**REPORT AND CONTENT TEMPLATE FOR SECTION 106 CONSULTATIONS**

(Letter Report Format and Template Example)

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**1. INTRODUCTION**

The XXXX (City/County/Park/District) has applied for assistance from the *National Park Service - Land and Water Conservation Fund* (NPS-LWCF) to construct/improve/expand, or acquire parkland and the applicant is *initiating/continuing* consultation for the undertaking under the National Historic Preservation Act (NHPA). As such, and in accordance with the implementing regulations for Section 106 found at 36 CFR Part 800, we are seeking (**1**) your comments on our *APE* delineation and **(2)** *Level of Effort* identifying historic properties (including determinations of eligibility of for the National Register - if any), and (**3**) your concurrence on our finding of:

**A.** “*No Historic Properties Affected*“, pursuant to 36 CFR Part 800.4(d)(1), **or**

**B.** “*No Adverse Effect*“, pursuant to 36 CFR Part 800.5(b), **or**

**C.** “*Adverse Effect*“, pursuant to 36 CFR Part 5(d)(2).

**2. PROJECT DESCRIPTION**

The undertaking has been proposed to improve public recreation facilities in the XXXX (name of City Park). Proposed (ground disturbing work and work on existing structures) will consist of the following:

• Trenching - approximately 45-lineal feet of 2-foot wide by 4-foot deep trenching will be completed for installing irrigation water lines.

• Grading - approximately 200 square-feet (ft2) of ground will be graded to a depth of 4-inches for constructing an automobile parking lot.

• Construction - one 15-foot long by 10-foot wide by 10-inch deep concrete foundation pad will be constructed for a new public restroom.

• Project staging - staging of project equipment, supplies and personnel will be implemented at existing Campsite-24.

• Project access - one new 25-foot long by 6-foot wide access road will be constructed adjacent Campsite 24. Road construction will require grading to a depth of 6-inches.

**3. AREA OF POTENTIAL EFFECT (APE) DESCRIPTION**

The Area of Potential Effect (APE) was determined through reviews of project plans, estimations of maximum potential for ground disturbance, topographic and geographical constraints, etc. Located near/at/in the City of XXXX, the horizontal APE will involve XX.X-acres of land and it encompasses all ground disturbing activities identified in the project description above. Per the project description, the vertical APE will range between 6-inches for construction of the new access road and 4-feet for irrigation water line trenching. The APE and its ground disturbing activities are delineated and labeled in Appendix-A.

**4. HISTORICPROPERTY IDENTIFICATION EFFORTS**

A research strategy consisting of California Historical Resources Information System (CHRIS) and Native American Heritage Commission (NAHC) information searches, consultation with NAHC identified contacts, and field-survey was used to identify historic properties in the APE. [**Note**: Your letter needs to explain your reasons for omitting of any of these four actions from your efforts in identifying historic properties.]

A. The *CHRIS Search* was completed at (specific Information Center facility) by (person) on *Month//Day/Year* for the APE and a XX-mile study radius. This work identified XX previously recorded historic properties/cultural resources the current APE. A copy of this CHRIS search request and results is provided in Appendix-B.

B. The *NAHC Sacred Lands and Contacts Search* was completed by (person) on *Month//Day/Year* and identified XX NA contacts and XX NA resources in the current APE. A copy of this NAHC consultation and its results is provided in Appendix-C.

C. *Native American Consultation* was completed with all contacts were identified by the NAHC as well as XX additional contacts. Consultation involved letters/emails/phone-calls/field-visits/meetings with each contact. Copies of NA consultations, their results, and a log of this work is provided in Appendix-D.

D. *Field-Survey* involved a strategy/mixed strategy of (pedestrian transects/shovel scraping/etc.) and was completed/supervised by (person). This work covered XX-acres of the APE and identified XX-newly recorded cultural resources. An *Archaeological Survey Coverage* map is provided in Appendix-E.

E. *Prior National Register Evaluations* had been completed for XX cultural resources in the current APE. XX of these were determined eligible with the SHPO’s consensus and XX were determined ineligible with the SHPO’s consensus. Evidence of the SHPO’s consensus on the evaluations is provided in Appendix-F (evidence can consists of the SHPO’s letters or conformation of eligibility/ineligibility status from the CHRIS search)

E. *National Register Evaluations* were completed for XX cultural resources in the current APE. Based on our application of the *Criteria for Evaluation* found at 36 CFR Part 60.4, XX cultural resources were determined eligible and XX were determined ineligible. To assist in your review of this work, our evaluation efforts and pertinent cultural resource materials are attached to this report (Appendix-G).

F. *Historic Properties in the APE* identified by the above work are summarized in the following table:

|  |  |  |
| --- | --- | --- |
| **Historic Properties in the APE** | | |
| **Resource No.** | **Type** | **National Register Status** |
| P-001 | Historic | Potentially eligible, previously recorded, not evaluated |
| P-002 | Prehistoric | Potentially eligible, newly recorded, not evaluated |
| P-003 | Multicomponent | Determined eligible with prior SHPO consensus, letter provided |
| P-004 | Historic | Determined eligible for proposed undertaking and requesting SHPO consensus, letter provided |
| P-005 | Prehistoric | Determined eligible with prior SHPO consensus, letter provided |
| P-006 | Multicomponent | Determined ineligible for proposed undertaking and requesting SHPO consensus |

**5. FINDING OF EFFECT (FOE)**

A. A finding of “*No Historic Properties Affected*“ pursuant to 36 CFR Part 800.4(d)(1) was determined for the proposed undertaking as the identification efforts discussed above identified no cultural resources/historic properties the current APE. ***OR***

B. A finding of “*No Adverse Effect*“ pursuant to 36 CFR Part 800.5(b) was determined for the proposed undertaking as the identification efforts discussed above identified historic properties in the current APE but our application of the *Criteria for Adverse Effect* found at 36 CFR Part 800.5(a)(1) further determined that the proposed undertaking would not alter, indirectly or directly, the characteristics that (1) qualify them for listing on or (2) for which they were listed on the National Register. Per potentially affected resource in the current APE, no adverse effects will be achieved by the following method(s):

● *Avoidance* - For purposes of the proposed undertaking all historic properties in the APE will be delineated as an Environmentally Sensitive Area (ESAs) in which all project work will be prohibited.

● Historic Property identification work determined the subject property (site number) was previously listed on the National Register under Criteria (A, B, C and/or D). Based on our application of the *Criteria of Adverse Effect*, we determined the proposed undertaking will not, indirectly or directly, alter any of the characteristics for which it was listed as explained below:

● Historic Property identification work completed for the proposed undertaking determined the subject property (site number) is potentially eligible for the National Register under Criteria (A, B, C and/or D). Based on our application of the *Criteria of Adverse Effect*, we further determined the proposed undertaking will not, indirectly or directly, alter any of the characteristics that qualify it for listing on the National Register as explained below:

● Prior Section 106 work determined the subject property (site number) was determined ineligible for listing on the National Register with the SHPO’s consensus/CHRIS evidence. As such, not subject to management under Section 106. Please see the letter(s) of SHPO consensus/CHRIS evidence in Appendix-A.

● Historic Property identification work completed for the proposed undertaking determined the subject property (site number) ineligible for listing on the National Register and, upon the SHPO’s consensus with our evaluation efforts, not subject to management under Section 106. Please see our National Register evaluation work in Appendix-H. ***OR***

C. A finding of “*Adverse Effect*“ pursuant to 36 CFR Part 800.5(d)(2) was determined for the proposed undertaking as historic property identification work discussed above identified historic properties in the APE and, based on our application of the *Criteria of Adverse Effect* found at 36 CFR Part 800.5(a)(1), it was further determined that the proposed undertaking will, indirectly or directly, alter characteristics that (1) qualify them for listing or (2) for which they were listed on the National Register as explained below:

**APENDENCES**

**Appendix-A:** Area of Potential Effect (APE) Map

**Appendix-B:** Evidence and Results of CHRIS search

**Appendix-C:** Evidence and Results of Native American Heritage Commission search

**Appendix-D:** Evidence and Results of NA consultation

**Appendix-E:** Archaeological Coverage (Field-Survey) Map

**Appendix-F:** Evidence of PriorNational Register Evaluations

**Appendix-G:** Evidence of National Register Evaluation Work

**DEFINITIONS:**

**1.** “***Area of Potential Effects***” pursuant to 36 CFR Part 800.16(d) - means the geographic area or areas within which your **undertaking** may directly or indirectly cause alterations in the character or use of **historic properties**, if any such properties exist. The APE is influenced by the scale and nature of your undertaking and may be different for different kinds of **effects** caused by your undertaking.

**•** **For OGALS and applicants**, this means that the first order of business in a Section 106 investigation is to clearly define the geographical boundaries of the APE. The APE must encompass all ground disturbing activities and will serve to guide all subsequent Section 106 work. **The SHPO’s comments on the appropriateness of the APE must be requested during Section 106 consultation**.

**2.** “***Undertaking***” pursuant to 36 CFR Part 800.16(y) - means a project, or activity, or program funded in whole or part under the direct or indirect jurisdiction of a Federal agency, including those carried out with Federal financial assistance and those requiring a Federal permit, license or approval.

**•** **For OGALS and applicants**, this means that all NPS-LWCF funded projects are Federal undertakings subject to Section 106.

**3.** “***Effect***” pursuant to 36 CFR Part 800.16(i) - means any alteration to the characteristic of a historic property that qualifies it for inclusion in, or eligibility for, the **National Register**.

**•** **For OGALS and applicants**, this means that the primary purposes of a Section 106 investigation is to (**1**) determine the presence/absence of historic properties in an APE, (**2**) the proposed undertakings potential for adversely affecting those properties, and (**3**) how the adverse effects (if any) will be avoided.

**4.** “***National Register***” pursuant to 36 CFR Part 800.16(q) - means the National Register of Historic Places (NRHP) that is maintained by the Secretary of the Interior (SOI).

**•** **For OGALS and applicants**, the NRHP is a list of cultural resources that have been determined through the “*National Register Evaluation Criteria*“ evaluation process discussed below to be important in our Nation’s history.

**5.** “***Historic Property***” pursuant to 36 CR Part 800.16(l)(1) - means any prehistoric or historic district, site, building, structure, or object included in, or **eligible for inclusion** in, the NRHP maintained by the SOI. Historic properties include artifacts, records, and remains that are related to and located within such properties. The term also includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the **NRHP evaluation criteria**.

**•** **For OGALS and applicants**, a historic property is a cultural resource that has been (1) determined eligible for listing on the National Register though an evaluation process prescribed under Section 106 or (2) has been listed through a formal nomination process. All cultural resources identified in an APE are to be managed as historic properties eligible for listing unless they have been determined ineligible through Section 106 work for your undertaking and have received consensus by the SHPO.

**6.** “***Eligible for Inclusion in the National Register***” pursuant to 36 CFR Part 800.16(l)(2) - meaning to include both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the **NRHP evaluation criteria**.

**•** **For OGALS and applicants**, a cultural resource found eligible with the SHPO’s consensus for inclusion in the NRHP is referred to as a historic property. OGALS and its applicants are compelled under Section 106 to determine if any unevaluated cultural resource in an APE is of sufficient importance for listing on the NRHP. If the resource is determined to be of sufficient importance for listing, it is referred to as a historic property.

**7.** “***National Register Criteria***” pursuant to 36 CFR Part 800.16(r) - means the criteria established by the SOI for evaluating the eligibility of properties for the NRHP.

**•** **For OGALS and applicants**, the process for determining eligibility is found at 36 CFR Part 60.4, also known as the “*Criteria for Evaluation*.” It is important to remember that Section 106 compels OGALS and its applicants to apply the “*Criteria for Evaluation*” to unevaluated resources in an APE to determine if they are historic properties eligible for the NRHP. The criteria can be thought of as a filter through which a cultural resource is screened for the NRHP. Applying the criteria is an analytical exercise that requires the following criteria be addressed:

**A.** **Criterion A** - asks if a cultural resource can be associated with any **event** important in our history such as the Gold Rush, Westward Expansion, the Development of Agriculture, etc.

**B.** **Criterion B** - asks if a cultural resource can be associated with any **person** important in our history such as Leland Stanford, John Sutter, John Bidwell, etc.

**C.** **Criterion B** - asks if a cultural resource encompasses any architectural style and/or construction practice that (1) fits a pattern of features common to a particular class of resource, (2) represents the individuality or variation of features that occur within a particular class of resource, (3) represents an evolution of a class of resource or, (4) represents a transition between classes of resources. The criterion can too be applied to prehistoric resources, particularly if they are rock art, or retain horizontal and/or vertical integrity between site constituents.

**D.** **Criterion D**- asks if a cultural resource contains **information** important in our history or prehistory

**•** The “*Criteria for Evaluation*” also asks if a cultural resource in its current condition can convey its particular sense of history through the following aspects of integrity:

Association Location Workmanship

Design Materials

Feeling Setting

**● Important Note-1:** It is important for OGALS and its applicants in their efforts identifying historic properties to not overlook the landscape (existing parks, railroad grades, reservoirs, etc.) in which their undertakings are proposed for implementation.

**8.** “***Criteria of Adverse Effect***” pursuant to 36 CFR Part 800.5(a)(1) - meaning that an **adverse effect** is found when an undertaking may alter, directly or indirectly, any of the characteristics property that qualifies it for inclusion in, or eligibility for, the **National Register** of a property that qualifies it for inclusion in the NRHP in a manner that would diminish the integrity of the property’s *location, design, setting, materials, workmanship, feeling, or association*. Consideration shall be given to all of the characteristics of a historic property that qualify it for the NRHP, including those that may have been identified subsequent to the original evaluation of the property’s eligibility for the NRHP. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance, or be cumulative.

• **For OGALS and applicants**, the “*Criteria of Adverse Effects*” has a number of examples that can be used as an aid in determining if an undertaking will have an adverse effect on a historic property. Though the examples are useful, it is important to know that an adverse effect can only be to the characteristics (*criteria* and *integrity*) of a historic property that qualify it for the NRHP. For unevaluated resources, this also means that the characteristics have to be determined through the evaluation process discussed above before the “*Criteria of Adverse Effects*” is applied. If a resource is found not having any characteristics making it eligible, and the SHPO concurs with the evaluation, it then is not a historic property subject to Section 106. Historic properties that are listed on the NRHP will have their qualifying characteristics already defined.

**9.** “***Level of Effort***” refers to the amount of work identifying historic properties that was completed during a Section 106 investigation. Opinions may vary, but at a minimum a sufficient level of effort will involve:

**A.** A *California Historical Resources Inventory System* (CHRIS) search

**B.** A *California Native American Heritage Commission* (NAHC) sacred lands and contacts search

**C.** Consultation with *Native American* (NA) contacts identified by the NAHC

**D.** *Field-survey*

• **For OGALS and applicants**, the “*Level of Effort*” expected for a Section 106 investigation will be the same as listed above, but with the exception any recommendation made by the CHRIS regarding needs for additional work such as employing an archaeological contractor. As such, it is recommended that OGALS and its applicants proceed with their Section 106 work in the order provided in the above list. **The SHPO’s comments on the “*Level of Effort*” identifying historic properties (including evaluations) must be requested during Section 106 consultation**.

**10.** “***Finding of Effect***” (FOE) is the conclusion of your Section 106 investigation and it defines the proposed undertaking’s takings potential to have an adverse effect on historic properties.

• **For OGALS and applicants**, there are only three FOEs defined under Section 106. Section 106 investigations must determine the appropriate FOE for the proposed undertaking. The three FOEs and their meanings are:

**A.** “***No Historic Properties Affected***” pursuant to 36 CFR Part 800.4(b)(1) - means that there are no cultural resources in the APE that meet the definition of a historic property (Definition-5) under Section 106 (36 CFR Part 800.16(l)(1).

**B.** “***No Adverse Effect***” pursuant to 36 CFR Part 800.5(b) - means that there are cultural resources in the APE that meet the definition of a historic property, but through your application of the *Criteria for Evaluation* (Definition-7) and the *Criteria of Adverse Effect* (Definition-8) you found that the proposed undertaking will not alter, directly or indirectly, the characteristics that make it eligible (Definition-6) for the **National Register** (Definition-4).

**C.** “***Adverse Effect***” pursuant to 36 FR Part 800.5(d)(2) - means that there are cultural resources in the APE that meet the definition of a historic property (Definition-5), but through your application of the *Criteria for Evaluation* (Definition-7) and the *Criteria of Adverse Effect* (Definition-8) you found that the proposed undertaking will alter, directly or indirectly, the characteristics that make it eligible (Definition-6) for the **National Register** (Definition-4).

**● Important Note-1: “***Adverse Effect*”FOEs will require development of a *Memorandum of Agreement* (MOA) between the *Advisory Council on Historic Preservation* (ACHP), OGALs and the SHPO’s office to mitigate the effect of the proposed undertaking on the historic property.

**The SHPO’s concurrence on the FOE must be requested during Section 106 consultation**.