



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT  
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## **Section 106 Consultation Requirements for Section 408 Permissions**

The issuance of a Section 408 permission is considered a federal action, which requires compliance with the National Environment Policy Act (NEPA) and other environmental laws. Certain environmental laws require consultation with other agencies. Most proposed alterations require the U.S. Army Corps of Engineers (USACE) to consult with the State Historic Preservation Officer (SHPO) and Native American tribes.

Under *Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. 306108)* and *Executive Order 13175, Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians*, USACE is required to consult with the SHPO and Native American tribes when a federal action is determined to be an undertaking and has the potential to cause effects to historic properties.

USACE issued Engineering Circular (EC) 1165-2-220, *Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408*, dated September 10, 2018, which states:

Ensuring and conducting environmental and cultural resources compliance for a Section 408 request is the responsibility of USACE. However, the requester is responsible for providing all supporting information and documentation that the district identifies as necessary to assess compliance, such as species surveys, habitat assessments, and/or cultural resource surveys. A final Section 408 request cannot be rendered until the requester has provided all information necessary for the district to complete its assessment for environmental and cultural resources compliance. The district will work with the requester to determine the requirements for the information the requester is required to submit to constitute a complete request.

A cultural report is required to initiate consultation with the SHPO and tribes under Section 106. The cultural report is required to be prepared by a person who meets Professional Qualifications Standards as outlined by the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (Code of Federal Regulations, 36 CFR Part 61). A link to the California Historical Resources Information System (CHRIS) archaeological consultant search engine is below to assist requesters in locating a qualified cultural resources specialist. A qualified specialist will prepare a cultural report meeting the requirements of the attached 3 page checklist for USACE to use in consultation with the SHPO and Native American tribes for the requester's proposed alteration.

Consultant link:

Consultation Search Engine. <http://www.chrisinfo.org/>

Section 106 Informational links:

California SHPO. <http://ohp.parks.ca.gov/>

Section 106 Quick Guide. <https://www.nps.gov/history/tribes/Documents/106.pdf>

Section 106 Regulation Summary. <http://www.achp.gov/106summary.html>

Professional Qualifications Standards. [https://www.nps.gov/history/local-law/arch\\_stnds\\_9.htm](https://www.nps.gov/history/local-law/arch_stnds_9.htm)

Tribal consultation. <http://www.achp.gov/regs-tribes.html>

# Cultural Resources Required Information



## FOR COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT–408 Permissions within the Boundaries of the Corps Sacramento District in the State of California

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Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), requires Federal agencies to take into account the effects of their undertakings on Historic Properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. Prior to granting permission from the Corps under Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 408) to make modifications to a Federally-authorized flood control project, the U.S. Army Corps of Engineers, Sacramento District, Operations Division (Corps) must consider the effect the permission may have on Historic Properties. Historic Properties are prehistoric or historic districts, sites, buildings, structures, objects, sacred sites, or traditional cultural places that are included in, or eligible for inclusion in, the National Register of Historic Places.

In order to comply with the NHPA, the Corps has prepared this checklist to assist applicants, their consultants, and the Corps in minimizing time and effort preparing submittals to the State Historic Preservation Officer and expediting the review process. Reports not meeting the minimum guidelines will be returned to the applicant or consultant for revision.

Applicants may consider obtaining a cultural resources inventory for their entire parcel. In doing so, the applicant is assured that the entire project area is covered for the current undertaking as well as potential future undertakings.

If a consultant is retained on behalf of the Applicants, the consultant shall follow profession reporting requirements with directions outlined by the California Office of Historic Preservation under the Section 106 Consultation Submittals section available at [ohp.parks.ca.gov](http://ohp.parks.ca.gov). For reports submitted to the Corps, the following elements should be included.

### **Project Description**

- Include a complete and specific project description identifying purpose, acreage, location (including construction, staging areas, and access routes), construction methods, construction phasing (if any), and the elements of project construction, such as pipelines, roads, housing, etc., that have the potential to affect historic properties. Such elements may include the portions of the project that will be altered, the parts that will remain unchanged, the visual impact of the project's various components, and the location and horizontal and vertical extent of ground disturbance that will occur as a result of the project's implementation.

### **Area of Potential Effect (APE)**

- Description of the entire APE including the size in acres. The APE description must take into account all project-related activities and potential indirect effect.
- Maps: Include a location map, a 7.5-minute quadrangle map showing the anticipated APE and a high quality large-scale map (1 inch = 200 feet) showing the proposed project development.
- Vertical area of direct effects (depth of ground disturbance)
- Viewshed analysis for projects located in proximity to significant landscapes of districts.

## Literature Review

- Include a records search that is not over five years old from the appropriate records repository. The search must be completed by a qualified archaeologist or historian and should include a minimum quarter mile buffered search area.
- Review of other pertinent material including, but not limited to gray literature, ethnographic literature, Sanborn maps, historic topographical maps, General Land Office plat maps, historic aerial photographs, and other sources. Additional information from local sources such as historical societies and public libraries, when available, should be provided. Include records of previous surveys and previously identified historic properties, when appropriate. Include sources for identification of submerged resources, when appropriate.

## Field Methodology

- Provide a detailed narrative on the field methodology, including field dates, the number and/or the names of the people on the survey, as well as the qualifications of the crew chief, and the field conditions. Also include the rationale for how the field methodology is appropriate relative to both the project's potential effects on historic properties and the field conditions at the time of the inventory.
- Identify whether the entire APE was subject to a uniform field methodology, and, if not, describe where and how variations to the primary field methodology occurred. Include a map of variations to the primary field methodology, as appropriate.
- Specifically address both surface and subsurface identification efforts. Reference any applicable state and/or Federal standards under which the survey was conducted.
- Resources identified in field inventories completed more than 2 years old must be re-evaluated, and if necessary rerecorded, to determine site integrity and project effect.
- Describe potential for subsurface archeological remains. Include justification on how that determination was made, e.g., soils maps, field observation, geotechnical explorations, etc.

## Findings

- Provide a detailed description of all cultural resources identified within the APE. Provide a detailed description of all previously identified historic properties located within close proximity of the APE, as appropriate. Levees ARE often historic properties and must be documented.
- Maps. Include a high quality map showing the proposed project development overlaying the approved or preliminary waters of the United States delineation and the cultural resource locations, including isolates. Cultural resource locations and boundaries on the map are to be drawn to scale and not represented as symbols.
- Photographs. Must include high quality digital color photographs of each cultural resource identified and also include photographs showing the environmental setting, where appropriate.
- Include all applicable data forms and/or site records as an appendix to the report. i.e. DPR forms. Specific to levees, it is required that the entirety of a Levee Unit, as defined by the USACE Operations and Maintenance Manuals, be evaluated to determine the overall eligibility of the project-impacted levee. Evaluations will include a historic context of the levee unit and DPR forms (both Primary and Building, Structure Object forms). The latter forms shall include an eligibility determination discussing all four criteria and a statement of integrity discussing all seven aspects of integrity. Once the unit evaluation is complete, project-related levee segments can be evaluated as contributing or non-contributing elements.

## Evaluation and Recommendation of Eligibility for a property for listing on the National Register of Historic Places (NRHP)

- Must be completed for each prehistoric or historic site, district, building, structure, or object found within the APE, **(INCLUDING LEVEES)** and
- Must address whether each cultural resource is or is not eligible for the NRHP under all four of the criteria, and must consider the seven aspects of integrity. A concise, rational argument for, or against eligibility must accompany each recommendation. For additional guidance on how to apply NRHP criteria, see Advisory Council on Historic Preservation's (ACHP) Section 106 Guidance webpage.

## Recommendation of Effect of the undertaking on cultural resources identified as historic properties

- For each identified historic property, the consultant is responsible for discussing specific proposed project impacts. This should also describe how much of the historic property would be affected (or not affected). After the effect on each historic property is defined, the consultant must make an effect recommendation for the overall undertaking. The Corps will review the effects determination in determining agency finding of effect pursuant to 36 CFR 800.4 (d) and 36 CFR 800.5.

## Professional Qualifications

- Projects completed by consultants must be done under the direction of a Principal Investigators meeting the Secretary of the Interior's Standards Professional Qualifications for Archaeology or History (Code of Federal Regulations, 36 CFR Part 61, 48 FR 44738-44739) in the discipline germane to a particular resource type. Qualifications must be stated in the submitted cultural resources report.

Built environment resources, including but not limited to, buildings, structures, levees, roads, or bridges, must be documented and evaluated by a professional meeting the **Secretary of the Interior's Qualification Standards in Architectural History or History** (36 CFR Part 61, 36 CFR 800.2 [a] [1]). These qualifications must be clearly stated in the submitted cultural resources report.

## Native American Coordination

- Provide the results of a Native American Heritage Commission Sacred Land File search, including the Native American Contact list. Results and contact list should be no more than one year old.

Tribal coordination and consultation will be completed by the Corps as part of our Section 106 responsibilities. In certain instances, consultation may be carried out by other federal, agencies appointed as lead federal agency by the Corps.

## Additional Information