



Meeting Notes

Subject Section 106	Sheet 1 of 6
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Project Number

Meeting Date April 13, 2005	Meeting Location KABATA Conference Room
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Notes by Louise Smart	Office CDR
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Attendees:	Judy Bittner, SHPO	Edrie Vinson, FHWA	Louise Smart, CDR
Stefanie Ludwig	Laurie Mulcahy, DOT&PF	Dale Paulson, KABATA/DOT&PF	Robin Reich, HDR
Steven Braund, SRB&A	Richard Stern, SRB&A	Elizabeth Grover, SRB&A	Eric Hilsinger, SRB&A

Topics Discussed

First Meeting (with Judy Bittner, Edrie Vinson, and Louise Smart)

Edrie/Judy Steps for Working through 106 Issues that may Arise

1. Prevention - Work together up front to strategize how to do things (such as develop an identification survey strategy)
2. Check in at particular steps to identify differences
3. Talk (FHWA and SHPO) to resolve the differences
4. Informally discuss the issue with the Advisory Council (could be a conference call)
5. Seek formal assistance from Advisory Council

Site Form Letter

There is interest in having a Site Form Letter that is useful. Edrie will look at existing form letters and propose a format that will include:

1. What the project is
2. Relevant maps
3. A direct request for a response or determination or a statement that this is just informational



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Consulting Parties

Edrie would like to engage more local historical interest groups in the process and invite them to be consulting parties. Judy reported that typically, historical association boards have not been involved in 106 consultation, partly because they do not have staff. The project can be an opportunity to educate and engage the public around 106 issues. Edrie and Judy agreed that it would be useful to have two meetings (one in Anchorage, one in the Mat-Su Borough) to bring together historical groups and local government to:

1. Talk about what an historical resource is
2. Present information about the project and explain about 106
3. Discuss the Area of Potential Effect and get their input regarding resources
4. Discuss the concept of cumulative and indirect effects
5. Receive help in identifying things that have significance to these groups
6. Encourage a subset of citizens to be engaged in the project as consulting parties

Next steps:

1. Judy will give a list of historic-interest organizations to FHWA
2. FHWA will invite them to participate in an organizational meeting
3. Judy will discuss this at organization Board meetings that she attends (beginning with two on 4/13)
4. Edrie will pursue the option of holding a one-day class on 106 with consulting parties. The class can be based on one of the modules that has been prepared for the FHWA 106 course. This class could be held with people/groups who have agreed to be consulting parties following the two organizational meetings.

Discussion on Potential Effects

1. Section 106 defines “direct effect” in terms of the footprint of the project, while NEPA defines “direct effect” in terms of a larger area.
2. There needs to be agreement on the Area of Potential Effect (APE). Edrie clarified that the “box” that is included in one of the maps is not the APE.
3. The challenge is to find a way to identify or predict resources that is both useful and achievable within reasonable cost and time. Judy suggested a method of identifying the locations where there may be potential development (by eliminating wetlands and habitat areas) and conducting some limited surveying based on hypotheses regarding location of historic resources. With the participation and input of local community groups, there may be reasonable predictability of resources. Edrie noted that in measuring indirect effects, the FHWA guidance says to use existing information. It does not require new surveying to identify resources. That is why FHWA would like to bring local groups in to help provide such information. Section 106 says that if you don’t have existing information, you have to do something to fill the information gap. Edrie and Judy agreed that it would



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be useful to bring in ACHP to provide advice on how to determine the Area of Potential Effect and what information is appropriate and necessary for indirect effects analysis.

4. Local government is a key to minimization of indirect impacts on resources. Local government can use available tools such as ordinances and land use controls to protect resources. As citizens come to value resources they will be willing to protect them. They can be appealed to through their interest to protect and preserve resources for hunting and fishing. This interest may help them embrace the concept of government controls. Although there has not been past citizen interest in planning, as people come to understand that growth will inevitably occur, they may care more about planning.
5. The 4/25 and 5/11 Interdisciplinary Team Scoping meetings will identify potential project alignments and help with the identification of the APE and define the indirect and cumulative effects analysis methodology.
6. The consultant team will use a growth model that can project growth with and without the project. Once we know what the pattern would be like without the project, we can predict the change that will occur.

Discussion on Consultation with Tribes

1. The tribes want their sites to be kept confidential.
2. Individuals who are associated with museums and historical societies have in the past been credible and helpful in identifying cultural resources. It will be useful to walk the area with them.
3. Darryl Jordan (KABATA) and Rosetta Alcantra (consultant team) are native and can help with the tribes. Laurie Mulcahy knows the players and the tribes. Edrie will ask Laurie what she needs in order to participate without consuming too much of her time.

Second (Group) Meeting with Judy Bittner, Stefanie Ludwig, Edrie Vinson, Laurie Mulcahy, Dale Paulson, Robin Reich, Steven Braund, Richard Stern, Elizabeth Grover, Eric Hilsinger and Louise Smart

Overview by Edrie and Judy and Discussion by Group Members

Edrie and Judy laid out their vision for 106 for this project:

1. Because this is a regionally significant project, it deserves different approaches. This project is a test for a large project on how to do 106 early.
2. We want to take a proactive approach to engage the public as consulting parties in order to help us identify resources and to educate people more about the 106 process. We are



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stepping outside of the box to be more proactive about engaging the public; the historical, archaeological, and cultural groups typically have not been engaged in 106.

3. We would like to have a more open process, with FHWA and the SHPO office working together to set and adjust direction as the project goes along. This process is NOT about waiting until there is a product and then responding to that product (see below for more on “open process”).
4. We want to make sure we have all the information we need. This includes the development of useful site form letters, inclusion of FHWA decision criteria, and providing up front information to the SHPO.
5. We want to elicit the involvement of local government around historical/cultural issues. Through the project, we want to help educate them and bring them along so they will be prepared and willing to take local action and use tools to solve problems. We will work to raise their awareness of the value of historic and cultural resources, give them information about the resources, and educate them on tools they can use.
6. We want historic preservation to have a role in this project, along with the natural resources.

Discussion included the following:

1. What has been described is “responsible consultation,” which means going beyond the letter of the law – not just sending a letter, giving people 30 days to respond, and then being “done” if people don’t respond.
2. It would be appropriate to set up 106 consultation meetings as part of outreach. On the Sterling project, ADOT held a pre-consultation meeting prior to sending out letters.
3. Cultural-interest groups should be included as well as historical-interest groups (separate from tribal consultation).
4. The federal agency (FHWA) will coordinate the consultation through the consultant.
5. To start the 106 consultation early on, the level of analysis in NEPA must be more robust so the cultural resources information provided in NEPA meets the needs of 106.
6. This proactive approach is beyond the current scope of work for the consultant team (see below).
7. A “more open process” means that meetings of FHWA, SHPO, DOT&PF, and the consultant will be called:
 - a. Up front, to define methodology and scope
 - b. Whenever there is anything unusual to report and discuss
 - c. To discuss preliminary findings
 - d. To provide an oral presentation of the report in conjunction with the submission of the report



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Cumulative and Indirect Effects

Modeling will be used to predict where development will occur and how fast. This will be combined with information/prediction about where the resources are.

Judy's suggestion is that surveying should be done at a reconnaissance level, working with the archaeologist in the SHPO office to identify high probability areas. The first cut could be identification of general development sites and general resource locations. This can begin with discussion with the SHPO Office and with Laurie about where to go to do field work in order to test or ground-truth high and low probability areas. This approach would start with development of a method and then involve some surveying to ground-truth the method.

Edrie's guidance from FHWA is to use existing knowledge for indirect effects analysis. This would include bringing local professional groups together to tap into their knowledge. Section 106 involves field survey for direct effects. Judy and Edrie have agreed that it may be useful to consult with the ACHP to obtain advice on the indirect effects approach.

It is the responsibility of local governments to mitigate long-term impacts. The consultant team can develop a document that can show the probable development and resource sites. This can be given to the Mat-Su Borough and local governments.

It is anticipated that the area of cumulative and indirect effects will be the same, regardless of the alternative that is selected.

Questions and Answers

Question: If the 106 process has a higher standard of documentation than NEPA, what is that standard, and what are the data elements that will be needed?

Answer (from Laurie): A combined 106/NEPA approach really starts with the 106 requirements, and then NEPA can be tiered off that baseline analysis. The 106 process includes:

1. Identification of the project
2. Identification of the Area of Potential Effect of the project
3. Identification of the potential historical properties in the APE
4. Consideration of eligibility
5. Finding of effect

Judy noted that it is important to describe the nature of effects, since they may not all be adverse effects, and to look for ways to mitigate effects.



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Question: Regarding a recommendation of eligibility, if there are 400-500 properties which may be eligible, does this entail making 500 eligibility recommendations, or can there be a lumped recommendation?

Answer (from Judy): There could be a multiple property approach, such as vernacular housing of certain types. Individual resources could then be fitted into those categories. We can consider the efficiencies within the National Registry Program.

Consultant Scope of Work for 106

HDR has a Notice to Proceed and funding through May 2005. Additional work will be through an amendment for the rest of the project. In Phase I, HDR produced a data-gap product (in September). This was based on a port-to-port project and did not include upland areas. This used an old APE. Phase II is anticipated to include:

- Work to define the APE – consensus is needed on the APE
- Preparation and issuance of the consultation letters
- Identification of historical sites in the Ship Creek and Government Hill areas
- Development of a database of resources
- A windshield survey

Dale Paulson agreed that it makes sense to start the 106 process up front so we can work through the NEPA process and understand what the impacts are. He would like to quickly figure out a way to do this so the consultant team does not have downtime not knowing what they are supposed to do. Dale will take the lead in putting together a scope of work for the consultant, so the consultant can prepare a budget that matches the scope. To prepare this scope, decisions must be made right away on:

- The APE, along with criteria and detailed description of desired tasks
- The integration of NEPA and 106
- The level of information needed for indirect effects
- A description of what is expected for proactive consultation

Next Steps

1. Judy will attend two Board meetings of historic-interest organizations on 4/13 and introduce the idea of proactive consultation on this project.
2. Edrie will participate in a team-building conference call on 4/15 and ask for technical assistance related to 106.
3. Judy will call the ACHP to alert them that they will be hearing from the SHPO and FHWA regarding determination of the APE and the level of information needed for indirect effects. Edrie and Judy will then speak with ACHP.
4. During the week of 4/18, a conference call will be held with Edrie, Judy, Mary Ann Nation, Carol, and Dale to discuss these issues.



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5. Judy, Edrie, and Dale will meet to decide what they want, so Dale can give direction on scope to the consultant, and the consultant can provide a cost proposal.
6. Dale will provide scope to consultant; consultant will submit a cost proposal
7. A meeting of FHWA, DOT&PF, SHPO, and the consultant team will be held to have a meeting of the minds on methodology and scope.
8. The consultant team will continue to work with stakeholders to learn about:
 - a. The resources that exist
 - b. What's important to the stakeholders
 - c. Mitigation ideas
9. Edrie will develop a site form and check it out with Judy.