. The topography of the site may also provide clues to the presence of subsurface features. Once the important features of a site are located, controlled test units may be appropriate to maximize the information yield with a minimum amount of disturbance.

Mapping

Surface remains should have been thoroughly examined when the site was being recorded and an accurate sketch map prepared for the site record. For XPI and Phase II excavations the site must be mapped using standard archaeological techniques, usually with a transit and stadia rod. Sub-meter accuracy

Global Positioning System (GPS) devices may be used as an alternative mapping method. The surface features of the site and all excavation units must be plotted and tied to a permanent datum established outside the transportation project's area of direct impact.

Principal Investigator On Site

A historical archaeologist certified as a Principal Investigator (PI, Level II) should be on site with decision-making authority during the work or should supervise an Assistant Historical Archaeologist (Level I) or an appropriately qualified prehistoric archaeological Crew Chief. In cases where the historical archaeological site is associated exclusively with Native American use, a prehistoric archaeologist qualified as a PI (Level IV) may direct the work. Required qualifications for historical and prehistoric archaeologists are outlined in **Exhibit 5**.

If no Native American component to the site exists, coordination with local Native Americans, and the presence of a Native American observer is not required. Sites with multiple components that include Native American elements must use a Native American observer pursuant to guidance offered in **Chapter 3**.

6-9.2 FIELD SAFETY

Health and safety issues should be carefully considered prior to every excavation project. The Environmental Code of Safe Practices (Appendix A-6 of the Environmental Handbook, Volume 1) and Section 1-04 in the Caltrans Survey Manual of August 1983 describe standard field safety precautions such as traffic management, first aid, and other routine practices (see **Exhibit 10**). A tailgate safety meeting tailored to the specific needs of each excavation project should be conducted at the inception of every field excavation project.

Tailgate safety meetings should cover project-specific health and safety issues, advise the crew of the name and address of the nearest hospital of major medical facility, and review emergency procedures. A first aid kit, cellular phone or short wave radio, and potable water should always be kept on hand and other safety equipment may be in order if special hazards exist.

SPECIAL HAZARDS

In addition to the standard safety precautions such as shoring and entry into confined spaces common to excavations at all types of sites and described above in **Section 6-9.2**, work at historical archaeological sites must account for a variety of special hazards. Those hazards include both pathogenic and

chemical contamination found at some historical archaeological sites. For example, privy pits may contain pathogenic organisms. Industrial sites, such as the milling area at a mine, often contain hazardous chemicals. Exposure to such hazards can often be controlled or avoided by appropriate hygienic practices and protective equipment such as rubber gloves and masks. For example, hands should be washed before eating whenever work occurs in potentially contaminated soils.

HEALTH AND SAFETY PLAN

If there is a reasonable chance that hazardous wastes may be encountered during an archaeological excavation, a Certified Industrial Hygienist (CIH) should prepare a health and safety plan prior to initiation of the excavation. Pretesting by a hazardous waste consultant should be seriously considered to assess potential risks. District and Headquarters Hazardous Materials Coordinators can provide assistance in procuring the services of CIHs and determining the presence of hazardous wastes, if appropriate.

Work at heavily contaminated sites is rarely justified and should generally be avoided. This is because the cost of testing contaminated sites is often excessively high, involving not only expensive field safety procedures, but also the cost of decontaminating recovered materials following their retrieval.

6-10 Laboratory Analysis

Laboratory work normally entails washing or preparing samples (if necessary); cataloging; identifying materials, artifact types, and date ranges attributable to those items; quantifying artifacts (total pieces and minimum number of whole items); and where appropriate, suitably packaging and conserving materials that will be retained for permanent curation. In keeping with the procedures specified in the proposal, materials with little research value should be catalogued and discarded. This minimal processing is usually all that is appropriate for XPI studies.

Phase II laboratory work normally goes beyond the minimal processing described above to include some specialized analyses. Those special analyses should be undertaken only to the extent needed to determine whether the data contained in the site have the potential to address the research questions posed in the Phase II proposal. It may be necessary to retain consultants with specialized expertise in faunal analysis, particular types of artifacts, industrial processes, and other topics to achieve these goals.

6-11 EXTENDED PHASE I AND PHASE II REPORT APPROVAL AND DISTRIBUTION

Extended Phase I (XPI) and Phase II Reports that describe the results excavations at historical archaeological sites should follow the general format and content guidelines found in **Exhibits 22, 24 and 25**. Both types of testing reports should begin by thoroughly documenting the methods employed, the nature of the cultural deposits and cultural materials that were encountered, and the conclusions reached concerning the basic objectives of the study.

For XPI studies, the report should explicitly identify whether potentially significant intact cultural deposits are present in the project APE. Phase II reports should provide explicit conclusions that evaluate the research potential and other historic values of the site through analysis of the recovered data and the consideration of pertinent historical evidence. If the study has redefined the limits or nature of the archaeological site, complete a revised archaeological site record and append it to the report.

A PI-qualified (Level II) historical archaeologist peer reviews the Excavation reports and the DEBC must approve the Report before it is considered as final. Requests for peer review may be submitted to EBCs who supervise qualified historical archaeologists either in district environmental branches or in the Headquarters CCSO. The peer reviewer has **ten working days** to complete the review; longer periods are allowed at the discretion of the District.

If the peer reviewer does not provide comments within this time frame, the XPI or Phase II Report is considered adequate and may be approved by the DEBC.

Upon approval, the District HRC sends copies of the Report to the appropriate Section 106 Coordinator in Headquarters CCSO who forwards a copy FHWA, SHPO, and the appropriate Information Center of the California Historical Resources Information System, and retains one copy for Division of Environmental Analysis files. The District HRC files the Report in district files. See **Exhibit 9** for the required copies of these reports.

6-12 TREATMENT AND DISCOVERIES PROCEDURES

A variety of different treatment procedures may be appropriate when an eligible historical archaeological site may be adversely affected by a project. The scope of possible mitigation measures will depend on the reasons a historic property was determined eligible and the nature of the effects. For example,

HABS, HAER, or other forms of documentation may be prepared for historical archaeological sites that are significant under Criterion C for their design values. Data recovery programs are typically used to preserve the research values of sites significant under Criterion D, while other kinds of research programs and public interpretation may be used to offset the loss or impairment of historical archaeological sites eligible under Criteria A and B.

Where data recovery is stipulated in a Memorandum of Agreement (MOA), a Data Recovery Plan (DRP) is developed to describe in detail how the important information from a site will be recovered, analyzed, and disseminated to both professional and public audiences. The Advisory Council on Historic Preservation (ACHP) has published "Recommended Approach for Consultation on Recovery of Significant Information From Archaeological Sites" (Federal Register, May 18, 1999, 64(95): 27085-27087) that should be consulted when preparing such plans. Also, refer to ACHP's "Consultation on Recovery of Significant Information from Archeological Sites"

Section 5-7 in Chapter 5 provides general guidance on preparing DRPs, while specific advice is offered in this section for DRPs involving historical archaeological sites.

In addition to these foreseeable treatment approaches, it may sometimes be prudent and necessary to prepare Treatment Plans. Treatment Plans would be appropriate when time is of the essence or access to historical archaeological sites cannot be reasonably obtained until late in the project development process. Caltrans has successfully used Treatment Plans on several large urban projects in order to plan for the discovery of important historical archaeological sites buried under urbanized areas. Treatment Plans are discussed in **Section 6-12.2**.

6-12.1 DATA RECOVERY AT HISTORICAL ARCHAEOLOGICAL SITES

Data Recovery Plans (DRPs) for historical archaeological sites should focus on the retrieval of the archaeological values that make the site significant and will otherwise be lost. Those values must be expressed as, or relate to, important research questions in historical and cultural topics. The DRP is appended to a project MOA to complete the Section 106 process. The DRP should be based on information derived from historical research and from any previous test excavation. In addition, *National Register Bulletin 36* provides information useful for preparing DRPs for historical archaeological sites. The suggested contents and format for a DRP are presented in **Exhibit 26**.

Data recovery typically focuses on the area that will receive direct impacts. However, some work outside of the direct impact area may sometimes be re-

quired to address particular research values. For example, in order to address questions about a utopian community's organizational principles and practices, it may be necessary to gather information on features outside of the direct impact area. However, the emphasis of the work will be on the site's research values that will be directly affected by the Caltrans project.

For some kinds of historical archaeological resources, detailed recordation may be the appropriate approach for capturing the site's threatened information.

Documentation in forms such as photography, scaled drawings, maps, and descriptive text can be used to preserve important information in the ruins of some buildings or structures, ditch systems, roadbeds and trails, rock walls, and other features. For those situations, the Finding of Effect document or Section 106 consultation letter can succinctly outline the proposed data recover methods.

A historical archaeologist qualified as a Principal Investigator (Level II) must prepare the DRP for a historical archaeological site prior to DEBC approval. However, in cases involving a historical Native American activity area, an appropriately qualified prehistoric archaeologist (Level IV) may prepare the DRP. Historians, architectural historians, and other experts should be consulted during the development of DRPs, as necessary. For historical archaeological sites that are significant under Criteria A, B or C for reasons other than research potential, the DRP must be carefully coordinated with other types of mitigation or treatment measures.

A PI-qualified historical archaeologist should review DRPs involving investigation of historical archaeological sites and can provide advice to members of the contractor selection committee if the work will be conducted by a consultant. Historical archaeological excavations conducted by consultants should be monitored by a Caltrans staff Level II historical archaeologist.

Planning, pre-field preparations, excavation procedures, laboratory work, and analyses for a data recovery program differ from those employed during a test excavation mainly in their scope. The goal of a data recovery program is to recover the important information threatened by the project and thoroughly analyze and interpret that material for the benefit of public and professional audiences.

6-12.2 TREATMENT PLANS

Treatment Plans should be prepared in situations where it is foreseeable and likely that potentially National Register eligible, historical archaeological sites will be encountered, but there are overriding practical reasons why those sites cannot be tested prior to construction. For example, a Treatment Plan is ap-

propriate in an older historic neighborhood covered by urban development because access to buried deposits cannot be reasonably obtained before built properties have been acquired and razed in preparation for highway construction. Treatment Plans in these situations serve as detailed plans for how discoveries will be managed. As such, they provide the basis for a formal agreement, such as an MOA or Programmatic Agreement (PA).

Treatment Plans essentially compress identification, evaluation, and treatment into a single process. While this approach results in significant efficiencies, it can only be justified in situations where the normal process cannot be followed.

Consultations with FHWA and the California SHPO are advisable prior to initiating this type of management approach. Such consultation is particularly important because the preparation of a Treatment Plan requires a substantial investment of effort in planning and background research to prepare for discoveries and associated contingencies.

Treatment Plans minimally should contain the:

- detailed **historical context**;
- detailed **research design** that identifies the specific types of important archaeological deposits and features likely to be encountered;
- **methods** that will be used to locate them;
- specific **evaluation criteria and procedures**; and
- **detailed plans** for recovering, analyzing, and disseminating their important data.

When preparing Treatment Plans, it is crucial to develop explicit expectations and evaluation thresholds that can be used to determine which deposits and features are eligible and thus merit prescribed treatment measures.

Treatment Plans have much in common with DRPs because they are prepared only in cases where it is anticipated that data recovery will be required. **The major difference between the two documents is the level of information available to guide the planned data recovery**. Suggestions regarding the format and contents for Treatment Plans (and DRPs) are contained in **Exhibit 26**.

CHAPTER 7
BUILT-ENVIRONMENT CULTURAL RESOURCES: EVALUATION AND TREATMENT

7-1 INTRODUCTION

7-1.1 CONTENTS OF THE CHAPTER

This chapter presents Caltrans policies and procedures for identifying and evaluating buildings, structures, objects, districts, bridges, landscapes, and other built features that are within the Area of Potential Effects (APE) or Study Area for Caltrans projects. Pertinent federal and state historic preservation laws and regulations are identified and summarized in Chapter 1. The terms cultural resource, historic property, historical resource, and significant cultural resource, as used in Caltrans cultural resource guidance and studies, have precise meanings which are defined in Chapter 4, **Section 4-2.1** of this handbook and **Exhibit 1**).

Chapter 7 outlines the procedures for identifying and recording significant cultural resources in the built environment that may be affected by Caltrans proj??ects. It also covers the standards for and process of evaluating these resources in terms of historic and/or architectural significance and historic integrity. The scope and depth of historic research appropriate for recording and evaluating cultural resources is also spelled out in this chapter. Both federal and state-only projects are addressed, as well as Caltrans' stewardship responsibility Caltrans for historic properties and historical resources under its ownership or control.

The identification and evaluation of single buildings or structures, districts, complexes of features on a single property (e.g. a factory, farm or hydroelectric power plant), ditches and canals, earthworks, and landscapes, are documented in the Historical Resources Evaluation Report (HRER). This document combines the previous Historic Architectural Survey Report, Historic Study Report and Historical Resources Evaluation Report into one report format. Architectural historians, historians or historical archaeologists may evaluate linear features such as canals, levees, roadways, as well as ruins of buildings and structures. The results of these evaluations also will be documented in the HRER.

While most of the Caltrans projects affecting historic properties are covered under the Section 106 process because of federal funding or other forms of federal involvement, many projects are "state-only" in nature. Cultural resources in these projects are covered by the California Environmental Quality Act (CEQA), Public Resources Code (PRC) §5024 (which addresses state-owned properties), and by Executive Order W-26-92.

7-1.2 THE ROLE OF HISTORY AND ARCHITECTURAL HISTORY IN IDENTIFYING AND EVALUATING CULTURAL RESOURCES

Chapter 4 discusses the first steps in cultural resource identification that are common to all types of cultural resource studies. Chapter 6 covers cultural resources evaluated by historical archaeologists and mentions those resources in which historians, architectural historians, and historical archaeologists share a common interest and responsibility. Chapter 7 discusses how to identify and evaluate built environment resources, including buildings, structures, bridges, objects and other features of the built environment, as well as cultural and designed landscapes.

PROJECTS WITH FEDERAL INVOLVEMENT

Section 106 and its implementing regulations require that all historic properties within the APE be identified and evaluated for their eligibility to the National Register. Caltrans uses the National and California Register criteria to evaluate built environment resources within the APE. This process does not require a nomination, a hearing or owner consent. Based on findings in the HRER, the Federal Highway Administration (FHWA) makes a determination of eligibility and requests concurrence from the State Historic Preservation Officer (SHPO). This process, called a "consensus determinations of eligibility," is described in Chapter 2.

When buildings, structures, objects, bridges, and other built-environment features are present within the APE, a survey and evaluation is required. Under most circumstances, properties must be at least 50 years old to be considered for inclusion in the National Register. However, the National Register Criteria of Evaluation (36 CFR §60.4,) do not preclude properties that have achieved significance within the last fifty years.

STATE-ONLY PROJECTS

While most projects undertaken by Caltrans are federal undertakings and must comply with Section 106, all Caltrans projects are subject to CEQA. Historic buildings, structures, objects, sites, districts, landscapes and other resources are

considered historical resources for CEQA purposes if they meet the California Register of Historical Resources criteria required in CEQA Guidelines §15064.5(a)(2)-(3).

Particular attention is directed toward Chapter 2 for a discussion of PRC §5024, especially Section §5024.5 concerning effects on state-owned historical resources; and CEQA Guidelines §15064.5 which is concerned with significant impacts to historical resources.

7-1.3 PROFESSIONAL QUALIFICATIONS

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include updated professional qualification standards. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.

Federal law requires that studies identifying and evaluating historic properties must be prepared by qualified specialists [36 CFR §800.2(a)(1)]. Caltrans must use the State Civil Service classifications for cultural resources specialists and uses as a guide the Secretary of the Interior's minimum professional qualifications for its architectural historians and historians. These state and federal qualifications are described in Chapter 1 of this handbook, and are included in **Exhibit 4** (Cultural Resource Specialists: Education, Skills, and Experience) and **Exhibit 5** (Caltrans Cultural Resource Professional Qualification Standards). The "Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation" emphasize the importance of historic research conducted by qualified professionals as the "cornerstone" of the preservation process, and they recognize that a well-documented historical context is mandatory for the proper evaluation and subsequent treatment of historic properties.

In order to comply with 40 CFR §1502.17, the names and qualifications of those who prepare technical studies must be included in environmental documents. Inclusion of this information, therefore, is also necessary in all Caltrans cultural studies reports.

7-1.4 THE DISCIPLINES OF ARCHITECTURAL HISTORY AND HISTORY

ARCHITECTURAL HISTORY

The discipline of architectural history attempts to understand the past through the perspective of our architectural heritage. By analyzing the buildings, struc-

tures and objects, either singly or in groupings, both architect-designed and vernacular, the architectural historian seeks to illustrate and explain how culture, economics, demography, technology, politics and artistic expression in the past are reflected in our built environment. In addition, the design and spatial arrangement of the structures, in which previous generations lived, worked, played, studies, and worshipped, reflect how they felt about those activities and how their artistic, cultural and ethnic heritage is expressed in physical form. Architectural history addresses the social and esthetic aspects of culture through the study and evaluation of style, form, and design and their historical development. It also addressees the changes in technology by analyzing the evolution of engineering practice and the use of materials in construction.

HISTORY

Academically trained historians share many of the perspectives and techniques of analysis with architectural historians. However, historians bring to the field of historic preservation a broader background in the main historical developments that have shaped our built environment. They are prepared to address a wider variety of built environment features, such as irrigation systems, vernacular landscapes, industrial complexes, ranches, free-standing commercial signs, sites where major historic events took place, transportation systems, to name some of the resources Caltrans historians have evaluated. Besides considering the culturally based esthetic dimensions underlying the design and materials of a structure, historians are especially attuned to the way in which a structure fits into national and regional historical developments. They can analyze not only what an individual or group was expressing in a building's design and physical placement on the landscape, but explain what an entire generation was doing that encouraged or tolerated such design considerations. A broader understanding based in the discipline of history brings a valuable perspective to the interpretation of the historic built environment. Thus, an academically trained historian with experience in historic resources management can provide valuable input to the inventory and evaluation process. It is Caltrans policy that historians who meet the Secretary's standards for qualified preservation professionals are considered valuable members of the environmental protection team.

> Over one-third of California's National Register listed and determined eligible historic properties qualified under Criteria A and/or B, for their association with events or developments significant in our past or for their association with important individuals.

7-2 PRE-FIELD SURVEY

Because pre-field surveys and research are similar in methodology to many types of resources, this information is covered in Chapter 4. Please refer to that chapter for a detailed discussion.

7-3 FIELD SURVEY

As previously noted in this chapter and in Chapter 4, if it is known that there are a number of properties to be evaluated (and if time constraints and the travel budget allow), it is advisable for District environmental staff (preferably including a historian or architectural historian) to conduct a field reconnaissance or windshield survey prior to a formal field survey of built environment resources. This will enable the historian or architectural historian to determine the quantity, quality and distribution of resources that might be surveyed. Also, this will enable those conducting the survey to note potential safety problems, identify resources where there may be difficulty in gaining access, plan logistical arrangements, and develop the most efficient survey strategy. This preparation will help the formal survey to be more efficient as well as more sensitive to the nature of the properties and their environments. For field safety guidelines consult the Caltrans Survey Manual.

7-3.1 DETERMINING DATES OF CONSTRUCTION

If the District environmental staff has not already provided the cultural resources specialist with construction dates (taken from county assessor's records), the architectural historian's or historian's initial field survey consists of assessing each resource in the field to estimate its date of construction.

For buildings constructed in 1957 or after, if a qualified architectural historian has inspected the buildings pursuant to the "Caltrans Interim Policy for the Treatment of Buildings Constructed in 1957 or Later," no further evaluation is needed beyond the architectural historian's statement of findings. See **Exhibit 15**.

This Interim Policy applies only to buildings and is in effect until FHWA, Caltrans, SHPO and the Advisory Council on Historic Preservation execute a Programmatic Agreement for Section 106, or until **June 30, 2002**, whichever comes first.

If the visual inspection alone does not clearly indicate the construction date is less than 45 years ago, the following resources may be consulted to help verify the construction date:

1) Sanborn or Dakin Fire Insurance maps
2) City or county subdivision plat maps
3) USGS topographical maps and/or aerial photographs
4) Historical maps; county land ownership atlases
5) Historical photographs
6) City, county tax assessment and appraiser's records
7) City, county building permit files, water department records (date when water first provided to the property)
8) City, county directories include addresses of residents, businesses, factories, etc.

7-3.2 RECORDING THE RESOURCE – GENERAL GUIDELINES

National Register criteria, as well as California Register criteria found in PRC 5024.1, both use a general minimum age of 50 years as the "cut-off" date for potentially eligible resources. As discussed in National Register guidance, this cut-off date is to allow for sufficient historical perspective to determine that the property is significant, as evidenced through scholarly research.

Caltrans projects, however, often have long lead times from planning to construction and the "cut-off" date needs to account for resources that might become fifty years old during the life of a project, from planning through construction. This time frame is typically three years. Because Caltrans staff needs to conduct cultural resources surveys in as efficient and timely manner as possible, without having to repeatedly re-survey the same APE, **it is Caltrans policy to formally evaluate all cultural resources that will become 50 years old at the time a project is scheduled to be implemented**. Formal evaluation includes recording the resource(s) on DPR 523 Primary Record forms, Building/Structure/Object forms (BSO) and other DPR 523 forms, as appropriate. **Exhibit 31** offers tips for completing the DPR 523 Primary Record and BSO form that make SHPO staff reviews of these forms go more quickly

> If a resource will become 50 years old by the time a project is implemented – even if that resource is not 50 years old at the time of the survey – it will be recorded and evaluated taking into account that it will be 50 years old when the project is implemented.

In conducting the formal evaluation one or more photographs must be taken, field notes completed, and a sketch map made for each resource. The following information must be recorded:

1) Address; when no address is available, then describe the location of the property with reference to the State Route and other roadways, geographic features or notable structures in the vicinity.
2) Estimated date of construction.
3) Descriptive information, including:
   - stylistic features
   - materials
   - alterations
   - outbuildings
   - setting
   - landscaping & landscape features
   - historic integrity
4) Results and dates of oral history interviews. (See Chapter 6 for discussion of interviews.)

In the interest of improving efficiency the field survey must focus on recording only those essential physical features that are important in the resource's design, construction, and evolution, within its period of significance, that is, record those elements that define the resource's historic and/or architectural significance. This also includes landscape features, setting and any other factors affecting the property's integrity.

7-3.3 PHOTOGRAPHS

Photographic documentation must include the main façade (principal elevation) of each building or structure. Photographs of secondary elevations (sides and back of the building or structure) should be taken to record major alterations to the property or particularly distinctive features. When recording a complex property containing several structures or a small district, every effort must be made to photograph the largest area possible, such as streetscapes or rows of industrial structures, so that spatial relationships can be documented. Having aerial photographs taken for a project areas that has not been previously photographed is usually too expensive for most survey projects. However, under special circumstances this method might be justified for recording the spatial patterns of a large district or a complicated historic property. Sometimes photographs taken from elevated vista points can be as useful as aerial views. Being flexible and imaginative is essential in documenting a complex property or district. See *National Register Bulletin #23: How to Improve the Quality of Photographs for National Register Nominations* for more guidance.

Photographs must be clear black-and-white prints and should be no smaller than 3½ by 5 inches. It is advisable to take several photographs at different "f" stops or shutter speeds to ensure the quality of photographs reproduced in the

final report. To reproduce well on photocopying machines, photographs should not have high contrast of dark and light. The OHP requires black-and-white photographs for all Section 106 projects. Color photographs are not acceptable, except in rare circumstances when color photographs may be necessary to document certain architectural features. Since color photographs, are unstable, they must be supplemented by black-and-white photographs of the same details.

7-3.4 CULTURAL RESOURCES THAT ARE LESS THAN 50 YEARS OLD

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a streamlined approach for exempting certain cultural resources from evaluation, including buildings, structures, objects, districts and sites that are less than 50 years old. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.

GENERAL GUIDELINES

Over the years, Caltrans has encountered within its project APEs buildings, structures, features and objects that have no potential of meeting the National Register criteria because they do not meet the minimum age requirement, are fragmentary, lack integrity and are not exceptionally significant. There is no compelling reason to record and evaluate such resources. For example, minor, ubiquitous or fragmentary infrastructure elements like roadside drainage ditches parking lots, driveways, parking meters, or most commercial shopping strips, condominium complexes, and franchise fast-food restaurants that are less than 45 years old likely would not have exceptional significance. While all such buildings need to be considered in the identification process, this does not mean they all must be evaluated. Caltrans has streamlined methods for their recordation and evaluation. See **Exhibit 14** for a list of resources that require no evaluation.

Buildings Less Than 50 Years Old

There are two procedures for considering certain buildings that are less than 50 years old, as described below, depending on whether 1) the evaluator is a Caltrans staff architectural historian who meets the qualification standards as described in the "Caltrans Interim Policy for the Treatment of Buildings Constructed in 1957 or Later," described above, or 2) the evaluator is a consultant or staff of another agency who is a qualified architectural historian or historian. There are several points to keep in mind regardless of which procedure is used:

- The streamlined evaluation procedures apply to buildings only and apply only to Caltrans staff architectural historians. Other property types, such as structures, objects, sites and districts, regardless of age, must be formally evaluated.
- Consultants and staff from other agencies who work on Caltrans projects and are qualified architectural historians or historians must formally evaluate all buildings regardless of age.
- All buildings that were constructed prior to 1957 shall be formally evaluated using the appropriate DPR Forms (Primary Record and BSO Form).
- Buildings built prior to 1957 that have some alterations but can still convey identity or character that predates the actual date of alterations must be formally evaluated.
- For large numbers of homogeneous building types (by style or period) that are not considered significant but were constructed prior to 1957, a single form may be prepared for a representative example(s), noting the various examples and including representative photographs. Examples of such groupings may include builder/tract housing, strip commercial centers, and office parks. Each homogenous grouping receives a single Map Reference Number in the document and on the APE map.
- If all the buildings within the APE were constructed in 1957 or later and no other built environment resources exist in the APE, the qualified Caltrans architectural historian can document these findings in a memorandum, per the Interim Policy, and it is attached to the Historic Property Survey Report (HPSR).
- If buildings that were constructed prior to 1957 or other built environment resources exist in the APE a full HRER needs to be completed, but buildings constructed in 1957 or later can be treated as described in the Interim Policy.

Buildings that have **achieved significance within the past 50 years** must be formally evaluated, as described in *National Register Bulletin 22* and the *Regulations for California Register*. It should also be noted that in some cases buildings moved less than 50 years ago should be evaluated, such as a building that is potentially eligible under National Register Criterion C and was relocated to a site in which the building keeps its original orientation and similar environment and setting. If the moved building has achieved significance since the time it was moved, it must be formally evaluated.

Examples of properties that have either been determined eligible for or were listed in the National Register include:

California examples of properties that were determined eligible or were listed before they were 50 years old include:

- Tower Bridge in Sacramento County
- Space Launch Complex 10 at Vandenberg Air Force Base in Lompoc
- Oldest surviving McDonalds Hamburger Stand in Downey
- Bullock's Department Store in Pasadena

- *WFIL Studio* in Philadelphia, the home of the American Bandstand television program from 1952 to 1963 under Criterion A because it is exceptionally significant in the early development of the television industry.
- *Graceland* in Memphis, under Criterion B because it is associated with Elvis Presley, who revolutionized popular entertainment in the United States during the 1950s and 1960s.
- *Onondaga County War Memorial* in Syracuse, NY, erected in the post-World War era as a "living memorial" to those who served in the armed forces, under Criterion C because it is an exceptional example of contemporary concrete thin shell vault construction.
- *Charlie Parker House* in New York City, under Criterion B because it was the home of Charlie "Bird" Parker, creator of a jazz genre known as "bebop," between 1950 and 1954 whose career was established while living there.

7-3.5 OTHER BUILT ENVIRONMENT RESOURCES

Structures, objects, linear features (such as water conveyance systems, designed roadways), farmsteads, districts, battlefields, cultural landscapes, complexes (such as mining, industrial, educational, agricultural), farmsteads, designed landscapes, sites where the location itself is important (e.g. treaty signing) and ruins of buildings and structures must be recorded and evaluated using the DPR 523 “Primary Record,” “Building, Structure and Object” forms, and other DPR 523 forms as appropriate.

Cultural resources that have complexity due to the nature of the resource (such as landscapes, complexes, battlefields) or that have both built environment and historical archaeological resources, need to be recorded and evaluated by an interdisciplinary team composed of historian(s), historical archaeologist(s) and/or architectural historian(s). When an interdisciplinary team is needed, District Environmental Branch Chief (EBC) may request assistance from the CCSO Chief in assembling interdisciplinary teams if the district does not have the requisite qualified cultural resources specialist(s) or needs to augment its staff. The District Environmental Branch Chief (DEBC) will assign interdisciplinary teams on a case-by-case basis. **Exhibit 6** offers guidance that matches the type of resource to the appropriate cultural resources specialists and lists situations in which an interdisciplinary approach is needed.

When the cultural resource(s) in question have a preponderance of buildings, structures, linear features or other non-archaeological resources, the historian or architectural historian will be the team leader and will be responsible for preparing the HRER, with input from the other team members. Conversely, when the cultural resource(s) have a preponderance of historical archaeological

resources that will require ground-disturbance or archaeological methods to determine eligibility, the historical archaeologist will be the team leader and will be responsible for preparing the HRER, with input from other team members.

Exhibit 6 provides a matrix that matches cultural resources specialists to the specific types of cultural resources they are qualified to identify, record and evaluate.

WATER CONVEYANCE SYSTEMS (DITCHES AND CANALS)

Caltrans developed "Water Conveyance Systems in California, Historic Context Development and Evaluation Procedures which needs to be followed when these resources are encountered. Consult that guidance for further information. It is available on-line through the Division of Environmental Analysis (DEA) Intranet web-site.

These guidelines provide an historical overview of water conveyance systems in California and offers assistance in recognizing, classifying and describing these systems and their individual components, determining appropriate level of documentation, and determining significance and integrity. The guidelines also contain an extensive bibliography and suggestions on organizing the information in a report format.

HISTORIC LANDSCAPES

Historic landscapes constitute one type of resource that Caltrans sometimes encounters during its cultural resources surveys. One type of landscape, the **cultural landscape**, deals with extensive and complex rural properties that contain historic farmlands, mining operations or other physical remains of human activity.

Another historic landscape type is the **designed landscape**, such as formal gardens, parks or cemeteries. Usually smaller than rural landscapes, the designed landscape can be just as complex. At times they can be sizable and contain dozens, or hundreds, of acres, as is the case for landscape properties like Golden Gate Park in San Francisco. To qualify as a historic designed landscape a property does not have to be the work of a landscape architect, but historic research should try to identify who created the garden or park, whether it was a professional gardener, amateur gardener or horticulturist.

Because the definition of historic landscape is broad and somewhat ambiguous, the cultural resources specialist who is responsible for identifying and evaluating this property type must be especially careful, basing conclusions on scholarly research and analysis. If a potential historic landscape is identified within the APE, then the survey may need to include a landscape study as part of the project work.

A potentially eligible historic landscape district should be recorded and evaluated in the same way as a built environment historic district, and it is just as important to identify the contributing and noncontributing element. The same standards for assessing historic integrity used for the built environment also apply to landscapes. At times historic landscape districts possess unique characteristics or present special conditions that may require a somewhat different approach in recordation and evaluation. Nevertheless, the basic principles of documenting historic districts should be the guide to documenting landscape districts.

Caltrans' landscape guidelines include recognizing, classifying and describing landscapes, determining appropriate level of documentation, and determining significance and integrity.
The guidelines also contain an extensive bibliography and suggestions on organizing the information in a report format.
For guidance, see also
National Register Bulletin #18 about **designed historic landscapes**
National Register Bulletin 30 about **rural historic landscapes**
National Register Bulletin #40*:* about **Historic Battlefields**
National Register Bulletin #41*:* about **Cemeteries and Burial Places**
National Register Bulletin #42 about **historic mining properties**.

Caltrans developed "General Guidelines for Identifying and Evaluating Historic Landscapes" which needs to be followed when these resources are encountered. Consult that guidance for further information. It is available online through the DEA Intranet and DEA Internet web-sites.

TRADITIONAL CULTURAL PROPERTIES

Most of the Traditional Cultural Properties (TCPs) encountered in cultural resources surveys for Caltrans project are likely to be associated with Native American concerns or are archaeological in nature (see Chapters 3, 5 and 6 respectively). However, TCPs can also be built-environment resources, such as ethnic urban neighborhoods in which the ethnic groups practices and belies are reflected in the neighborhood's buildings, streetscapes, or patterns of social activity (e.g. rural Mormon communities) or the architectural style embodies

cultural practices and beliefs (Chinatown in Honolulu). In these situations, the resource is recorded and evaluated by a qualified historian or architectural historian, often employing an interdisciplinary team that may include a qualified historical archaeologist or ethnographer. Caltrans uses the guidance offered in *National Register Bulletin 38: Guidelines for Evaluating and Documenting* ***Traditional Cultural Properties*** to evaluate TCPs.

AVIATION-RELATED CULTURAL RESOURCES

Aviation related resources from the dawn of aviation in America through the Cold War have been evaluated and many have been found to be eligible for listing in the National Register. Those that have been listed in the National Register include large military bases, such as Hamilton Army Air Field Discontiguous Historic District in Marin County, Lighter-than-Air Ship Hangars in Orange County, and Sacramento Air Depot Historic District at McClellan Air Force Base in Sacramento County, as well as municipal airports and very small rural airports, such as Joliet Municipal Airport in Illinois, and Douglas Municipal Airport in Arizona. Increasingly, aviation related resources are being encountered during Caltrans cultural resources surveys. Refer to *National Register Bulletin: Guidelines for Evaluating and Documenting Historic Aviation Properties* for guidance.

ROADWAYS, RAILROADS AND TRAILS AND ASSOCIATED FEATURES

Depending on the situation, roadways, railroad lines and trails and their associated features may, or may not, warrant recordation and evaluation. Fragmentary or isolated segments that would not be able to convey significance (sense of time and place) because of loss of integrity or because they are not associated with significant themes may not warrant full evaluation. Intact segments of these resources, however, may warrant recordation and focused evaluation. For instance, Caltrans has evaluated segments of the Transcontinental Railroad in a focused manner that concentrates on recordation and evaluation of just the segment in the project APE.

CCSO staff in Headquarters is currently working on acceptable language to include in HRERs and HPSRs when recordation and evaluation of these types of linear resources is not warranted. Consult the CCSO Chief for a current status of this language.

Historical archaeologists, historians and architectural historians record may evaluate these resources, depending on whether the segment in question warrants evaluation and its degree of integrity. Isolated or fragmentary segments may be recorded by in qualified specialist in any of these disciplines. Qualified historians and architectural historians record and evaluate intact segments, while historical archaeologists record and, if applicable, evaluate ruins of these

resources, as well as evaluating any associated subsurface archaeological components, if warranted. In some situations, an interdisciplinary approach may be necessary.

District environmental staff may contact the appropriate CCSO cultural studies branch or Section 106 coordinator for guidance regarding when a roadway, railroad line, trail or similar resource should be evaluated.

20TH CENTURY HIGHWAYS AND FREEWAYS

During the past decade, the U.S. and California legislatures have been looking at the historical significance of a variety of historic 20th century roads and highways. At the federal level, Congress passed an Act to Preserve the Route 66 Corridor on June 30, 1999 and the Lincoln Highway Study Act on January 24, 2000. At the state level the Legislature recognized the historical significance of both U.S. Highway 99 on February 4, 1993, and Historic U.S. Highway Route 101 on September 1, 1998. There are historic highway associations for all four of these routes and quite a bit of public interest in their recognition and preservation.

For instance, there are sections of the Lincoln Highway and Route 66 listed in the National Register of Historic Places. Many segments of roadway have been determined eligible for the National Register of Historic Places as a result of Caltrans projects, including the Arroyo Seco (Pasadena) Freeway and segments of the Cahuenga Freeway in Los Angeles County, Cabrillo Freeway in San Diego, the Feather River Highway in Plumas and Butte Counties, and Cabrillo Boulevard Parkway in Santa Barbara.

In addition, early segments of the post World War II Interstate system is now 50 years old, with other segments rapidly approaching 50 years of age. Whether the entire Interstate system is currently the subject of intense debate, In some states, state historic preservation offices have stated that freeway segments in their states are eligible for the National Register of Historic Places.

When there is a project that involves sections of these routes or there is a relatively unaltered segment of 1940s-1950s era freeway roadway in a project APE, Caltrans needs to be sure that identification efforts are adequate and that Caltrans has demonstrated that it considered whether affected segments are historically significant.

Qualified historians or architectural historians evaluate intact sections of 20th century highways and freeways.

Depending on the situation, the identification efforts can range from just mentioning the existence of the route in the technical reports (usually for working

highway segments that are so highly altered that there is no integrity and no need evaluate) to full evaluation using the National Register and PRC 5024.1 criteria. Consult Caltrans' guidance and policy for when it is appropriate to evaluate, but keep in mind the intense public and legislative interests in these routes. If a District is unsure whether a specific segment of roadway needs to be evaluated, the District environmental staff should consult with CCSO staff in Headquarters for guidance.

RUINS OF BUILDINGS AND STRUCTURES

Historical archaeologists, historians and architectural historians record may evaluate ruins of buildings and structures, depending on whether the ruins in question warrants evaluation. Because of the nature of their training, historians and architectural historians are qualified to determine whether ruins of buildings have the potential to yield significant information under Criterion D when that information may be contained within the constructed remains of the building. Historical archaeologists with requisite training in building construction techniques also may evaluate under Criterion D when the information is contained within the constructed remains of the building.

If evaluation is warranted, qualified historians, architectural historians or historical archaeologists with the requisite training mentioned above record and evaluate ruins that do not have associated archaeological resources. Historical archaeologists also record and, if applicable, evaluate ruins of buildings and structures when there may be associated subsurface archaeological components. In some situations, an interdisciplinary approach may be necessary.

7-3.6 RESOURCE SPECIFIC INFORMATION AND MAPPING

For each resource that is evaluated, information regarding the current legal owner of the property and the assessor's parcel number should be obtained form the County Assessor's office or District Right-of-Way. The pre-field and post-field research will be combined in the "Historical Overview" section of the HRER, and in the "Significance" area (Item B10) of the BSO Record. The latter document will contain more property-specific information but must relate to the historical themes developed in the "Historical Overview." In Item B12 of the BSO Record, the evaluator should note specific property records used to evaluate the property, not merely cite the bibliography in the HRER.

Each evaluated resource must be assigned a resource number, called the Map Reference Number that will be used to cross-reference the Primary and BSO Records with the depiction of the resource on the Project APE Map. Resources should be assigned numbers in a sequence that is logical for the particular nature of the project. For example, because most Caltrans projects are linear in

character, it is often most useful to assign the Map Reference Numbers in sequence from one end of the project to the other. Most often project plans designate a beginning point and ending point of the construction area, so it would be practical to start the Map Reference Numbers at the beginning point and continue in sequence from there. This practice is particularly useful when large numbers of resources are involved. If the resources are contained on a large number of map sheets, a map page key should be provided or the map page depicting the resource should be indicated on the Primary and BSO Records.

Primary numbers from the Regional Information Centers of the California Historical Resources Information System (CHRIS) are not required for built-environment resources prior to submitting the HPSR (with accompanying HRER and DPR 523 forms) to FHWA and SHPO for review and comment. Once SHPO has completed the Section 106 or, if applicable, PRC §5024 review, SHPO staff sends the data to the appropriate CHRIS Information Center. When the Information Center receives the HPSR and supporting documentation, the Information Center will assign primary numbers to the resources' DPR 523 forms. SHPO, not the CHRIS Information Centers, make the decision to require primary numbers on DPR 523 forms prior to SHPO's Section 106 or PRC §5024 reviews. Until SHPO has instructed Caltrans in writing that this policy has changed, primary numbers will not be required for built-environment resources prior to submitting the HPSR for SHPO review.

7-4 EVALUATION OF BUILT ENVIRONMENT RESOURCES

7-4.1 INTRODUCTION

The purpose of evaluating resources located within the APE or Study Area is to determine the historic significance of those resources and their potential eligibility for listing in the National Register using National Register criteria and as historical resources under CEQA using the California Register criteria in PRC §5024.1 and in the Regulations for the California Register. For state-only projects, resources are evaluated as historical resources under CEQA only. However, state-owned buildings and structures also must be evaluated using the National Register criteria, as mandated in PRC §5024. Prior to formal evaluation historical research must establish the project's historical context, which is put in narrative form in the "Historical Overview" in the HRER. Historic integrity of a resource must also be assessed in the evaluation process. Documentation for the evaluation will be contained in the DPR 523 "Building,

Structure and Object" (BSO) form and summarized in the "Significance" section of the HRER; the BSO form is attached to the HRER.

7-4.2 APPLYING THE NATIONAL REGISTER CRITERIA

One of the main purposes of the HRER is to evaluate the historic and/or architectural significance of a resource. The standards by which this evaluation is done are the Criteria of Evaluation of the National Register. These are explained in detail in *National Register Bulletin 15*. For CEQA purposes, resources are evaluated using the California Register of Historical Resources criteria codified in Public Resources Code 5024.1(c). See **Exhibit 16** for a comparison of the similarities and differences between the National and California Registers.

In addition to the four National Register criteria (A, B, C and D) and California Register criteria (1, 2, 3 and 4) and the requirement that a property have integrity, there are National Register Criteria Considerations that specify the conditions under which certain types of properties, normally excluded from consideration, may be eligible for the National Register. See table below.

Under special or exceptional circumstances normally excluded types of properties may become eligible for the National Register. See *National Register Bulletin 15* for an explanation of these circumstances.

The *Regulations for the California Register of Historical Resources* have similar Special Considerations. See table below.

Under special circumstances normally excluded resources may be historical resources under CEQA. These differ somewhat from the National Register's Criteria Considerations. See the *Regulations for the California Register of Historical Resources* §4852(d) for an explanation of these circumstances.

NATIONAL REGISTER CRITERIA CONSIDERATIONS FOR EXCLUDED PROPERTIES	CALIFORNIA REGISTER SPECIAL CONSIDERATIONS FOR EXCLUDED RESOURCES
a) religious properties	1) moved buildings, structures or objects.
b) moved properties	2) resources that have achieved significance within the past 50 years
c) birthplaces and graves	3) reconstructed buildings
d) cemeteries	

e) reconstructed properties f) commemorative properties g) properties that have achieved significance within the past 50 years	

Understanding the connection between historic context and area of significance, or historic themes, is crucial in evaluating a resource for National Register eligibility.

National Register Bulletin 16A describes twenty-nine thematic categories that range from Agriculture, Communications, Ethnic Heritage, to Literature, Science, and Transportation; these are used to establish historic context. Any other area not listed in this *Bulletin* may also be used if it can be reasonably justified (e.g. Women's History). More than one theme may be suitable for historic context. For example, a property significant in the history of advertising could be covered under the categories of Commerce (the business of trading goods and services) and Communications (the message is the medium). Some categories are so broad that a sub-category may be necessary to establish a clear contextual statement. An example of this is when a property associated with a prominent 19th century temperance advocate could be significant in a sub-category of Temperance Movement under the broader category of Social History. In general, one should use the rule of reason and common sense in applying these categories to an analysis of significance.

Historical research should be conducted, therefore, to identify and develop the appropriate historic theme(s) and to establish the context within which significance can be assessed. To accomplish this, research must be as efficient as possible focusing on the task at hand and identifying only those areas of significance that apply to the resources in the APE. Extraneous information, even though in itself interesting, should not be included in the HRER.

Developing the historical context is a major part of the process of evaluation, but it is also important to establish the architectural context for a property. The great majority of the buildings recorded and evaluated for Caltrans projects are vernacular structures; yet most of these buildings have essential physical features (distinctive elements and other design characteristics) that display some details associated with a particular style or method of construction. Thus, even the most humble of homes or commercial buildings may contribute to the esthetic or architectural character of their neighborhood or community.

Significance must be viewed within the local historical and architectural context, which is the interpretive and comparative framework composed of similar resources in an area. This framework provides the bases for assessing the his-

torical and architectural significance of a property. A property found eligible for its architecture in one community may not be eligible in another community.

For example, a Queen Anne cottage with some, but not all, of the essential physical features that convey the Queen Anne style and a fair degree of integrity may be found eligible for its architecture in a town with very few buildings of that type or period, while the same building may not be found eligible in San Francisco with its abundance of fine examples of Queen Anne style that have most of the essential physical features of the Queen Anne style and a high degree of integrity. Likewise, the same Queen Anne cottage might be eligible, regardless of its architecture, if it has historical associations with a person who was significant in the history of that particular community.

National Register Bulletin #39: Researching a Historic Property and *National Register Bulletin #32*: Guidelines for Evaluating and Documenting Properties Associated with Significant Persons offer helpful guidance when researching and evaluating built environment resources.

7-4.3 POST-FIELD, PROPERTY-SPECIFIC RESEARCH

The importance of thorough, focused, and accurate historical research in establishing historical context has been emphasized elsewhere in this chapter. It should be emphasized, however, that historical research is an ongoing process throughout the task of identification and evaluation. It evolves from the most general history of a large geographical area to a concentrated analysis of a particular site or single individual. At each stage of the project the research may range between these two extremes.

> It is Caltrans Policy to conduct research sufficient to establish the eligibility or ineligibility of a property, but not to carry the research beyond that point: work loads and standards of efficiency prohibit doing otherwise.

Consider a hypothetical case, for example, in which the initial, general research indicated that the owner of a property in the APE had been president of a local bank and a principal investor in several businesses in his community during a time when the town was expanding rapidly as an agricultural processing center and shipping point. Investigation of his residence revealed that an artist's studio had been added to the rear of the house several years after he retired from the bank. Focused, property-specific research on the former banker unearthed evidence that he was an amateur painter, who, in his retirement, became a California landscape painter in the early 20th century. Additional, more specific research would be required in the field of art history in the West and in Cali-

fornia to determine if this artist was significant in the history of the arts in the state or region.

SECONDARY SOURCES

While each project has its own particular research strategies, usually the researcher should start by developing the historical context through "thematic" research. This entails compiling information on the specific historical themes, or areas of significance, from secondary sources. These often are county histories, regional histories (e.g. Southern California, the Central Valley) or histories of the state. Besides having a broader scope for gaining a proper perspective, secondary sources often provide valuable bibliographical references that could be useful in post-field, site-specific research. Usually, therefore, secondary sources are a basic starting point in establishing the historical context, or themes, for the Historical Overview. Some secondary sources are focused narrowly on a topic germane to the subject of the research, such as a biography of one of the occupants of a house in the project areas, a study of a particular industry, such as citrus growing or petroleum development, or a study of a particular event in the history of an area. The point is that the research must keep an open mind in surveying the secondary literature and be willing to be creative in search of good sources. An effective use of secondary sources at the start of a project can save considerable amounts of time over the length of the project.

After the background historical research has established the historical context for the project and the field investigation has recorded the properties within the APE, additional research may still be required to obtain information on specific properties that show some potential for eligibility.

Property-Specific Research

For resources identified during the field survey as being over fifty years old the first task is to verify if the resource has been moved or highly altered. When historic integrity is found acceptable, then additional research must focus on whether the property is eligible under National Register Criteria A, B, C or D. Sometimes pre-field research provides enough information to identify the significance of persons and events associated with the property. Usually, however, more documentation is needed, since most buildings or structures encountered during survey work are of a more ordinary or humble character and often they and their occupants are not mentioned in the standard histories of the region. Experience has shown that the researcher may need to do extensive research for properties on the borderline of eligibility. Often sources for these properties are few and hard to locate, and oral history is at times the only reliable source available. In many cases, as much -- or more -- research and

evaluation effort must go into properties that ultimately prove to be ineligible than those that prove to be eligible.

PRIMARY SOURCES

Most property-specific research involves the use of primary sources (documents produced during the period of significance). Usually the primary sources are located in the city, county seat or principal town of an area. Property records must be kept in the county or city office with the authority and legal responsibility to generate and maintain those records. These would commonly be:

- **Recorder's Office** for deeds, mortgages, lease agreements, mining claims, subdivision plats, and for vital records such as birth, death and marriage certificates (these may contain important information about property owners or residents);
- **Assessor's Office** for information on current ownership, assessor's plat maps, and Appraiser's records, which often contain construction dates, notes on any moved buildings, and alterations;
- **Superior Court Clerk's records**, which contain probate files and information on properties that are subjects of litigation.

Many counties and cities maintain official or semi-official archives that can contain a wealth of documents. Often property tax assessment rolls, older than ten years are stored in local archives. At times assessment rolls, especially in rural areas, offer the only reliable information as to when a building was constructed or an addition was built. Often these archives will maintain copies of the Great Register of voters, and sometimes they will have copies of U.S. Census schedules.

Libraries, Historical Societies and Special Collections

Frequently the main library in a city or county seat will have a special collection on local history, which holds copies of local newspapers, city or county directories, old telephone books, locally published histories of the community, environmental studies for local planning agencies or special districts, photograph and map collections, etc. In addition, a local historical museum may have a research library or special collection of local historical documents that is available to researchers.

City or county historical societies also may have special historical collections, and in many communities, staff from the historical society manages the local archives and museums that maintain research collections. Contacting someone from the local historical society in the initial stages of one's property-specific

research can produce valuable leads for locating the important documents and research facilities.

Often local historical society members can identify individuals who may be good candidates for an oral history interview. Sometimes oral history sources are the only useful source of information on a historic property. It should be noted here that if an oral history project is recorded on video or audio tape, the tape should be transcribed into printed form if the interview is over five minutes. In this format the oral history is easier to work with when composing the Historical Overview and will provide a more durable document for future reference.

If a college campus is in the city or county seat, it may also have a special collection on the history of the locality or region, or it may possess documents on a particular activity (e.g. agriculture of Fresno County) or on particular groups or individuals in the region. Usually such collections are held in the main campus library, but often the individual academic departments may keep their own libraries or special collections.

In Sacramento, the State Library's California Section has complete holdings of the census schedules, from 1850 to 1920, for every county in the state. It also has a good collection of the Index to the Great Register of Voters from each county, local newspapers, historical maps, city and county directories, and telephone books.

Caltrans Holdings

Caltrans has many documents and other primary sources in both Headquarters and in the District offices. At Headquarters the Caltrans Library/History Center has county files and a complete run of the annual reports of the Division of Highways starting from the beginnings of the state highway system. The Library also has a complete file of Caltrans/Division of Highways publications going back to the 1910s and a good collection of professional periodicals, some of which start in the 1910s.

Headquarters has on microfilm the as-built plans of various contracts that were completed on state highways from the 1920s up to the present. Structures Division has as-built plans for bridges and tunnels dating from the 1920s, and the Structures Maintenance section has a collection of Bridge Books containing maintenance records on tunnels and bridges, often complete with photographs. It also has, in off-site storage, hundreds of Final Reports from construction projects dating from the 1910s. District offices often have copies of old as-built plans for contracts; in fact, they sometimes have plans that are not in Headquarters files. Also, District right-of-way staff may have older plans, maps and history files that could be valuable sources.

7-4.4 HISTORIC INTEGRITY

The principle of historic integrity is a key concept in evaluating a property's eligibility for the National Register. As defined in National Register Bulletin 16A (Appendix IV: 3) *integrity is "authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period."* It is through its integrity that history is expressed in the physical character of a property. Integrity is the manifestation of the historic period, the historic themes, and the historic context developed in the "Historical Overview" section of the HRER.

> The question of integrity that must be settled is:
> Doe the resource still retain the historical *identity* for which it is significant?
>
> If it can convey its unique historical character through its remaining essential physical features, then it retains a high degree of historic integrity.

National Register Bulletin 15 (p. 44) describes historic integrity as follows:

Integrity is the ability of a property to convey its significance. . . The evaluation of integrity is sometimes a subjective judgment, but it must always be grounded in an understanding of a property's physical features and how they relate to its significance. . . Historic properties either retain their integrity or they do not.

Integrity consists of a sliding scale of its seven aspects depending on why, where and when a property is significant. The principal test in assessing whether a property retains sufficient integrity is to ask if the property possesses the identity or character for which it is important. While it is not necessary for a property to retain all the physical features or characteristics it had during its period of significance, the property must retain the essential physical features that enable it to convey its past identity or character and, thus, its significance. Integrity depends upon the survival of historic material as it was crafted or combined into a building, structure, object, site or district in the past.

> **Seven aspects of integrity:**
>
> - Location
> - Design
> - Setting
> - Materials
> - Workmanship
> - Feeling
> - Association

In order to assess the integrity of a property there must be an accurate and thorough (as the project schedule allows) documentation of the property's essential physical features (e.g. architectural elements or engineering features). With a complete record of this type of information assessment of integrity can be made away from the site, thereby reducing unnecessary trips to the project area. Taking good photographs and

writing a clear description can save a great deal of time in the evaluation process.

The basis for assessing integrity is the historic significance that is established through historical research. Once the period of significance and area of significance (themes) have been determined, the evaluation of the property can begin. The steps as outlined in *Bulletin 15* as necessary in assessing integrity are:

- Define the **essential physical features** [also called character-defining features] that must be present to represent the property's significance;
- Determine if the **essential physical features are visible enough** to convey their significance;
- Determine if the property needs to be compared to similar properties;
- Determine **which aspects of integrity** are particularly important to the property and **if they are present**.

A property's essential physical features are those elements that define <u>why</u> it is significant (the applicable National Register Criteria and Areas of Significance) and <u>when</u> it was significant (Period of Significance).

To be eligible a property must possess the **physical characteristics** that express, and are associated with, the factors that give it historic significance. For a property to be important because it exemplifies a particular architectural or engineering type, period, or method of construction the integrity of the property's design, materials, and workmanship are vital. Integrity of feeling and association may be more meaningful to properties qualifying for their association with persons or events important to broad patterns of history.

Historic setting as a factor in determining the boundaries of a historic property is mentioned in **Section 7-6.2**, but it should be discussed here to emphasize its importance in determining historic integrity. When assessing setting as an aspect of integrity, the important quality that should be remembered is that setting "refers to the *character* of the place in which the property played its historic role" (*National Register Bulletin 15*). The *Bulletin* further explains:

The physical features that constitute the setting of a historic property can be either natural or manmade, including such elements as:

- *Topographical features (a gorge or crest of a hill);*
- *Vegetation;*
- *Simple manmade features (paths or fences); and*
- *Relationships between buildings and other features or open space*

If a property retains its integrity of setting along with its other essential physical features, it should convey the same sense of time and place it expressed during its period of significance.

7-4.5 STATEMENT OF SIGNIFICANCE

The statement of significance incorporates the application of the National Register and California Criteria of Evaluation and the assessment of integrity to determine the potential eligibility of a property. Although FHWA (the federal agency) makes the determination of eligibility and requests SHPO's concurrence, that decision must be based on the documentation presented in the Historic Property Survey Report (HPSR) and the attached HRER. The significance statement must contain a conclusion that clearly and concisely states whether a property is eligible for the National Register or whether it is a historical resource under CEQA because it meets the California Register criteria. To this end, the statement must explicitly define the period of significance, level of significance (local, state or national), and the areas(s) of significance of the property.

The significance statement must refer to the specific National Register criteria that are applicable to the property. In addition, the statement must discuss how the property expresses in its physical features each of the seven aspects of integrity.

> The particular qualities identified in the significance statement as making the property eligible are the basis for assessing effects of the transportation project on the historic property.
> It is important, therefore, that the significance statement is clear and precise in describing those elements of a property that contribute to its eligibility.

Substantive arguments must be presented to support a conclusion that the property is eligible. It is also necessary to make strong arguments against eligibility where a possibility for controversy exists.

The significance statement of the BSO Record and its summary in the "Findings" section of the HRER must indicate whether any of the evaluated resources have been locally designated, identified as significant in a local survey, listed as a California State Historic Landmark, or listed as a California Point of Historical Interest.

In addressing the requirements for CEQA, the statement of significance must also indicate if the property or district is a historical resource under CEQA, using the California Register criteria. If a property has been determined eligible for the National Register, or is registered as a California Historical Landmark from #770 onward, then it is automatically listed in the California Register. Although not automatically listed in the California Register, if a resource has been designated as a landmark under a local government ordinance, was included as a significant resource in a local historic resource survey, or is a California State Historic Landmark (#1 through #770), the significance statement must clearly state whether the resource is a historical resource under

CEQA, or whether additional research results in a preponderance of evidence that the resource does not meet the criteria outlined in PRC 5024.1 and is not a historical resource under CEQA

7-4.6 SUPPLEMENTAL EVALUATIONS OF BUILT ENVIRONMENT RESOURCES

In most cases the cultural resources survey and preparation of the HRER are completed in the early planning stages of a transportation project. However, sometimes several years have elapsed by the time final project design details are completed for construction. During the interim, conditions in the project area could have undergone some changes or government regulations could have been revised. Therefore, a supplemental HRER will be necessary when the following developments occur:

- the APE for a project is enlarged or changed to include resources not previously included in the APE;
- the characteristics of the resources themselves change,
- several years have elapsed since the preparation of the original cultural resources document, especially in cases in which resources within the APE that previously were less than 50 years of age have now passed that threshold;
- historic preservation standards or regulations changed after the original cultural resources document was completed.

Where possible, the preparation of the supplemental report should rely on and summarize information supplied by the original cultural resource technical document rather than repeat it verbatim. Additional background research may be necessary if the new APE encompasses areas with a different historical use or development. The amount of reiteration might depend upon whether the HPSR, to which the HRER is attached, has been processed through the SHPO. If the HPSR has not been reviewed by the SHPO**,** the supplement may need to repeat information from the original, or the original may be resubmitted together with the supplement. New information, however, should be of the same nature and thoroughness as the original document and should follow the same format, if that format is still appropriate.

7-5 IDENTIFYING AND EVALUATING BRIDGES

A bridge evaluation is required when a bridge is located within the APE of a proposed project. Unlike other types of historical resources in California, most of the state's highway bridges have been previously evaluated for National

Register eligibility. Bridges may be significant for their historical associations as well as for their engineering or architectural features or information potential.

7-5.1 USING THE CALIFORNIA HISTORIC BRIDGE INVENTORY

Between 1984 and 1986, Caltrans, with funding from the FHWA and in cooperation with the California SHPO, undertook a project to identify and evaluate all State and local highway bridges in California. As a result of this project, virtually all highway bridges in the state have been evaluated for National Register eligibility. Over 26,000 bridges were inventoried; 25,001 were eliminated because they were either culverts or modern structures built from standard plans. The remaining 999 bridges were evaluated using weighted scores on an array of criteria designed to reflect the qualities of significance expressed in the National Register Criteria for Evaluation, including each bridge's significance as an engineering work, its esthetic qualities, and its significance within the context of national, state, and local history. Of the 999 formally evaluated bridges, 279 were found eligible or were already listed on the National Register. The FHWA and the SHPO concurred on the findings presented in the Historic Bridge Inventory. Copies of the Historic Bridge Inventory are on file in those agencies, and in Caltrans Headquarters Cultural and Community Studies Office (CCSO) of the Division of Environmental Analysis (DEA), in Caltrans Design and Local Programs, and in all Caltrans District Environmental Branches. The Historic Bridge Inventory is also available on-line through the DEA Intranet web-site.

Caltrans projects most often involve state or local highway bridges, but can also involve railroad bridges, bridges on dams, tunnels, or privately owned bridges, which were not included in the California Historic Bridge Inventory. These structures must be formally evaluated according to the guidelines presented below. Except under rare circumstances involving previously evaluated bridges, it is unnecessary to prepare formal bridge evaluations. Rather, it is necessary only to consult and reference the findings of the 1984-1986 California Historic Bridge Inventory, or subsequent amendments to those findings.

As of this printing, the CCSO is working with OHP staff to update the Historic Bridge Inventory.
In addition to re-evaluating bridges that have become fifty years old since 1986, the updated Inventory would include documentation and evaluation of all state and local government owned highway bridges, tunnels, and railroad grade separations within California that were built prior to 1957.
This would take into consideration the development of California's Interstate system.
In the interim, bridges, tunnels and railroad grade separations that will become 50 years old by the time a project is implemented need to be re-evaluated on a project-by-project basis.

7-5.2 BRIDGES THAT HAVE BECOME 50 YEARS OLD SINCE 1986

Many bridges in the Historic Bridge Inventory were determined not eligible simply because they were not fifty years old and did not have exceptional significance. Since the Historic Bridge Inventory was completed in 1986, many of the bridges will have become fifty years old by the time a project is finalized and need to be re-evaluated.

Because staff working on Caltrans projects should conduct bridge evaluations in as efficient and timely manner as possible, the qualified architectural historian or historian should carefully consider whether a formal evaluation is needed for any previously evaluated ineligible bridge that was constructed between 1936 and 1956, or whether a memorandum to file will suffice.

7-5.3 APPLYING THE FINDINGS OF THE CALIFORNIA HISTORIC BRIDGE INVENTORY

After the inventory of California highway bridges was completed, each highway bridge was assigned to a "Historical Significance" category, which ranged from 1 to 5. To determine the category of a bridge, consult the computer printout, prepared by Structures Maintenance, entitled, "Structures Maintenance System — HSALL; Historical Significance – State Bridges," or HSALL, for short. (The companion printout for local agency bridges is entitled "Structures Maintenance System—HSALL; Historical Significance – Local Bridges.") The original printout is dated March 5, 1987. The master printout for HSALL is maintained in Headquarters, CCSO, with copies of appropriate sections sent to all district Environmental Branches. A request for additional copies of the original 1986 print-out should be directed to the Chief, CCSO, Division of Environmental Analysis (DEA). As mentioned above, the Historic Bridge Inventory is also available on line.

Under this system, every bridge must have a "National Register status" category. The Structures Maintenance, Division of Structures, Headquarters notes the categories in its database and inventory. Categories 1,2, 3 and 5 reflect the National Register status, while Category 4 is the default category.

The significance categories are defined as follows:

CATEGORY 1. LISTED IN THE NATIONAL REGISTER

A small number of bridges have been formally listed in the National Register. Three documents may serve as the Bridge Evaluation for a Category 1 bridge in the HRER.

1) A copy of the appropriate "HSALL" computer printout sheet;
2) A copy of the Historic Bridge Inventory "Bridge Rating Sheet" for that bridge, available upon request from CCSO; or
3) A copy of the National Register nomination form for the bridge, usually available from the Office of Historic Preservation.

CATEGORY 2. DETERMINED ELIGIBLE FOR THE NATIONAL REGISTER

Most Category 2 bridges were determined eligible as a result of the California Historic Bridge Inventory and subsequent evaluations since 1986. Three documents may be used in the Bridge Evaluation for a Category 2 bridge in the HRER:

1) "HSALL" printout sheet;
2) Historic Bridge Inventory "Bridge Rating Sheet;" or
3) Copy of the SHPO letter concurring with the determination or the Keeper of the National Register's letter documenting the Keeper's determination.

CATEGORY 3. APPEARS ELIGIBLE FOR THE NATIONAL REGISTER, BUT NOT OFFICIALLY DETERMINED ELIGIBLE

A very small number of bridges are assigned to this category. Category 3 bridges require the preparation of a bridge evaluation by a qualified historian or architectural historian. In those districts without a qualified historian or architectural historian, the DEBC should request that a bridge evaluation be prepared by Headquarters staff or by a qualified consultant. The bridge evaluation is then included in the HRER.

CATEGORY 4. STATUS UNDETERMINED, REQUIRES FURTHER RESEARCH

This default category is used for bridges not evaluated as part of the Historic Bridge Inventory. It is used primarily for newly constructed bridges added to the system, but is also used for bridges transferred from local ownership, for tunnels, and for railroad grade separations.

Category 4 bridges require the preparation of a bridge evaluation by a qualified historian or architectural historian. For districts without a qualified historian or architectural historian, the DEBC either should request that a bridge evaluation be prepared by qualified CCSO staff or arrange to a qualified consultant prepare the bridge evaluation. The bridge evaluation is then included in the HRER.

CATEGORY 5. NOT ELIGIBLE FOR THE NATIONAL REGISTER

These bridges were determined not eligible through the Section 106 process, either through a consensus determination with SHPO or a formal determination of ineligibility by the Keeper of the National Register. The vast majority of bridges fall into this category. A copy of the appropriate "HSALL" computer printout sheet should be obtained to serve as the bridge evaluation for a Category 5 bridge in the HRER. However, if the bridge will become 50 years old by the time the project is finalized, it needs to be re-evaluated by a qualified architectural historian or historian, as noted above.

HSALL NUMBERING SYSTEM

State bridges are listed in the HSALL in numerical order, according to the following hierarchy: by district, in numerical order; by county number, in numerical order within the district; and by bridge number. Local bridges follow a similar numerical pattern but are listed first by county, then bridge number; they are not first sorted by district. In addition, local bridges include the letter "C" in the county number.

For purposes of assigning bridge numbers, Caltrans adopted a system, in which all the counties in California were numbered sequentially by geography, starting with the northwest corner of the state and proceeding eastward, then moving to the next "row" of counties. Bridges are not arranged by route and post mile but rather by bridge number.

> Bridge numbering:
>
> Bridge #51-10, is located on Route 101 crossing Zaca Creek in Santa Barbara County, can be found listed under District 5, under County 51 (Santa Barbara), and under number 51-10.
>
> Bridge #51C-47, is a local bridge in Santa Barbara County that crosses San Ysidro Creek.

HSALL includes four types of information, in addition to the bridge number. It lists a county-route-post mile location, a common name for the bridge, the name of the municipality (if any) in which the bridge is located, and a "historical significance" category.

To determine the National Register status for a bridge, locate the bridge by bridge number and identify its "historical significance" category. A somewhat different course of action is required for each category, as discussed above.

In addition, Caltrans Division of Structures and Maintenance keeps a State Highway bridge log and a Local Agency Bridge Log. Included in the bridge log are construction dates, whether the bridges were widened, their structural type, length, width, number of spans, etc.

7-5.4 EVALUATING BRIDGES NOT INCLUDED IN THE CALIFORNIA HISTORIC BRIDGE INVENTORY

Bridges in categories 3 and 4 and non-highway bridges in the APE must be evaluated for National Register eligibility. Less research is required for specified bridge types covered by the Caltrans/FHWA/SHPO Memorandum of Understanding for Bridge Evaluations (**Exhibit to be added later**). These are temporary bridges; certain specified "standard" type bridges, and culverts. The MOU provides a "short form" Bridge Evaluation form (**Exhibit to be added later**). Other types of bridges require a full bridge evaluation.

BACKGROUND INFORMATION

The California Historic Bridge Inventory and the historical background information presented in *Historic Highway Bridges of California*, published by Caltrans in 1990, should be used to establish historical context and to evaluate historic bridges not included in the Inventory. The Inventory considers all three levels of significance. When a staff architectural historian or historian, or one under a consultant contract, is conducting research on a previously unevaluated bridge, the researcher is strongly encouraged to consult with the staff of the CCSO to ensure the evaluation is based upon the information in the inventory and in *Historic Highway Bridges*.

For three bridge types – concrete girder, concrete arch, and truss – the Inventory provides formal, qualitative evaluation systems. The bridge type must be specified in the evaluation and the system for evaluation used in the Inventory must also be used in the evaluation of the non-inventoried bridges. For structures representing other bridge types (such as suspension bridges or trestles), the Inventory data are to be used to establish a comparative framework. Otherwise, conduct the research and organize the survey information in the same way as for historic buildings and structures. (See **Section 7-3** above.)

FIELD SURVEY

The field survey method for documenting a bridge is much the same for recording a building or structure. However, special attention must be paid to engineering features. Additionally, the setting can be just as important to a bridge as it is with non-bridge historical resources and should be noted. Photograph both the bridge and its setting using either black-and-white film or a digital camera. At a minimum, photograph one side view and one view along the centerline of the bridge that includes as much of the bridge structure as possible. Photos of significant alterations/additions must be taken as well.

Photos should also depict the bridge engineering and distinctive stylistic characteristics.

BRIDGE RESEARCH

The sources for bridge research are largely the same as those for other historic resources, but some sources for historic bridges are unique for those resources. First, there are a few industry publications that are concerned with a particular bridge type, such as the publication *Railway Age* for railroad bridges. Second, some research facilities specialize in one type of historic resource; the **California State Railroad Museum Library** is a good example of this kind of facility. Third, certain groups of records cover a particular resource type, such as the records of the **California Public Utilities Commission** and the **California Railroad Commission** in the State Archives and the railroad valuation records at the **California Board of Equalization**. Finally, city and county recorder's office, public works department or surveyor's office may have files on local bridges, or local districts night retain records for bridges under their jurisdiction.

NATIONAL REGISTER CRITERIA AND INTEGRITY

The National Register significance criteria and integrity requirements apply to bridge in the same manner as to any historic property. As with other resources, with few exceptions, lack of integrity will disqualify a bridge from eligibility regardless of other considerations. Keep in mind that a bridge needs to be evaluated as an element in a potential historic district as well as individually. The inventory and evaluation will be documented in the HRER in the same way as it is done for other cultural resources.

In the past the criterion that has most commonly been used in bridge evaluation was Criterion C. Recently, however, Criterion A has been used more frequently in the evaluation process. For some communities the bridge in their region has become a local landmark, more important for its social and economic impact than for its engineering. In rare instances bridges have been determined eligible under Criterion D for their information potential. The Criterion (or Criteria) under which a bridge might be eligible must be specified in the bridge evaluation, and documentation must be included that clearly supports the significance statement.

Copies of all state and local bridge evaluations and SHPO's subsequent concurrence letters need to be sent to the Historical Architectural Specialty Branch (HAS) Chief in Headquarters CCSO for inclusion in Caltrans' master inventory of bridges and for annual reporting to SHPO regarding PRC §5024 activities involving Caltrans-owned bridges.

7-6 DETERMINATIONS OF ELIGIBILITY

7-6.1 DETERMINING THE BOUNDARIES OF HISTORIC PROPERTIES

A very important element of the identification of a historic property is the thoughtful and careful definition of its boundaries. The boundaries of a historic property are a critical factor in the subsequent assessment of project effects on the property. National Register Bulletin 16A and National Register Bulletin: Defining Boundaries for National Register Properties provide guidance on how to establish boundaries for National Register properties. The guidance applies to determinations of eligibility as well as to nominations for National Register listing. The guidance is also useful for determining boundaries for historical resources under CEQA.

In special cases where a historic or architectural district is made up of discontinuous elements, select boundaries for each of the separate parcels of land comprising the district according to the guidelines presented in National Register Bulletin 16A. For architectural and historic districts this situation is limited to cases where visual continuity is not a factor of historic significance, where resources are geographically separate, and where the intervening space lacks significance. A good example is a canal system, wherein human-made elements are interconnected by natural components that are excluded from the National Register. Another example is where a portion of a historic district has been separated from the rest of the district by intervening development or highway construction and where the separated portion has sufficient significance and integrity on its own to meet the National Register criteria.

> The boundaries of a historic property must be depicted clearly on a map that accompanies the BSO Record or District Record (as appropriate), and on the Project APE Map.

A narrative boundary description must be included for all potentially eligible properties. For most urban or suburban properties it is sufficient to state that the boundaries conform to those of the legal parcel(s), but the parcel number(s) must be included and reference made to an attached copy of the assessor's parcel map. It is not necessary to repeat the surveyor's description in the deed or other official property records.

For a large property whose boundaries do not correspond to a legal parcel, the boundaries may be drawn on a USGS quad sheet. If the boundaries are straight lines that form a polygon, Universal Transverse Mercator (UTM) coordinates can be used to designate the vertices of the property. If used, the UTM references must be marked and labeled on the map. See National Register Bulletin #28*:* Using the UTM Grid System to Record Historic Sites.

How one draws the boundaries of a historic property (the reasoning behind the decision and the explicit justification of it) has a strong bearing on the later determinations of project effects, particularly where there is an "Adverse" or a "No Adverse" effect on the property.

If boundaries for the historic property do not correspond to a legal parcel, they must be described in relation to other features that will clearly distinguish the eligible property from its surroundings. The boundary lines must be delineated on a map of appropriate scale and detail.

The boundary of a historic property must be justified, particularly if the boundary does not correspond to the legal parcel. The justification must provide the reason for selection of boundaries and be based upon historical or architectural significance and historic integrity.

It is very important that careful, thoughtful judgments are made regarding boundaries, especially if land outside the legal parcel is included in the historic property's boundaries. Therefore, one is obliged to prepare a boundary that is truly defensible in terms of the intrinsic historical and/or architectural values it contains.

7-6.2 HISTORIC SETTING

A property's historic setting is a subject that has increasingly become an issue in the determination of a project's indirect impacts. "Setting," as defined by *National Register Bulletin 15* "is the physical environment of a historic property." See *National Register Bulletin 15* for more information.

For National Register evaluation purposes, buildings and structures are counted as contributing and noncontributing elements but setting is not considered a "countable entity" in the same way one would tally the number of buildings, structures or objects that might comprise a historic property. Setting is one component of integrity. Each of the seven aspects of integrity could be more or less important (as in a sliding scale), depending on why a property is listed or eligible for the National Register. For instance, integrity of design, workmanship and materials might be more important for a property that is significant for its high artistic value. Location, setting, and association might be more important for a property that is significant because of an event (e.g. scientific discovery or signing of a treaty) that occurred at the

In order to complete a later step in the Section 106 process (assessing effects), detailed discussion of setting, whether it is an aspect of integrity and/or an essential character-defining feature, is needed in the evaluation sections of the HRER and BSO Records.

property.

Generally, a greatly detailed discussion of setting is not required in National Register nominations or determinations of eligibility since integrity as a whole is what is important in the evaluation. However, Caltrans projects, by their nature, have great potential to affect setting.

There are cases in which setting is an important character-defining feature of a property, rather than being just one aspect of integrity. Setting that conveys the significance of a historic property does not have to be confined within the boundaries of the property. Setting can extend beyond the National Register boundaries. When this is the case, the setting is a contributing element and the researcher must define, as explicitly as possible, essential physical features for the historic property, including those visual, auditory and atmospheric elements of setting that convey significance. For example, the open cropland and hills surrounding a farmstead set in a valley may be a visual part of the farmstead's setting "whose expression extends beyond the boundaries of the property." (*National Register Bulletin 38*) A concise description of the setting and its limits is critical information for those who must consider the impacts of a new transportation facility or new alignment that may affect a historic property whose setting is important.

7-6.3 HISTORIC DISTRICTS

A review of the elements of a historic district is necessary for a better understanding of the inventory process.

The buildings, sites, structures or objects that comprise a district form a significant and distinguishable entity, but they may lack sufficient integrity or significance to be eligible as individual properties. The interrelationship of its resources create the character of a district and can project a visual sense of the historic environment, as well as represent "an arrangement of historically or functionally related properties." (*Bulletin 15*)

Frequently, a historic district is recognized for its historical associations with events and people (Criteria A and B), often with the early settlement or development of an area. The components of the district must reflect the historic theme, or area of significance, and the period of significance that makes the district eligible by evoking a sense of time and place. To achieve this sense of the past the built components (buildings, structures, objects) must retain the degree of integrity that is sufficient to reflect the theme. Most district that are eligible under Criteria A and B are very likely also to be eligible under Criterion C, because the components probably represent one or more of the

following: 1) a particular type of building, structure, or object; 2) the period as reflected in a style of architecture; or 3) a method of construction.

Historic districts may reflect the development of a town or even of a neighborhood within a specific span of time, during which certain styles of architecture that are present in the district were popular. An example of a district reflecting the development of a town is the Highland Historic District in Riverside County. It embraces the entire original town-site of Highland, which was an important citrus growing area in the early twentieth century. The period of significance for the district spanned the era from the late 1890s to the 1930s, when citrus production declined. It was determined eligible under Criteria A and C.

A second example, representing a neighborhood district, is the Markham Place Historic District in South Pasadena, which illustrates the changing architectural tastes from late Victorian designs through Beaux-Arts Classicism and the period of Craftsman bungalows. This district was determined eligible under Criterion C.

A third example, the Bay Terrace District in Vallejo, represents an important event that occurred over a relatively short period of time. This district contains a cohesive group of dwellings built during World War I by the federal government to house workers employed at the Mare Island Naval Shipyard. It was part of a national plan that used progressive designs for worker housing and innovative concepts of site planning. This district is a well-preserved example of this nation-wide wartime construction program. It was determined eligible under Criteria A and C at a national level of significance.

Historic districts can also be comprised of all archaeological resources or a combination of built environment, prehistoric and/or historical archaeological resources. See Chapters 5 and 6 for information on archaeological districts.

A historic district is recorded and evaluated on the appropriate DPR 523 forms and briefly described in the HRER. The description of the resource should provide an overall perspective on the geography and character of the district and the building types and architectural styles represented in it. Contributing and non-contributing resources should be listed in the description contained in the DPR 523 Primary Record form and summarized in the Description section of the HRER. The Primary Record form should provide a brief description of each resource, using a continuation sheet(s) if necessary.

Evaluation of the district should be in the “Significance” section of the DPR 523 District Record with specific reference to the historic context established in the “Historical Overview.” The significance is also briefly summarized in the Significance section of the HRER. The District Record should describe the specific qualities that give the district its historic significance with reference to

specific contributing resources, both individually and in their relationships to the other resources in the district. A concise boundary description and justification, accompanied by a map, are also required for the District Record. The district boundaries also must be depicted on the Project APE Map.

7-6.4 CONTRIBUTING AND NONCONTRIBUTING ELEMENTS IN HISTORIC DISTRICT

Even though a district may contain individual buildings, structures, objects and features that alone might not be eligible for the National Register, all the resources that make up the historic character of the district must have sufficient historic integrity to convey a sense of time and place. They must make a clear and direct contribution to the district's historic quality and should reflect the architecture, mode of construction, design values, physical appearance, etc. that is appropriate for the period of significance. These buildings, structures, objects, sites or features must represent the theme that makes the district significant, and each resource should be identified and counted in the description of the historic district. Pertinent and important definitions and guidelines are cited in the *National Register Bulletin 16A*.

Every historic district is unique and must be recorded and evaluated in accord with its individual characteristics and circumstances. If during the recordation of a district a resource or situation is encountered that is not specifically addressed in National Register Bulletin 16A, then take the approach that makes the most sense for that particular district. However, any unusual situation in the count must be documented and clearly explained. Contributing elements may include not only buildings but landscape features; street "furniture" (such as benches, light standards, curbs and gutters); original street widths and lot set-backs that sustain the original feeling and character of the district.

> A rule of thumb:
> Contributing elements should comprise roughly 66% or more of the total number of features within the historic district boundaries.

A historic district must have substantially more contributing elements than noncontributing elements. Keep in mind that an eligible district should appear much the same as it did during its period of significance. This can only be done if the preponderance of resources within the district boundaries clearly reflects the physical appearance of the area during the period of significance.

7-7 THE HISTORICAL RESOURCES EVALUATION REPORT (HRER)

The required format and what makes up the contents of the Historical Resources Evaluation Report are described in **Exhibit 30**.

7-7.1 SPECIALISTS RESPONSIBLE FOR PREPARING THE HRER

The HRER documents the identification and evaluation of buildings, structures, objects, bridges, districts, landscapes, irrigation systems, farms, industrial complexes, sites, roadways, trails, and other built-environment resources within the APE, as well as historical archaeological sites (see Chapter 6). The format of this document can accommodate the wide variety of evaluated resources. As noted earlier in the chapter, a qualified specialist must prepare the HRER. For historic-era resources that do not require testing or other excavation to determine eligibility or are otherwise not archaeological in nature, a qualified architectural historian or historian is responsible for preparing the HRER. For cultural resources that are primarily archaeological in nature, a qualified historical archaeologist is responsible for preparing the HRER. In situations where there are complex cultural resources whose evaluation requires an interdisciplinary approach, the interdisciplinary team of qualified cultural resources specialists jointly prepares the HRER. When there is a preponderance of built environmental resources that are not archaeological in nature, as described above, the team historian or architectural historian is ultimately responsible for preparing of HRER. In situations where the resources in the APE are mostly archaeological in nature, the team historical archaeologist is ultimately responsible for preparing HRER.

7-7.2 CONTENTS OF CONCLUSION IN HRER

The HRER is a component of the Historic Property Survey Report (HPSR) and provides the technical basis for a consensus eligibility determination by FHWA and the SHPO (see Chapter 2). To support the eligibility determination the Summary, the Significance section, and the Conclusion in the HRER must clearly and concisely state whether each evaluated resource meets the National and California Register criteria and indicate its state of integrity.

For each eligible resource the Conclusion section of the HRER must also include the

- National and California Register criteria under which each resource appears eligible, briefly describing the historic theme(s) on which the context;

- Period of significance;
- Level of significance;
- Boundaries of the eligible property; and
- Brief list of the contributing and noncontributing elements.

In the case where all of the buildings in the APE were constructed in 1957 or after and do not meet the National or California Register criteria and were inspected by a qualified Caltrans architectural historian pursuant to the Interim Policy described earlier in this chapter, and there are NO other built environment resources in the APE, a full HRER is not needed to document the resources. Instead, the architectural historian prepares a Memorandum to File that contains the wording from the Interim Policy (**Exhibit 15**), which is attached to the HPSR. The same process applies when a bridge is the only cultural resource present within the APE and the bridge has been included in the California Historic Bridge Inventory or qualified under the conditions of the MOU for bridges. The appropriate HSALL page is attached to the HPSR.

7-7.3 REVIEW AND APPROVAL

CCSO STAFF-PREPARED HRER

The HRER prepared by CCSO staff shall be peer reviewed and approved by the appropriate CCSO Branch Chief. A draft HRER is submitted for review and approval first by the Historic Architectural and Community Studies (HACS) Branch, and then by the Chief of the CCSO. After the draft HRER has received approval at the CCSO, it is sent to the requesting DEBC for his/her review and approval. The HRER is considered to be a draft until it is approved by the DEBC. The District then has ten working days from the time it receives the document to comment. If no response is received within that time, the HRER it is assumed that the District approved the HRER. It is then appended to the project HPSR.

In the event that the DEBC disagrees with the preparer's conclusions regarding the eligibility of a resource, the DEBC shall inform the CCSO Chief of the disagreement during the ten day period. The DEBC; the CCSO Chief; the appropriate CCSO Branch Chief, appropriate CCSO Section 106 Coordinator; and the person(s) who prepared the evaluation shall discuss the objections and work to resolve the disagreement.

DISTRICT OR CONSULTANT PREPARED HRER

An HRER prepared by a qualified architectural historian, historian or historical archaeologist in the District shall be peer reviewed by another similarly quali-

fied District cultural resources specialists or by requesting peer review by qualified staff in the CCSO. Within ten working days of the peer review, the DEBC approves the HRER. An HRER prepared by a qualified architectural historian, historian or historical archaeologist hired as a consultant to the District may be approved by the DEBC only if the District has similarly qualified cultural resources specialist on staff to review the consultant-prepared report. Otherwise, qualified CCSO staff will review a consultant-prepared HRER. Districts should submit requests for such reviews to the appropriate CCSO Branch Chief. CCSO staff is available to meet with consultants to discuss the HRER format and content and Section 106 requirements and to conduct formal reviews of early drafts of consultant-prepared documents.

Qualified District architectural historians and qualified consultants preparing a bridge evaluation are strongly encouraged to consult with the HAS or HACS Chief, to ensure that bridge evaluation is completed within the historic context and rating system established in the California Historic Bridge Inventory.

7-8 COMPLETING THE SECTION 106 PROCESS

Fundamental to complying with the provisions of Section 106 is the preparation of a **Finding of Effect (FOE)**. The FOE is prepared only for effects on National Register listed or eligible properties. There are three possible effect findings:

1) No Historic Properties Affected,
2) No Adverse Effect and
3) Adverse Effect.

Required documentation required for each of these effect findings is outlined in 36 CFR §800.11. For a more complete discussion of the Finding of Effect and Section 106 documentation process see Chapter 2.

7-8.1 FINDING OF EFFECT DOCUMENT

District environmental staff and CCSO staff, upon the DEBC's request, should begin to prepare the Finding of Effect documentation as soon as it becomes reasonably clear that the document will be needed. While the responsibility for determining effect formally lies with FHWA, Caltrans prepares all Finding of Effect documents for federally funded Caltrans projects.

The Finding of Effect document addresses whether the project "may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would di-

minish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association" based on the Criteria of Adverse Effect set forth in 36 CFR §800.5 (see **Chapter 2**). The need to make this assessment underscores the importance of careful boundary definition and determination of contributing and noncontributing elements as well as the nature of the property's setting.

The Criteria of Adverse Effect consider direct effects, such as physical destruction, damage or alteration to a property, as well as indirect effects, such as change in the character of a property's use, change in the contributing physical features within a property's setting, introduction of visual, audible, or atmospheric elements the diminish the integrity of a property's significant historic features, or neglect of a property which causes deterioration. For more detailed descriptions of these Criteria of Adverse Effect refer to 36 CFR §800.5(a)(2).

EFFECTS AND SETTING

An adverse effect may be caused by change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance [36 CFR §800.5(2) iv)].

Adverse effects also include the "introduction of visual, atmospheric or audible elements that diminish the integrity of a property's significant historic features" [36 CFR §800.5(a)(2)(v)]. An alteration to setting, while not necessarily a direct effect, may reach the level of causing an adverse effect on the historic property if it diminishes the integrity of the property's significant and character-defining features. In such a case, the adverse effect would be on the property, not the setting. The distinction as to what constitutes an indirect adverse effect is a matter of degree and requires thoughtful analysis on a case-becase basis. Sale, lease or transfer of a property out of federal ownership or control that would remain in place is considered an adverse effect unless adequate and legally enforceable historic preservation conditions are included.

LINEAR OR VERY LARGE HISTORIC PROPERTIES

Findings of Effect for "built-environment" properties will be similar for such resources as commercial and residential buildings, and may include indirect effects. Special care should be taken, however, in preparing an effect document for a linear historic property, such as a road, or a very expansive historic property, such as an industrial facility. Because the acreage of these types of properties is so large, a "take" or "use" of some portion of the property is often unavoidable.

The question that must be addressed in the Finding of Effect document is:

Does the project adversely affect a contributing element within the boundaries of the historic property (either directly through a "take" or indirectly)?

The need to answer this question underscores the need for careful boundary definition and assessment of contributing elements and essential physical features within the historic property boundaries.

As a general rule, effects are treated as adverse if disturbance, including demolition, may alter any of the historic property's significant historic characteristics by diminishing the integrity of the property's seven aspects of integrity (location, design, setting, materials, workmanship, feeling or association). If the project uses land within the boundary of the identified resource but does not diminish the integrity of the characteristics (contributing elements) that qualify the property for the National Register, the effect is generally treated as "no adverse effect."

The distinction between the three classes of effects is often very subtle, however, owing to special circumstances and policy changes at the SHPO or ACHP. If a question exists, the DEBC is advised to seek an informal opinion from the SHPO, either directly or with the assistance of HAS Branch Chief and the appropriate CCSO Section 106 Coordinator.

7-8.2 AVOIDANCE AND MITIGATION MEASURES

Under Section 106 of the National Historic Preservation Act of 1966, as amended, and Section 4(f) of the Transportation Act of 1966, when a proposed project would result in an adverse effect to a historic property, measures must be taken to avoid or reduce the adverse effect. In this regard, see **Chapter 2** and **Exhibits 33 and 35** for discussion on Findings of Effect and the Memorandum of Agreement (MOA). Also see, **Chapter 2** for more information on Section 4(f).

7-8.3 MITIGATION FOR BUILDINGS AND STRUCTURES OTHER THAN BRIDGES

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include standard mitigation measures. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.

Mitigation options for buildings and structures can include but are not limited to the following:

1. project design changes to reduce the adverse effect on the historic property;
2. relocating the building or other structure and its contributing elements to a new site with conveyance of title to another party preceded by recordation to Historic American Building Survey (HABS) or Historic American Engineering Record (HAER) standards; or
3. demolition, as a last resort, with recordation to HABS/HAER standards.

Each historic property has its own unique character and circumstances, so selection of a mitigation strategy must be based on the conditions of that particular property. Therefore, the widest range of feasible options must be considered when adopting mitigation measures. The FHWA publication entitled *Mitigation Options Related to Historic and Archeological Properties* is a useful guide.

RELOCATING BUILDINGS OR STRUCTURES

If moving the building or structure is the option selected for mitigation, the SHPO must be given the opportunity to review and approve the new site, the conditions of the sale or transfer, and other stipulations of the move. Prior to any activity that could adversely affect the property, the building or structure must be documented to HABS/HAER standards.

Moving historic buildings or structures that can be done in a way that is sensitive to the building's historic character can be an effective preservation strategy. Caltrans has moved buildings of a variety of sizes and materials to appropriate new sites, so there is sufficient experience in the Department to carry out a move successfully. The relocation of the historic building shall be done in accordance with the Secretary of the Interior's publication *Moving Historic Buildings*.

PROTECTIVE COVENANTS

Conveyance of the historic property to another party should include a historic preservation agreement or protective covenant with the new owner to ensure that the property will be preserved in accordance with the "Secretary of the Interior's Standards for the Treatment of Historic Properties." The grantee must assume liability as well as title, which makes conveyance of some properties, notably bridges, difficult at times. The historic preservation agreement or protective covenant must enumerate the character-defining features of the historic property that must be protected by the new owner.

MITIGATION DOCUMENTATION

For mitigation documentation involving National Historic Landmarks, properties eligible for listing at the national level of significance, and individually eligible properties at the state and local levels of significance, the appropriate HABS and HAER recordation procedures are determined in consultation with the HABS/HAER Division of the Pacific Great Basin Systems Support Office, Western Regional Office of the National Park Service. However, as of 1996, the HABS/HAER Division of the National Park Service no longer stipulates HABS/HAER mitigation documentation for the following categories of locally significant properties:

- contributing properties in a historic district (unless unique in some way, or individually eligible)
- properties for which a current and complete National Register nomination is on file in the SHPO office and the National Register in Washington, D.C.
- structures to be moved, reconstructed or altered
- property types determined by HABS/HAER to be already comprehensively documented in the HABS/HAER collection (e.g., Pratt truss bridges)
- minor elements of a complex (e.g. sheds and garages in a Forest Service administrative area), unless architecturally distinctive
- ruins or shells of structures, including individual structures with vacant interiors and no unusual structural, architectural, or historical interest
- archeological sites with few above-ground elements

The California Office of Historic Preservation will determine independently the kind and amount of non-HABS/HAER documentation for the above-named types of properties.

Typically HABS or HAER level recordation involves thorough historical research to document the property and archival-quality photographs, taken by a professional photographer. Occasionally, the National Park Service will require measured drawings of the subject property. Even though a District has a qualified architectural historian or historian on staff, it is urged to request that HABS/HAER recordation be prepared by Caltrans staff or qualified consultants with experience in the procedures.

Districts without a qualified architectural historian or historian on staff may request HABS/HAER recordation assistance from CCSO or contract the services to a consultant with experience in HABS/HAER recordation. Requests should be directed to the CCSO Chief. If questions arise about HABS/HAER documentation, contact the HAS Branch Chief in CCSO.

When all possible engineering design measures fail to mitigate the adverse effect or when attempts to sell and relocate a building or structure have failed, and no one is willing to accept title and liability, then it is necessary to acknowledge that adverse effect and proceed with demolition.

7-8.4 MITIGATION FOR BRIDGES

Historic bridges are rated for functional adequacy by the same standards as new bridges, and this often results in the historic bridges being found deficient and, therefore, subject to replacement. Mitigation options for bridges include:

- rehabilitation to bring the bridge up to current standards;
- continued use for vehicular traffic on its existing site (perhaps as half of a couplet of bridges);
- continued use for non-vehicular traffic (pedestrian, bicycle, or equestrian use) on its existing site;
- continued use for vehicular or non-vehicular use on another site preceded by recordation to HAER standards;
- retention in place exclusively for environmental mitigation purposes
- or as a last resort, demolition, again preceded by recordation to HAER standards;

The first two options listed above could permit the bridge to remain in the State Highway System when brought up to standard. The others would require that a new bridge be built to current standards. The old bridge would then either be demolished, retained off-system by Caltrans, or transferred to an appropriate party willing to assume title and liability, and to abide by a preservation contract. A preservation contract is Federal-aid reimbursable, up to but not to exceed the applicable Federal-aid pro-rata share of demolition costs. The demolition costs cannot be used to set up a trust account for future maintenance of the historic bridge.

Mitigation option 5 is a feasible alternative and constitutes a recognized highway purpose, according to the Caltrans Legal Program. Its legal opinion states, "Article XIX of the State Constitution authorizes the Department to expend funds for the mitigation of the environmental effects of its activities. Consequently, the retention of property for mitigation would effectively remove it from qualified disposal requirements." So, a Caltrans historic bridge could be bypassed by a new bridge and retained in place without having it put to another use or relocated to another site. Demolition of certain types of bridges could involve match-marking the structural members and dismantling the structure for storage and future use. Please refer to the Transportation Research Board's

publication *Historic Bridges – Criteria for Decision Making* for mitigation options for historic bridges.

If Federal Bridge Replacement funds are used to construct a new bridge, the old bridge will be removed from the System. According to the Highway Bridge Replacement and Rehabilitation Act regulations (23 CFR §650.411(c)(2), "Whenever a deficient bridge is replaced or its deficiency alleviated by a new bridge under the bridge program, the deficient bridge shall be dismantled or demolished or its use limited to the type and volume of traffic the structure can safely service over its remaining life." In addition, the old bridge would not be eligible for Federal Bridge Replacement funds thereafter.

Section 123(f) of the Surface Transportation Act of 1987 requires that MOAs for historic bridges contain a marketing plan for transferring title for bridges that would otherwise be demolished. Retention by Caltrans is a "last resort" option which avoids Section 4(f).

The Programmatic Section 4(F) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges, allows demolition of historic bridges if they are not National Historic Landmarks, there is no prudent and feasible way to save the bridge AND FHWA, SHPO and the ACHP have reached agreement on the project under Section 106. See Chapter 2 for more information about the relationship between Section 106 of the National Historic Preservation Act and Section 4(f) of the 1966 U.S. Transportation Act

7-9 STATE-ONLY PROJECTS

State-only projects refer to those Caltrans activities where there is no federal involvement, and consequently the historical resources compliance process is subject only to state environmental regulations. Recordation and evaluation of cultural resources are similar for both the Section 106 process and compliance with state law, but there are some differences in regulatory procedures and terminology. Please refer to **Chapter 2** for more detailed discussion of State-only projects.

The state laws and regulations that apply to Caltrans activities may affect historical resources are the California Environmental Quality Act (CEQA) and its implementing regulations in the CEQA Guidelines, the Public Resources Code (PRC) PRC §5024 et seq., enforced by the Governor's Executive Order W-26-92. Please refer to Section 7-1.2.3. (See *Volume 1* of the *Environmental Handbook*, and the summary in **Chapter 1** of *Volume 2* of this handbook.)

7-9.1 CEQA AND BUILT ENVIRONMENT RESOURCES

Compliance with CEQA in Caltrans projects is achieved primarily through the Environmental Impact Report (EIR) process, which requires review and comment from the SHPO and the general public on Caltrans' proposed treatment of historical resources under its jurisdiction.

The procedure for completing the field work, conducting the research, assessing significance, determining whether the project includes historical resources as defined in CEQA Guidelines §15064.5, and preparing the Historical Resources Compliance Report (HRCR) is essentially the same as the Section 106 process Caltrans follows in federally funded projects. The most notable differences between State-only project and section 106 projects are summarized as follows:

- Identification and evaluation of historical resources, as well as the determination of effects and mitigation measures for project effects are included in one report, the **HRCR**.
- Evaluation of historic significance is based on the definitions in CEQA Guidelines §15064.5, which include reference to the California Register criteria outlined in PRC 5024.1. However, state-owned buildings and structures also must be evaluated using National Register criteria as mandated in PRC §5024.
- All built environment cultural resources within the Study Area shall be accounted for regardless of age, integrity or apparent value. Depending on the resource, this "accounting" range from a brief textual description of the built environment (for exempted resources) in the HRER and HRCR to a detailed recordation and evaluation of the resource using DPR 523 forms.

Other differences involve the roles of the District Director and the DEBC in initiating, coordinating, and reviewing state-only projects. The role of the SHPO is also different. See **Chapter 2** for a detailed discussion.

Finally, to comply with CEQA, the significance statement of the BSO Record and the "Findings" section of the HRCR must indicate whether any of the evaluated resources are historical resources under CEQA (See Chapter 4 for a discussion of what constitutes a "historical resource."

7-9.2 PRC §5024 AND GOVERNOR'S ORDER W-26-92

Under PRC §5024 Caltrans must inventory and evaluate all the buildings and structures within its jurisdiction and within its right-of-way corridors. Under this section of the Public Resources Code, and as also required by W-26-92, Caltrans annually must update its database of historic buildings and structures

within Caltrans jurisdiction or ownership and report these updates to the SHPO. For this reason copies of evaluations for all Caltrans-owned cultural resources need to be submitted to the Historical Architectural Specialty (HAS) Branch Chief.

Under PRC §5024.5, Caltrans must provide notice and summary for any Caltrans action that might cause a substantial adverse change instate-owned historic buildings and structures. These actions can include alteration of original or significant historical features or fabric, transfer of ownership, relocation or demolition. See Chapter 2 for a more detailed discussion.

7-10 MAINTAINING HISTORIC BUILDINGS AND STRUCTURES UNDER FEDERAL AND STATE LAW

FEDERAL

Projects with some federal involvement may entail compliance with Section 110 of the National Historic Preservation Act of 1966, as amended. This section requires each federal agency to identify, record and nominate to the National Register properties under its ownership or control, and **it obliges federal agencies to assure that any property that might be eligible not be inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly**. A property that is not directly owned by a federal agency but is included in a project that involves federal assistance, permits, licenses or other approval, is covered by Section 110. Inadvertent adverse effects could jeopardize federal funding, licensing or permits for projects.

STATE

There are several statutory and regulatory provisions that govern or set guidelines for managing historic buildings and structures under the ownership or control of Caltrans. These are mentioned above and described in **Chapter 1 and Exhibit 3.** These laws and regulations outline Caltrans' stewardship and responsibility in preserving historic properties. These apply to the maintenance of historic buildings, bridges, and other structures under Caltrans control along with other preservation measures, such as stabilization, rehabilitation and restoration.

In addition to stabilization, maintenance and rehabilitation, Caltrans has the responsibility to ensure that no historic building or structure (including roadways and associated ancillary features) is sold or its ownership transferred until the

property is evaluated for its potential eligibility for the National Register or as a historical resource under CEQA. If a cultural resource is determined to be National Register eligible or is a historical resource under CEQA, its sale or transfer shall include preservation agreements.

7-10.1 SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

It is Caltrans policy to use the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings* for the repair, maintenance, stabilization, rehabilitation or restoration of Caltrans-owned historic buildings and structures. This includes both federal and state-only projects and activities. Likewise, these standards are used to mitigate adverse changes to historical resources under CEQA and historic properties under Section 106. Caltrans staff may contact the Historical Architectural Specialty Branch (HAS) Chief in Headquarters CCSO with questions regarding the application of these standards to historic buildings and structures.

Use of these standards in repair, maintenance and rehabilitation of historical resources under CEQA also constitute a Categorical Exemption under CEQA.

7-10.2 STATE HISTORICAL BUILDING CODE

Caltrans must comply with the State Historical Building Code (SHBC) in its maintenance programs, repair, stabilization and rehabilitation activities and projects that involve Caltrans-owned historic buildings and structures. The Code outlines state regulations that "control and allow alternatives to any prevailing codes when dealing with qualified historical buildings or sites" (*State Historical Building Code; State of California, Title 24, Building Standards, Part 102*). Qualified buildings or structures and their associated sites include those listed in or eligible for the National Register, the California Register, designated as a State Historical Landmark or Point of Historical Interest, listed in city or county registers, and listed in inventories of historical or architecturally significant sites, places, historic districts, or landmarks.

The SHBC further explains, "A State agency shall apply the alternative building regulations adopted by the SHBC Board pursuant to Section 18959.5 [of the Health and Safety Code] in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving or continued use of an historical building or structure."

The Historical Architectural Specialty Branch (HAS) Chief in Headquarters CCSO is the Caltrans contact person regarding the SHBC.

7-10.3 HERITAGE RESOURCES MANAGEMENT PLAN

The principal Caltrans report that documents Caltrans compliance with PRC §5024 and W-26-92 is the *Heritage Resources Management Plan* (HRMP), which was prepared in January 1994 in response to the Governor's Executive Order W-26-92. This is an open-ended document that is supplemented or updated with Annual Reports, which are also required by the Executive Order. The HRMP is not confined to only buildings and structures, but applies to all significant historical resources under Caltrans control.

As is implied in its title the HRMP is only a policy guide for the treatment of historic buildings, structures, and objects under Caltrans control.

7-10.4 RIGHT OF WAY RESPONSIBILITIES

District Right of Way is required to contact the DEBC whenever a right of way activity is planned that could affect a historic property and to ensure that all properties affected by the proposed activity have been inventoried and evaluated for their eligibility for the National Register and as historical resources under CEQA. These activities include maintenance or rehabilitation of buildings or structures; demolition; excess land sales; relinquishment or abandonment of resource, including roadway facilities; and hardship or right of way protection acquisitions. In addition to CEQA, Caltrans must complete PRC §5024 compliance for right-of-way activities that may affect historical resources.

PRC §5027 requires that any National Register **listed** property that will be transferred from Caltrans to another public agency **must first receive approval from the State Legislature**.

7-10.5 PRC §5024 REVIEW AND APPROVAL

As of this printing, CCSO staff, and SHPO are negotiating streamlined approach that would allow qualified CCSO staff to review certain PRC §5024 reviews on SHPO's behalf. Consult the District Environmental Branch Chief or the Historical Architectural Specialty Branch Chief for the current status this streamlined approach.

Until further notice, for state-only projects the DEBC shall submit all determinations of eligibility and evaluations for historical significance under CEQA for Caltrans-owned built environment resources to the CCSO Chief for review

and approval. If in the determination of the CCSO Chief reviews of these determinations cannot be accomplished within 15 working days receipt of the HRCR, the CCSO Chief will advise the DEBC to forward the determination and evaluation to SHPO. All state-only projects that may affect Caltrans-owned built environment resources that are National Register listed/eligible or are historical resources under CEQA need to be submitted to SHPO for review and comment. The HRCR needs to include a project description, measures to mitigate adverse changes below the level of significance and plans and specifications, if applicable. Caltrans staff may contact the HAS Branch Chief with questions about PRC §5024 compliance.

EXHIBIT 1: DEFINITION OF TERMS

Unless specifically indicated otherwise, the following descriptions and definitions of terms apply throughout Volume 2 of the *Environmental Handbook*.

Advisory Council on Historic Preservation (ACHP): an independent federal agency, which advises the President and Congress on historic preservation issues and administers the provisions of Section 106 of the National Historic Preservation Act.

Area of Potential Effects (APE): the area, or areas, within which an undertaking may cause changes in the character or use of historic properties, should any be present.

California Register: the California Register of Historical Resources, a state list to be used as an authoritative guide to identify the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change.

Cultural resource: any tangible or observable evidence of past human activity, regardless of significance, found in direct association with a geographic location, including tangible properties possessing intangible traditional cultural values.

Determination of eligibility: a finding that a property meets the criteria for eligibility in the National Register of Historic Places, although not actually listed, and is afforded the same protection under Section 106 as a listed property; resources determined eligible for listing in the California Register by the State Historical Resources Commission are afforded similar consideration under CEQA.

Local register of historical resources: a list of properties officially designated or recognized as historically significant by a local government under a local ordinance or resolution.

Historic property: in federal law, a district, site, building, structure, or object significant in American history, architecture, engineering, archaeology, or culture at the national, state, or local level, that has integrity, and that meets the National Register criteria.

Historical resource: in state law, any object, building, structure, site, area, place, record, or manuscript found to be historically or archaeologically significant, or significant in other specific aspects of California life, and that meets the California Register criteria.

Historical resource under CEQA: in state law, and cultural resource that is designated as historic under a local ordinance or resolution, any resource that is identified as significant in a local survey that meets the Office of Historic Preservation standards, any resource that is listed in or has been determined eligible for listing in the National Register of Historic Places, any resource that is listed in or has been determined eligible for listing in the California Register by the State Historical Resources Commission, any resource that meets the California Register criteria as outlined in PRC § 5024.1.

National Historic Landmark (NHL): a property formally designated by the Secretary of the Interior as having special importance in the interpretation and appreciation of the nation's history; NHLs receive additional protection under Section 106 (36 CFR § 800.10).

National Register of Historic Places: the national master inventory of known historic properties; the National Register is administered by the National Park Service. It may include properties significant at the national, state, and local level.

Office of Historic Preservation (OHP): the name of California's state historic preservation office.

Point of Historical Interest: an official state list of properties of local interest designated under the provisions of the Public Resources code by the State Historic Resources Commission.

Project: the whole of a discretionary action that has the potential for resulting in either a direct or foreseeable indirect physical change in the environment

Section 106: the section of the National Historic Preservation Act which requires that federal agencies take into account the effect of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation an opportunity to comment on such undertakings.

State Historic Preservation Officer (SHPO): the appointed official in each state and territory charged with administering the national historic preservation program mandated by the National Historic Preservation Act 1966.

State Historical Landmark: an official state list of properties of statewide significance designated under provisions of the Public Resources Code by the State Historical Resources Commission.

Study Area: until an Area of Potential Effects is designated and approved by the Federal Highway Administration, the temporary name for the area, or areas,

within which an undertaking may cause changes in the character or use of historic properties should any be present. Term also in CEQA documents.

Undertaking: under Section 106, a project, activity, or program which receives federal funds or is under the direct or indirect jurisdiction of a federal agency, including federal licenses and permits.

EXHIBIT 2: ACRONYMS

ACHP Advisory Council on Historic Preservation

AIRFA American Indian Religious Freedom Act

APE Area of Potential Effects

ASR Archaeological Survey Report

BIA Bureau of Indian Affairs

CFR Code of Federal Regulations

CCSO Cultural and Community Studies Office

DEA Division of Environmental Analysis

DEBC District Environmental Branch Chief

DNAC District Native American Coordinator

DPR Department of Parks and Recreation

DRP Data Recovery Plan

EBC Environmental Branch Chief

ESA Environmentally Sensitive Area

FHWA Federal Highway Administration

HPSR Historic Property Survey Report

HRCR Historical Resources Compliance Report

HRER Historical Resources Evaluation Report

NAC Statewide Native American Coordinator

NAHC Native American Heritage Commission

OHP Office of Historic Preservation/State Historic Preservation Officer

PRC Public Resources Code (California)

SHPO State Historic Preservation Officer

THPO Tribal Historic Preservation Officer

XPI Extended Phase I (proposal or report)

EXHIBIT 3: HISTORIC PRESERVATION LAWS AND REGULATIONS: A SUMMARY

FEDERAL LAWS AND REGULATIONS

FEDERAL LAW

Compliance with the following federal statutory laws and regulations is required on all transportation projects with federal involvement, which includes funding, licensing, and issuing of permits.

Historic Sites Act of 1935 (16 U.S.C. 461 et seq)

Under this act, Congress established a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States. This act authorized the Historic American Building Survey (HABS), the Historic American Engineering Record (HAER), the National Survey of Historic Sites, the establishment of National Historic Sites, and the designation of National Historic Landmarks. The act also authorized interagency, intergovernmental, and interdisciplinary efforts for the preservation of cultural resources. Implementing regulations of the act are found in 36 CFR Part 60 series.

National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347)

The National Environmental Policy Act (NEPA) mandates the protection of cultural resources within its general policy for environmental protection. It requires the preservation of important historic, cultural, and natural aspects of our national heritage, and the maintenance, wherever possible, of an environment that supports diversity and a variety of individual choice. Regulations promulgated by the Advisory Council on Historic Preservation provide for the coordination of NEPA and NHPA compliance, under 36 CFR Part 800.14(a). Regulations for implementing the procedural provisions of NEPA are available at 40 CFR Part 1500-1508.

National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq)

The National Historic Preservation Act (NHPA) created the National Register of Historic Places, which includes cultural resources of national, state, and local significance. The act established a system for state historic preservation programs under State Historic Preservation Officers. This act also established the Advisory Council on Historic Preservation, an independent agency which is responsible for implementing **Section 106** of NHPA through the development of procedures to protect cultural properties included in, or eligible for inclusion in, the National Register. Regulations are published in 36 CFR Part 60 and 63, and 36 CFR Part 800.

U.S. Department of Transportation Act of 1966 (49 U.S.C. 303); Federal-Aid Highway Act of 1968 (23 U.S.C 138)

Under these acts, the national policy to preserve historic properties was expanded to include cultural resources affected by federal-aid transportation projects. The acts declare that special efforts should be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and historic sites. **Section 4(f)** of the Department of Transportation Act stipulates that the Secretary of Transportation shall not approve any federally assisted project which would take land from a historic site of national, state, or local significance unless there is no feasible and prudent alternative, and unless the proposed use includes all possible planning to minimize harm to historic sites resulting from that use. Regulations developed by the Advisory Council on Historic Preservation provide for the coordination of D.O.T.'s Section 4(f) and NHPA compliance, under 36 CFR Part 800.14(b). Regulations are at 23 CFR Part 771.

Urban Mass Transportation Assistance Act of 1970 (49 U.S.C. 1610)

Congress, under the Urban Mass Transportation Assistance Act (UMTA) identified historic site protection provisions similar to those of the D.O.T. Act of 1966. The act requires that a "special effort be made to preserve...important historical and cultural assets," and that federally funded mass transit projects shall not be approved unless there is "no feasible and prudent alternative" to doing any harm to those assets, and unless "all reasonable steps have been taken to minimize such effect." regulations for this act and the D.O.T. Act of 1966 are in 23 CFR Part 77l.

Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq

This act, also called the Moss-Bennett Act, applies to most federal construction projects. It requires the federal agency to notify the Secretary of the Interior if a project threatens the loss or destruction of significant historic or archaeological data. FHWA's Section 106 compliance process provides substantially the same protection, consequently Moss-Bennett is not invoked on FHWA projects.

American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996)

This law guarantees the rights of American Indians to express and practice traditional religions, and directs federal agencies to protect and preserve these rights.

Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq)

In order to protect archaeological resources on public lands and Indian lands, this act requires permits in order to excavate or remove any archaeological resources. Unauthorized activities are punishable by fine, imprisonment, or both. (Rules and regulations concerning this act are printed under 43 CFR Part 7.)

Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq

The 1990 law known as NAGPRA requires federal agencies and museums receiving federal funds to inventory and repatriate human remains and associated funerary objects, including items of cultural patrimony. The agencies and museums must offer to return these remains and objects to the Native American groups who are judged to be the most likely descendants or most closely culturally affiliated. The law also protects Native American graves and other cultural items located within archeological sites on federal and tribal land.

FEDERAL EXECUTIVE ORDER

Executive Order 11593, "Protection and Enhancement of the Cultural Environment," May 13, 1971 (reprinted in 16 U.S.C. 470)

This executive order outlines federal procedures for protecting cultural resources under federal ownership and provides direction on the process by which eligible properties are nominated to the National Register of Historic Places. Inventory and nomination requirements of this order do not directly apply to FHWA, as FHWA does not own property. Under Section 1(3), FHWA is required to contribute to the preservation and enhancement of non-federally owned sites, structures, and objects of historical, architectural, or archaeological significance. This order strengthened Section 106 by extending the requirements of the law to protect eligible and potentially eligible National Register properties. (Rules and regulations concerning this order are found in 36 CFR Part 60 and 63, and 36 CFR Part 800.)

FEDERAL REGULATIONS

36 CFR Part 800 Implementing Regulations Section 106 National Historic Preservation Act

As directed by the National Historic Preservation Act, particularly Section 106, these regulations direct all federal agencies to take into account the effects of the agency's undertakings (projects) on National Register listed or eligible properties, and to coordinate compliance efforts. Federal agencies must follow the process described in this set of regulations. Compliance with the regulations that implement Section 106 is commonly referred to as the "106 Process." Section 106 requires Caltrans, through its involvement with FHWA, to "take into account the effect of the undertaking on any district, site, building, struc-

ture, or object that is included in or eligible for inclusion in the National Register," and afford the Advisory Council on Historic Preservation (ACHP) "a reasonable opportunity to comment with regard to such undertaking." Included in the regulations are methods federal agencies can use to coordinate the compliance requirements of NEPA, NHPA, and other federal historic preservation laws.

36 CFR Part 63 and 36 CFR Part 60; Implementing Regulations National Register of Historic Places Determinations of Eligibility National Historic Preservation Act

Federal agencies use the procedures established by these regulations to identify and evaluate cultural resources, and to determine their eligibility for inclusion in the National Register of Historic Places, in accordance with 36 CFR Part 800.

36 CFR Part 61 Secretary of Interior's Standards for Professional Qualifications

Defines the minimum qualifications accepted by National Park Service for individuals who perform identification, evaluation, registration and treatment of cultural resources.

STATE LAWS AND REGULATIONS

STATE LAW

Statutory laws and regulations enacted by the State of California are listed below. Similar to federal law, state legislation also mandates measures to encourage and regulate historic preservation activities in California. State preservation legislation is found under various divisions of the California Annotated Code.

California Environmental Quality Act of 1970 (CEQA) (PRC § Section 21000 et seq.)

CEQA declares that it is state policy to "take all action necessary to provide the people of this state with...historic environmental qualities." It further states that public or private projects financed or approved by the state are subject to environmental review by the state. All such projects, unless entitled to an exemption, may proceed only after this requirement has been satisfied.

CEQA requires detailed studies that analyze the environmental effects of a proposed project. In the event that a project is determined to have a potential significant environmental effect, the act requires that alternative plans and mitigation measures be considered. CEQA includes historic and archaeological resources as integral features of the environment.

California Register of Historical Resources (PRC § 5024.1)

Public Resources Code § 5024.1 establishes the California Register of Historical Resources. The register is listing of all properties considered to be significant historical resources in the state. The California Register includes all properties listed or determined eligible for listing on the National Register, including properties evaluated under Section 106, and State Historical Landmarks from No. 770 on. The criteria for listing are the same as those of the National Register. The California Register statute specifically provides that historical resources listed, determined eligible for listing on the California Register by the State Historical Resources Commission, or resources that meet the California Register criteria are resources which must be given consideration under CEQA (see above). Other resources, such as resources listed on local registers of historic registers or in local surveys, **may** be listed if they are determined by the State Historic Resources Commission to be significant in accordance with criteria and procedures to be adopted by the Commission and are nominated; their listing in the California Register, is not automatic..

State owned Historical Resources (PRC§ 5024-5024.5)

Section 5024 requires each state agency to "formulate policies to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction." It directs agencies to prepare inventories of all state-owned historical resources and to evaluated them using the National Register and State Historical Landmark criteria. "State- owned structures in freeway rights-of-way shall be inventoried before approval of any undertaking which would alter their original or significant features or fabric, or transfer, relocate, or demolish those structures." Until the inventory is complete, state agencies shall ensure that any structure which might qualify is not inadvertently transferred or altered.

In 1992, Section 5024.1 was added, establishing the California Register of Historical Resources to identify the state's historical resources, and "to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change."

PRC 5024.5 stipulates that before any state agency alters, transfers, relocates, or demolishes listed historical resources, the agency will give the State Historic Preservation Officer the opportunity to review and comment on the proposed action. This section further requires state agencies and the State Historic Preservation Officer to adopt prudent and feasible measures to eliminate or mitigate adverse effects to historic structures.

Disturbance of an Archeological Site (PRC§ 5097.5)

Section 5097.5 makes it a misdemeanor for anyone to knowingly disturb any archaeological, paleontological, or historical feature situated on public lands.

Native American Religious Freedom (PRC 5097.9 et seq)

This code section prohibits public agencies from interfering with the free expression or exercise of Native American religion, or causing severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property. The only exception occurs when it can be clearly and convincingly demonstrated that the public interest and necessity require such action.

Native American Grave Artifacts (PRC § 5097.991)

This section states that "it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated."

Native American Heritage Commission (PRC§5097.9)

Establishes the Native American Heritage Commission (NAHC). The code stipulates that no public agency may alter, modify, disturb, remove, destroy, or damage any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine except with the consent of the NAHC. In addition, the NAHC can mediate disputes relating to treatment of human remains and designate "most likely descendants" of encountered human remains. Additional information on management of Native American resources and state laws regarding human remains can be found in Chapter 3, Native American Coordination.

STATE EXECUTIVE ORDER

Executive Order W-26-92

The Governor's Executive Order W-26-92 directs all state agencies to administer the cultural and historic properties under their control, whether state owned or not, in a spirit of stewardship, and to initiate measures to preserve, restore, and maintain significant state-owned properties. It specifically requires agencies to develop management plans for their significant heritage resources, and to complete the inventories of their state-owned historical resources as directed in PRC 5024.

STATE REGULATIONS

CEQA Guidelines (14CCR § 15000 et seq)

The CEQA Guidelines govern the implementation the California Environmental quality Act. Of particular importance for cultural resources are Section

15064.1, determining the significance of impacts, Section 15126 on mitigation of historical resources, and Section 15331 categorical exemption of a project involving historical resource.

California Register of Historical Resources (14 CCR § 4850

The regulations that govern the nomination of resources to the California Register. The regulations set forth the criteria of eligibility.

STATE AND FEDERAL GUIDANCE

Both federal and state agencies provide guidance and technical assistance for the implementation of cultural resource laws and regulations. Some of the most useful publications are cited below with a brief summary of content.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Section 106 Regulation Changes

This series of documents explain the changes that were made to 36 CFR Part 800 effective January, 2001. Changes to the regulations are summarized, there is a section by section discussion of changes, guidance regarding transition from old to new regulations, and discussion of consultation with Indian tribes. See Revised Section 106 Regulations Text

Preparing Agreement Documents: How to Write Determinations of No Adverse Effect, Memoranda of Agreement, and Programmatic Agreements Under 36 CFR Part 800

Informally known as PAD, this document is a comprehensive technical handbook for the various agreement documents, and it standardizes Section 106 agreement language. Caltrans cultural resources staff should use PAD in developing effect packages and agreement documents. Not all stipulations are readily applicable to highway projects, however. Caltrans staff responsible for preparing environmental compliance documents should be selective about which stipulations are used and should consult with FHWA in developing Memoranda of Agreement.

Treatment of Archaeological Properties: A Handbook

The handbook provides guidance on ACHP principles, procedures, and methods for the treatment of archaeological properties in accordance with 36 CFR Part 800 regulations. These guidelines assist consulting parties (e.g., FHWA, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation) in determining how to conduct archaeological programs and projects.

Section 106, Step-by-Step

Step-by-Step is a detailed document that explains the Section 106 review process and walks the reader through the procedures established in 36 CFR Part 800.

Identification of Historic Properties: A Decision-making Guide for Managers

This document discusses the fundamental step of identification of historic properties in determining what properties may be affected by an undertaking. It sets out basic principles and approaches that should be considered in designing an effort to identify historic properties. It also explains the application of these principles under various circumstances.

Public Participation in Section 106 Review: A Guide for Agency Officials

This guidance document offers suggestions for improving the effectiveness of an agency's procedures for public participation in the Section 106 process.

Fact Sheets: Section 106 series

The following fact sheets on various Section 106-related topics may be useful to Caltrans personnel responsible for coordination and consultation activities:

- Section-by-Section Questions and Answers
- Citizens Guide to Section 106
- Relationship Between E.O. 13007 Regarding Indian Sacred Sites and Section 106:
- Consultation on Recovery of Significant Information from Archeological Sites:
- Section 106 Consultation Involving National Historic Landmarks
- Consulting with Indian Tribes in the Section 106 Review Process
- Fact Sheet: Section 106 Participation by Indian Tribes and Other Native Americans
- Fact Sheet: Section 106 Participation by Applicants for and Recipients of Federal Assistance, Permits, and Licenses
- Fact Sheet: Section 106 Participation by Local Governments
- Fact Sheet: Section 106 Participation by State Historic Preservation Officers
- Fact Sheet: Consulting About Archaeology Under Section 106

U.S. DEPARTMENT OF INTERIOR, NATIONAL PARK SERVICE:

Archaeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines

Federal and state agencies use the methods and standards for research and resource evaluation established in these instructions to identify, evaluate, register, and treat historic properties. Caltrans personnel should use this guidance whenever a project is subject to the Section 106 process and National Register listed, eligible, or potentially eligible properties are involved. The guidance also establishes professional qualifications standards for cultural resources personnel.

National Register Bulletins

The National Park Service publishes a series of guidance bulletins to help in identifying and evaluating properties. Basic direction and step-by-step guidance are provided in National Register Bulletins 15 and 16.

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

Guidance for Preparing Environmental and Section 4(f) Documents, FHWA Technical Advisory T 6640.8A

Guidance provided in this document covers the conduct and preparation of various environmental studies and reports required by NEPA and Section 4(f) of the D.O.T Act of 1966. Specific instructions are included that detail what is needed in reports to document that cultural resources are considered and discussed, and to demonstrate that the requirements of 36 CFR Part 800.4 have been satisfied.

Guidance on the Consideration of Historic and Archeological Resources in the Highway Development Process, December 1988

FHWA intended this guidance to provide the connection between Advisory Council and National Park Service documents, interpreting compliance in terms of highway projects.

STATE OFFICE OF HISTORIC PRESERVATION

California State Law and Historic Preservation

A compilation of all laws and regulations affecting historical resources in California.

California Environmental Quality Act and Historical Resources

Provides step-by-step guidance on the treatment of historical resources under CEQA. It addresses changes to the CEQA Guidelines made in 1998. It is more up to date than the *CEQA and Archeology* and *CEQA and Historical Resources* publications of the Office of Planning and Research which have not been updated since 1998.

EXHIBIT 4: CULTURAL RESOURCE SPECIALISTS: EDUCATION, SKILLS AND EXERIENCE

Cultural Studies Office, Environmental Division, July 1993 (now the Cultural and Community Studies Office, Division of Environmental Analysis)

Several sets of criteria are used to select cultural resources specialists. Because the state and federal governments and professional organizations all have an interest in the cultural resources process, Caltrans uses criteria which meet the standards set by these three parties. The purpose of using combined sets of standards in hiring cultural resources specialists is to ensure a credible and competent staff and to ensure that Caltrans staff meets the standards of the agencies that review the Department's work in cultural resources management.

Because Caltrans cultural resources specialists work extensively "in the field" and must be able to evaluate a variety of resources within the context of **California** prehistory, history, and architecture, they must possess sufficient educational background and experience to meet Caltrans hiring standards **and** enable them to address California contexts and environmental compliance procedures adequately. What follows is a description of the education and experience that best meet the Department's needs in cultural resources management.

ARCHAEOLOGY

The basic academic degree required for Caltrans' archaeological specialists is a bachelor's in anthropology with an emphasis in archaeology (bachelor degrees specifically in archaeology are rare). The next level of academic achievement is a master's degree, again in anthropology with a specialization in archaeology. In addition to formal classroom training, field and/or laboratory experience are essential aspects of archaeological training. This experience is gained through university-sponsored field schools and participation on excavations.

A bachelor's degree is acceptable for the entry level Environmental Planner (Archeology) and Archeology Project Leader (Seasonal). Some universities, however, do not include field training in their undergraduate archaeology programs. Since the use of archaeologists in Caltrans is for field surveys and field excavations, Caltrans specifically requires supplementary training in these activities, in addition to the Environmental Planner (Archeology) qualifications.

Currently, the Associate Environmental Planner (Archeology) classification in Caltrans does not require having a master's degree. A master's degree, however, is preferred if the staff archaeologist must meet federal standards for principal investigators. In addition to federal and state standards, Caltrans developed qualifications criteria for archaeologists who work on in-house

archaeological projects. Duties and qualifications for four training levels are defined in the criteria:

1) Crew Member
2) Lead Archaeological Surveyor
3) Excavation Crew Chief; Principal Investigator, Extended Phase I; Consultant Monitor; Construction Monitor
4) Principal Investigator, Phase II or Phase III Excavation

HISTORICAL ARCHAEOLOGY

Historical archaeology can be defined as the application of archaeological techniques to sites that relate directly or indirectly to a literate tradition. Historical archaeologists should be knowledgeable about the recovery and interpretation of both archaeological and archival data. They should also be familiar with the history of technology and its material remains, including artifacts and their conservation and preservation. Historical archaeologists, therefore, use both archaeological and historical data and methods when identifying, interpreting, and evaluating historical archaeological resources.

The minimum qualifications for archaeologists are described in the previous section and outlined in federal standards and in Caltrans' qualifications criteria. In addition, historical archaeologists at the Associate Environmental Planner level must have at least one year of full-time experience in the study of historic-period archaeological resources, with field and laboratory work, and supervisory experience or equivalent. They must also have documented training or experience in primary archival research. A report demonstrating the design and execution of a historical archaeological study is required in the absence of a graduate degree.

ARCHITECTURAL HISTORY

Architectural historians study buildings, districts, and structures. The work may include research on a property's period or style, history, architect or engineer, or construction technology.

Art history is the traditional curriculum for an architectural historian. The program emphasis is on Western art forms, with course work in art and architecture. Some universities also offer degrees or certificates in historic preservation. These programs usually have a multi-disciplinary approach that combines architectural history with technical preservation course work, historic preservation legislation and process, and sometimes economics and planning. A few institutions offer a degree in historic architecture. A master's program that emphasizes architecture of historic periods follows the basic architectural degree. The primary career for such specialists is in restoration or rehabilitation of historic buildings.

Specialization in architectural history is recognized only at the master's or doctoral level. A bachelor's degree in art history may qualify an applicant for entry-level Environmental Planner in architectural history if the undergraduate curriculum had a concentration in American architecture. A bachelor's degree alone, however, is unlikely to provide adequate training in field recognition of architectural styles or in the description of architectural components necessary for an Associate Environmental Planner position. State civil service does not require a master's degree for this class, but it does require a combination of education and experience. Appropriate advanced degrees and specific experience can substitute for each other to some extent in meeting the required combination of education and experience.

Caltrans uses the Secretary of the Interior's minimum professional qualifications as a guide, combined with the state qualifications, when it selects architectural historians.

In Caltrans, architectural historians use federal criteria to evaluate buildings, districts, and structures for architectural significance. They determine construction dates for bridges and buildings, identify designers and construction methods, and research land and ownership records. Architectural historians analyze engineering and architectural drawings, as well as construction details, and prepare appropriate documentation. Caltrans architectural historians may also be involved in planning or reviewing the rehabilitation or maintenance of significant Caltrans-owned buildings.

HISTORY

Study of the full range of historical resources requires the skills and experience of staff trained in history. Caltrans uses the Environmental Planner (generalist) and Environmental Planner (Architectural History) classifications when hiring historians. For Caltrans' purposes, it is appropriate to require background in California history, in addition to other skills associated with a degree in history.

Historians should have skills to locate and analyze a wide variety of secondary literature on the built environment, as well as have the ability to conduct primary research on communities and industries when the need arises. Caltrans historians must also be able to evaluate locations where significant events in California history may have occurred. Research may clarify site boundaries or bring fresh insight regarding a site's importance in history.

Sometimes Caltrans projects are located in areas that may contain historic archaeological resources. When this occurs, an interdisciplinary approach is used to identify and evaluate the historic archaeological resources. A historian, a historical archeologist, and other specialists as needed may then participate in the evaluation and report writing.

Caltrans studies require specialists with a concentration in history, typically satisfied by a graduate degree in history, rather than by a bachelor's degree. The federal qualifications standards require a graduate degree in history or closely related field, or a bachelor's degree and two years of experience or substantial scholarly contribution.

Caltrans historians study resources in their historical and cultural context, to relate places and objects to persons, events, patterns, or processes in California history. These analyses are used to judge historical significance of properties subject to evaluation under federal and state law.

FIELD STUDY

Archaeologists, architectural historians, and historians may continue to conduct field studies throughout their professional careers. Traditionally and in practice, they may remain active in conducting such studies regardless of the level of professional status or attainment in the subject field.

EXHIBIT 5: CALTRANS CULTURAL RESOURCE PROFESSIONAL QUALIFICATION STANDARDS

All cultural resource studies carried out by Caltrans or its consultants must be conducted by or under the direct supervision of individuals who meet the Secretary of the Interior's professional qualification standards for the relevant field of study. This policy is designed to ensure program quality and satisfy federal mandates associated with compliance with section 106 of the National Historic Preservation Act. The department meets this standard by certifying its cultural resource staff. In order to take full advantage of the provisions of this PA, cultural resource professionals must meet the standards in the appropriate field. Those not fully qualified as archaeological Principal Investigators (PI) or associate architectural historians may accomplish many important tasks with oversight, generally in the form of peer review or direct supervision by qualified staff. The Chief of the Cultural and Community Studies Office in the Headquarters Environmental Program is responsible for certifying the qualifications of all Caltrans cultural resource professionals.

Minimum qualifications are listed below for cultural resource staff conducting various tasks. Both archaeologists and architectural historians should demonstrate professional experience in California.

ARCHAEOLOGICAL QUALIFICATIONS STANDARDS

ARCHAEOLOGICAL CREW MEMBER

Qualified to participate in archaeological surveys and excavations under the direction of a qualified lead archaeological surveyor or higher.

- A minimum of six weeks of supervised field training (including at least three weeks each of excavation and field survey) in time blocks of at least one week duration (field school or equivalent)

and

- A minimum of two upper division college courses in archaeology.

LEAD ARCHAEOLOGICAL SURVEYOR

Qualified to conduct and report archaeological surveys, and other compliance documents, with peer review provided by a qualified prehistoric or historical PI.

- B.A. in Anthropology with emphasis in archaeology, or closely related discipline (such as history or earth sciences) with subsequent coursework in archaeology (a minimum of four upper division or graduate courses in archaeology required)

and

- At least six months of professional archaeological experience in California, including at least 12 weeks of California field survey experience

and

- Demonstrated ability to organize and conduct archaeological surveys, complete site record forms, and report on survey findings dealing with both prehistoric and historic archaeological resources.

CO-PRINCIPAL INVESTIGATOR—PREHISTORIC ARCHAEOLOGY

Qualified as a Construction Monitor, PI for Extended Phase I studies, and Co-PI for Phase II and III excavations for work involving prehistoric archaeological resources under the direction of a Prehistoric Archaeology PI. May author proposals, reports for Extended Phase I studies, and other compliance documents with peer review from a prehistoric PI.

- Qualification as a lead archaeological surveyor for Caltrans

and

- A total of at least 12 months of professional experience or specialized training in prehistoric archaeology, including: 1) at least 10 weeks of California excavation experience under the supervision of a PI prehistoric archaeologist; 2) at least four weeks of supervised laboratory experience on collections from prehistoric California sites; and 3) at least four weeks of excavation experience in a supervisory capacity on prehistoric California sites

and

- Demonstrated ability to carry archaeological research to completion, as evidenced by the timely completion of an excavation report or comparable study involving a prehistoric site or sites

and

- Understanding of the section 106 process and familiarity with Caltrans cultural resources policies, procedures, and goals, as demonstrated in reports and/or past performance.

CO-PRINCIPAL INVESTIGATOR—HISTORICAL ARCHAEOLOGY

Qualified as a Construction Monitor and as Co-PI for Extended Phase I, Phase II and Phase III excavations involving historical archaeological resources under the direction of a Historical Archaeology PI. May author reports that evaluate historical archaeological resources where no excavation is required to reach a conclusion about their eligibility, and other compliance documents. That work must be peer reviewed by a Historical Archaeology PI.

- Qualification as a lead archaeological surveyor for Caltrans

and

- A total of at least 12 months of professional archaeological experience or specialized training dealing with historic period resources including: 1) at

least 10 weeks of California excavation experience under the supervision of a PI historical archaeologist; 2) at least four weeks of supervised laboratory experience on collections from California sites; and 3) at least four weeks of excavation experience in a supervisory capacity

and

- Demonstrated familiarity with California history, documentary research, and oral history as evidenced by upper division course work or a major research report or publication based on original research

and

- Demonstrated ability to carry archaeological research to completion, as evidenced by the timely completion of an evaluation or excavation report addressing a historic site or sites for which the applicant is the lead author

and

- Understanding of the section 106 process and familiarity with Caltrans cultural resources policies, procedures, and goals, as demonstrated in reports and/or past performance.

PRINCIPAL INVESTIGATOR—PREHISTORIC ARCHAEOLOGY

Fully qualified under the Secretary of the Interior's standard for prehistoric archaeology to conduct all types of studies, including Extended Phase I, Phase II and Phase III excavations, involving prehistoric archaeological resources and traditional cultural properties or cultural landscapes of a prehistoric or ethnographic nature. May author proposals, reports for Extended Phase I, II and III studies and other compliance documents with peer review to ensure document quality. May conduct consultant oversight and contract management.

- M.A. in Anthropology with an emphasis in prehistoric archaeology as evidenced by appropriate coursework

and

- A total of at least 16 months of professional archaeological experience involving prehistoric sites, including a minimum of one year of field experience as follows: 1) at least 24 weeks of fieldwork under the supervision of a prehistoric PI, of which at least 12 weeks must be excavation work, 2) at least eight weeks of laboratory experience on collections from California sites supervised by a prehistoric PI; and 3) at least 20 weeks of field work in a supervisory capacity, of which at least eight weeks must be on California sites

and

- Demonstrated ability to carry out archaeological research to completion, as evidenced by the completion of a thesis, dissertation, or other comparable major study focusing on a prehistoric site or sites

and

- Ability to carry out the more complex and difficult aspects of the section 106 process

and

- Advanced understanding of Caltrans cultural resource policies, procedures and goals, as demonstrated in reports and/or past performance

and

- Familiarity with Caltrans cultural resources contracting policies and procedures.

PRINCIPAL INVESTIGATOR—HISTORICAL ARCHAEOLOGY

Fully qualified under the Secretary of the Interior's standard for historical archaeology to conduct all types of studies, including Extended Phase I, Phase II and Phase III excavations, involving historical archaeological resources and traditional cultural properties or cultural landscapes other than designed landscapes of a historical or ethnographic nature. May author proposals, reports for Extended Phase I, II and III studies, and other compliance documents with peer review to ensure document quality. May conduct consultant oversight and contract management.

- M.A. in Anthropology with an emphasis in historical archaeology as evidenced by a minimum of 12 semester units in history and the theory and methods of historical archaeology

and

- A total of at least 16 months of professional archaeological experience involving historical sites, including a minimum of one year of field experience as follows: 1) at least 24 weeks of fieldwork under the supervision of a historical PI, of which at least 12 weeks must be excavation work, 2) at least eight weeks of laboratory experience on collections from California sites supervised by a historical PI; and 3) at least 20 weeks of field work in a supervisory capacity, of which at least eight weeks must be on California sites

and

- Demonstrated familiarity with California history, documentary research, and oral history techniques as evidenced by upper division course work or a major research report or publication based on original research

and

- Demonstrated ability to carry out archaeological research to completion, as evidenced by the completion of a thesis, dissertation, or other comparable major study focusing on a historical site or sites

and

- Ability to carry out the more complex and difficult aspects of the section 106 process

and

- Advanced understanding of Caltrans cultural resource policies, procedures and goals, as demonstrated in reports and/or past performance

and

- Familiarity with Caltrans cultural resources contracting policies and procedures.

ARCHITECTURAL HISTORIAN QUALIFICATIONS STANDARDS

ARCHITECTURAL HISTORIAN

Qualified to evaluate cultural resources (other than archaeological resources), traditional cultural properties, and cultural and designed landscapes. May prepare evaluation reports for all types of non-archaeological resources, and other compliance documents. All work shall be conducted under the direction of an Associate Architectural Historian.

- A Bachelor's Degree in Art History, Architectural History, or a closely related field of study, with a concentration in American Architecture. Evidence of coursework in 17th - 20th century American Architectural History. Closely related fields may include American Studies, Architecture, American History, Historic Preservation, and Public History

and

- At least 12 months of experience in research, writing, or teaching in American architectural history or American history, or other related professional activity. Demonstrated ability to apply the practices of architectural history in the identification, evaluation and documentation of historic properties in California or the United States

and

- Demonstrated familiarity with California history, documentary research, and oral history techniques as evidenced by upper division course work or a major research report or publication based on original research

and

- Demonstrated ability to carry historical research to completion, as evidenced by the timely completion of a major research report or publication based on original research

and

- Understanding of the section 106 process, and familiarity with Caltrans cultural resource policies, procedures and goals, as demonstrated in reports and/or past performance.

ASSOCIATE ARCHITECTURAL HISTORIAN

Fully qualified under the Secretary of the Interior's standard for architectural historians. Able to conduct all types of studies involving cultural resources (other than archaeological resources), including traditional cultural properties and cultural and designed landscapes. May author evaluation reports and other compliance documents, with peer review to ensure document quality. May conduct consultant oversight and contract management.

- A Master's Degree in Art History, Architectural History, or a closely related field of study, with a concentration in American Architecture. Evidence of coursework in 17th - 20th century American Architectural History. Closely related fields may include American Studies, Architecture, American History, Historic Preservation, and Public History. Qualifying experience may be substituted for the required education on a year-for-year basis, on approval of the Chief of the Cultural and Community Studies Office in the Headquarters Environmental Program

and

- At least 24 months of experience in research, writing, or teaching in American architectural history or American history, or other related professional activity. Demonstrated ability to apply the practices of Architectural History in the identification, evaluation and documentation of historic properties in California or the United States. A Doctorate Degree in Art History, Architectural History, or closely related field, with a concentration in American Architecture may be substituted for the years of required experience

and

- Demonstrated familiarity with California history, documentary research, and oral history techniques as evidenced by upper division course work or a major research report or publication based on original research

and

- Demonstrated ability to carry historical research to completion, as evidenced by the timely completion of a thesis, dissertation, or other comparable major study consisting of the design and execution of a historical study concerning a historic site or sites

and

- Ability to carry out the more complex and difficult aspects of the section 106 process

and

- Advanced understanding of Caltrans cultural resource policies, procedures and goals, as demonstrated in reports and/or past performance

and

- Familiarity with Caltrans cultural resources contracting policies and procedures.

EXHIBIT 6: EXPERTISE REQUIRED FOR CULTURAL RESOURCES EVALUATION

Cultural Resource Type	Historical Archaeologist Level I	Historical Archaeologist Level II	Prehistoric Archaeologist Level IV	Historian	Architectural Historian	Ethnographer	Collaboration Necessary?
Archaeological Site (no excavation required to evaluate)	X	X					No
Native American Archaeological Site (XPI or Phase 2 excavation required to complete evaluation)		X	X				No
Non-Native American Archaeological Site (XPI or Phase 2 excavation required to complete evaluation)		X					No
Native American TCP	A	A	A			X	No
Non-Native American TCP	A	A		A	A	X	Maybe
Ruins of Buildings and Structures (Ruined buildings; abandoned ditches and transportation systems; ruined industrial or commercial facilities; shipwrecks; etc,)	A	X		X	X		Yes
Non-Native American Cemeteries	A	A		X	X		Maybe
Cultural Landscapes (Mining complexes, farmsteads, etc.)	A	A		X	X		Yes
Buildings, Structures and Bridges				X	X		No
Designed Landscapes (Parks, formal gardens, etc.)				X	X		No
Battlefields	A	A		X	A		Yes
Potentially Important Locations (Treaty signing sites, internment camps, etc.)	A	A		X	A		Yes

*Key: **X** = qualified to evaluate; **A** = qualification depends on individual expertise. Specialist assigned to evaluation will be determined on a case-by-case basis, depending on the type and nature of the resource.

EXHIBIT 7: TIME AND EFFORT REQUIRED FOR CULTURAL RESOURCES COMPLIANCE

The time and effort required to complete cultural resources compliance will vary greatly, depending on the nature of the project and the number and types of resources which may be impacted by it.

The Table below indicates potential requirements in person-hours for the major activities, based primarily on Caltrans' Workload Estimating Norms. Also included are estimates of standard person-hour requirements and elapsed schedule time for some activities, based on Caltrans' Environmental Handbook. In estimating schedule time, it should be noted that some activities can be done at the same time.

ESTIMATED PREPARATION TIME (DOES NOT INCLUDE EXTERNAL AGENCY REVIEW TIME)				
WBS Code	Activity / Product	Sched. Months	Est. Hours Standard	Est. Hours Range
150.20.30	Initial Archaeology Study			10-100 hours
150.20.35	Initial Built Environment Study			10 –100 hours
150.20.70	Initial Native American Coordination			10 -100 hours
165.20.05	Prepare APE Map			0 –80 hours
165.20.10	ASR (negative)	1.5 months	40 hours	0 -1070 hours
165.20.15	ASR (positive)	6 months	300 hours	0 –1070 hours
165.20.15	HRER, Bridge Evaluation			0 –320 hours
165.20.20	Extended Phase I (XPI)	6 months	360 hours	0 -1576 hours
165.20.25	Phase II (PII)	12 months	1768 hours	0 -1768 hours
165.20.45	HPSR / HRCR			0 –300 hours
165.20.50	FOE / MOA			0 –80 hours
165.25.10	Section 4(f) Determination			0 –100 hours
235.05.05	Historical Structures Mitigation			40 -1000 hours
235.05.10	Phase III (PIII)	15 months		0 -1768 hours

EXHIBIT 8: SEQUENTIAL ORDER OF CULTURAL RESOURCE ACTIVITIES

The Table below suggests which cultural resources activities must generally occur sequentially, and which can be done concurrently.

<table>
<tr><th colspan="2">SEQUENTIAL ORDER OF ACTIVITIES</th></tr>
<tr><td colspan="2">Preliminary Cultural Input</td></tr>
<tr><td>Archaeological Survey</td><td rowspan="2">HRER and/or Bridge Evaluation</td></tr>
<tr><td>XPI, HRER for historical archaeology</td></tr>
<tr><td colspan="2">CE Section 106 Checklist, HPSR, HRCR</td></tr>
<tr><td colspan="2">FOE, MOA</td></tr>
<tr><td colspan="2">Section 4(f) Determination</td></tr>
<tr><td colspan="2">HABS / HAER Recordation, PIII, Monitoring</td></tr>
</table>

EXHIBIT 9: REQUIRED COPIES OF CULTURAL RESOURCES DOCUMENTS

{ XE "Documents:required copies of, Figure 2-2" }

TABLE A: SECTION 106 AND STATE-ONLY DOCUMENTS{ XE "DOCUMENTS:REQUIRED COPIES OF, FIGURE 2-2" }

Document	*Copies to FHWA*	*Copies to CCSO*	*Copies directly to SHPO*
Negative HPSR	0	1	0
Positive HPSR	3	1	0
Supplemental HPSR	3	1	0
Finding of Effect	3	1	0
Draft MOA	3	1	0
HRCR with 5024.5 involvement	0	1	1
Correspondence with FHWA, SHPO, or ACHP	0	1	0

TABLE B: REQUIRED COPIES OF ARCHAEOLOGICAL DOCUMENTS*

Document	*Copies to FHWA*	*Copies to CCSO*	*Copies to Information Center*	*Copies to Native American Groups*	*Copies directly to SHPO*
Proposals					
Extended Phase I	-	1	-	#	
Archaeological Evaluation (Phase II)	-	1	-	#	
Data Recovery Plan	*	1	-	#	
Phase III	-	1	-	#	
Reports					
Record forms	-	-	2	-	
ASR	*	1	1	#	
Extended Phase I	*	1	1	#	
Archaeological Evaluation (Phase II)	*	1	1	#	
Data Recovery	1	1	1	#	
Final Excavation Report (Phase III)	1	1	1	-	1

* = copies are included as attachments to management documents (HPRS or Findings of Adverse Effect).

= copies are sent to appropriate groups as requested.

EXHIBIT 10: EXCERPTS - CALTRANS SURVEYS MANUAL

The Caltrans Survey Manual is available on line for downloading.

CHAPTER 1, SECTION 103: PUBLIC RELATIONS

GENERAL

Importance–Public relations is one of the more important duties of the surveyor. This is especially true for surveyors who "enter" private property. The wide variety of situations encountered by the surveyor requires a constant awareness of the rights and needs of others. The ability to adjust to these needs is also required.

Basic Rules–Common sense and common courtesy are the best rules in any form of public relations. Be prepared, and try to create a good impression when meeting the public. First impressions, whether good or bad, are often lasting. Maintain a pleasant, businesslike attitude at all times and be informed about your job. The impression you create thereby will be a credit to you, your profession, and the Department of Transportation.

Use of Business Cards–To help in creating good relations with others, Party Chiefs shall use business cards. A Party Chief contacts many individuals: property owners, other surveyors, park rangers, etc. Often it is necessary to leave an address and telephone number with these people. At other times, the business card can simply be a means of introduction or of creating goodwill.

INTERNAL RELATIONS

Survey Party–Proper relationships within a survey party are necessary if individuals are to function as a team.

Party Chiefs can help maintain good party relationships by keeping party members well informed about individual and party roles and their duties for each job.

Party Chiefs and other supervisors should be kept informed of important developments. They should not be put in the embarrassing position of learning important information from outside sources.

District–Good relations among district personnel can be maintained though good communications and a clear understanding of responsibility. When in doubt about the requirements of a survey request, phone the requester for clarification.

Department–Relations and contacts with other districts and with various Headquarters offices should be courteous and businesslike.

Reporting Unusual Incidents–A vital part of public and internal relations is the prompt reporting of unusual and unexpected incidents. (Also see the topics Report of Damage to State Highway Property and Potential Claims in Section 1-05.)

A. *Types of Incidents*–These incidents are those which:

1. Involve damage to Caltrans facilities affecting public safety.
2. Could lead to litigation.
3. Involve Caltrans and would be considered newsworthy.
4. Involve other governmental agencies on matters of mutual interest that would affect Caltrans.

B. *Examples*:

1. Severe traffic accidents.
2. Earthquake, flood damage, and landslides.
3. Damage to or failure of facilities.
4. Public protests or demonstrations affecting use of facilities.
5. Incidents that might have a derogatory effect on the Department.

C. *Reporting, General*–Immediately report such incidents. Notify your Surveys Supervisor if the incident occurs during normal working hours. The supervisor is responsible for notifying the proper office. During other than normal working hours, report such incidents to either the Surveys Engineer, one of the Assistant District Directors, or one of the persons listed in the district circular letter of this subject. You might be required to make a written report of your observations.

D. *Reporting Minor Damage*–Report relatively minor damage which does not affect public safety to the responsible maintenance superintendent. If the damage is on a construction project, notify the resident engineer.

E. *Reporting Thefts*–Immediately report thefts of State equipment or supplies to local law enforcement officials. Also, report the theft to the District Surveys Branch and then to other agencies or personnel as required. (See Chapter 2.)

RELATIONS WITH THE PUBLIC

Representatives, All–Each employee is a representative of the Department of Transportation. Each is responsible for developing and maintaining public

goodwill. The Department is a public service organization; it is judged by our behavior as well as by our work.

Conduct–The outdoor nature of surveying keeps surveyors in the "public eye" much of the time. Work should be accomplished efficiently and with a minimum of idle time. Good-natured kidding among party members helps morale. But when around the public, you must be prudent in oral and sign communications. Excessive kidding and horseplay can create negative impressions which damage the Department's image.

Direct Contact–All direct contact with the public should be pleasant, courteous, and businesslike. This includes answering questions, listening to criticism (justified or not), and listening to suggestions.

Answering Questions–In the field, refer questions concerning the work to the Party Chief, who should consult with the Surveys Supervisor or the Surveys Engineer. Probabilities, conjectures, or statements which might be misunderstood or misinterpreted should be left unsaid. Queries at the Surveys office should be referred to the Surveys Engineer.

RELATIONS WITH PROPERTY OWNERS

Dealing with property owners is a most vital phase of public relations. The property owner is the one who will be directly affected by the survey, and possibly, by subsequent construction. He or she will naturally take a close interest in any intrusion on the property, no matter what the purpose.

Good relations developed by conscientious surveyors carry over in the owner's attitude toward other Caltrans employees.

Entry on private property

A. *Right of Entry*–Section 1245.010 of the Code of Civil Procedure gives the State, acting through its employees, the right to enter private property to make surveys. However, Section 1245.020 of the Code provides protection for the owner. If a survey probably will cause actual damage to the property or substantial interference with possession or use of the property, one of the following must be secured prior to entry or undertaking the surveys:

1. The written consent of the owner to enter upon his property and engage in the surveys.
2. A Superior Court order for entry in accordance with the Code.

Where consequential damage or interference is not anticipated, neither a court order nor the permission of the owner is expressly required.

B. *Pre-Entry Contacts*–To promote good relations, make a diligent effort to contact the property owner or tenant prior to entering the property.

1. *Objectives*–The purpose of the contact shall be to explain:

a. That entry is required.
b. The survey activities to be performed and their duration.
c. Any effect the surveys might have on the property.

2. *Direct Personal Contact*–If possible, acquire verbal approval for entry at the time of the contact.

a. Departmental Representative–The contact should be made either by the Party Chief or by some other person delegated by the district.

b. Answering Questions–The contact person should know the facts and be prepared to answer questions courteously and promptly. If unanswerable questions arise, the contact person should obtain the answers and personally relay them to the property owner or tenant.

c. Documentation–All verbal contacts should be recorded in the Survey Party Report for the day. (See Section 1-10.)

3. *Direct Mail Contact*–Contacts may be by mail if personal contact is impractical. Include in such letters the same information as that which would be given during a personal contact.

4. *Indirect Contact*–Supplemental news releases or advertisements may be used to advise the public in the area of a survey. They can be useful in eliminating questions and relieving community apprehension. However, news releases or notices should not be considered as substitutes for mail or personal contact when property must be entered.

If public notices are used, they are to be prepared by and released through the district's Public Affairs Office.

C. *Written Consent*–Examples of activities which would normally require the property owner's written consent are:

1. Digging large holes.
2. Drilling test holes.
3. Cutting trees and brush.
4. Clearing land areas.
5. Earthmoving.
6. Using explosives.
7. Using vehicles or equipment not normally used on the property.

8. Driving or walking over crop areas.

D. *Objection to Entry*–When a property owner or tenant objects to entry, DO NOT ENTER! If a property owner claims actual or anticipated damage or interference after a survey has begun, immediately leave the property. The District Surveys Branch should then request District action to gain right of entry by written consent or by court order. The actual negotiation will be handled by the District's Office of Right of Way.

E. *Party Conduct*

1. Conduct operations in a manner that will not create ill feelings in property owners or tenants.
2. Guard against any cause for complaint.
3. Tone down oral communications in populated areas.

F. Property Care

1. *Survey Method*–Choose the survey method which will have the least effect on the land.
2. *Stake Location*–Place stakes and other markers where there is little likelihood of their being a hazard.
3. *Property Rehabilitation*–As nearly as possible, leave the property in the condition that existed prior to the survey. Repair any damage, fill in holes, and restore the property to its original condition, when possible. If you must temporarily leave a hazard created by your work, protect people and animals by the use of protective devices, such as cones, barricades, and portable fencing.
4. *Removal of Hazards*–Remove all temporary and hazardous survey stakes and other potentially hazardous items from the work area after their usefulness has ended. The Party Chief is responsible for determining which items to remove and when. However, each party member should call the Party Chief's attention to possible hazards.

Examples of items to be removed are: stakes across fields which are to be mowed, stakes in pedestrian areas, back sights and fore sights, and photogrammetry ground-control materials. Range animals tend to be indiscriminate in what they eat, particularly if the item tastes salty to them. This tendency causes them to eat plastic flagging, paper targets, and cloth premarks.

5. *Concern for Children*–Consider hazards to children when setting or leaving survey stakes. Articles such as lath make excellent swords and spears. Some of the paint we use is toxic if ingested. Nails and spikes can be dangerous in the hands of children.

6. *Litter Removal*–DO NOT LITTER. Paper, stake fragments, and other trash shall be placed in litter cans in State vehicles. Litter shall not be left on private or on public property.

UTILITY COMPANIES AND PUBLIC AGENCIES

Survey date, new development, and other survey information are freely exchange between utility companies and public agencies. This practice exists at the federal, state, county, and local level and includes both public and private utility companies.

To maintain this goodwill and a cooperative attitude, promptly reply to requests from such agencies and companies.

PRIVATE SURVEYORS

Engineers, land surveyors, and photogrammetrists in private practice have valuable information in their files which we frequently need. Generally, their records are available for copying. Their attitudes and the extent of their cooperation result, largely, from previous contacts. Surveys Branches should cultivate good relationships with private firms. Extend full cooperation to them whenever possible (this includes access to our control data and right of way engineering information).

CONTRACTORS

Surveys Branches are concerned with two general types of private contractors: photogrammetry and construction. For information regarding relations with contractors, refer to the appropriate chapter of the MANUAL--either Chapter 11, Construction Surveys or Chapter 12, Photogrammetry for Surveyors.

RAILROADS

Property which a railroad owns primarily as a land-owner (land which does not carry rails) should be regarded as any other private property.

Land which carries rails is called "operating right of way." Before entry is made on such property, a right of entry must be obtained though the District Railroad Compliance Agent.

See Section 1-04 for safety guidelines to use when surveying in the operating right-of-way. Stay alert at all times, and remember that you are there to survey safely. Railroad operations are not to be disrupted.

PUBLIC LANDS

Types–Public lands should be treated as special types of private property where attention to additional regulations is required. Some of the types of public lands

where you might survey are: state parks, national parks, local parks, national forests, wilderness areas, rangeland administered by the Bureau of Land Management, state and national monuments, and historical sites.

Pre-Entry Activity–Before surveying in such areas:

A. Contact the person having responsibility for the public facility. (This contact should be made by the Party Chief or Survey Supervisor.)

1. Explain the need for the survey, its anticipated duration, and any probable effects on the facility.
2. Learn the requirements for working in these areas: permits, fire regulations, brush cutting procedures, and restriction on vehicular operations.

In addition, the park supervisor (ranger) might be able to give valuable information such as the locations of control points and access roads.

B. Orient each surveyor involved. Tell each about all survey requirements.

C. Obtain required permits.

Forest and park rangers and supervisors are cooperative and helpful when all rules are obeyed. Consulting them in advance will ensure that regulations will not inadvertently be broken.

WORK ACTIVITY

A. Survey within all the requirements determined above.

B. Obtain additional permits when work arises which is not covered by an active permit.

C. Consult with the ranger or supervisor when additional "non-permit" work arises.

D. Notify–When there is a substantial time break in the survey, notify the responsible official when you leave and when you reenter.

E. Follow the requirements of *Fire Prevention* and, if necessary, *Fire Control* in Section 1-04.

F. Inform–At all times be sure the responsible ranger or official knows your daily location.

Wilderness Areas--Surveys in wilderness areas are subject to very stringent regulations. DO NOT WORK in these areas prior to receiving approval from

the U.S. Forest Service. Usually, a permit will be required. Negotiate for a survey in a wilderness area with the forest supervisor in charge of the area.

State Parks--The California Department of Parks and Recreation requires permits for surveys in State Parks. For reconnaissance surveys, the Survey Supervisor or Party Chief might be able to arrange for surveying without a permit by having a thorough discussion with the park supervisor.

INDIAN LANDS

Entry on Indian lands for surveys is a special case. Normal right-of-entry procedures do not apply. Permits are required for entry onto any Indian lands. Observe all normal requirements for relations with the general public and with property owners in contacts and negotiations for entry on Indian lands.

PERMIT APPLICATIONS

A. *Where to Apply*–Permits can be obtained by applying to the area field office, Indian agency, or office of the Bureau of Indian Affairs having jurisdiction over the lands.

B. *Tribal Lands*–Where tribal lands are involved, permits are not granted without prior written consent of the tribal council.

C. *Guarantee of Indemnity*–On the application, the State must agree in writing to indemnify the United States, the landowners, or the legal occupants against liability for death, injury, or property damage caused by the survey. The State must also agree to pay damages promptly.

PERMIT NEGOTIATIONS

A. *Timing*–Begin permit negotiations as early as possible since the required procedure is lengthy. These negotiations should be initiated by the District Surveys Branch.

B. *Guidelines*–Information to be obtained during the negotiations is available in two sources.

1. The Rights-of-Way Handbook of the Realty Division of the Bureau of Indian Affairs. The Handbook number is "54 BIAM Supplement 7, Release 1."

2. Also available are excerpts from the rules and regulations of the Bureau, titled "Part 161 - Rights-of-Way Over Indian Lands."

Both publications may be obtained from the Realty Division at area and regional offices of the Bureau. These guidelines should be acquired by any Surveys Branch which anticipates surveys on Indian lands.

C. *Photogrammetric Surveys*–Sometimes, photogrammetry control surveys can be negotiated at the local level with the tribal council or individual landowners. This should be handled by the Surveys Engineer or a Survey Supervisor. In some instances, the Secretary of the Interior, through authorized representatives, may issue a permit without the consent of all parties. These cases are spelled out in the excerpts mentioned above.

D. *Questionable Boundaries*–Some times the outer boundaries of reservations are not surveyed. When in doubt, assume that the land is Indian land and proceed as outlined above. Where land has been patented to individual Indians, usually the lot lines have been surveyed. (Many patents are "grants in trust" and are administered by the Bureau of Indian Affairs for a specified length of time. After this time the "grants" mature to fee title.)

LAW ENFORCEMENT AGENCIES

When a survey requires night work, notify local law enforcement agencies and property owners. This enables them to be aware of the source and reason for the appearance of "unusual" lights and activity.

Cemeteries

General Guidelines–Do not let survey activities interfere with the operation or maintenance of cemeteries. Contact cemetery owners to see if they have any special entry requirements. Do not leave unsightly debris behind when the survey is finished. Pet cemeteries should be handled in the same manner.

Undocumented Sites–Be on the lookout for old cemeteries, large or small, when working in rural areas. In addition to obvious headstones, look for enclosed areas, unusual mounds of grass, and other indications. If evidence indicates a cemetery, the Party Chief should promptly report the evidence to the District Surveys Branch so proper negotiations can be made. When a cemetery is not discovered until the construction phase, many problems can develop.

SUMMARY

The value of developing good public relations cannot be overemphasized. Time and money are saved, and the work is more pleasant for all concerned. Public contact enables a surveyor to improve his ability to meet and deal with people. This increases his stature and the stature of his profession. Also, it improves the Department's image.

EXHIBIT 11: EXCAVATION PRE-FIELD CHECKLIST

	Action	Minimum Lead Time (weeks)
☐	Determine the ownership of the site's parcel.	12
☐	Initiate the federal or state permit process, if the site is on public land.	12
☐	If the site is in coastal zone, contact the Regional Office of the California Coastal Commission to obtain a permit, if necessary.	12
☐	If wet screening, develop a strategy to ensure that sediments do not enter a live stream Identify the water source. Consult with a biologist, and request the biologist to coordinate coordinate the proposed work with the Department of Fish and Game area biologist, if necessary.	12
☐	Obtain a biological review of site area to ensure that excavation will not affect rare or endangered species.	12
☐	Obtain a right of entry permit for the excavation, if the site is on private land.	10
☐	Request any necessary assistance from Surveys (e.g., datum placement, site mapping, staking)	10
☐	Obtain utility clearance for the parcel to be excavated.	1
☐	Schedule the use of any necessary heavy equipment from Maintenance, or contract with a private operator.	8
☐	Request a Native American Monitor.	8
☐	Negotiate a monitoring agreement.	8
☐	Arrange for curation of the materials recovered.	6
☐	Prepare any necessary contracts for special studies (e.g. curation, obsidian hydration, obsidian sourcing).	6
☐	Obtain commitments for the field crew, including an individual qualified in first aid.	4
☐	Field check the site for conditions which may require correction prior to field work (e.g., vegetation, waterlogged site soils). More than one visit may be necessary.	4
☐	Check the availability of lodging, and arrange for it if necessary.	4
☐	Arrange for backfill material, should wet screening will result in insufficient material to fill units.	4
☐	If burials are likely to be encountered, notify the County Coroner.	3
☐	Arrange for evening/weekend guards at the site, if necessary.	3

	Action	Minimum Lead Time (weeks)
☐	Coordinate with the District Public Information Officer. If requested, prepare a press statement.	3
☐	Check the condition of field equipment. Repair, replace, or obtain what is needed. Organize forms, materials, and supplies.	2
☐	Determine the need for any particular safety measures. Confer with the District Safety Officer, if necessary.	2
☐	Prepare a study fact sheet for field crew discussing the study schedule, logistics, and work expectations.	2
☐	Arrange for vehicles, including one with a radio, if available.	2
☐	Arrange for any necessary toilet facilities.	2
☐	Obtain safety covers for all open units and safety covers or effective barriers for all open trenches.	1
☐	Arrange for shoring material to be available if needed.	1
☐	Identify a secure location for equipment storage.	1
☐	Arrange lodging for the crew, if necessary.	1
☐	Arrange a report-in schedule with your Supervisor.	1

EXHIBIT 12: EXEMPT UNDERTAKINGS

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a streamlined approach for that may change FHWA's what is considered an exempt or screened undertaking. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.

The following classes of undertakings are considered exempt from further review or consultation. Classes of exempt undertakings include those projects that have been determined to have no potential to affect historic properties. Exempt undertakings are non-construction-related projects and never require review. The cultural resource professional, when applying the exempt rule, shall ensure that the undertaking does not entail ground disturbing or any other activities that could affect historic properties, or alter character-defining features of historic properties more than 50 years of age, or involve properties to which an Indian tribe may attach religious and/or cultural significance.

CLASSES OF EXEMPT UNDERTAKINGS INCLUDE:

1. Ridesharing activities, including purchase of vehicles, but not including establishment of park and ride lots.
2. Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increased service to meet routine changes in demand.
3. The purchase of maintenance equipment and operation of maintenance equipment located within a mass transit facility.
4. Freeway service patrol.
5. Conversion of vehicles from gasoline to alternative fuels.
6. Alteration of vehicles to make them accessible for the elderly and persons with disabilities.

EXHIBIT 13: AREA OF POTENTIAL EFFECTS DELINEATION GUIDELINES

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a streamlined approach for that may change FHWA's approval process for setting APE limits. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA.

FHWA is responsible under 36 CFR 800 for establishing the APE{ XE "APE:set by FHWA" } for its undertakings and for consulting with SHPO on the adequacy of the APE as part of determining the scope of identification efforts (36 CFR 800.4(a)). The District Environmental Branch usually develops preliminary APE maps{ XE "APE:maps" } for review and approval by the FHWA Transportation Engineer. The FHWA Transportation Engineer officially sets the APE by signing the map.

The APE is "the geographic area or areas within which an undertaking may directly or indirectly cause alterations to the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking." Depending on the proposed undertaking, the APE may be different for archaeological resources than for built resources.

The APE delineates the boundaries of the proposed undertaking, which may include, but are not limited to, the:

- proposed right of way,
- temporary construction easements,
- utility relocations, access roads,
- equipment storage areas,
- slope and drainage easements,
- stormwater detention basins,
- biological mitigation sites,
- conservation and scenic easements, and
- borrow and disposal sites.

The APE may be more or less than the right of way, depending on the scope and design of the undertaking. The APE depends on the undertaking's potential for direct, indirect, and/or cumulative effects.

Considerations for indirect effects include but are not necessarily limited to

- visual intrusions,
- profile of proposed structures,
- changes in noise levels,
- vibration,
- pollution, as well as
- effects caused by change in access.

Therefore, the APE for buildings and structures typically includes, but is not necessarily limited to, the first row of buildings or structures that would remain after project construction. Traditional cultural properties, prehistoric or historical archaeological sites, or cultural landscapes may also be subject to indirect effects and the APE may vary according to the property type and undertaking.

APE maps must be of a scale suitable to depict the boundaries of major project features (e.g., right-of-way, edge of pavement) relative to cultural resource boundaries. The map should depict:

- existing right-of-way lines,
- construction limits,
- new right-of-way lines (if applicable),
- indirect impact limits, and
- National Register and/or CEQA historical resources boundaries for all eligible properties and resources.

In order to encourage consideration of historic properties early in the planning and design of an undertaking, Caltrans cultural resource specialists, in consultation with the Project Development Team, may designate a study area for use in conducting historical studies until an APE can be delineated. The study area should encompass all lands that might possibly be included in the final APE. The study area is especially pertinent to those undertakings for which a phased identification and evaluation process is employed.

The APE shall be reassessed whenever an undertaking is revised (e.g., changes in design features, utility relocation, or addition of off-site mitigation areas). If the original APE is not sufficient, it shall be revised commensurate with the nature and scope of the potential effects of the change. The Caltrans cultural resource professional, in consultation with the Project Development Team and the FHWA Transportation Engineer, will determine if the change requires modification to the APE. Caltrans is responsible for informing consulting par-

ties in a timely manner of any changes to the undertaking that require a change to the APE.

EXHIBIT 14: RESOURCES EXEMPT FROM EVALUATION

Note: Caltrans drafted a Programmatic Agreement for approval by FHWA and SHPO. The issue of how to treat "exempted resources" is included in the draft Programmatic Agreement. Therefore, the definition of an "exempted resource," as well as what is included on the list, may change with the acceptance of that agreement. This section will be revised accordingly upon final acceptance of the agreement by Caltrans, FHWA and SHPO.

Section 106 regulations require a "reasonable and good faith effort" to identify historic properties (36 CFR 800.4[b][1]). The procedures identified in this attachment concentrate Caltrans efforts on resources that could be significant, rather than giving equal treatment to resources with little or no potential for listing in the National Register of Historic Places.

Caltrans cultural resource professionals evaluate resources when there is a compelling reason to do so, such as when there is some apparent potential for significance. Reasons include evidence of associations with significant historic events or individuals (criteria A or B); engineering, artistic, design, or aesthetic values (criterion C); information value (criterion D); the presence of community concerns; or inclusion as a potential contributing element within a larger resource requiring evaluation, such as a historic or cultural landscape or historic district.

This exhibit defines categories of resources that do not warrant evaluation. Exempted resources may be documented commensurate with the nature of the resource (e.g. Primary Record form, Location Map, Memo to File, GIS cultural database).

PREHISTORIC AND HISTORICAL ARCHAEOLOGICAL RESOURCES

Caltrans cultural resource professionals or consultants who meet the Caltrans Archaeological Qualification Standards (Attachment 1) for Lead Surveyor and above are authorized to determine which archaeological resources may be exempted from evaluation. This exemption process does not include archaeological sites or any other cultural remains and features that may qualify as contributing elements of districts and landscapes.

ARCHAEOLOGICAL RESOURCE TYPES EXEMPT FROM EVALUATION

- Isolated prehistoric finds consisting of fewer than three items per 100 m^2 except temporally diagnostic formed tools/artifacts (e.g., projectile points, shell beads)
- Isolated historic finds consisting of fewer than three artifacts per 100 m^2 (e.g., several fragments from a single glass bottle are one artifact)

- Refuse scatters less than 50 years old (scatters containing no material that can be certainly dated as older than 50 years old)
- Features less than 50 years old (those known to be less than 50 years old through map research, inscribed dates, etc.)
- Isolated refuse dumps and scatters over 50 years old that lack a specific association
- Re-deposited cultural soil
- Isolated mining prospect pits
- Placer mining with no associated structural remains or archaeological deposits

ARCHITECTURAL AND HISTORICAL RESOURCES (BUILT ENVIRONMENT RESOURCES)

Certain architectural and historical (built environment) property types are exempt from evaluation. Historical Resource Types 1 and 2 normally do not require further documentation.

Caltrans cultural resource professionals or consultants who meet the Caltrans Qualification Standards for Architectural Historian or Lead Archaeological Surveyor and above are authorized to determine which architectural and historical resources fall under Resource Type 1 and are exempt from evaluation.

Under the June 1, 2001 "Caltrans Interim Policy for the Treatment of Buildings Constructed in 1957 or Later," Caltrans staff who meet architectural historian standards as in that policy are authorized to exempt buildings under Resource Type 2. (**See Exhibit 15**)

ARCHITECTURAL AND HISTORICAL RESOURCE TYPES EXEMPT FROM EVALUATION

1. Minor, ubiquitous or fragmentary infrastructure elements
2. Buildings constructed in 1957 or later, as outlined in the Interim Policy

The following list does not apply to potentially important resources over 50 years old or resources that may contribute to the significance of larger historic properties such as districts or cultural landscapes.

RESOURCE TYPE 1: MINOR, UBIQUITOUS OR FRAGMENTARY INFRASTRUCTURE ELEMENTS

Water Conveyance and Control Features

- natural bodies of water providing a water source, conveyance, or drainage
- modified natural waterways

- fragments of abandoned canals and concrete-lined canals less than 50 years old
- roadside drainage ditches and secondary agricultural ditches
- small drainage tunnels
- flood storage basins
- reservoirs and artificial ponds
- levees and weirs
- gates, valves, pumps, and other flow control devices
- pipelines and associated control devices
- water supply and waste disposal systems

Recent Transportation or Pedestrian Facilities

- working roads and highways, including associated features other than bridges
- working railroads, including associated features other than buildings or bridges
- railroad grades converted to other uses, such as roads, levees, or bike paths
- light rail systems, including shelters, benches, and platforms
- bus shelters and benches
- airstrips and helicopter landing pads
- vista points and rest stops
- toll booths
- truck scales and inspection stations
- city streets, alleys, and park strips
- sidewalks, curbs, berms, and gutters
- bike paths, off-road vehicle trails, equestrian trails, and hiking trails
- parking lots and driveways

Highway and Roadside Features

- isolated segments of bypassed or abandoned roads
- retaining walls
- curbs, gutters, and walkways
- highway fencing, soundwalls, guard rails, and barriers
- drains and culverts, excluding culverts assigned a Caltrans bridge number
- cattle crossing guards
- roadside, median, and interchange landscaping and associated irrigation systems
- signs and reflectors
- parking meters
- street lighting and controls
- traffic lights and controls
- highway operation control, maintenance, and monitoring equipment

- telecommunications services, including towers, poles, dishes, antennas, boxes, lines, cables, transformers, and transmission facilities
- utility services, including towers, poles, boxes, pipes, lines, cables, and transformers
- oil and gas pipelines and associated control devices

Adjacent Features

- fences, walls, gates, and gateposts not clearly associated with a larger resource
- isolated rock walls and stone fences not clearly associated with a larger resource
- telephone booths, call boxes, mailboxes, and newspaper receptacles
- fire hydrants and alarms
- markers, signs, and billboards
- fragments of bypassed or demolished bridges
- temporary roadside structures, such as seasonal vendors' stands
- pastures, fields, crops, and orchards
- corrals, animal pens, and dog runs
- open space, including parks and recreational facilities
- foundations and mapped locations of buildings or structures more than 50 years
- old with few or no associated artifacts or ecofacts, or no potential for subsurface
- archaeological deposits
- buildings and structure ruins and foundations less than 50 years old

RESOURCE TYPE 2: BUILDINGS CONSTRUCTED IN 1957 OR LATER

- Buildings constructed in 1957 or later, identified by qualified architectural historians who confirm the construction dates, do not require individual documentation. A statement of identification findings is required, as outlined in the Interim Policy.

EXHIBIT 15: CALTRANS INTERIM POLICY FOR THE TREATMENT OF BUILDINGS CONSTRUCTED IN 1957 OR LATER

All Caltrans staff who meet the Secretary of the Interior's Professional Qualifications Standards for architectural history are authorized to exclude from study buildings that were constructed in 1957 or later in time, or that appear because of alterations to have been constructed in 1957 or later.

BACKGROUND

With the tremendous building boom of the last four decades in California, the number of contemporary buildings encountered in areas for proposed transportation projects is approaching unmanageable levels. Currently, a Programmatic Agreement (PA) for compliance with Section 106 of the National Historic Preservation Act is being developed among the Federal Highway Administration (FHWA), Caltrans, and the California State Historic Preservation Officer (SHPO) that will deal with this issue by defining categories of properties that do not warrant evaluation. The proposed agreement would allow Caltrans staff to concentrate efforts on resources that could be significant, rather than giving equal treatment to resources that lack potential for eligibility for the National Register of Historic Places.

In the interim, pending execution of the PA, Caltrans Division of Environmental Analysis has consulted with the State Historic Preservation Officer on the possibility of implementing an internal policy to allow flexibility in the level of effort expended by qualified architectural historians to identify buildings dating from the recent past for actions undertaken by the Department in conjunction with FHWA. The State Historic Preservation Officer believes the approach delineated below as applied by duly qualified Caltrans architectural historians provides a legally sound and reasonable and good faith effort to properly identify buildings constructed before 1957 under Section 106.

SECRETARY OF INTERIOR PROFESSIONAL QUALIFICATIONS FOR ARCHITECTURAL HISTORIANS

"The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in architectural history, art history, historic preservation, or closely related field plus one of the following:

At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic in-

stitution, historical organization or agency, museum, or other professional institution; or

Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history."[i]

IMPLEMENTING THE INTERIM POLICY

To implement this interim policy, qualified architectural history staff will review project Study Areas or Areas of Potential Effect (APE) in through windshield surveys or through such means as photographs or maps, supplemented by other documentation if necessary, to

1) identify buildings that appear to date from 1957 or later, which can be treated under this interim policy, or
2) demonstrate the absence of any buildings constructed before 1957 that might require further study.

After this identification process, no further effort will be required beyond making a statement of findings. Buildings treated under this policy will not require individual documentation, descriptions, listing of addresses, or mapping. Presence of these buildings within a project area will not elevate environmental documentation beyond the level otherwise required.

Enacting this interim policy will immediately reduce the overwhelming volume of contemporary buildings that under existing Caltrans policy have needed at least a minimum level of documentation. It authorizes all Caltrans architectural historians who meet the Secretary of Interior Professional Qualification Standards to treat recent buildings programmatically. By substantially reducing the total number of buildings requiring documentation, it will shorten the survey and document preparation time for Caltrans and streamline the review process for FHWA and SHPO. Evaluation forms are required to be prepared for buildings, which were constructed in 1956, and before.

Excluding these recent buildings from study will remove from consideration a very large number of properties that can be easily recognized by all qualified architectural history staff and are highly unlikely to possess any significance under the National Register criteria. Qualified staff will still retain the authority and the responsibility to exercise professional judgment to conduct further study on any recent buildings that appear to have the potential to possess exceptional significance or may contribute to a potential historic district or historic landscape. Please note: This interim policy applies to buildings and

[i] *Secretary of the Interior's Professional Qualifications Standards, (Federal Register 48: 190, September 29, 1983, p. 44739)*

building complexes only and does not extend to any other property types that might otherwise require study.

Staff will document their application of this policy to a project area in a statement of findings that will be incorporated in pertinent environmental documents. The statement should indicate whether this treatment applies to all buildings in the project area (when no buildings in the project area pre-date 1957), or whether it applies only to some buildings (when there are other buildings in the project area which were constructed prior to 1957).

The statement of findings, per example below, should include the qualified architectural historian's name and specify the extent of the application. The following wording is suggested:

"_____[name]____, who meets the Secretary of the Interior's Professional Qualifications Standards as an architectural historian, has reviewed the project's [Area of Potential Effects (APE)/Study Area] and confirmed that [no buildings/no other buildings] within the [APE/Study Area] appear to predate 1957 or appear to require further study."

This interim policy will remain in effect until a Programmatic Agreement for Section 106 is fully executed among FHWA, Caltrans, and the State Historic Preservation Officer, or until June 30, 2002, whichever comes first.

EXHIBIT 16: NATIONAL REGISTER & CALIFORNIA REGISTER COMPARISON

Boldfaced sections are for emphasis.

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
CRITERIA Law States that the California Register criteria are the same as the National Register criteria. [PRC §5024.1(c)] Regulations "These criteria **are consistent with National Register criteria**, but have been modified for state use in order to include a range of historical resources which better reflect the history of California." (CCR §4852) "A resource **may be listed** as an historical resource in the California Register **if it meets** any of **the following National Register** of Historic Places **criteria**: (1) Is associated with **EVENTS** that have made a significant contribution to the broad patterns of California's history and cultural heritage. (2) Is associated with the lives of **PERSONS** important in our past. (3) Embodies the distinctive characteristics of a **TYPE, PERIOD, REGION,** or **METHOD OF CONSTRUCTION**, or represents the **WORK OF AN IMPORTANT CREATIVE INDIVIDUAL**, or possess **HIGH ARTISTIC VALUES**. (4) Has yielded, or may be likely to yield, **INFORMATION** important in prehistory or history." [PRC §5024.1(c)]	**CRITERIA** *National Register criteria are usually expressed in capital letters. For example, "Criterion A, association with events."* "The quality of significance-in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that **possess integrity** of location, design, setting, materials, workmanship, feeling, and association, **and**: (A) That are associate with **EVENTS** that have made a significant contribution to the broad patterns of our history; or (B) That are associated with the lives of **PERSONS** significant in our past; or (C) That embody the distinctive characteristics of a **TYPE, PERIOD**, or **METHOD OF CONSTRUCTION**, or that represent the **WORK OF A MASTER**, or that possess **HIGH ARTISTIC VALUES**, or that represent a significance and distinguishable entity whose components may lack individual distinction; or (D) That have yielded, or may be likely to yield, information important in prehistory or history.

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
INTEGRITY <u>Law</u> The legislation does not state that the California Register is more inclusive or has a lower threshold of significance than the National Register. There is no mention of integrity in the legislation. <u>Regulations</u> The California Register regulations do address integrity.	**INTEGRITY**
"Integrity is the **authenticity** of an historical resource's **physical identity evidenced by the survival of characteristics that existed during the resources' period of significance**.	"Integrity is the **ability of a property to convey its significance**. . . . Historic properties either retain their integrity or they do not." Guidance for assessing integrity is in National Register Bulletin 15, pages 44-49.
Historical resources eligible for listing in the California Register **must**: -meet one of the criteria of significance described in CCR §4852(b) of this chapter **and** - retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. Historical resources that have been rehabilitated or restored may be evaluated for listing." [CCR §4852 (c)]	"**Integrity is based on significance: why, where and when a property is important**. Only after significance is fully established can you proceed to the issue of integrity. . . Ultimately the question of integrity is answered by whether or not the property retained the identify for which it is significant." [page 45] "All properties change over time. It is not necessary for a property to retain all its historic physical features or characteristics. **The property must retain**, however, the **essential physical features that enable it to convey its historic identity.** These **essential physical features** are those features that **define both *why* a property significant** (Applicable criteria and Areas of Significance) **and *when* it was significant** (Periods of Significance). They are features without which a property can no longer be identified as, for instance, a late 19th century dairy barn or an early 20th century commercial district." [page 46]

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
INTEGRITY (continued) "Integrity is evaluated with regard to the retention of - location - workmanship - design - feeling - setting - association - materials **It must also be judged with reference to the particular criteria under which a resource is proposed for eligibility**." [CCR §4852 (c)] "**Alterations** over time to a resource **or historic changes in its use may themselves have historical, cultural, or architectural significance**." [CCR §4852 (c)]	**INTEGRITY (continued)** "The quality of significance . . . is present in districts, sites, buildings, structures, and objects that possess integrity of: - location - workmanship - design - feeling - setting - association - materials "To retain historic integrity a property will always possess several, and usually most, of the aspects. The retention of specific aspects of integrity is paramount for a property to convey its significance. **Determining which of these aspects are most important to a particular property requires knowing why, where, and when the property is significant**." [page 44] Provides guidance for evaluating integrity under each of the four eligibility criteria. As with the California Register regulations, the National Register recognizes that alterations and changes in a property's use over time may themselves have significance. This is expressed most clearly under Criterion C "A **property can be significant** not only for the way it was originally constructed or created, but **also for the way it was adapted at a later period, or for the way it illustrates changing tastes attitudes, and uses over a period of time**." [NR page 19]
ELIGIBILITY FOR INFORMATION POTENTIAL - when Integrity Lacking <u>Law</u> Eligibility under Criterion 4 when integrity is lacking is not mentioned in the law. California Register law states under criterion 4, a resource may be listed if it: "Has yielded, or may be likely to yield, **information <u>important</u> in prehistory or history**." [PRC §5024.1(c)(4)] Language between the law and the regulations is different. The language in PRC §5024.1 is closer to the National Register language.	**ELIGIBILITY FOR INFORMATION POTENTIAL - when Integrity Lacking**

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
ELIGIBILITY FOR INFORMATION POTENTIAL – when Integrity Lacking (continued) Regulations Language is similar to the guidance in *National Register Bulletin 15* regarding eligibility under National Register Criterion D when there is a lack of integrity under the other criteria. "It is possible that historical resources **may not retain sufficient integrity to meet the criteria for listing in the National Register, but they may still be eligible for listing in the California Register**. A resources that has lost its historic character or appearance **may still have sufficient integrity** for the California Register if it maintains the **potential to yield significant** scientific or historical **information or specific data**." [CCR §4852 (c)] The California Register Regulations uses the term "**significant** scientific or historical **information** or **specific data**," but does not define it.	**ELIGIBILITY FOR INFORMATION POTENTIAL - when Integrity Lacking (continued)** "The assessment of integrity for properties considered for information potential depends on the data requirements of the applicable research design. A property possessing **information potential does not need to recall *visually*** an event, person, process, or construction technique. It is important that the **significant data contained in the property remain sufficiently intact** to yield the expected important information, if the appropriate study techniques are employed." [Criterion D on page 23] "For **properties eligible under Criterion D**, including archeological sites and standing structures studied for their information potential, **less attention is given to the overall condition, than if they were being considered under criteria A, B, or C**." [page 44] "Criterion D has two requirements which must both be met for a property to qualify, "The property must have, or have had, **information** to contribute to our understanding of human history or prehistory, **and** the **information must be considered important**." [page 21] NRB 15 uses the term "important information potential" and provides definitions and guidance on pages 21-24.
RELIGIOUS PROPERTIES, BIRTHPLACES, GRAVES, CEMETERIES & COMMEMORATIVE PROPERTIES Law Not mentioned in the law.	**RELIGIOUS PROPERTIES, BIRTHPLACES, GRAVES, CEMETERIES & COMMEMORATIVE PROPERTIES**
RELIGIOUS PROPERTIES, BIRTHPLACES, GRAVES, CEMETERIES &	**RELIGIOUS PROPERTIES, BIRTHPLACES, GRAVES, CEMETERIES &**

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
COMMEMORATIVE PROPERTIES Regulations These resources fall under the category of "Special Considerations" in the regulations. The following properties **may** be listed in the California Register: - religious properties - birthplaces - graves - cemeteries - commemorative resources California Register criteria have no exceptions for these types of properties. As long as they meet the criteria in CCR §4852 (b)(1) through (4) and have integrity, they can be listed.	**COMMEMORATIVE PROPERTIES** These resources are considered "**Criteria considerations.**" *Criteria considerations are usually expressed in lower case letters in parentheses. For Example, "Criteria Consideration (a)."* The following properties **are not normally eligible** unless they met some very specific measurements: [National Register Criteria Considerations a, c, d, f] - religious properties [Consideration (a)] - birthplaces [Consideration (c)] - graves [Consideration (c)] - cemeteries [Consideration (d)] - commemorative properties [Consideration (f)] For **religious properties**, it is to "avoid any appearance of judgment by government about the validity of any religion or belief." (page 26) **Birthplaces and graves** may be "temporally and geographically far removed from the person's significant activities, and therefore are not usual considered eligible." (page 32) "**Cemeteries** serve as a primary means of an individual's recognition of family history and as expressions of collective religious and/or ethnic identity." However, if cemeteries "embody values beyond personal or family-specific emotions, the national Register criteria allow for listing of cemeteries under certain conditions." (page 34) **Commemorative properties** are "not directly associated with the event or with the person's productive life but serve as evidence of a later generation's assessment of the past… [and] generally must be over fifty years old and must possess significance based on [their] own value, not on the value of the event or person being memorialized. " (page 39)
MOVED BUILDING & STRUCTURES Law	**MOVED BUILDING & STRUCTURES**

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
Not mentioned in the law. Regulations These resources fall under the category of "Special Considerations" in the regulations. A **moved** building, structure or object that is otherwise eligible "**may** be listed in the California Register if: - it was **moved to prevent its demolition** at its former location **and** - if the **new location is compatible with the original character and use** of the historical resource. An historical resource **should retain its historic features and compatibility in orientation, setting, and general environment**." [CCR §4852 (d)(1)] [See also the definition of object under CCR §4852(a)(4).]	A **moved** building, structure or object under National Register criteria consideration (b) **is usually not considered eligible** for the National Register unless: it is was **moved prior to its period of significance** (**and is significant at its new site**), is **significant primarily for architectural value**, or - is the **surviving structure most importantly associated with a historic person or event**. Guidance for applying criteria consideration (b) is on pages 29-31.
PROPERTIES LESS THAN 50 YEARS OLD Law Not mentioned in the law.	**PROPERTIES LESS THAN 50 YEARS OLD**
Regulations These resources fall under the category of "Special Considerations" in the regulations. A resource that is **less than fifty years old** "**may be considered for listing** in the California Register if - it can be demonstrated that **sufficient time has passed to understand its historical importance**" - it **does not have to be exceptionally important**. [CCR §4852 (d)(2)]	A property that is less than fifty years old under National Register criteria consideration (g) **is usually not considered eligible for the National Register unless it is of exceptional importance**, a phrase that may be applied to the extraordinary importance of an event or to an entire category of resources so fragile that survivors of any are unusual. Guidance for applying criteria consideration (g) is in NRB 15, pages 41-43.

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
PROPERTIES LESS THAN 50 YEARS OLD (continued) This section states that "in order to understand the historical importance of a resource, **sufficient time must have passed to obtain a scholarly perspective** on the events or individuals associated with the resources."	**PROPERTIES LESS THAN 50 YEARS OLD (continued)** "Fifty years is a **general estimate of the time needed to develop historical perspective and to evaluate significance**." [NRB 15 page 41] "The **necessary perspective can be provided by scholarly research and evaluation**, and must consider both the historic context and the specific property's role in that context." [NRB 15 page 42]
RECONSTRUCTED BUILDINGS <u>Law</u> Not mentioned in the law. <u>Regulations</u> These resources fall under the category of "Special Considerations" in the regulations. A reconstructed **building (as opposed to structure or object)** is not listed in the California Register under CCR §4852 (b)(1)-events, (2)-lives, (3)-distinctive characteristics, etc. A **reconstructed building that is less than fifty years old "may be eligible if it embodies traditional building methods and techniques that play an important role in a community's historically rooted beliefs, customs, and practices**, e.g., a Native American roundhouse." [CCR §4852 (d)(3)] This is a broader interpretation than for reconstructions under the National Register, but it only applies to buildings, not structures, objects or districts.	**RECONSTRUCTED BUILDINGS** A **reconstructed property** under National Register criteria consideration (e) is usually **not considered eligible** for the National Register **unless it is accurately executed in a suitable environmental and presented in a dignified manner as part of a restoration master plan and when no other building or structure with the same association has survived**. This applies mainly to reconstructions that are less than fifty years old because when they attain fifty years of age, they may qualify in their own right under any of the National Register criteria. Guidance for applying criteria consideration (e) is in NRB 15, pages 37-38.

EXHIBIT 17: HISTORIC PROPERTY SURVEY REPORT FORMAT AND CONTENT GUIDE

The Historic Property Survey Report (HPSR) is the summary document FHWA uses as its consultation and decision-making document. It is used to request SHPO's comments on the adequacy of the identification efforts (including APE delineation) and to request SHPO concurrence on FHWA's determinations of eligibility for properties that were evaluated within the Project APE. The HPSR also is sometimes used to request SHPO's concurrence on FHWA's proposed Finding of No Historic Properties Affected. Simultaneously, Caltrans uses the HPSR to demonstrate compliance with CEQA.

HPSR FORMAT

- Title page
- Summary of Findings
- Project Description
- Summary of Identification Efforts
- Public Participation
- Cultural Resources Identified
- No Historic Properties Affected Finding (as appropriate)
- Informal Views
- Exhibits
- Maps
- Back-up Reports
- Other Attachments

Don't forget the transmittal memo!

The HPSR provides the documentation that demonstrates completion of the identification phase, completion of National Register eligibility evaluation of the resources within the project APE, and when relevant a Finding of No Historic Properties Affected. The historic resource study reports are attached to the HPSR as supporting documentation. The summary sections in the HPSR should refer to the attached supporting documents for full technical details. Summaries in the HPSR of cultural resource studies should provide sufficient information so that the reader clearly can understand the reasoning behind FHWA's determinations of eligibility and, if applicable finding of effect.

GENERAL HPSR FORMAT

Include the following information in the HPSR:

TITLE PAGE

Identify project by Caltrans district, county, route, post mile limits, kilo posts, and EA. A brief descriptive title, such as "Minor Widening on Route 53 between Fern Creek and Matador Road," may also be used.

SUMMARY OF FINDINGS (MANAGEMENT SUMMARY)

State the purpose of the document (e.g., to document the adequacy of identification efforts, to request SHPO concurrence on FHWA's determination(s) of

National Register eligibility or ineligibility for evaluated cultural resources, and to document FHWA's proposed finding of "No Historic Properties Affected," if applicable); and brief summarize the results of cultural resource studies.

I. PROJECT DESCRIPTION

a) Describe the project concisely.
b) Include a map showing the project's location.
c) Provide a map of the area investigated, with the Area of Potential Effects (APE) delineated and signed by the FHWA Transportation Engineer (to be included as an exhibit: see item 9 below). If there are historic properties, the APE map should also depict boundaries of any National Register listed or eligible properties (including previously determined eligible and newly evaluated as eligible properties).

II. SUMMARY OF IDENTIFICATION EFFORTS

Include inventories, facilities, and persons consulted at a minimum, the following:

- National Register of Historic Places and updates;
- California Register of Historical Resources;
- California Inventory of Historic Resources;
- California Historical Landmarks;
- The appropriate Information Center of the California Historical Resources Information System.

Note also any other sources (human or archival) used, such as county assessors records, historical society or museum archives, oral histories taken from property owners or old-timers, etc.

Describe the results of the research.

III. PUBLIC PARTICIPATION

Summarize coordination efforts and public comments received to date. If the project is simple, limit these to contacts (including form letter notifications) with local historical societies, Native Americans, governments, or other interest groups. For projects involving ND/FONSIs or EIR/EISs, public involvement may include map displays or public hearings. Describe NEPA public involvement events that are expected as well as those that have occurred.

IV. CULTURAL RESOURCES IDENTIFIED

List cultural resources that were identified within the APE, and provide pertinent information for each of them. Include concise but sufficient background

and contextual information about the project area so that the reader can understand the significance (or lack of significance) of the evaluated resources. Be sure to include summary information about National Register eligibility and whether a resource is a significant resource under CEQA.

Include, as appropriate:

a) Historic properties listed in the National Register.
b) Historic properties previously determined eligible or not eligible for the National Register.
c) Potentially eligible historic properties, referring to eligibility evaluations in attached supporting documentation.
d) Properties which appear potentially eligible but for which further study is needed because evaluation was not possible (e.g., archaeological sites that require a test excavation to determine eligibility).
e) Resources evaluated as not eligible for inclusion the National Register, referring to relevant attached supporting documentation.
f) Historical Resources for the purposes of CEQA (includes National Register and California Register listed and eligible properties, California Register listed or eligible (per State Historical Resources Commission determination) resources, resources identified as significant in surveys that meets Office of Historic Preservation standards, resources that are designated landmarks under local ordinances, and resources that meet the California Register criteria as outlined in PRC 5024.1)
g) Resources that are not significant resources under CEQA

To facilitate SHPO's ability to maintain the Office of Historic Preservation's comprehensive, computerized inventories of eligible and ineligible resources, the identifying information for the resources needs to follow a specific format that includes the name of a property (if there is one), location information, the community the resources is in (or the nearest community) and the Map Reference number that is keyed to the APE map. For example:

The following properties appear to eligible for inclusion in National Register and are historical resources under CEQA:

Name	Address/Location	Community	Map Reference Number
Smith House	451 Main St.	Anywhere, CA	(Map Reference #1)
Ortega Feed Store	10097 Highway 4	Anywhere (vic.), CA	(Map Reference #5)

None of the following properties which pre-date 1957 appear to be eligible for inclusion in the National Register and are not historical resources under CEQA:

Name	Address/Location		Community	Map Reference Number
Able's Prune Packing Plant	35	E. Canterbury St.	Someplace, CA	(Map Reference #1)
Melville Apts.	8012	S. Oceanview Dr.	Someplace, CA	(Map Reference #5)
Little River RR Viaduct		Next to SR 43, KP 10.7	El Nido, CA	(Map Reference #18)

Repeat for resources that are historical resources for the purposes of CEQA, and those that are not historical resources for purposes of CEQA because they do not meet the California Register criteria.

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a streamlined approach for exempting certain cultural resources from evaluation. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA. Until then, the Interim Policy for the Treatment of Buildings Constructed in 1957 or Later is in effect.

Do not list properties that were constructed in 1957 or after if they are ineligible. Instead state, for example:

Twelve properties, which were constructed in 1957 or after, are located within the APE; in accordance with the "Interim Policy for the Treatment of Buildings Constructed in 1957 or Later," none of these appear to be eligible for inclusion in the National Register, are not historical resources under CEQA, and required no further study.

Provide the site trinomial (e.g., CA-Tri-433) for each archaeological site covered in the document. Temporary numbers are not acceptable.

V. DOCUMENTATION TO SUPPORT THE PROPOSED FINDING OF "NO HISTORIC PROPERTIES AFFECTED"

Include the informal views of the SHPO, if known, and others, as appropriate. If ESAs are used to ensure that the project will have no effect on evaluated resources, describe them here. Include all restrictions on activities within the ESA and describe how the restrictions will be enforced (e.g., by placing the restrictions in the PS&E, fencing, monitoring construction, etc.). Include any other relevant information to support the proposed finding.

VI. INFORMAL VIEWS

State the informal views of the SHPO or others (e. g., ACHP, NPS, etc.) on eligibility or effect, if known.

VII. EXHIBITS

a) Location Map, Project Vicinity Map and APE Map

Include, at minimum, a map showing project location and vicinity, and a project APE map illustrating the proposed project, upon which the APE limits have been delineated. If no cultural resources are present and a Negative HPSR form is used, the project APE map must simply be of sufficient scale to document the APE as set by the FHWA Transportation Engineer.

If cultural resources are present, the project APE map must be of sufficient scale (200' scale is preferred) and have enough project detail to demonstrate the relationship of historic properties to the proposed project, especially important if the HPSR serves for consultation on No Historic Properties Affected. Clearly show the APE, the location of all properties discussed, the boundaries of any eligible or listed historic properties, and the boundaries of any ESAs used. Include a scale and north arrow.

b) Photographs and Other Exhibits

Include other appropriate exhibits. Good clear exhibits and graphics are invaluable to demonstrate the arguments and decisions discussed made in the text.

Photos and graphics, which illustrate the following, can enhance the HPSR's effectiveness as a consultation tool:

- integrity (or lack of it) of cultural resource(s)
- integrity of setting for cultural resource(s),
- engineering plans,
- profiles and cross-sections which show the actual limits of project effects,

SHPO's copy of the HPSR should either contain original photographs or scanned images that are clear when printed out.

VIII. APPENDICES

Include, as appropriate:

- Archaeological Survey Report, Extended Survey Report
- Historic Resource Evaluation Report
- Bridge Evaluation
- Test Excavation Report
- Letters from historical societies, Native American groups, local governments, other special interest groups, the SHPO, etc.

EXHIBIT 18: NEGATIVE HPSR FORMAT

Apply the following directions to the Negative HPSR form shown on the next page:

I. HIGHWAY PROJECT DESCRIPTION AND LOCATION

Concisely describe the project. For location, refer to appropriate exhibits.

II. AREA OF POTENTIAL EFFECTS

Briefly describe the APE. Name the FHWA Transportation Engineer approving the APE and give the date of the approval.

III. SOURCES CONSULTED

List sources consulted.

IV. LIST OF ATTACHED DOCUMENTATION

List attached technical reports and correspondence.

V. CALTRANS APPROVALS

Sign as required on the form.

VI. FHWA DETERMINATION

BOX A: Most Negative HPSRs will use Box A, which applies when no archaeological sites, buildings, structures, or any other cultural resources are located within the APE or Study Area. Attach any studies, which demonstrate the negative findings, such as a Negative ASR.

BOX B: By agreement between SHPO, FHWA, and Caltrans, dated March 1, 1984, use of Box B is limited to situations where SHPO has already concurred that a building or structure is not eligible, as described below.

- The APE contains only properties treated under the "MOU Regarding Evaluation of Post-1945 Buildings, Moved Pre-1945 Buildings, and Altered Pre-1945 Buildings," prepared by designated Caltrans staff. Attach a copy of the signed MOU for properties in the APE.
- The APE contains only buildings or structures determined ineligible in previous consultation with the SHPO. Attach a copy of the SHPO concurrence letter or other evidence of the finding.
- The APE contains only a highway bridge, which has already been, determined Category 5, ineligible for the National Register. Attach a copy of the relevant page of the Bridge Inventory.

Box B may not be used for archaeological sites however disturbed or limited in research potential.

VII. FHWA TRANSPORTATION ENGINEER APPROVAL

Sign as required on the form.

[This exhibit to be re-formatted later]

NEGATIVE HPSR FORM

California Department of Transportation

I. HIGHWAY PROJECT DESCRIPTION AND LOCATION

District	County	Route	Post Mile	Charge Unit	Expenditure Authorization

Description:

II. AREA OF POTENTIAL EFFECTS

Description:

III. SOURCES CONSULTED

Month/Year

- ☐ National Register of Historic Places and updates to: _____
- ☐ OHP Database of Determinations of Eligibility and updates to: _____
- ☐ California Register of Historical Resources and updates to: _____
- ☐ California Historical Landmarks and updates to: _____
- ☐ California Points of Historical Interest and updates to: _____
- ☐ California Inventory of Historic Resources
- ☐ Caltrans Historic Highway Bridge Inventory
- ☐ Archaeological Site Records [Name of institutions] _____
- ☐ Local Historical Society (Names and dates contacted) _____
- ☐ Other (Names and dates) _____

IV. LIST OF ATTACHED DOCUMENTATION

- ☐ Archaeological Survey Report (ASR)
- ☐ Correspondence from SHPO
- ☐ Post-1945 MOU Short-form HASR
- ☐ Caltrans Historic Highway Bridge Inventory print-out
- ☐ Other (Specify)

V. CALTRANS APPROVALS

Recommended for Approval: _____ _____
District ____ Heritage Resource Coordinator Date

Approved: _____ _____
Chief, District Environmental Planning Branch Date

VI. FHWA DETERMINATION

Check one:

☐ **A. No cultural resources are present within or adjacent to the project's APE.**

☐ **B. The only cultural resources present within or adjacent to the project's APE are:**

☐ Post-1945, Moved or Altered Pre-1945 buildings treated in accordance with the Post-1945 MOU
☐ Buildings or structures previously determined ineligible in consultation with the SHPO
☐ Bridges listed as Category 5 in the Caltrans Historic Highway Bridge Inventory

VII. FHWA TRANSPORTATION ENGINEER APPROVAL

Cultural studies are complete and satisfactory. The requirements of 36 CFR 800 have been completed.

_____ _____
Name Date

EXHIBIT 19: NEGATIVE ARCHAEOLOGICAL SURVEY REPORT (ASR) FORMAT AND CONTENT GUIDE

I. HIGHWAY PROJECT DESCRIPTION

Identify the district, county, route, post miles, kilometer posts, and expenditure authorization (EA).

Describe briefly the type of highway project proposed and its location. Refer to the Study Vicinity Map, Study Location Map, and Study Coverage Map that are attached to the form as Figures 1-3.

State whether or not new right of way is required for the project.

II. STUDY FINDINGS

Modify the form, if necessary.

III. INTRODUCTION

Surveyors -- Provide the names of surveyors, their qualifications, and their individual dates of fieldwork. Qualifications must include relevant educational background, number of years and general geographical location of archaeological field experience, and Caltrans certification level. A Caltrans job title should not be listed as a qualification.

Present Environment -- Note the general physiographic and ecological settings, and any elements of historic disturbance (e.g., agriculture, grazing, and highway construction).

Ethnographic affiliation -- Identify the ethnographic inhabitants of the region and cite one or more major ethnographic reference. If the ethnographic affiliation of the study area is unclear, state so and cite relevant references.

IV. SOURCES CONSULTED

Required Sources: Consult the sources listed below and check the appropriate box on the form:

- National Register of Historic Places;
- California Register of Historical Resources
- California Inventory of Historic Resources (State of California 1976);
- California Historical Landmarks (State of California 1990, or most recent);
- CHRIS Information Center(s): Conduct an archaeological site records search at the appropriate Information Center. Indicate the Information Cen-

ter consulted and the date the record search was conducted. Retain documentation of this contact in the project file.

Other Sources: Note any other institutions or agencies where records, archives or other information were checked based on the required sources listed in Chapter 4, Section 4.3. Cite any sources identifying the location of ethnographic villages.

Results: State the results of the above research and define the area for which the search was conducted (e.g. 1 mile radius).

V. FIELD METHODS

Describe explicitly the survey methods (e.g., "parallel transects at 15-meter intervals"). Describe any problems encountered which may have affected survey results (e.g. dense vegetation, steep slope, access problems, etc.) and techniques employed to compensate for these difficulties. Describe why any areas were not surveyed.

VI. REMARKS

Describe any particular concerns not discussed elsewhere, or expand upon previously discussed topics. If isolates were identified, note them here.

VII. CERTIFICATION

Provide the name, Caltrans job title, and dated signature of the person who prepared the report. If the form was filled out by an archaeologist certified only at Level I, the report must be reviewed and signed by an archaeologist certified at Level II. Otherwise, the reviewer block can be left blank.

VIII. MAPS

Attach three maps to each copy of the report. Check the appropriate box, identify the USGS topographic quadrangle by name, type (e.g. 7.5-minute), and date of latest revision. On each map, include a label identifying the project district, county, route, post miles, kilometer posts, and EA. On the Study Location Map and Study Coverage Map, include north arrows and bar scales.

- **Study Vicinity Map** - Point to the location of the study area on a district or county map.
- **Study Location Map** - Outline the limit of survey coverage on a portion of the appropriate USGS topographic quadrangle. Although the Study Coverage Map (below) will serve as the map of record, this Study Location Map will be incorporated into the CHRIS and OHP records.
- **Study Coverage Map** - The base for this map may be either a planimetric map or an aerial photograph. It must be of sufficient scale (e.g., 1":200ft, 1":100ft, etc.) to document survey coverage in detail. Clearly delineate the

exact limits of the area surveyed. Identify areas that could not be examined on foot, as described in the "Field Methods" section.

IX. OTHER FIGURES

Photographs are not ordinarily required, although they may be attached to illustrate a particular relationship between site borders and project limits. If photographs are taken (even if they are not attached), refer to the photograph file number in the space provided.

X. REFERENCES CITED

Include only those references cited within the text of the report. Bibliographic format may follow the most recent style guide for *American Antiquity*.

DEPARTMENT OF TRANSPORTATION

NEGATIVE ARCHAEOLOGICAL SURVEY REPORT

DPD-EP-25 (REV. 2/83)

I. HIGHWAY PROJECT DESCRIPTION

District	County	Route	Post Miles	Kilometer Posts	Expenditure Authorization

II. STUDY FINDINGS

No archaeological resources were identified within or immediately adjacent to the project area. Additional survey will be required if project plans are changed to include area not previously surveyed. If buried cultural materials are encountered during construction, it is Caltrans' policy that work stop in that area until a qualified archaeologist can evaluate the nature and significance of the find.

III. INTRODUCTION

Name of Surveyor(s)	Qualifications	Date(s) of Fieldwork

Present Environment:

Ethnographic Affiliation:

IV. SOURCES CONSULTED

National Register of Historic Places
California Register of Historical Resources
California Inventory of Historic Resources
California Historical Landmark
CHRIS -- Information Center: Date:
Other:

Results:

DEPARTMENT OF TRANSPORTATION

NEGATIVE ARCHAEOLOGICAL SURVEY REPORT- Page 2

DPD-EP-25 (REV. 2/83)

V. FIELD METHODS

VI. REMARKS

VII. CERTIFICATION

Preparer: **Title:**

Signature: _____ **Date:** _____

Reviewer: **Title:**

Signature: _____ **Date:** _____

VIII. MAPS

Study Vicinity Map
Study Location Map -- Quad:
Study Coverage Map

IX. PHOTOGRAPHS

Photographs Taken -- File No.:
Attached

X. REFERENCES CITED

EXHIBIT 20: POSITIVE ARCHAEOLOGICAL SURVEY REPORT (ASR) FORMAT AND CONTENT GUIDE

TITLE PAGE

- In the title, identify the type of study (positive archaeological survey), type of highway project (e.g. "Proposed Truck Passing Lane"), and general location of the study (e.g. "near Los Baños, Merced County, California"). **Do *not* include post miles or other precise locational information** (e.g., "Poso Creek Bridge") **in the title**, so that bibliographic citation of the report will not disclose site locations.
- Below the title, identify the highway project by district, county, route, post miles, kilometer posts, and expenditure authorization (e.g. "3-SAC-29, P.M. 28.7/31.5, K.P. 46.2/50.7, 03-096110").
- Provide the name, title, and location of the person who prepared the report. This person signs the title page of the final report. If the report has a large number of authors, all should be listed by name, but only the senior author's name, title, location, and signature are needed.
- Provide the name, title, and location of the District Environmental Branch Chief (EBC) for whom the report was prepared. The DEBC approves the report by signing the title page in his/her signature block.
- If a governmental permit for the survey was issued, provide the name of the permitting agency and the permit number.
- List the USGS topographic quadrangle(s) depicting the study area.
- List the approximate acreage included in the study. (To calculate: miles in length *times* width in feet *times* 0.1212 *equals* acres; acres *times* 0.405 *equals* hectares.)
- List the township(s) and range(s) of study area, but not section(s).
- List primary numbers, trinomials, and other permanent designations of all cultural resources identified in the report.
- List keywords identifying the location of the study area, such as landforms (e.g., "Kettleman Hills", "Sunflower Valley"), rivers, or nearby communities.
- List keywords identifying the types of resources identified, such as feature types, diagnostic artifact types, faunal remains, or human burials.
- List the month and year) of completion of the report at the bottom of the page.

TABLE OF CONTENTS

If the report is large enough to make it helpful, provide a Table of Contents, listing the major report sections subheadings, appendices, tables, and figures, with page numbers.

I. SUMMARY OF FINDINGS

Provide an abstract of the intent, methods, scope, and results of the survey. Describe briefly:

- Proposed undertaking;
- Purpose and scope of the survey;
- Any constraints to the survey effort.
- Number and types of identified archaeological resources and their relation to the proposed project's limits (i.e., within or adjacent).
- Include the following statement:

It is Caltrans' policy to avoid cultural resources whenever possible. Further investigations may be needed if the site[s] cannot be avoided by the project. If buried cultural materials are encountered during construction, it is Caltrans' policy that work stop in that area until a qualified archaeologist can evaluate the nature and significance of the find. Additional survey will be required if the project changes to include areas not previously surveyed.

II. INTRODUCTION

Present the date(s) and location of the survey (e.g. on Route 49 in Mariposa County), and reference the Study Vicinity Map, Study Location Map, and Study Coverage Map appended to the report. Provide the names and general qualifications of the surveyors (relevant educational background, number of years and general geographical location of field experience, Caltrans certification level).

III. HIGHWAY PROJECT LOCATION AND DESCRIPTION

- State the district, county, route, post miles, kilometer posts, and expenditure authorization.
- Describe the project location as to its rural or urban setting and relation to communities or other major regional landmarks.
- Describe the proposed highway project briefly, and indicate whether or not new right of way is required.

IV. SOURCES CONSULTED

- Indicate the results of consulting the National Register of Historic Places, California Inventory of Historic Resources, and California Historical Landmarks.

- Indicate the date and results of the record search conducted at the CHRIS Information Center.
- Identify any other institutions or agencies (e.g., U.S. Forest Service), institutions, or individuals that were consulted for site records or other information, and the results.
- Define the area for which the search was conducted (e.g. "within a one-mile radius of the study area").

V. BACKGROUND

If the ASR is an addendum to a previous positive ASR, the background discussion in the original ASR may be referenced, and the addendum ASR need only discuss any additional relevant background information. For surveys of less than 5000 acres, background information should be provided succinctly in a few short paragraphs. Provide pertinent information to demonstrate a familiarity with the region under study and to provide context for the archaeological resources identified. Positive ASRs that report on surveys of greater than 5000 acres are to contain more thorough and detailed background sections and should include an interpretive discussion of land use patterns.

A. ENVIRONMENT

Present a concise description of the local environment, in order to provide a sense of place. Emphasize factors that may have affected use of the area by prehistoric and historic occupants, such as elevation, food or material resources, and proximity to water. Include relevant paleoenvironmental conditions, to the extent that they are known. Discuss environmental factors that may have limited the survival or visibility of archaeological remains, such as alluviation, erosion, or modern disturbance.

B. ETHNOGRAPHY

Identify the ethnographic inhabitants of the study area. If the study is in an area of unclear ethnographic affiliations, state the various groups that may have been associated with it. Briefly note major ethnographic elements which may have shaped the local archaeological record, such as subsistence foci, settlement systems, social organization, and material culture. Cite key ethnographic references.

C. PREHISTORY

Outline a standard prehistoric chronology for the region. Sketch the history of archaeological investigations in the region, with particular reference to studies close to the study area or concerning prehistoric sites similar to those identified in the study. The scope of this section should be commensurate with the abundance and types of resources found.

D. HISTORY

Outline the historical chronology of the region, with particular reference to events close to the study area or themes related to historical archaeological site types identified in the study.

VI. FIELD METHODS

Describe transect types and spacing, size of crew, and techniques to ensure survey coverage. Discuss factors affecting lateral and ground surface visibility. Discuss techniques used to record sites and the methods used to define site limits and assess constituents.

VII. STUDY FINDINGS AND CONCLUSIONS

Identify any non-archaeological resources that were encountered, and note that they may require evaluation. If resources which were previously reported or anticipated were not found, discuss the possible environmental and cultural factors that may have hidden or destroyed those resource(s).

Briefly describe and discuss each archaeological site in the study area, whether previously recorded or newly identified. Reference the Study Coverage Map and the attached site records. Information that may be appropriate in the discussion includes:

- location, with particular reference to the proposed project area and to an adjacent highway;
- areal extent, and the criteria used to determine the site limits;
- estimated areal density of cultural material (specifying how the measure is taken; e.g. "a maximum density of about 0.5 flake per square meter in any 5-meter-square area");
- types, distribution, and estimated quantities of cultural materials, in particular chronologically sensitive artifacts (e.g., projectile points, beads, cans, bottles);
- estimated depth of the cultural deposit, and the basis for the estimate (e.g., rodent holes, previous excavations);
- types and distributions of surface features (i.e., bedrock mortars, house pits, etc.);
- types and extent of disturbance;
- chronological and functional interpretations of the site;
- existing status of the site with respect to the National Register and other listings.
- Include the following statement:

If previously unidentified cultural materials are unearthed during construction, it is Caltrans' policy that work be halted in that area until a qualified archaeolo-

gist can assess the significance of the find. Additional archaeological survey will be needed if project limits are extended beyond the present survey limits.

VIII. REFERENCES CITED

Include only those references cited within the body of the report. Bibliographic format may follow the most recent style guide for *American Antiquity.*

IX. MAPS

All maps should display the district, county, route, post miles, kilometer posts, and expenditure authorization. Study Location Map and Study Coverage Map should have north arrows and graphic scales. The following maps are attached to the report.

- Study Vicinity Map: Point to the location of the Study on a county or district map.
- Study Location Map: Show survey limits on the portion of the appropriate USGS topographic map. Identify the topographic map by name, type (e.g., 7.5-minute), and date of latest revision. The Study Coverage Map will serve as the map of record, but the Study Location Map will be used by the CHRIS Information Center to record the area surveyed.
- Study Coverage Map: The base for this map may be a topographic or planimetric map, or an aerial photograph. It may or may not include project information (e.g., APE, highway footprint). It must be at sufficient scale (e.g., 1":200', 1":100',) to document clearly the limits of the area surveyed and the relation of sites to the study area.

X. OTHER FIGURES

Photographs may be useful to document site locations, the relation of sites to highways, and major features within sites. Original prints, half-tone reproductions, or scanned images are likely to be more useful than photocopies.

XI. SITE RECORDS

A primary record, a site record, and feature records, as appropriate, must be appended for each site identified during the field survey. If the site was previously recorded, a copy of the original record should be included, as well as any updated records.

EXHIBIT 21: EXTENDED PHASE I PROPOSAL FORMAT AND CONTENT GUIDE

TITLE PAGE

- In the title, identify the document as a proposal for an Extended Phase I excavation, and cite the primary number and trinomial for the site. Do *not* include post miles or other precise locational information in the title, so that bibliographic citation of the proposal will not disclose the site location.
- Below the title, identify the proposed highway project by District, county, route, post miles, kilometer posts, and expenditure authorization.
- Provide the name, title, and location of the proposal author(s). The senior author is to sign the title page of the final document.
- Provide the name, title, and location of the DEBC for whom the report was prepared. Approval of the proposal is documented by the DEBC's signature on the title page.
- Provide the date (month and year) of completion of the proposal at the bottom of the page.

TABLE OF CONTENTS

No table of contents is necessary for the Extended Phase I proposal, since it is limited to a few pages.

I. INTRODUCTION

Explain why an Extended Phase I study is needed. Indicate why no undisturbed subsurface deposit is believed to be present. Reference NHPA, 36 CFR 800, and CEQA, as appropriate.

II. SCOPE OF WORK

- Describe briefly the proposed field methods, including the types, numbers, and placement of units. Discuss any problems or special conditions that might require modification of the proposed work program.
- Describe the number of crewmembers and estimated duration of their participation. State that crewmembers and key personnel will meet Caltrans qualifications standards as outlined in Exhibit 5.

III. DECISION THRESHOLDS – PREHISTORIC SITES

- Discuss the potential findings which would justify a conclusion that a substantial subsurface deposit is not present in the areas being tested, or that the deposit is so disturbed that it would no longer have the potential to contribute to eligibility for the site as a whole.

- Discuss the potential findings that would justify a conclusion that such an intact deposit is present, and that further evaluation of the site may be required.
- Discuss circumstances under which additional Extended Phase I effort might be needed to achieve the study goals.

III-A. RESEARCH DESIGN – HISTORICAL ARCHAEOLOGICAL SITES

The Research Design/Excavation Proposal for historical archaeological sites is attached to the Historical Resources Evaluation Report (HRER).

The research design defines the broad historic context, specific research topics, and data requirements that will be used to complete the evaluation of a historical archaeological site whose eligibility for the National and California registers cannot be determined without excavation. The scope of the research design will vary, depending on whether it is prepared to justify an Extended Phase I or Phase II study. The essential elements of all research designs include:

a. Historic Context: This subsection (which can either be excerpted from the HRER or refer to the HRER) establishes the historic context, general research themes, and theoretical/methodological orientation for the proposed study.

b. Previous Research: This subsection summarizes previous historical and historical archaeological findings concerning the research themes outlined in the HRER to which this report is attached.

c. Definition of Specific Research Topics and Data Requirements: The specificity of the research topics will depend on how much is already known about the resource, the objective of the proposed study, and the findings made during previous research of similar topics and site types. The topics should consist of important historical questions that are likely to be addressed with data from the resource, taking into consideration the scope of the proposed work.

Work Plan: The work plan contains the following items:

a. Objectives of the Work: This subsection discusses the purpose and rationale for the proposed work. It also defines specific thresholds for assessing when the goals of the study have been met. Extended Phase I studies focus exclusively on the impact area of a project with the goal of defining the presence or absence of cultural deposits, while Phase II studies must focus on the entire resource in order to assess integrity, verify data potential, and collect information that can be used to assess impacts and plan for data recovery. To achieve those broader objectives, Phase II studies must define the areal and vertical ex-

tent of a site, the range and characteristics of cultural materials and natural strata present, and the date and affiliation of deposits.

b. Proposed Research Methods: This subsection describes the field, laboratory, and analytic methods that will be employed to recover information about the historical archaeological site. The types, numbers, and placement of mechanical and manual sampling units should be defined.

c. Personnel: This subsection should discuss the key personnel and consultants that will be used to accomplish the work, along with their qualifications.

d. Scheduling and Access: This subsection proposes a schedule for completing the pre-field, field, laboratory/analytic, and reporting phases of the work. It also discusses arrangements for gaining permission to conduct the study, including any necessary permits.

e. Health and Safety: Health and safety issues must be considered when planning work at historical archaeological sites, particularly those likely to contain hazardous wastes or dangerous working conditions. Plans should be formulated to reduce field and laboratory hazards and promptly address health and safety concerns that arise during the proposed work. A formal Health and Safety Plan prepared by a Certified Industrial Hygienist may be required when work is planned in areas known to contain hazardous wastes.

f. Curation Plan: The facility that is to curate the recovered materials must be named, and a curation agreement attached, if possible.

IV. TIMETABLE

Provide a schedule for completion of the proposed work. This timetable may be presented in text or graphic form (e.g., as a timeline). Include the start date and the duration of fieldwork, laboratory processing, and report preparation.

V. NATIVE AMERICAN COORDINATION

Describe the previous and anticipated future involvement of Native Americans through consultation and monitoring, along with action to be taken if human bone, associated grave goods, or items or cultural patrimony are found.

VI. CURATION

Indicate the facility which will curate the cultural materials recovered and the accession number, if known.

VII. ARCHAEOLOGICAL PERMITS

Discuss any permits that may be needed to conduct the work. Include permit acquisition in the timetable discussed above in Section IV.

VIII. REFERENCES CITED

A bibliography is usually not necessary, but any references in the text should be listed. Citations may follow the most recent style guide for *American Antiquity*.

IX. SITE RECORD

Attached all primary and site record forms available for the site, including initial and updated forms.

EXHIBIT 22: EXTENDED PHASE I REPORT FORMAT AND CONTENT GUIDE

TITLE PAGE

- In the title, identify the type of investigation (i.e. Extended Phase I Testing), and cite the primary number and trinomial for the site. Do *not* include post miles or other precise locational information, so that bibliographic citation of the report will not disclose the site location.
- Below the title, identify the highway project by District, county, route, post miles, kilometer posts, and expenditure authorization.
- Provide the name, title, and location of the report author(s). The senior author is to sign the title page of the final document.
- Provide the name, title, and location of the DEBC for whom the report was prepared. Approval of the report is documented by the DEBC's signature on the title page.
- If a government permit for the excavation was issued, provide the name of permitting agency and the permit number.
- Cite the USGS topographic quadrangle depicting the site area.
- List the township and range of the study area, but not the section.
- List the primary number, trinomial, and any other permanent designations for the site.
- List keywords identifying the location of the site, such as major landforms, rivers, or nearby communities.
- List keywords identifying the types of resources discussed, such as feature types, diagnostic artifact types, faunal remains, or human burials.
- Provide the date (month and year) of completion of the report at the bottom of the page.

SUMMARY OF FINDINGS (ABSTRACT)

Summarize the major findings of the study.

TABLE OF CONTENTS

List the major report sections, subheadings, appendices, tables, and figures, with page numbers.

ACKNOWLEDGMENTS

I. INTRODUCTION

Concisely describe or discuss:

- the proposed highway project;

- the nature and purpose of the archaeological investigation;
- the dates of fieldwork;
- the names, titles, and qualifications of the personnel participating in the study;
- any permits and permission obtained;
- the arrangements for curation of the collection;
- the disposition of any human bone, associated grave goods, or items of cultural patrimony;
- scope and results of Native American consultation and monitoring.

II. SITE CONTEXT

- If a positive ASR had been prepared for this project, reference its background sections. Only newly relevant citations or changes in information previously provided should be discussed.
- If background information has not been presented in a previous report, provide only minimal background and appropriate citations of relevant regional and local studies, following the content and format guidelines for background information of positive ASRs.

III. SCOPE OF WORK

Describe:

- the study plan outlined in the proposal;
- the methods used in fieldwork;
- the number of person-hours expended;
- measures taken to restore excavated areas to their previous appearance.

Reference the study maps.

IV. STUDY RESULTS

Describe and discuss:

- the extent of the site in terms of both horizontal boundaries and depth, as far as those are known;
- the excavated soil types and stratigraphy;
- the integrity of the cultural deposit;
- the artifactual and ecofactual materials recovered, including total counts and/or weights and distributional data by test unit and by depth for each unit and data class;
- the temporal placement and functional interpretation of the site.

V. SUMMARY AND CONCLUSIONS

Summarize the results of the study in terms of the stated study goals. Discuss the degree to which those goals were achieved, and any limiting factors.

VI. REFERENCES CITED

List all references cited. Bibliographic format may follow the most recent style guide for *American Antiquity.*

VII. MAPS

All maps should display the District, county, route, post miles, kilometer posts, and expenditure authorization. The Study Location Map and Study Site Map should have north arrows and graphic (analog) scales.

- **Study Vicinity Map** -- Point to the vicinity of the study area on a county or District map.
- **Study Location Map** -- Depict the site location on a portion of the appropriate USGS topographic quadrangle.
- **Study Site Map** -- This map should be scaled to show detail, at least 1": 200'. An aerial photograph can be used as a base map. Show the pertinent portion of the APE, site boundary, surface features, and all study units (e.g. excavation units, surface scrapes, auger holes, etc.). Show topography and modern features as appropriate.

VIII. OTHER FIGURES

There may be few figures in the report, because normally little is found in Extended Phase I studies. Appropriate figures may include sidewall profiles, feature diagrams, graphs and charts on recovered materials, and artifact illustrations. Photographs may illustrate testing work, features, and artifacts, as appropriate.

IX. TABLES

Appropriate tables may summarize the types, sizes, and depths of excavation units, and the distributions of artifacts, ecofacts, and features.

X. SITE RECORD

An updated site record should be appended, documenting the findings of the work.

INFORMATION FOR HISTORICAL ARCHAEOLOGICAL SITES

Introduction: Delete discussion of Native American coordination, if appropriate.

Site Context: Discussions of paleoenvironment and ethnography are only required if they are pertinent to the project.

Site Data Reports: Information in the site reports must reflect its status as a historical archaeological site, as follows:

- site type (e.g., homestead, mining camp, urban-commercial), including historical references;
- site boundaries (horizontal and vertical), including the methods by which these were defined;
- pertinent aspects of historical and archaeological background studies;
- environment;
- known disrupting influences/intrusions (e.g., roads, vandalism) that have changed the site's condition and/or affected its integrity;
- summary data gathered on the internal characteristics of the site (e.g., stratigraphy, artifact classes and their distribution, structural remains and activity areas, temporal affiliation[s]);
- previous archaeological investigations at the site.

Artifacts should be described and enumerated by functional class and material type. The period of manufacture and use should be discussed, as well as any maker's marks or other attributes contributing to the identification of temporal affiliation.

EXHIBIT 23: ARCHAEOLOGICAL EVALUATION PROPOSAL (PHASE II) FORMAT AND CONTENT GUIDE

TITLE PAGE

- In the title, identify the document as Archaeological Evaluation Proposal, and cite the primary number and trinomial for the site. Do *not* include post miles or other precise locational information, so that bibliographic citation of the report will not disclose the site location.
- Below the title, identify the proposed highway project and reference the District, county, route, post miles, kilometer posts, and expenditure authorization.
- Provide the name, title, and location of the proposal author(s). The senior author is to sign the title page of the final document.
- Provide the name, title, and location of the DEBC for whom the report was prepared. Approval of the proposal is documented by the DEBC's signature on the title page.
- Provide the date (month and year) of completion of the report at the bottom of the page.

TABLE OF CONTENTS

List the major proposal sections, subheadings, appendices, tables, and figures, with page numbers.

I. INTRODUCTION

Concisely describe or discuss:

- the history of the proposed project as it pertains to the site;
- the status of Section 106/CEQA compliance;
- the goals of the proposed archaeological work;
- the character and condition of the site, as currently known.

II. BACKGROUND

Present background information under the following headings:

A. Environment / Paleoenvironment
B. Ethnography
C. Archaeology
D. History

The level of detail in each subsection should be scaled to the scope of the study. Focus on regional research issues and how these may be addressed at the

site. Provide a context for the development of regional research topics to be fully developed in the subsequent research design and National Register evaluation sections.

III. RESEARCH DESIGN – PREHISTORIC SITES

The research design is the core of the proposal. It should present a well-reasoned discussion of the research topics to be addressed at the site, their relationship to the study goals, and the specific methods and techniques to be used to meet these objectives. Generally, the proposed research design must be broad and preliminary, but it should address research topics that may be studied at the site type under investigation. Research strategies should be flexible enough to be modified during fieldwork and post-field analyses. Contingencies should be built into the research design.

A. Theoretical / methodological orientation

B. Management goals:

- to define the areal extent of the site and its depth
- to identify the types and quantities of cultural materials present
- to date all components
- to assess site integrity
- to assess National Register eligibility/CEQA significance
- to assess the proposed project's effects

C. Research goals -- Describe relevant research topics, and show how they may realistically be addressed through the limited amount of excavation to be undertaken.

D. Methods -- Describe the pre-field, field, and laboratory programs and how they are suited to recover the types and quantities of data needed to meet the study's objectives.

E. Organization -- Describe measures to ensure that the work will be of high quality and completed on schedule. In so far as they are known, identify the principal investigator, crew chiefs, and analytical specialists. Describe the participants' degree of involvement in percentage of their time devoted to the project and the number of hours they will devote to each phase of work. Describe any arrangements that have been made with sub-consultants.

F. Schedule -- Specify milestone dates for obtaining permits, fieldwork, laboratory processing, analyses completion, and report submittals. Estimate the time required for each task and the number and duties of people involved. Specify maximum and minimum excavation amounts and the situations that could trigger an increase

or decrease in the amount of excavation (e.g., presence of burials, disturbed strata).

III-A. RESEARCH DESIGN – HISTORICAL ARCHAEOLOGICAL SITES

The Research Design/Excavation Proposal for historical archaeological sites is attached to the Historical Resources Evaluation Report (HRER).

The research design defines the broad historic context, specific research topics, and data requirements that will be used to complete the evaluation of a historical archaeological site whose eligibility for the National and California registers cannot be determined without excavation. The scope of the research design will vary, depending on whether it is prepared to justify an Extended Phase I or Phase II study. The essential elements of all research designs include:

a. Historic Context: This subsection (which can either be excerpted from the HRER or refer to the HRER) establishes the historic context, general research themes, and theoretical/methodological orientation for the proposed study.

b. Previous Research: This subsection summarizes previous historical and historical archaeological findings concerning the research themes outlined in the HRER to which this report is attached.

c. Definition of Specific Research Topics and Data Requirements: The specificity of the research topics will depend on how much is already known about the resource, the objective of the proposed study, and the findings made during previous research of similar topics and site types. The topics should consist of important historical questions that are likely to be addressed with data from the resource, taking into consideration the scope of the proposed work.

Work Plan: The work plan contains the following items:

a. Objectives of the Work: This subsection discusses the purpose and rationale for the proposed work. It also defines specific thresholds for assessing when the goals of the study have been met. Extended Phase I studies focus exclusively on the impact area of a project with the goal of defining the presence or absence of cultural deposits, while Phase II studies must focus on the entire resource in order to assess integrity, verify data potential, and collect information that can be used to assess impacts and plan for data recovery. To achieve those broader objectives, Phase II studies must define the areal and vertical extent of a site, the range and characteristics of cultural materials and natural strata present, and the date and affiliation of deposits.

b. Proposed Research Methods: This subsection describes the field, laboratory, and analytic methods that will be employed to recover information about the historical archaeological site. The types, numbers, and placement of mechanical and manual sampling units should be defined.

c. Personnel: This subsection should discuss the key personnel and consultants that will be used to accomplish the work, along with their qualifications.

d. Scheduling and Access: This subsection proposes a schedule for completing the pre-field, field, laboratory/analytic, and reporting phases of the work. It also discusses arrangements for gaining permission to conduct the study, including any necessary permits.

e. Health and Safety: Health and safety issues must be considered when planning work at historical archaeological sites, particularly those likely to contain hazardous wastes or dangerous working conditions. Plans should be formulated to reduce field and laboratory hazards and promptly address health and safety concerns that arise during the proposed work. A formal Health and Safety Plan prepared by a Certified Industrial Hygienist may be required when work is planned in areas known to contain hazardous wastes.

f. Curation Plan: The facility that is to curate the recovered materials must be named, and a curation agreement attached, if possible.

IV. NATIVE AMERICAN COORDINATION

Describe the previous and anticipated future involvement of the Native Americans through consultation and monitoring, along with action to be taken if human bone, associated grave goods, or items or cultural patrimony are found.

V. CURATION

Specify the facility that will curate the recovered cultural materials and the accession number under which they will be curated, if known.

VI. PERMITS

Discuss any permits that are needed to conduct the archaeological work.

VII. BUDGET

Attach a budget listing all personnel, time, and costs.

VIII. REFERENCES CITED

List all references cited in the proposal text. Bibliographic format may follow the most recent style guide for *American Antiquity.*

IX. SITE RECORDS

Attach copies of initial and updated records for the site.

X. OTHER APPENDICES

Information on specialized analyses and resumes of key personnel may be attached.

EXHIBIT 24: PRELIMINARY ARCHAEOLOGICAL EVALUATION (PHASE II) REPORT FORMAT AND CONTENT GUIDE

TITLE PAGE

- In the title, identify the report as a Preliminary Archaeological Evaluation Report, and cite the primary number and trinomial for the site. Do *not* include post miles or other precise locational information in the title, so that bibliographic citation of the report will not disclose the site location.
- Below the title, identify the proposed highway project by District, county, route, post miles, kilometer posts, and expenditure authorization.
- Provide the name, title, and location of the report author(s). The senior author is to sign the title page of the report.
- Provide the name, title, and location of the DEBC for whom the report was prepared. Approval of the report is documented by the DEBC's signature on the title page.
- Provide the date (month and year) of completion of the report at the bottom of the page.

TABLE OF CONTENTS

List the major proposal sections, subheadings, appendices, tables, and figures, with page numbers.

SUMMARY OF FINDINGS (ABSTRACT)

Summarize the purpose, scope, methods, and results of the archaeological study. Briefly discuss the National Register significance of the site, and the location of site boundaries in relation to the proposed highway project. Do not make specific recommendations in the report; these are to be confined to a transmittal memo.

I. INTRODUCTION

Concisely describe or discuss:

- the proposed highway project;
- the nature and purpose of the archaeological investigation;
- the dates of fieldwork;
- the names, titles, and qualifications of the personnel participating in the study;
- any permits or permission obtained;
- arrangements for curation of the collection;

- the disposition of any human bone, associated grave goods, or items of cultural patrimony;
- the scope and results of Native American consultation and monitoring.

II. SITE DESCRIPTION

Describe and discuss:

- the site type (e.g., midden, rock shelter, flake scatter, etc.);
- its chronological placement;
- its ethnographic affiliation;
- any documentary references to the site;
- the site's horizontal and vertical extent, and the methods by which these were defined;
- pertinent aspects of archaeological, ethnographic and historic background studies;
- the immediate site environment and the paleoenvironment, to the extent it is known;
- disturbances (e.g., roads, mining) that have changed the site's condition;
- previous archaeological investigations at the site and their results;
- Phase II data gathered on the characteristics of the site, including stratigraphy, features, artifacts, and ecofacts.

III. NATIONAL REGISTER SIGNIFICANCE

- Discuss the applicability of each of the National Register criteria to the site.
- Discuss the role of setting as an element contributing to eligibility, if the site appears to be eligible under criterion A, B, or C.
- Discuss site integrity as it relates to each criterion.
- Discuss the range of cultural materials present at the site and the range of data likely to be generated by future study. Some classes of data may have been documented by previous investigations, while others may be inferred, based on knowledge of similar sites. Provide the rationale and references supporting any such inferences.
- Identify the chronological components that contribute to the property's significance. Identify contributing and non-contributing areas of the site, and indicate whether the contributing areas are within the proposed project's APE.
- Discuss the relationship between the data available at the site and important research topics that the data might address. Minor amounts of data on a wide range of topics may contribute to the site's eligibility. Discuss the importance of the research topics within the broader regional perspective.

IV. SUMMARY AND CONCLUSIONS

Briefly summarize the results of the investigation, in terms of management and research goals. Note contributions to the understanding of regional prehistory or history. Indicate conclusions concerning National Register eligibility and project effects.

V. REFERENCES CITED

List all references cited in the report. Bibliographic format may follow the most recent style guide for *American Antiquity*.

VI. MAPS

All maps should display the District, county, route, post miles, kilometer posts, and expenditure authorization. The Study Location Map and Study Site Map should have north arrows and graphic scales.

- Study Vicinity Map -- Point to the vicinity of the study area on a county or District map.
- Study Location Map -- Depict the site location on the appropriate USGS topographic map.
- Study Site Map -- This map should be scaled to show detail, at least 1":200'. An aerial photograph can be used as a base map. Show the site boundary, topography, modern features, location of cultural surface features and all study units (e.g., excavation units, surface scrapes, auger holes, etc.), and the pertinent portion of the project's APE.

VII. OTHER FIGURES AND TABLES

Incorporate tables, plates and figures necessary to explicate site context, integrity, and eligibility.

INFORMATION FOR HISTORICAL ARCHAEOLOGICAL SITES

Introduction: Delete discussion of Native American coordination, if appropriate.

Site Context: Discussions of paleoenvironment and ethnography are only required if they are pertinent to the project.

Site Data Reports: Information in the site reports must reflect its status as a historical archaeological site, as follows:

- site type (e.g., homestead, mining camp, urban-commercial), including historical references;
- site boundaries (horizontal and vertical), including the methods by which these were defined;

- pertinent aspects of historical and archaeological background studies;
- environment;
- known disrupting influences/intrusions (e.g., roads, vandalism) that have changed the site's condition and/or affected its integrity;
- summary data gathered on the internal characteristics of the site (e.g., stratigraphy, artifact classes and their distribution, structural remains and activity areas, temporal affiliation[s]);
- previous archaeological investigations at the site.

Artifacts should be described and enumerated by functional class and material type. The period of manufacture and use should be discussed, as well as any maker's marks or other attributes contributing to the identification of temporal affiliation.

EXHIBIT 25: ARCHAEOLOGICAL EVALUATION REPORT (PHASE II) FORMAT AND CONTENT GUIDE

TITLE PAGE

- In the title, identify the document as an Archaeological Evaluation Report, and cite the primary number and trinomial for the site. Do *not* include post miles or other precise locational information in the title, so that bibliographic citation of the report will not disclose the site location.
- Below the title, identify the proposed highway project and reference the District, county, route, post miles, kilometer posts, and expenditure authorization.
- Provide the name, title, and location of the report author(s). The senior author is to sign the title page of the report.
- Provide the name, title, and location of the DEBC for whom the report was prepared. Approval of the report is documented by the DEBC's signature on the title page.
- If a governmental permit was required, provide the name of the permitting agency and the permit number.
- Cite the USGS topographic quadrangle depicting the study area.
- List the township and range of the study area, but not the section.
- List the site's primary number, trinomial, and any other permanent designations.
- List keywords identifying the location of the study area, such as landforms (valley, mountain range, etc.), rivers, or nearby communities.
- List keywords identifying the types of resources discussed, such as feature types, diagnostic artifact types, faunal remains, or human burials.
- The date (month and year) of completion of the report appears at the bottom of the page.

SUMMARY OF FINDINGS (ABSTRACT)

Summarize the purpose, scope, methods, and results of the study. Briefly discuss the National Register significance of the site, and the location of site boundaries in relation to the proposed highway project. Do not make specific recommendations in the report; these are to be confined to a transmittal memo.

TABLE OF CONTENTS

List the major proposal sections, subheadings, appendices, tables, and figures, with page numbers.

ACKNOWLEDGMENTS

I. INTRODUCTION

Concisely describe or discuss:

- the proposed highway project;
- the nature and purpose of the archaeological investigation;
- the dates of fieldwork;
- the names, titles, and qualifications of the personnel participating in the study;
- any permits or permission obtained;
- arrangements for curation of the collection;
- the disposition of any human bone, associated grave goods, or items of cultural patrimony;
- the scope and results of Native American consultation and monitoring.

II. SITE CONTEXT

Place the site in the regional context for which the research design was developed and within which the cultural remains are interpreted. Provide pertinent information on present-day environment, paleoenvironment, ethnography, archaeology, and history.

III. RESEARCH DESIGN

Restate the research design of the approved Archaeological Evaluation Proposal. Indicate any changes or alterations to that research design. If unexpected discoveries were made during fieldwork, the research design may be substantially revised.

IV. FIELD AND LABORATORY METHODS

Describe the methods and techniques used in the field and laboratory. If detailed discussions of analytical methods are contained in appendices, present the methods of analysis in a general fashion here in the main text.

V. STUDY RESULTS

In reports addressing multiple sites, each site is usually discussed in a separate chapter. However, chapters may alternatively be organized in part or entirely along topical lines (e.g., chronology, soils, features, etc.), if doing so aids in clarity of presentation.

Describe in detail the characteristics of the site and their interpretation. Discuss modifications to the interpretation of the site's chronology, function, and affiliation as a result of these studies.

Describe and discuss:

- previous archaeological investigations at the site;
- site type (e.g., midden, rock shelter, flake scatter);
- chronological placement;
- ethnographic affiliation, with any documentary references;
- site boundaries and extent (horizontal and vertical), including the methods by which these were defined;
- characteristics of the immediate environment, and paleoenvironmental characteristics, if known;
- site integrity, and any known disturbances;
- site deposit (soil types, chemistry, color, stratigraphy), with profiles of representative or interpretively important excavation units;
- features, including their locations, dimensions, attributes, and associations;
- artifacts, including description of the typologies used, with sufficient detail for their replication and for evaluation of their interpretive relevance, and discussion of artifact distributions by class/material (e.g., flaked stone, ground stone, shell artifacts, bone artifacts, and historic materials) and type;
- results of special analyses (evidence on manufacture and use, obsidian sourcing, obsidian hydration, protein residues, etc.);
- non-artifactual constituents (faunal and floral remains);
- human bone, including its physical condition, associations (including photographs and drawings, if appropriate), circumstances of discovery, and handling and disposition (making reference to relevant laws and agreements, and to the individuals involved, including the county coroner, Native American Heritage Commission, Most Likely Descendant, other local Native American representatives, landowner, and other interested parties).

VI. NATIONAL REGISTER SIGNIFICANCE

- Discuss the applicability of each of the National Register criteria to the site.
- Discuss the role of setting as an element contributing to eligibility, if the site appears to be eligible under criterion A, B, or C.
- Discuss site integrity as it relates to each criterion.
- Discuss the range of cultural materials present at the site and the range of data likely to be generated by future study. Some classes of data may have been documented by previous investigations, while others may be inferred, based on knowledge of similar sites. Provide the rationale and references supporting such inferences.

- Identify the chronological components that contribute to the site's significance. Identify contributing and non-contributing areas of the site, and indicate whether the contributing areas are within the proposed project's APE.
- Discuss the relationship between the data available at the site and important research topics that the data might address. Minor amounts of data on a wide range of topics may contribute to the site's eligibility. Discuss the importance of the research topics within the broader regional perspective.

VII. SUMMARY AND CONCLUSIONS

Briefly summarize the results of the investigation, in terms of management and research goals. Note contributions to the understanding of regional prehistory or history. Indicate conclusions concerning National Register eligibility and project effects.

VIII. REFERENCES CITED

List all references cited in the report. Bibliographic format may follow the most recent style guide for *American Antiquity.*

IX. MAPS

All maps should display the District, county, route, post miles, kilometer posts, and expenditure authorization. The Study Location Map and the Study Site Map should have north arrows and graphic scales.

- **Study Vicinity Map** -- Point to the vicinity of the study area on a county or District map.
- **Study Location Map** -- Depict the site location on the appropriate USGS topographic map.
- **Study Site Map** -- This map should be scaled to show detail, at least 1" : 200'. An aerial photograph can be used as a base map. Show the site boundary, topography, modern features, location of cultural surface features and all study units (e.g., excavation units, surface scrapes, auger holes, etc.), and the pertinent portion of the project's APE.

X. TABLES AND OTHER FIGURES

Incorporate tables and figures to document the work performed, its results, and its interpretation.

- Tables should summarize units excavated (their size and depth); horizontal and vertical distributions of artifacts, ecofacts, and features; and interpretively significant attributes of artifacts, ecofacts, and features. Information presented in the tables should not be repeated in the text, except as required for interpretive discussions.

- Figures may include sidewall profiles, feature plans, graphs, charts, and artifact drawings. Photographs may show general overviews of the site, its relation to the highway, study techniques, site features, excavation sidewalls, and artifacts.

XI. APPENDICES

- Specialized Analysis Reports;
- Updated Site Record.

INFORMATION FOR HISTORICAL ARCHAEOLOGICAL SITES

Introduction: Delete discussion of Native American coordination, if appropriate.

Site Context: Discussions of paleoenvironment and ethnography are only required if they are pertinent to the project.

Site Data Reports: Information in the site reports must reflect its status as a historical archaeological site, as follows:

- site type (e.g., homestead, mining camp, urban-commercial), including historical references;
- site boundaries (horizontal and vertical), including the methods by which these were defined;
- pertinent aspects of historical and archaeological background studies;
- environment;
- known disrupting influences/intrusions (e.g., roads, vandalism) that have changed the site's condition and/or affected its integrity;
- summary data gathered on the internal characteristics of the site (e.g., stratigraphy, artifact classes and their distribution, structural remains and activity areas, temporal affiliation[s]);
- previous archaeological investigations at the site.

Artifacts should be described and enumerated by functional class and material type. The period of manufacture and use should be discussed, as well as any maker's marks or other attributes contributing to the identification of temporal affiliation.

EXHIBIT 26: DATA RECOVERY PLAN FORMAT AND CONTENT GUIDE

TITLE PAGE

- In the title, identify the document as a Data Recovery Plan, cite the primary number and trinomial of the site, and note whether data recovery will occur within the ADI or the APE. Do *not* include post miles or other precise locational information in the title, so that bibliographic citation of the report will not disclose the site location.
- Below the title, identify the proposed highway project and reference the District, county, route, post miles, kilometer posts, and expenditure authorization.
- Provide the name, title, and location of the plan's author(s). The senior author is to sign the title page of the plan.
- Provide the name, title, and location of the DEBC for whom the plan was prepared. Approval of the plan is documented by the DEBC's signature on the title page.
- Provide the date (month and year) of completion of the report at the bottom of the page.

TABLE OF CONTENTS

List the major sections, subheadings, appendices, tables, and figures, with page numbers.

I. INTRODUCTION

Discuss the goals of the study and the general nature of the research plan. Identify the site by primary number and trinomial, indicate its National Register status, and state why the DRP is required (e.g., compliance with NHPA and 36 CFR 800).

II. SITE DESCRIPTION

Concisely describe and discuss:

- the site's general topographic setting;
- its dimensions;
- its relation to the project's APE;
- its functional type;
- its components and their chronological placement;
- its features;
- the general nature of artifacts and ecofacts found during prior investigations.

Refer to prior technical reports for more detailed site information.

III. SITE SIGNIFICANCE AND RESEARCH ISSUES

- State that the site is eligible for the National Register under criterion D.
- Discuss under subsections the research issues to which the site has the potential to contribute significant additional information (e.g., Chronology, Settlement Systems, Exchange, etc.).
- State what site constituents are important for generating the data to address the research questions.

IV. PROPOSED INVESTIGATION

Discuss the general plan and procedures for all stages of the investigation. The methods and data needs identified must be specifically linked with the research questions. Discuss in subsections the provisions made for the following:

A. ADDITIONAL BACKGROUND RESEARCH (IF NEEDED)

B. FIELD INVESTIGATIONS

1) Mapping -- Identify how the site and features will be mapped and how the archaeological work will be documented.
2) Surface collection -- Indicate areas and types of materials to be collected, and methods for documenting provenience.
3) Excavation -- Identify excavation methods (manual, mechanical), amount (square and/or cubic meters; maximum and minimum), unit size, sorting method (wet, dry), screen size, and the records to be kept.

C. LABORATORY PROCESSING

1) Cataloging -- State that all recovered material will be cleaned appropriately and cataloged following current professional standards and the requirements of the curation facility.
2) Analytical studies -- Discuss expected analytical studies (e.g., chronometric, lithic, soil studies), and allow for other analytical studies if appropriate materials are recovered.

D. REPORTING

Indicate that a final report will be prepared, documenting and interpreting the results of the data recovery program.

E. DISSEMINATION

Indicate anticipated measures for disseminating the results of the program to professionals and to other interested groups.

V. NATIVE AMERICAN COORDINATION

Describe the previous and anticipated future involvement of Native Americans through consultation and monitoring. Describe the actions to be taken if human bone, associated grave artifacts, or items of cultural patrimony are found.

VI. PERSONNEL

State that the data recovery program will be conducted by archaeologists meeting the professional qualification standards in "Archaeology and Historic Preservation, Secretary of the Interior's Standards and Guidelines" *(Federal Register*, Vol. 48, No. 190, September 29,1983). State that, if appropriate, the services of specialists will be obtained.

VII. CURATION

Specify the facility that will curate the recovered cultural materials and the accession number, if known.

VIII. PERMITS

Discuss any permits that are needed to conduct the archaeological work.

IX. PROPOSAL REQUIREMENTS

- State that the principal investigator will use the information contained with the Data Recovery Plan, together with expert knowledge of the region, to write a detailed Phase III Proposal for data recovery at the site. The proposal will provide a clear statement of the research problems to be addressed, explicit links between the data expected to be recovered and the proposed research goals, and the methods and techniques used to recover and analyze these data. The research problems addressed will include those summarized in the Data Recovery Plan, at a minimum.
- State that a budget proposal will be prepared, estimating the number of personnel, wages, amount of time, and other costs necessary to conduct the proposed work within a specified time frame.
- If the data recovery program will be contracted pursuant to a Request for Qualifications (RFQ), state that the RFQ will contain a costs estimate of "x" dollars, and provide justification for this figure. State that Caltrans will evaluate competing firms' qualifications and select a consultant based on highest overall capabilities. State that Caltrans will pay the selected consultant actual costs (including labor, employee benefits, overhead, and other costs) plus a fixed fee.

X. REFERENCES CITED

List all references used in the Data Recovery Plan text. Bibliographic format may follow the most recent *American Antiquity* style guide.

XI. APPENDICES

- Native American Monitor agreements;
- Burial treatment agreements;
- Curation agreements.

INFORMATION FOR HISTORICAL ARCHAEOLOGICAL SITES

Introduction

In addition to items mentioned above, this section should define the nature of expected impacts to the archaeological site.

Background Sections

Background sections should not discuss paleoenvironment or ethnography unless those topics are pertinent to the historical archaeological site under investigation. A discussion of the history of the site and its relation to broad historical themes must be provided to for the context of the research design. Prior research concerning sites of the type(s) under consideration in the plan also must be summarized as a basis for establishing important research topics. For Treatment Plans, describe the types of important archaeological remains anticipated in the APE.

III. Research Design

The research design should include a section that discusses how the results of the data recovery will be made available to public and professional audiences through measures such as interpretive displays, lectures, video presentations, books, journal articles, and other means.

IV. Public Involvement

Native American involvement is only appropriate if the site includes an eligible Native American component. Participation by the public should be encouraged to the extent compatible with the objectives of the study and requirements for public health and safety. Specific provisions should be made to involve the public through timely press releases, direct contacts with interested members of the public (e.g., historical societies, affiliated ethnic groups, etc.), and other suitable means.

EXHIBIT 27: PHASE III PROPOSAL FORMAT AND CONTENT GUIDE

TITLE PAGE

- In the title, identify the document as a Phase III Proposal, and cite the primary number and trinomial for the site. Do *not* include post miles or other precise locational information in the title, so that bibliographic citation of the report will not disclose the site location.
- Below the title, identify the proposed highway project and reference the District, county, route, post miles, kilometer posts, and expenditure authorization.
- Provide the name, title, and location of the proposal author(s). The senior author is to sign the title page of the final proposal.
- Provide the name, title, and location of the DEBC for whom the proposal was prepared. Approval of the proposal is documented by the DEBC's signature on the title page.
- Provide the date (month and year) of completion of the proposal at the bottom of the page.

TABLE OF CONTENTS

List the major proposal sections, subheadings, appendices, tables, and figures, with page numbers.

I. INTRODUCTION

Concisely describe or discuss:

- the nature and Section 106 compliance situation of the proposed highway project as it pertains to the site;
- the character and condition of the site, based on current information;
- the goals of the proposed archaeological work.

II. BACKGROUND SECTIONS

Present background information under the following headings: Environment/Paleoenvironment, Ethnography, and Archaeology. Focus on regional research issues and how these may be addressed at the site. Demonstrate familiarity with the study area, the type of site under study, and the published and unpublished literature of the area.

III. RESEARCH DESIGN

The research design is the core of the proposal. It should present a well-reasoned plan which discusses the research objectives of the study and the specific methods and techniques to be used to meet these objectives. Research

strategies should be flexible enough to be modified during fieldwork and post-field analyses, and contingencies should be built into the research design. Because the data recovery research design is based on prior excavations and analyses, it should focus on specific questions in a more sophisticated and elegant manner than a test excavation research design.

A. THEORETICAL / METHODOLOGICAL ORIENTATION

B. RESEARCH QUESTIONS:

- Identify pertinent archaeological research topics which are important to regional prehistory and which the site can be expected to address significantly.
- Discuss the hypotheses and test implications that will be addressed by the data recovery program.
- Discuss how expected data will relate to each test implication, and specify the data sample sizes necessary to resolve each issue.

C. METHODS

Describe the pre-field, field, and laboratory programs and how they are suited to recover the types and quantities of data needed to meet the study's objectives.

D. ORGANIZATION

Describe measures to ensure that the work is of high quality and completed on schedule. Identify the principal investigator, crew chiefs, and analytical specialists, if they are known. Describe the participants' degree of involvement in terms of the percentage of time devoted to the project and the number of hours they will devote to each phase of work. Describe any arrangements that have been made with sub-consultants.

E. Schedule

Specify milestone dates for obtaining permits, fieldwork, laboratory processing, analysis completion, and report submittals. Estimate the time required for each task and the number and duties of people involved. Specify maximum and minimum excavation amounts, and situations that could trigger an increase or decrease in the amount of excavation (e.g., presence of burials, disturbed strata).

IV. NATIVE AMERICAN COORDINATION

Describe the previous and future involvement of Native Americans through consultation and monitoring. Describe the actions to be taken if human bone, associated grave artifacts, or items of cultural patrimony are found.

V. CURATION

Specify the facility that will curate the recovered cultural materials and the accession number under which they will be curated, if known.

VI. PERMITS

Discuss any permits that are needed to conduct the archaeological work.

VII. BUDGET

Attach a budget listing all personnel, time, and costs.

VIII. REFERENCES CITED

List all references cited in the proposal text. Bibliographic format may follow the most recent style guide for *American Antiquity*.

IX. APPENDICES

- Initial and updated records;
- Information on specialized analyses to be performed;
- Résumés of key personnel.

EXHIBIT 28: DATA RECOVERY REPORT (PHASE III) FORMAT AND CONTENT GUIDE

A Phase III report serves to communicate data recovery findings to a professional archaeological audience, rather than to secure an agreement on compliance measures between governmental agencies. Its format may be flexible to meet this goal. However, all of the Phase III work and its conclusions must be thoroughly documented, either in the body of the report or in appendices.

TITLE PAGE

- In the title, identify the document as a Data Recovery Report, and cite the primary number and trinomial for the site.
- Below the title, identify the proposed highway project by District, county, route, post miles, kilometer posts, and expenditure authorization.
- Provide the name, title, and location of the report author(s). The senior author is to sign the title page of the report.
- Provide the name, title, and location of the DEBC for whom the report was prepared. Approval of the report is documented by the DEBC's signature on the title page.
- If a governmental permit was required, provide the name of the permitting agency and the permit number.
- Cite the USGS topographic quadrangle depicting the study area.
- List the township and range of the study area, but not the section.
- List the site's primary number, trinomial, and any other permanent designations.
- List keywords identifying the location of the study area, such as landforms (valley, mountain range, etc.), rivers, or nearby communities.
- List keywords identifying the types of resources discussed, such as feature types, diagnostic artifact types, faunal remains, or human burials.
- Provide the date (month and year) of completion of the report at the bottom of the page.

SUMMARY OF FINDINGS (ABSTRACT)

Summarize the purpose, scope, methods, and results of the study, and its research contributions.

TABLE OF CONTENTS

List the major proposal sections, subheadings, appendices, tables, and figures, with page numbers.

ACKNOWLEDGMENTS

I. INTRODUCTION

Concisely describe or discuss:

- the nature and purpose of the data recovery program;
- the dates of fieldwork;
- the names, titles, and qualifications of personnel participating in the study;
- any permits or permission obtained;
- arrangements for curation of the collection;
- the disposition of any human bone, associated grave goods, or items of cultural patrimony;
- the measures taken or approved for communicating the results of the investigations to interested segments of the public who are not addressed by the Data Recovery Report.

II. SITE CONTEXT

The discussion of site context should be sufficient to make the report's findings understandable to its intended audience, but should not include lengthy discussions not necessary to that goal. Place the site in the regional context for which the research design was developed and within which the cultural remains are interpreted, including pertinent information on present-day environment, paleoenvironment, ethnography, archaeology, and history.

III. RESEARCH DESIGN

Restate the research design of the approved Phase III proposal. Indicate any changes or alterations to that research design. If unexpected discoveries were made during fieldwork, the research design may be substantially revised.

IV. FIELD AND LABORATORY METHODS

Describe the methods and techniques used in the field and laboratory. If detailed discussions of analytical methods are contained in appendices, present the analytical methods here in a general fashion.

V. STUDY RESULTS

For data recovery programs addressing multiple sites, the discussion may be organized either on a site-by-site basis or topically, depending on which approach best serves the objectives of the report.

Describe and discuss:

- previous archaeological investigations at the site;
- site type (e.g., midden, rock shelter, flake scatter, etc.);

- chronological placement;
- ethnographic affiliation, with any documentary references;
- site boundaries and extent (horizontal and vertical), including the methods by which these were defined;
- characteristics of the immediate environment, and paleoenvironmental characteristics, if known;
- site integrity, and any known disturbances;
- site deposit (soil types, chemistry, color, stratigraphy), with profiles of representative or interpretively important excavation units;
- features, including their locations, dimensions, attributes, and associations;
- artifacts, including description of the typologies used, including sufficient detail for their replication and for evaluation of their interpretive relevance, and discussion of artifact distributions by class/material (e.g., flaked stone, ground stone, shell artifacts, bone artifacts, and historic materials) and type;
- results of special analyses included in appendices (evidence on manufacture and use, obsidian sourcing, obsidian hydration, protein residues, etc.);
- non-artifactual constituents (faunal and floral remains);
- human bone, including its physical condition, associations (including photographs and drawings, if appropriate), circumstances of discovery, and handling and disposition (making reference to relevant laws and agreements, and to the individuals involved, including the county coroner, Native American Heritage Commission, Most Likely Descendant, other local Native American representatives, landowners, and other interested parties);
- implications of the study for the interpretation of the site's chronology, function, and affiliation;
- implications of the study for regional research questions.

VI. SUMMARY AND CONCLUSIONS

Briefly summarize the results of the investigation, noting its contributions to the understanding of regional prehistory or history.

VII. REFERENCES CITED

List all references cited in the report. Bibliographic format may follow the most recent style guide for *American Antiquity*.

VIII. MAPS

All maps should display the District, county, route, post miles, kilometer posts, and expenditure authorization. The Study Location Map and the Study Site Map should have north arrows and graphic scales.

- Study Vicinity Map -- Point to the vicinity of the study area on a county or District map.
- Study Location Map -- Depict the site location on the appropriate USGS topographic map.
- Study Site Map -- This map should be scaled to show detail, at least 1":200'. An aerial photograph can be used as a base map. Show the site boundary, topography, modern features, location of cultural surface features and all study units (e.g., excavation units, surface scrapes, auger holes, etc.), and the pertinent portion of the project's APE.

IX. TABLES AND OTHER FIGURES

Use tables and figures to document the work performed, its results, and its interpretation.

- Tables should summarize units excavated (their size and depth); horizontal and vertical distributions of artifacts, ecofacts, and features; and attributes of artifacts, ecofacts, and features. Information presented in the tables should not be repeated in the text, except as required for interpretive discussions.
- Figures may include sidewall profiles, feature plans, graphs, charts, and artifact drawings. Photographs may show general overviews of the site, study techniques, features, excavation sidewalls, and artifacts.

X. APPENDICES

- Reports of Specialized Analyses;
- Updated Site Record.

INFORMATION FOR HISTORICAL ARCHAEOLOGICAL SITES

Introduction: Delete discussion of Native American coordination, if appropriate.

Site Context: Discussions of paleoenvironment and ethnography are only required if they are pertinent to the project.

Site Data Reports: Information in the site reports must reflect its status as a historical archaeological site, as follows:

- site type (e.g., homestead, mining camp, urban-commercial), including historical references;
- site boundaries (horizontal and vertical), including the methods by which these were defined;
- pertinent aspects of historical and archaeological background studies;
- environment;

- known disrupting influences/intrusions (e.g., roads, vandalism) that have changed the site's condition and/or affected its integrity;
- summary data gathered on the internal characteristics of the site (e.g., stratigraphy, artifact classes and their distribution, structural remains and activity areas, temporal affiliation[s]);
- previous archaeological investigations at the site.

Artifacts should be described and enumerated by functional class and material type. The period of manufacture and use should be discussed, as well as any maker's marks or other attributes contributing to the identification of temporal affiliation.

EXHIBIT 29: LETTER REPORT FORMAT AND CONTENTS

This reporting format is used to justify the ineligibility of historical archaeological sites and built environment cultural resources (such as category 5 bridges that remain category 5 upon re-evaluation, for segments of roadway that need to be evaluated for PRC §5024 purposes such as relinquishments) that do not warrant evaluation because they clearly lack significance either due to loss of integrity or the absence of historical associations or research values that would qualify the cultural resource as potentially eligible for inclusion in the National Register of Historic Places or would make it a historical resource under CEQA.

Date: Enter the date the report is finalized (following required peer review).

Project Reference: Indicate the district, county, route, post mile and kilometer post limits, project name, and expenditure authorization.

Addressee: List the name title, office name and location of the Caltrans Environmental Branch Chief for whom the report was prepared.

I. SCOPE AND PURPOSE

Succinctly describe the scope and purpose of the study.

II. RESEARCH METHODS

Describe sources consulted and field inspection methods.

III. HISTORICAL BACKGROUND

Discuss available information regarding the historical associations and use of the property.

IV. DESCRIPTION OF RESOURCE

Describe the physical remains present at the site and its condition vis-a-vis the seven aspects of integrity.

V. STATEMENT OF NON-SIGNIFICANCE

Provide a cogent statement of the reasons why this cultural resource is clearly not eligible for the National Register and also is not a historical resource under CEQA because it does not meet California Register criteria.

VI. EVALUATOR

An appropriately qualified cultural resources specialist must sign the letter report and a summary paragraph should be provided describing the evaluator's qualifications.

VII. REQUIRED ATTACHMENTS

- Vicinity Map
- Site Location Map (Portion of USGS 7.5' quadrangle)
- Appropriate DPR 523 form(s).

EXHIBIT 30: HISTORICAL RESOURCES EVALUATION REPORT (HRER) CONTENT AND FORMAT

The Historical Resources Evaluation Report (HRER) is used to document the identification, recordation and evaluation efforts for both built environment cultural resources, such as buildings, structures, objects, district, linear features, complexes, etc., and historical archaeological resources.

The level of detail in the HRER will vary, depending on the nature and complexity of the project and whether any of the resources appear eligible for the National Register or are historical resources for purposes of CEQA. If there are eligible resources, the HRER must specify the applicable criteria, period and level of significance, boundaries and contributing elements for each eligible resource. If there are no eligible resources or the project will have no effect on National Register eligible or listed properties, the HRER must be sufficiently detailed to support a conclusion of "No Historic Properties Affected" in the HPSR. For borderline cases, where reasonable people may disagree over eligibility, it may be necessary to substantiate a conclusion of ineligibility in a more detailed HRER document.

HRER FORMAT

- Title page
- Summary of Findings
- Project Description
- Research Methods
- Historical Overview
- Field Methods
- Findings and Conclusions
- Bibliography
- Preparer(s)' Qualifications
- Maps
- DPR 523 Forms
- Other Attachments

Don't forget the transmittal memo!

The following outlines the basic format and information requirements for each of the sections of the HRER:

TITLE PAGE

The title page identifies the Caltrans project by:

- Name and type of investigation
- County, route and post-miles, and kilometer post
- Expense Authorization

The page also includes

- Name, title, location and signature of the Caltrans District Branch Chief (DEBC) for whom the report was prepared. The DEBC's signature on the title page indicated approval and acceptance of the document
- Name, title and signature of the person who prepares the report, along with his/her address
- Month and year HRER was prepared (appears at bottom of page)

If a consultant prepares the HRER, the project contract number should appear below the Expense Authorization number.

SUMMARY OF FINDINGS (ABSTRACT)

This section contains all the information necessary for a casual reader to understand the intent, methods and results of the study. It includes:

- a concise description (abstract) of the proposed project
- purpose and scope of the investigation
- results of the investigation
- dates of fieldwork
- statement regarding the number of cultural resources within the APE that were examined and whether each appears eligible for the National Register or is a historical resource for purposes of CEQA
- (Optional, as applicable) statement that an excavation proposal is attached

If there are eligible resources, this section must include a concise summary paragraph for <u>each</u> eligible resource that includes

- the name and location of the resource
- applicable criteria
- period and level of significance

TABLE OF CONTENTS

List the major report sections, subsections, appendices, maps, figures, tables, and exhibits, with appropriate page numbers.

I. PROJECT DESCRIPTION

The District Project Development Team provides information regarding the nature and scope of the project.

Included in this section is a discussion of the

- scope of the proposed work, including project components (e.1., addition of passing lane, new alignment with intersection) and the need for new right-of-way)

- environment, including whether the project lies in an urban or rural area
- nature and purpose of the study relative to federal and state regulations
- citation of all pertinent maps (Project Vicinity, Project Location, Study Area or APE, etc.)

Details of the proposed project should be limited to the major design features.

II. RESEARCH METHODS

Included here is a brief discussion of the research methodology used to prepare the background research and resource-specific archival research. Included here are sources consulted for pre-field research. At a minimum, make reference to the National Register listings and updates, the California Register of Historical Resources, California Historical Landmarks and Points of Historic Interest publications and updates. (See Chapter 4 for pre-field research methods and repositories). Field methods should also be reported. List the date(s) that historical research and fieldwork were conducted.

Research methods should also document public participation and consultation, including contacts with local historical societies, planning agencies, or interested individuals, interviews with knowledgeable persons, the names and locations of all libraries and historical/archival research facilities that were used.

This section should also include a discussion of the areas (themes) of research used to establish the historical context in which the resources were evaluated for significance.

A. HISTORICAL OVERVIEW

The overview summarizes the historical information **pertinent to the recorded and evaluated resources within the APE**. This includes the themes that were identified and that provide the frame of reference for evaluating the resources. The overview should consist of a broadly stated chronological history of the project area focusing on

- initial settlement,
- economic development and demographic factors,
- historic events that occurred in the area,
- factors of industrial and commercial development,
- transportation and supply networks, and
- other salient aspects of the areas' history.

It does NOT present the definitive history of the area or of any historical person(s) except as the person(s) can be directly associated with an evaluated

resource. Historical research should focus on how the resources in the APE were evaluated for their potential National Register eligibility or as historical resources under CEQA. Unrelated information should not be presented.

The overview begins with a general historical introduction, then narrows the focus to the regional level and ends with a discussion of topics directly related to the resources being evaluated. The overview includes a broad analysis of area history to the extent relevant to the project and identifies the themes with which the resources in the APE are most closely associated.

B. ADDITIONAL INFORMATION WHEN EXCAVATION PROPOSAL ATTACHED (OPTIONAL, AS NEEDED)

Include general research themes, and theoretical/methodological orientation for the proposed study.

III. FIELD METHODS

Describe explicitly the survey methods that were used. For historical archaeological sites include any archaeological field methods (e.g. "parallel transects at 15-meter intervals") that were employed. Describe any problems encountered which may have affected survey results (e.g. dense vegetation, steep slope, access problems, etc.) and techniques employed to compensate for these difficulties. Describe why any areas were not surveyed.

IV. DESCRIPTION OF CULTURAL RESOURCE(S)

BRIEF SUMMARY OF DESCRIPTIONS, BOUNDARIES AND INTEGRITY

Because DPR 523 forms are greatly detailed regarding the physical descriptions of recorded resources and their integrity, it is a duplication of efforts to repeat the same information in the HRER. Rather, this section should summarize the universe and range of cultural resources encountered within the APE and the general environment (rural, urban, suburban, any notable geographic features, etc.) in which they are located.

If there are features that were not recorded or evaluated, such as working railroad lines, highways, etc., buildings constructed in 1957 or after, note them here and provide a brief justification as to whey they were not recorded or evaluated.

Provide a <u>brief</u> description of the evaluated resources and refer the reader, by Map Reference number, to the appropriate DPR 523 forms for detailed descriptions of the cultural resources that were evaluated. Note in the brief discussions whether the resource retains integrity.

For historical archaeological resources, include any component features (if applicable) and identify any known or suspected archaeological deposits.

Be that sure the attached DPR 523 forms discuss the overall size, boundaries, and layout of the resource and refer the reader to the appropriate appended DPR 523 inventory forms, records and maps. If they are known, the DPR 523 forms need to include dates of construction or occupation, ownership, historical function, and other pertinent data. Also, be sure that the DPR 523 forms discuss the integrity of the cultural resource(s). The discussion should include the overall integrity of the cultural resources and if applicable, the integrity of its components. Note any modifications and disturbances to the resource and its setting, basing the comments on the field observations, historical records, and/or interview data.

ADDITIONAL INFORMATION WHEN EXCAVATION PROPOSAL ATTACHED (OPTIONAL, AS NEEDED)

Highlight the potential for concealed, subsurface, and otherwise unknown historical archaeological deposits and features that will require further study/characterization before a conclusion can be reached regarding the eligibility of the resource. Summarize previous historical and historical archaeological findings concerning the research themes outlined above in the attached Excavation Proposal.

V. RESOURCE SIGNIFICANCE

Because DPR 523 forms are greatly detailed regarding the statements of significance for evaluated resources, it is a duplication of efforts to repeat the same information in the HRER. Rather, this section should summarize the chronological period, geographic limits, and themes that characterize the relevant historic contexts. Refer to *National Register Bulletin 16A* for a list of historic contexts.

Identify the historic context(s) relevant to the cultural resources that were evaluated in the APE, illustrate the context by referring to specific cultural resources that were recorded or evaluated within the APE. Refer the reader, by Map Reference Number, to the appropriate DPR 523 forms for more detailed information as to how the resource relates (or does not) relate to the historic context(s).

Be sure that the DPR 523 forms contains the information shown in the sidebar below and summarize the chronological period, geographic limits, and themes that characterize the relevant historic contexts. Refer to *National Register Bulletin 16A* for a list of historic contexts.

State whether there are any historic (cultural or designed) landscapes or districts in the project APE and refer the reader to the appropriate DPR form(s).

Either provide a statement that there are no listed, eligible or potentially eligible resources in the APE, indicate the number of historic properties and historical resources and refer the reader to the summary paragraphs in the Findings and Conclusions section of the HRER.

Be sure that the appropriate DPR 523 form's statement of significance includes the following, but do not repeat this information in detail in the HRER:

- **Previous research** - summarize relevant previous research for it type of resources, relevant local, regional, and where appropriate, state, and, national historic contexts.
- **Statement of significance** – summarize whether the resource meets the National Register and California Register criteria.
- For properties that do not meet National or California Register criteria, explain why (no historical associations, lack of integrity, etc.).
- For properties that appear to be eligible for the National Register, or are historical resources under CEQA, include the specific criteria, period of significance, level of significance, boundary descriptions. List the character-defining features; if applicable, list contributing and non-contributing elements.
- If applicable, state whether the resource is a National Register criteria consideration or a California Register special consideration. See Chapter 4 and Exhibit 16 for more details.

ADDITIONAL SECTION FOR HISTORICAL ARCHAEOLOGICAL SITES

For properties that may have the potential to yield **important** information (research importance), this identify the important historical research questions that are applicable. Summarize their degree of resolution in previous studies. Pay specific attention to the kinds of information needed to address such questions. The known (or likely) presence of such values in the cultural resource provides the basis for establishing its significance under National Register Criterion D and California Register Criterion 4.

EXCAVATION PROPOSAL FOR HISTORICAL ARCHAEOLOGICAL SITES (OPTIONAL, AS NEEDED)

State whether an Excavation Proposal is attached and briefly summarize the need and the research design for the proposal.

VI. FINDINGS AND CONCLUSIONS

A. FINDINGS

Include the total number of cultural resources in the APE, the number that fall in the categories listed below. Mention whether any resources were recorded but need additional evaluation (e.g. historical archaeological sites where additional testing is needed to conclude the evaluation, or there are several

alternatives in a corridor that necessitate phasing the evaluations). Include the number of resources that did not warrant recordation and evaluation and provide a brief justification as to why.

a. Historic properties listed in the National Register.
b. Historic properties previously determined eligible or not eligible for the National Register.
c. Potentially eligible historic properties, referring to eligibility evaluations in attached supporting documentation.
d. Properties which appear potentially eligible but for which further study is needed because evaluation was not possible (e.g., archaeological sites that require a test excavation to determine eligibility).
e. Resources evaluated as not eligible for inclusion the National Register, referring to relevant attached supporting documentation.

B. LOCATION LIST OF EVALUATED RESOURCES

List cultural resources that were identified within the APE, and provide pertinent information for each of them. Include, as appropriate:

a) Historic properties listed in the National Register.
b) Historic properties previously determined eligible or not eligible for the National Register.
c) Potentially eligible historic properties.
d) Properties which appear potentially eligible but for which further study is needed because evaluation was not possible (e.g., archaeological sites that require a test excavation to determine eligibility).
e) Resources evaluated as not eligible for inclusion the National Register.
f) Historical Resources for the purposes of CEQA (includes National Register and California Register listed and eligible properties, California Register listed or eligible (per State Historical Resources Commission determination) resources, resources identified as significant in surveys that meets Office of Historic Preservation standards, resources that are designated landmarks under local ordinances, and resources that meet the California Register criteria as outlined in PRC 5024.1)
g) Resources that are not historical resources under CEQA, per CEQA Guidelines §15064.5, because they do not meet the California Register criteria outlined in PRC §5024.1.

To facilitate SHPO's ability to maintain the Office of Historic Preservation's comprehensive, computerized inventories of eligible and ineligible resources, the identifying information for the resources needs to follow a specific format that includes the name of a property (if there is one), location information, the

community the resources is in (or the nearest community) and the Map Reference number that is keyed to the APE map.

For example: The following properties appear to be eligible for inclusion in National Register and are historical resources under CEQA:

Name	Address/Location	Community	Map Reference Number
Smith House	451 Main St.	Anywhere, CA	(Map Reference #1)
Ortega Feed Store	10097 Highway 4	Anywhere (vic.), CA	(Map Reference #5)

None of the following properties which pre-date 1957 appear to be eligible for inclusion in the National Register and are not historical resources under CEQA:

Name	Address/Location	Community	Map Reference Number
Able's Prune Packing Plant	35 E. Canterbury St.	Someplace, CA	(Map Reference #1)
Melville Apts.	8012 S. Oceanview Dr.	Someplace, CA	(Map Reference #5)
Little River RR Viaduct	Next to SR 43, KP 10.7	El Nido, CA	(Map Reference #18)

Repeat for resources that are historical resources for the purposes of CEQA, and those that are not historical resources for purposes of CEQA because they do not meet the California Register criteria.

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a streamlined approach for exempting certain cultural resources from evaluation. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA. Until then, the Interim Policy for the Treatment of Buildings Constructed in 1957 or Later is in effect.

Do not list properties that were constructed in 1957 or after if they are ineligible. Instead state, for example:

Twelve properties, which were constructed in 1957 or after, are located within the APE; in accordance with the "Interim Policy for the Treatment of Buildings Constructed in 1957 or Later," none of these appear to be eligible for inclusion in the National Register, are not historical resources under CEQA, and required no further study.

Provide the site trinomial (e.g., CA-Tri-433) for each historical archaeological site covered in the document. Temporary numbers are not acceptable.

C. CONCLUSIONS

The concluding list and describe the number of eligible resources, if any, or state that there are no historic properties or historical resources under CEQA in the APE.

In cases where the results of an investigation consist of a finding that further work will be needed to resolve the eligibility of a resource (e.g., an Extended Phase I or Phase II archaeological study), the rationale for that additional work should be briefly presented.

Provide a brief summary of eligible cultural resource that includes:

- Historic and/or common name and map reference number. Add the bridge number if the resource is a bridge or the Trinomial if the resource is a historical archaeological site.
- Address or location (unless it is an historical archaeological site for which the location is confidential)
- Applicable National Register and California Register criteria with a phrase that describes how the resource meets the identified criteria. If the resource is also a National Register criteria consideration or California Register criteria consideration, include the appropriate "consideration" letter or number.
- Period of significance
- Level of Significance (local, state, national)
- Rough boundary descriptions
- Contributing and noncontributing elements

The summary paragraph for each eligible resource plays a pivotal role in later Section 106 documents and should written concisely so that it can be inserted in its totality in to Findings of Effects, Memoranda of Agreement and appropriate environmental documents, as needed.

In addition, when SHPO responds to FHWA's requests for concurrence on eligibility, SHPO must reiterate the criteria, period and level of significance. It saves considerable time for the SHPO reviewer when the information is contained succinctly in one paragraph.

VII. BIBLIOGRAPHY

The lead author will determine the appropriate citation format. Acceptable formats include *Chicago Manual of Style, American Antiquity,* or other standard humanities or scientific styles. All citations made in the HRER text will be included in the form of endnotes, footnotes, and/or a list of references cited.

Preparer(s) Qualifications

Briefly summarize the professional qualifications of each person who contribute to the identification, recordation and evaluation of cultural resources that are the subject of the HRER. Include the qualifying degree(s) and major(s) and a one or two sentence description of qualifying experience.

VIII. MAPS

A minimum of three maps must be included in the report:

- **Project Vicinity Map**
- **Project Location Map** (USGS Topographic)
- **Project APE Map**. The project map should be of sufficient scale to show project features (including construction limits, existing and new right-of-way limits), the limits of the APE or Study Area, and the locations and boundaries of historic properties and historical resources under CEQA.

IX. DPR 523 FORMS

Include all relevant DPR 523 inventory forms. The forms should all have the appropriate APE Map Reference number.

X. OTHER ATTACHMENTS

Other maps and charts include detailed maps and copies of historic maps and charts, as appropriate.

Figures: Photographs, lithographs, and other graphic materials may be presented within or following the text of the report. Figures should be adequately captioned to identify the subject, view and date, with credit given to the source of that image.

Additional resource records: Previously prepared records that are used to support the evaluation of a cultural resource within the APE are attached as appendices to the HRER.

Historical archaeological site reports: Reports that document excavations at historical archaeological sites should include a catalog or tabulation of recovered materials and the reports of any specialized consultants. Copies of pertinent legal documents, such as deeds and other supporting historic materials, also may be attached if they are relevant.

EXHIBIT 31: TIPS ON COMPLETING DPR 523 FORMS

(Observations by a couple of former SHPO Section 106 Reviewers)

This information is intended to convey how a reviewer might ask to see information presented.

PRIMARY RECORD :P1 AND P2, BUILDING STRUCTURE & OBJECT (BSO) FORM B2

IDENTIFICATION

The name, if there is one, and the address are the most important identifiers. When there is no street address, use intersections or distances from a landmark, with directional notations (e.g., southeast corner of Mooney and Bridges; west side of Sacco, 200 yards north of Vanzetti).

DESCRIPTION

BSO B5: Standard terminology is best, rather than coining new names or using ones that few would recognize. If a new term is coined, include a definition of the term. Avoid terms like Traditional, None or N/A as styles.

P3a: the verbal description should complete the picture shown in the photo. Point out notable features, describe what isn't visible or easily seen, and list alterations and their extent. An architectural essay on the building can be educational, but unless the building is likely to be legible under Criterion C, the description can be fairly basic. The focus should be on the elements needed for evaluation, such as any architectural values, and the integrity of the property and its setting.

PRIMARY RECORD/CONTINUATION SHEETS:

Photos: For many properties, a good, clear photo, not too close or too far away, showing the property in its setting, is the single most important element of the documentation. Providing more than one photo can be helpful. If it is impossible to get a good photo, note the problem, and expand the description to compensate as much as possible.

P6: Try for a factual date; appearances can be deceptive and estimates subject to dispute.

B6: List alterations here, rather than referring back to P3a. It slows a review down to have to go back and re-read the description looking for alterations. Just list them (aluminum windows, new doorbell).

B8: List related features rather than referring to P3a. Just list them (barn, garage, reflect pool).

BUILDING STRUCTURE & OBJECT (BSO) FORM B2

SIGNIFICANCE

B10: Avoid a total boilerplate statement; it will give the appearance that the property has not been individually considered. Modified boilerplate is fine, but tailor it to the property. Put some statement in that shows that this building or structure's history and architecture have been evaluated. If the building is not eligible, don't just say that it doesn't meet the criteria. Explain why not (it is an undistinguished example of an Egyptian Revival residence, a style common in the area, and it has lost integrity because the decorative sphinxes have been removed).

Other than boilerplate statements, common problems with significance statements include the following:

- a lengthily account of the property's history and owners without an evaluation of their significance
- a rehash of the community or neighborhood's history without explaining how this property fits into it;
- assuming that any connection with an important event or individual convey eligibility;
- evaluation in too narrow a context (the best example of a Craftsman bungalow on the east side of 23rd Street between C and D);
- consideration under Criterion C only, without doing any research, ignoring any other possible significance;
- a statement consisting of only the word "None."

SKETCH MAP ON BSO

The sketch map is important, and it doesn't have to be fancy. It can be a photocopy of the Assessor's parcel map, with buildings marked in, or it can be a simple drawing by hand. The map is needed to show where buildings are and how they relate to each other, to the road, and to property boundaries.

Referring to the APE map instead of providing a sketch map is not adequate for two reasons:

1. the APE map rarely shows the buildings and relationships requested above
2. the search for property delays the review.

If the APE map does have buildings and relationships clearly displayed photocopy the appropriate spot and attach it to the form.

A LAST COMMENT:

It's very helpful if each form is complete in itself, so the reviewer can go through a report efficiently. when the workload is overwhelming, reviewers must still try to handle everything. The only way to survive is by devoting less time to each project. Focus on presenting full pertinent information in a concise manner, with the forms complete in themselves so that reviewers can whip through them in no time and bless our little furry heads as they do so.

EXHIBIT 32: HISTORICAL RESOURCES COMPLIANCE REPORT FORMAT AND CONTENT GUIDE

The Historical Resources Compliance Report (HRCR) is used on projects without federal involvement, as defined in Chapter 2. The HRCR combines identification, evaluation, effect assessment, and mitigation into a single document.

TITLE PAGE

The title page identifies the Caltrans project by:

- Name and type of investigation
- County, route and post-miles, and kilometer post
- Expense Authorization

The page also includes

- Name, title, location and signature of the Caltrans District Branch Chief (DEBC) for whom the report was prepared. The DEBC's signature on the title page indicated approval and acceptance of the document
- Name, title and signature of the person who prepares the report, along with his/her address
- Month and year HRCR was prepared (appears at bottom of page)

HRCR FORMAT

- Title page
- Summary of Findings
- Project Description
- Public Participation
- Description of Identified Resource
- Effect Statement
- Mitigation Plan
- Attachments
- Maps
- DPR 523 Forms
- Other Attachments

Don't forget the transmittal memo!

If a consultant prepares the HRCR, the project contract number should appear below the Expense Authorization number.

SUMMARY OF FINDINGS (MANAGEMENT SUMMARY)

This section contains all the information necessary for a casual reader to understand the intent, methods and results of the study. It includes:

- a concise description (abstract) of the proposed project
- purpose and scope of the investigation
- results of the investigation
- dates of fieldwork

- statement regarding the number of cultural resources within the Area of Potential Effect that were examined and whether each appears eligible for the National Register or is a historical resource for purposes of CEQA.

If there are eligible resources, this section must include a concise summary paragraph for each eligible resource that includes

- the name and location of the resource
- applicable criteria
- period and level of significance

I. PROJECT DESCRIPTION

Included in this section is a discussion of the nature and scope of the project:

- scope of the proposed work, including project components (left-turn lane widening, addition of passing lane, etc.) and the need for new right-of-way)
- environment, including whether the project lies in an urban or rural area
- nature and purpose of the study relative to state regulations
- citation of all pertinent maps (Project Vicinity, Project Location, Study Area or APE, etc.)

Details of the proposed project should be limited to the major design features. Define the APE. Attach a map delineating the APE.

II. SUMMARY OF IDENTIFICATION EFFORTS

Include inventories, facilities, and persons consulted: at a minimum, the following:

- National Register of Historic Places and updates;
- California Register of Historical Resources;
- California Inventory of Historic Resources;
- California Historical Landmarks;
- The appropriate Information Center of the California Historical Resources Information System.

Note also any other sources (human or archival) used, such as county assessors records, historical society or museum archives, oral histories taken from property owners or old-timers, etc.

Describe the results of the research.

III. PUBLIC PARTICIPATION

Summarize coordination efforts and public comments received to date. If the project is simple, limit these to contacts (including form letter notifications) with local historical societies, Native Americans, governments, or other interest groups. For projects involving Negative Declarations Environmental Impact Reports public involvement may include map displays or public hearings. Describe CEQA public involvement events that are expected as well as those that have occurred.

IV. DESCRIPTION OF IDENTIFIED CULTURAL RESOURCE(S)

List cultural resources that were identified within the APE, and provide pertinent information for each of them. Include concise but sufficient background and contextual information about the project area so that the reader can understand the significance (or lack of significance) of the evaluated resources. Be sure to include summary information about National Register eligibility and whether a resource is a significant resource under CEQA.

Include, as appropriate:

a. Historic properties listed in the National Register.
b. Historic properties previously determined eligible or not eligible for the National Register.
c. Potentially eligible historic properties, referring to eligibility evaluations in attached supporting documentation.
d. Properties which appear potentially eligible but for which further study is needed because evaluation was not possible (e.g., archaeological sites that require a test excavation to determine eligibility).
e. Resources evaluated as not eligible for inclusion the National Register, referring to relevant attached supporting documentation.
f. Historical Resources for the purposes of CEQA (includes National Register and California Register listed and eligible properties, California Register listed or eligible (per State Historical Resources Commission determination) resources, resources identified as significant in surveys that meets Office of Historic Preservation standards, resources that are designated landmarks under local ordinances, and resources that meet the California Register criteria as outlined in PRC 5024.1)
g. Resources that are not significant resources under CEQA

To facilitate entry into computerized inventories, the identifying information for the resources needs to follow a specific format that includes the name of a property (if there is one), location information, the community the resources is in (or the nearest community) and the Map Reference number that is keyed to the APE map. For example:

The following properties appear to eligible for inclusion in National Register and are historical resources under CEQA:

Name	Address/Location	Community	Map Reference Number
Smith House	451 Main St.	Anywhere, CA	(Map Reference #1)
Ortega Feed Store	10097 Highway 4	Anywhere (vic.), CA	(Map Reference #5)

None of the following properties which pre-date 1957 appear to be eligible for inclusion in the National Register and are not historical resources under CEQA:

Name	Address/Location	Community	Map Reference Number
Able's Prune Packing Plant	35 E. Canterbury St.	Someplace, CA	(Map Reference #1)
Melville Apts.	8012 S. Oceanview Dr.	Someplace, CA	(Map Reference #5)
Little River RR Viaduct	Next to SR 43, KP 10.7	El Nido, CA	(Map Reference #18)

Repeat for resources that are historical resources for the purposes of CEQA, and those that are not historical resources for purposes of CEQA because they do not meet the California Register criteria.

As of this printing, CCSO staff, FHWA and SHPO are negotiating a Section 106 Programmatic Agreement (PA) that would include a streamlined approach for exempting certain cultural resources from evaluation. Consult the District Environmental Branch Chief or your CCSO Section 106 Coordinator for the current status of this PA. Until then, the Interim Policy for the Treatment of Buildings Constructed in 1957 or Later is in effect.

Do not list properties that were constructed in 1957 or after if they are ineligible. Instead state, for example:

Twelve properties, which were constructed in 1957 or after, are located within the APE; in accordance with the "Interim Policy for the Treatment of Buildings Constructed in 1957 or Later," none of these appear to be eligible for inclusion in the National Register, are not historical resources under CEQA, and required no further study.

Provide the site trinomial (e.g., CA-Tri-433) for each archaeological site covered in the document. Temporary numbers are not acceptable.

Provide a <u>brief</u> summary of eligible cultural resource that includes:

- Historic and/or common name and map reference number. Add the bridge number if the resource is a bridge or the Trinomial if the resource is a historical archaeological site.
- Address or location (unless it is an historical archaeological site for which the location is confidential)

- Applicable National Register and California Register criteria with a phrase that describes how the resource meets the identified criteria. If the resource is also a National Register criteria consideration or California Register criteria consideration, include the appropriate "consideration" letter or number.
- Period of significance
- Level of Significance (local, state, national)
- Rough boundary descriptions

Contributing and noncontributing elements

V. EFFECT STATEMENT

For each resource assessed as significant, describe the effect of the project on the resource. Quantify physical effects to the extent possible. Use the Criteria of Adverse Effect (36 CFR §800.5) to categorize the effect of the project on the resource. See also **Chapters 2 and 7** for discussions of effects to historical resources.

VI. MITIGATION PLAN

Describe the mitigation planned to offset project effects on each historical resource. For archaeological sites, summarize the data recovery to be performed. When mitigation plans are not yet complete, describe a range of suitable mitigation options (e.g., moving or demolishing structure), from which final mitigation will be selected.

VII. ATTACHMENTS

Include, at minimum, the Project

- **Project Location** map
- **Project Vicinity** map, and
- **Project APE** map

The APE map should illustrate the proposed project, upon which the APE limits have been delineated. If no cultural resources are present the project APE map must simply be of sufficient scale to document the APE.

If cultural resources are present, the project APE map must be of sufficient scale (200' scale is preferred) and have enough project detail to demonstrate the relationship of historic properties to the proposed project, especially important because the HRCR also serves as the mitigation document for the project. Clearly show the APE, the location of all resources discussed, the boundaries of any eligible or listed historic properties, and the boundaries of any ESAs used. Include a scale and north arrow.

VIII. PHOTOGRAPHS AND OTHER EXHIBITS

Include other appropriate exhibits. Good clear exhibits and graphics are invaluable to demonstrate the arguments and decisions discussed made in the text.

Photos and graphics that illustrate the following can enhance the HRCR's effectiveness as a consultation tool:

- integrity (or lack of it) of cultural resource(s)
- integrity of setting for cultural resource(s),
- engineering plans,
- profiles and cross-sections that show the actual limits of project effects.

IX. APPENDICES

Include, as appropriate:

- Archaeological Survey Report, Extended Survey Report
- Historic Resource Evaluation Report
- Bridge Evaluation
- Test Excavation Report
- Letters from historical societies, Native American groups, local governments, other special interest groups, the SHPO, etc.

EXHIBIT 33: FINDINGS OF EFFECT FORMAT AND CONTENT

Being revised to reflect Section 106 changes.

To be added later

EXHIBIT 34: ENVIRONMENTALLY SENSITIVE AREA (ESA) GUIDELINES

As a result of the recent revisions to the Section 106 regulations at 36 CFR §800, These guidelines are technically obsolete. Caltrans, FHWA and SHPO are negotiating a Programmatic Agreement for Section 106 Compliance that would revise and update these guidelines.

Environmentally Sensitive Areas (ESAs) are used in Environmental, Project Development, Construction, and Maintenance procedures and documents to show FHWA and Caltrans' intent to protect environmental resources. ESAs are commonly used to protect historic properties under provisions of Section 106 of the National Historic Preservation Act. The District Environmental Branch Chief (DEBC) is responsible for developing and providing appropriate ESA information to Project Development, Construction, and Maintenance personnel to protect properties during construction and maintenance of a transportation facility.

Project Development includes ESA information in Construction Plans, Contract Special Provisions, and the Pending File of the Resident Engineer (RE) assigned to the construction project. During construction, the RE ensures that contractors comply with ESA guidelines in the Contract Special Provisions. The District Environmental Branch monitors the construction and maintains contact with the RE on ESA compliance.

The DEBC is also responsible for notifying Maintenance of all ESAs established in the District. The District Maintenance Engineer, Superintendent, and staff are responsible for ensuring that ESAs are protected during maintenance activities. Maintenance must check with the Environmental Branch prior to ground-disturbing activities that could affect an ESA. Permanent ESAs must be monitored by Environmental Branch staff to ensure their effectiveness. Any problems noted should be discussed with the appropriate maintenance personnel immediately.

When archaeological sites will be protected by ESAs, the EBC decides which ESAs need to be posted, how they are to be posted (e.g., signs, staking, or fencing), and who will be responsible for posting. This information is provided to Project Development for inclusion in their instructions to the contractor, and explained to the RE by the EBC at a strategy meeting (see Article 7-9.1, Volume 2, *Environmental Handbook* and Section 1-2.4, Volume 1). If the contractor will be responsible for the protective measures, appropriate provisions must be made in the construction contract. When the contractor is to install a fence, the fence specification, order of work, and lead time to arrange

for a Native American observer (if appropriate) must be specified in the contract. A Caltrans archaeologist, and if appropriate, a Native American observer are present when the fence is installed, regardless of who installs it. The contractor has no need to know the nature of the resource being protected. An added measure of protection may be afforded an historical resources if its presence does not become general knowledge.

When the ESA mechanism is used to achieve Section 106 compliance by implementing the **No Effect MOU** (still under review at FHWA), an **ESA Action Plan** (format attached) must be prepared by the District Environmental Branch and attached to the **No Historic Properties Affected Historic Property Survey Report**. The Action Plan states the ESA plans to be implemented during construction and maintenance of the facility and documents that the DEBC has provided Project Development and Maintenance with the ESA information.

ESA protective measures must be taken when damage may occur to historic properties near a construction area or during maintenance activities. Protective measures are especially important when an archaeological site contains human burials and avoidance agreements have been made with members of the Native American community. Damage could result in additional archaeological work and construction delays. This may also jeopardize the effectiveness of the proposed **No Effect MOU** and FHWA–Caltrans' Section 106 compliance procedures. When ESA provision failure occurs, Section 106 is complied with by following the normal identification and evaluation procedures of 36 CFR 800.4, or the unanticipated effects provisions of 36 CFR 800.11 (b)(2). Preparation of a **Report of Construction Impacts to Cultural Resources** by the DEBC is also required. A copy of this report is provided to Environmental Program and Division of Construction. See Volume 2, *Environmental Handbook*, **Chapter 5.10??** for more information.

Guidelines for authorizing and establishing ESAs are found in *Standard Specifications, State of California Department of Transportation*, January 1988. Pertinent sections of the Standard Specifications that support development of Special Provisions during Construction are listed here:

1-1.37 Special Provisions–The special provisions are specific clauses setting forth conditions or requirements peculiar to the work and supplementary to these Standard Specifications. The Department of Transportation publications entitled Labor Surcharge And Equipment Rental Rates and General Prevailing Wage Rates are to be considered as a part of the special provisions.

5-1.04 Coordination and Interpretation of Plans, Standard Specifications, and Special Provisions–These Standard Specifications, the Standard Plans, project plans, special provisions, contract change orders, and all supplementary documents are essential parts of the contract, and a requirement occurring in

one is as binding as though occurring in all. They are intended to be complementary, and to describe and provide for a complete work.

Should it appear that the work to be done or any of the matters relative thereto are not sufficiently detailed or explained in these specifications, the special provisions, or the plans, the Contractor shall apply to the Engineer for such further explanations as may be necessary and shall conform to them as part of the contract. In the event of any doubt or question arising respecting the true meaning of these specifications, the special provisions or the plans, reference shall be made to the Engineer, whose decision thereon shall be final

In the event of any discrepancy between any drawing and the figures written thereon, the figures shall be taken as correct. Detail drawings shall prevail over general drawings.

7-1.01 Laws to be Observed–The Contractor shall keep himself fully informed of all existing and future State and Federal laws and county and municipal ordinances and regulations which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. He shall at all times observe and comply with, and shall cause all his agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees of bodies or tribunals having any jurisdiction or authority over the work; and shall protect and indemnify the State of California, and all officers and employees thereof connected with the work, including but not limited to the Director and the Engineer, against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by himself or his employees. If any discrepancy or inconsistency is discovered in the plans, drawings, specifications, or contract for the work in relation to any such law, ordinance, regulation, order or decree the Contractor shall forthwith report the same to the Engineer in writing.

7-1.11 Preservation of Property–Attention is directed to Section 7-1.12, "Responsibility for Damage," and to Section 8-1.10, "Utility and Non-Highway Facilities." Due care shall be exercised to avoid injury to existing highway improvements or facilities, utility facilities, adjacent property, and roadside trees, shrubs, and other plants that are not to be removed.

Roadside trees, shrubs, and other plants that are not to be removed, and pole lines, fences, signs, markers and monuments, buildings and structures, conduits, pipelines under or above ground, sewer and water lines, all highway facilities, and any other improvements or facilities within or adjacent to the highway shall be protected from injury or damage, and if ordered by the Engi-

neer, the Contractor shall provide and install suitable safeguards, approved by the Engineer, to protect such objects from injury or damage. If such objects are injured or damaged by reason of the Contractor's operations, they shall be replaced or restored at the Contractor's expense. The facilities shall be replaced or restored to a condition as good as when the Contractor entered upon the work, or as good as required by the specifications accompanying the contract, if any such objects are a part of the work being performed under the contract. The Engineer may make or cause to be made such temporary repairs as are necessary to restore to service any damaged highway facility. The cost of such repairs shall be borne by the Contractor and may be deducted from any moneys due or to become due to the Contractor under the contract.

ESA ACTION PLAN

PROJECT DEVELOPMENT–Special provisions outlined here for all resources that are protected with ESAs during construction are to be included in the P S & E:

MAINTENANCE –The following steps shall be taken to establish permanent ESAs and protect resources that will remain in Caltrans right of way or ownership, or otherwise under Caltrans jurisdiction:

PROJECT DEVELOPMENT	**____YES**	**NO____**
MAINTENANCE	**____YES**	**NO____**

AND A COPY IS ATTACHED TO THE NO EFFECT HISTORIC PROPERTY SURVEY FORM.

SIGNED:_____ DATE:_____
[DISTRICT ENVIRONMENTAL BRANCH CHIEF]

EXHIBIT 35: MEMORANDUM OF AGREEMENT FORMATS

Being revised to reflect Section 106 changes.

To be added later

EXHIBIT 36: SAMPLE MOA AND LETTERS

Being revised to reflect Section 106 & CEQA changes.

To be added later

EXHIBIT 37: SECTION 106/CE CHECKLIST

Being revised to reflect Section 106 changes.

To be added later

EXHIBIT 38: STANDARDS FOR OUTSIDE PEER REVIEW OF EXCAVATION REPORTS

Archaeologists outside of Caltrans are sometimes requested to peer review in-house and consultant-prepared reports. Review should focused on specific areas of the reviewer's expertise or concerns, helping to ensure the adequacy and accuracy of the report.

The use of outside peer review is optional, but it is encouraged for Archaeological Evaluation Reports, if time allows, and for Data Recovery Reports. Survey reports are not submitted for outside peer review because of the standard nature of these reports.

REASONS FOR THE USE OF OUTSIDE PEER REVIEWERS

Peer review is especially helpful when:

- the archaeologist preparing the report has limited experience in the region;
- technical issues addressed in the report require specialized review;
- the report may have potential problems;
- expertise on certain aspects of the report is not available on a timely basis within Caltrans.

TYPES OF OUTSIDE PEER REVIEW

Experts familiar with the archaeology, ethnography and prehistory of a region may be requested to review the report for accuracy on subjects such as:

- discussions on the chronological interpretations of regional prehistory;
- discussions on previous regional archaeology;
- discussions of ethnographic information;
- identification and interpretation of various regional artifact types;
- the use of regional research concerns in the development of the study's research design and interpretation of study findings.

Experts in specialized analyses may be requested to review the report for accuracy concerning analytical methods, results, or interpretation of those results. These analyses may include:

- obsidian hydration analysis;
- obsidian source analysis;
- lithic analysis;
- faunal analysis;

- interpretation of certain artifact types;
- statistics.

CONSIDERATIONS IN SELECTING OUTSIDE PEER REVIEWERS

- Avoid conflict of interest and incompatible activity, as defined in Caltrans Policy and Procedure, 76-10, Revised 10-5-87, *Incompatible Activities.*
- Consider whether the reviewer is a competitor of the consultant who produced the report, and whether this would bias the review.
- Consider whether the reviewer has been a consultant on past Caltrans' projects, or may be a candidate for future Caltrans' contracts, and whether this would bias the review, either favorably or unfavorably.

IMPLEMENTING OUTSIDE PEER REVIEW

- Peer review must be completed in the time frame for finalizing the document, to ensure that the project schedule is met.
- Sufficient direction must be provided to the peer reviewer on the aspects of the report that are to be reviewed and the purpose of the review.
- Peer comments are edited by DEB and/or CCSO, to ensure that all comments are valid and complete, and that the comments are not based on personal or professional bias.

EXHIBIT 39: PUBLICATION AND EXTERNAL DISTRIBUTION OF REPORTS

CALTRANS AND FHWA POLICY

FHWA's policy towards the publication and distribution of archaeological reports is addressed in the responses to questions No. 18 and No. 25 of their *Guidance on the Consideration of Historic and Archeological Resources in the Highway Project Development Process* (1988). Under question No. 18, it is stated that a "limited number of copies of reports may be made available to the archeological community if it is determined by the Division Administrator to be in the public benefit and without financial gain to any party." Under question No. 25, FHWA approves of the use of Federal Aid highway funds to pay for "reasonable, justified efforts; such as...limited non-profit publication; performed as a part of an approved research design.…"

It is Caltrans' policy "to encourage and support publication/presentation of employees' (or consultant) work-related, technical or educational reports when they add to, expand upon or revise existing knowledge in the field of transportation or other professional specialties (e.g. Architectural History) within the Department" (Policy and Procedure, 82-7 [revised 10-2-84], *Publication of Employees' Work-related and Other Technical Reports).* Only those archaeological reports of substantial interest and high quality are candidates for publication.

It is Caltrans' policy to sell reports at cost, thereby meeting FHWA's stipulation of "no profit", as well as abiding by California highway law which prohibits "making a gift of public funds", i.e., selling reports below cost. Cost includes the cost of report preparation, including the graphics, as well as reproduction.

PROCEDURES FOR EVALUATING PROPOSED PUBLICATIONS

Reports are evaluated on a case-by-case basis. The archaeologist responsible for the report either as author or consultant monitor submits to the DEBC an abstract of the proposed publication and a memo recommending number of copies, price, and proposed distribution. The DEBC evaluates the request and submits a recommendation to the District Director if the request is supported. If the District Director concurs with the recommendation, the request for approval is submitted to the Chief, Division of State and Local Project Development (DSLPD), who makes the final decision on publication and authorizes the use of Caltrans support services. It is anticipated that the Chief, DSLPD, will consult with the CCSO Chief on publication of archaeological reports.

If a Headquarters archaeologist is responsible for the report, either as author or consultant manager, a similar request is submitted through the archaeologist's

branch chief and the SCO Chief. The approval of such requests has been delegated to the CCSO Chief from the DSLPD Chief. The CCSO Chief will also consult on this decision with the DEBC responsible for the project.

PUBLICATION AND DISTRIBUTION

The sale price of the report, if sold by Caltrans, is set at cost, including preparation expense. The report is sold through the Central Publications Distribution Unit. The use of other agents to print and distribute such documents is encouraged, on a case-by-case basis, to reduce Caltrans' work; such agreements must be approved by Caltrans Legal Division.

MANDATORY CLAUSES

A consultant may publish an accepted final report. A consultant's report, published either by the consultant or by Caltrans, must include

- the contract cost and contract number on the title page per Government Code 7800;
- a credit reference, "Prepared in cooperation with the State of California, Business, Transportation and Housing Agency, and the U.S. Department of Transportation, Federal Highway Administration";
- a disclaimer statement, "The contents of this report reflect the views of the author who is responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the State of California or the Federal Highway Administration. This report does not constitute a standard, specification, or regulation."

Under state and federal law, a consultant is free to copyright material developed under a Caltrans contract, with the condition that the State and the Federal Highway Administration reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the report for Government purposes. Such a clause should be included in any Caltrans contract involving archaeological reports.

If Caltrans and/or the FHWA do not concur with the consultant's finding or conclusions, the consultant must include a statement that this is so, and must include any Caltrans or FHWA technical comments in the report in a clearly identified section such as "Sponsor's Comments". The DEBC is responsible to see that these comments are included in the document.

MANDATORY DISTRIBUTION LIST

Caltrans mandatory distribution of reports includes:

- FHWA;
- SHPO;

- Advisory Council on Historic Preservation (if the report is a data recovery prepared under a FNAE or MOA to which ACHP is a party);
- California Native American Heritage Commission;
- CHRIS Information Center.

FHWA may request that Caltrans forward a copy to the Department of Interior, National Park Service Archaeological Assistance Division, in Washington, D. C. for possible listing with the National Technical Information Service (NTIS).

EXHIBIT 40 +: NATIVE AMERICAN CULTURAL STUDIES

(To be added later)