




Section 106 Review Process

Requirements of the National
Historic Preservation Act of
1966, as amended



Federal Agency responsibilities under NHPA

■ Section 110

- Created comprehensive Federal agency preservation programs.
- Consider historic properties and conduct affirmative stewardship of federally owned historic properties.

■ Section 106

- Consider effects of undertakings on historic properties.



36 CFR Part 800: Protection of Historic Properties

- Regulations that Federal agencies must follow which take into account the effects of their undertakings on historic resources.
- Allows the Advisory Council on Historic Preservation an opportunity to comment.



What is an undertaking?

- Any project, activity, or program receiving federal funding, permitting, or licensing in whole or in part.



For Federal Agencies

- Section 106 is an agency responsibility
- If project involves multiple agencies, one will be designated as lead
- Applicants and contractors can be involved, but the agency must ensure that the latter meets necessary professional standards (36 CFR 61)



Coordinating with other reviews

- Regulations encourage coordination with other environmental laws such as
 - National Environmental Policy Act (NEPA)
 - Archaeological and Historic Preservation Act (AHPA)
 - Archaeological Resource Protection Act (ARPA)
 - American Indian Religious Freedom Act (AIRFA)
 - Native American Graves Protection and Repatriation Act (NAGPRA).

- Compliance with one or more of the other statutes does NOT substitute for compliance with 36 CFR Part 800.



Consult with the SHPO

- State Historic Preservation Officer (SHPO)
- State Historic Preservation Office
within the WV Division of Culture and History
- Other responsibilities include:
 - Statewide historic preservation planning and survey.
 - Nomination of properties to the National Register of Historic Places.
 - Grants and tax credits
 - Educational efforts



Section 106 is a 4 step process

- Step 1: Initiation of the Section 106 process
- Step 2: Identification of historic properties
- Step 3: Assessment of adverse effects
- Step 4: Resolution of adverse effects



STEP 1: Initiation of Review Process

Confirm that there is an undertaking.

Identify appropriate parties to consult, including the SHPO and other organizations.

Involve the public through notice or other format.

Identify other consulting parties.

STOP if there is no undertaking and no potential to cause effects.

Continue to STEP 2 if the undertaking MIGHT affect historic properties.

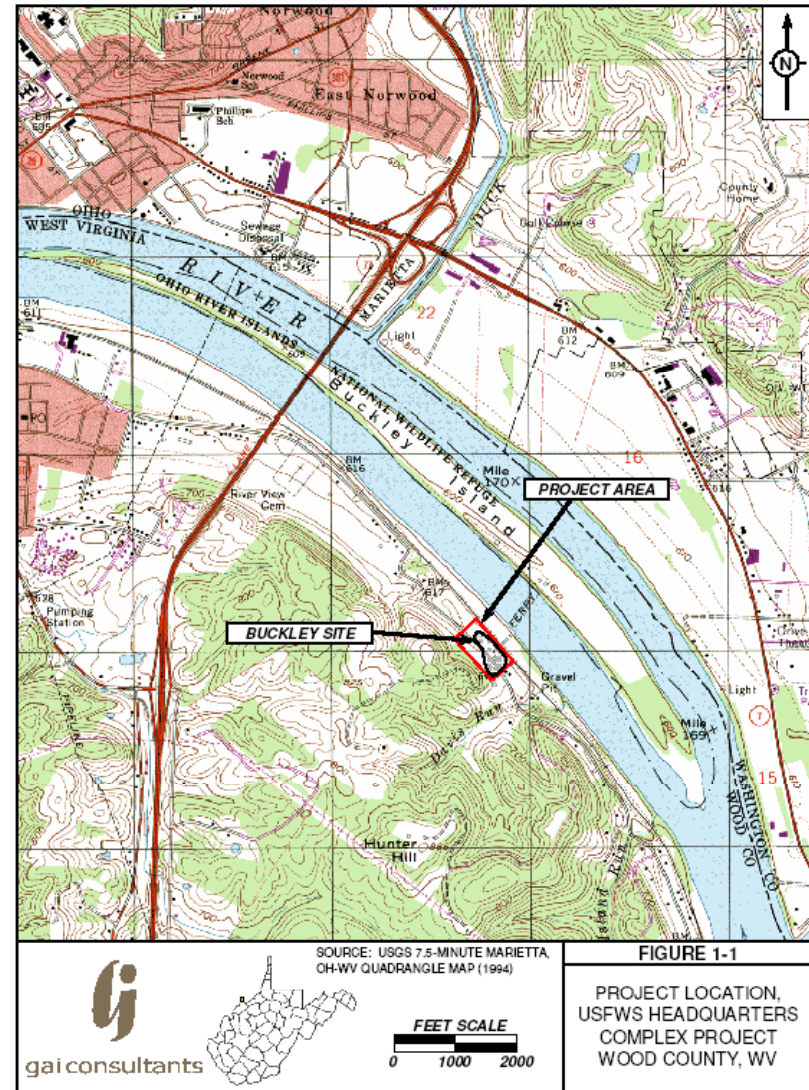


Other Consulting Parties

- Tribal Historic Preservation Officer (THPO)
- Local governments
- The applicant
- Property owners
- Interested persons
- Organizations such as historical societies

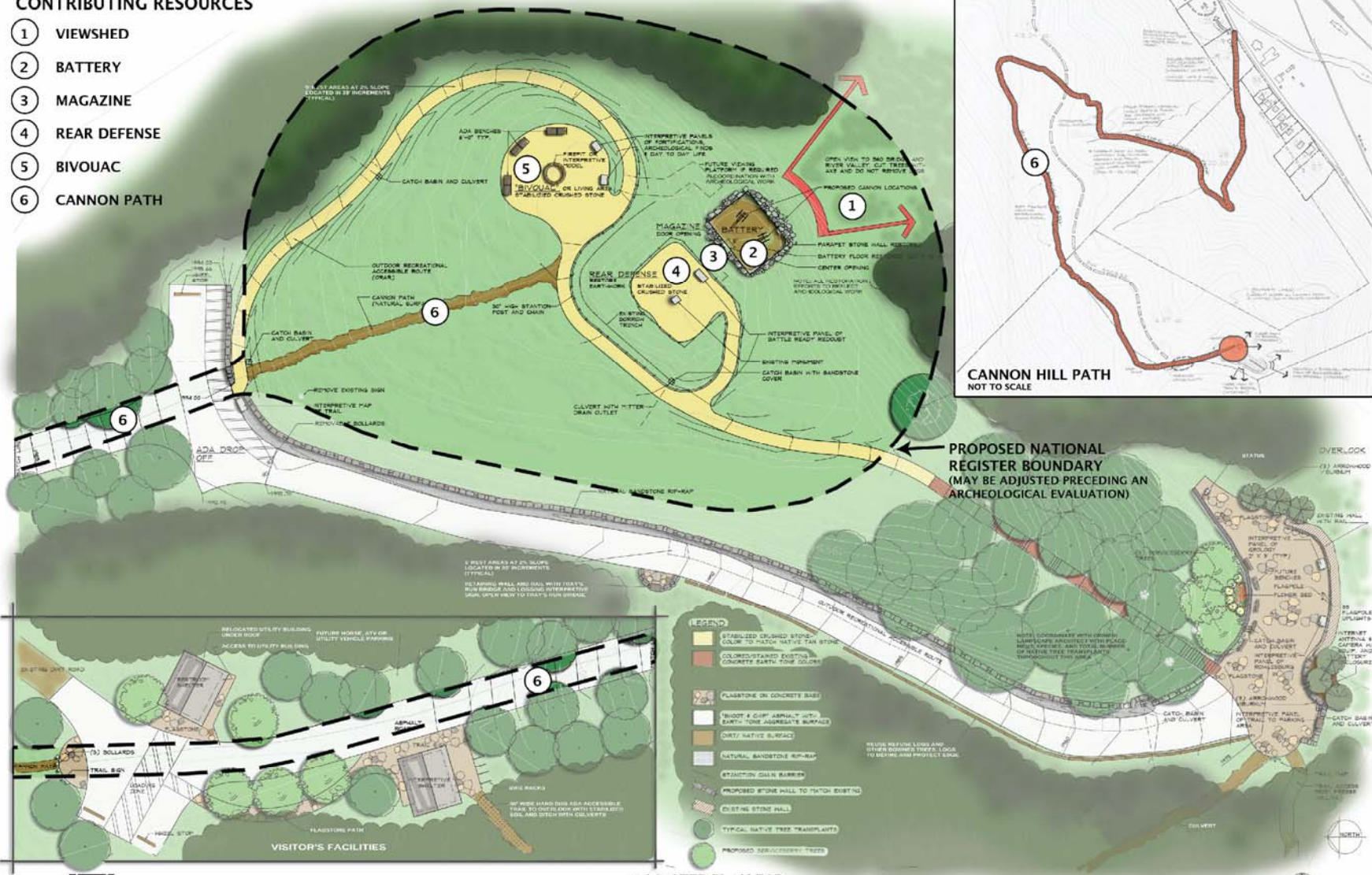
Determine the Area of Potential Effects (APE)

- The APE is the area directly or indirectly affected by the undertaking of a project.



CONTRIBUTING RESOURCES

- ① VIEWSHED
- ② BATTERY
- ③ MAGAZINE
- ④ REAR DEFENSE
- ⑤ BIVOUAC
- ⑥ CANNON PATH



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- An example of an *indirect* impact is the project's effect on the viewshed of historic properties.






An example of a *direct* impact is ground disturbance with the potential to affect archaeological resources; or the demolition of an eligible building.





Step 2: Identifying historic properties

- Determine if there are any properties listed in or eligible for the National Register of Historic Places.
- Agency **must make a reasonable effort** to carry out appropriate identification efforts. 



(More to come about archaeological survey)

Historic Properties may include:

- Building
(house, barn)



- Site (battlefield, trail, landscape, remains of prehistoric village)

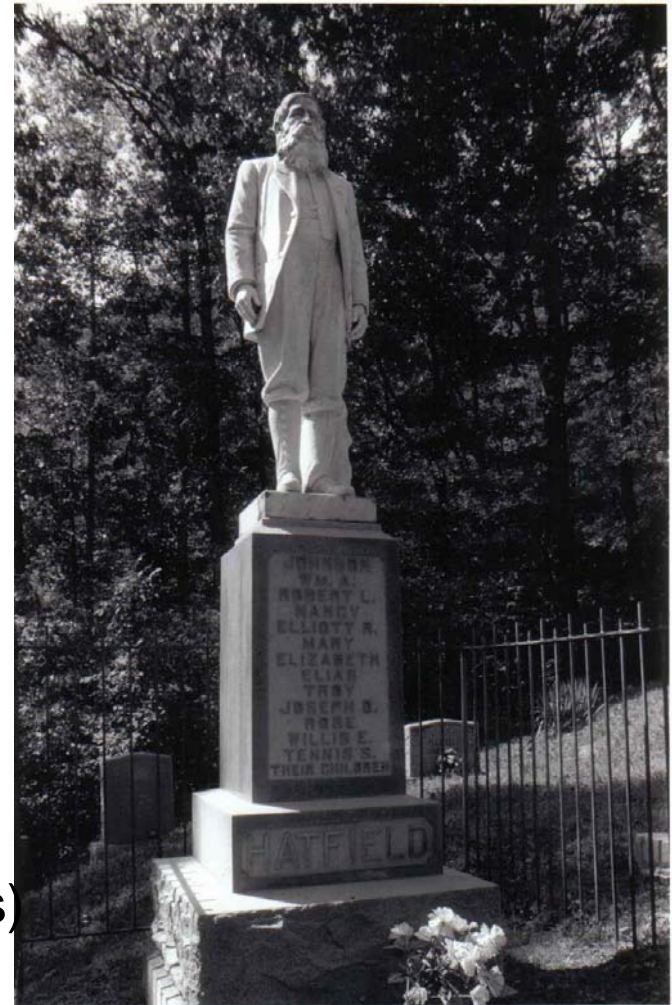


□ Structure

(bridge, canal, dam, train)

□ Object

(sculpture, monuments, fountain, mile markers)



□ District

(concentration of any of the above, residential areas, rural villages, large farm, linked ceremonial sites)





National Register Criteria

- Significant for at least one of the following
 - A - events;
 - B - people;
 - C - design/construction;
 - D - data potential

- Retains all or most of the aspects of integrity including location, setting, design, materials, workmanship, feeling and association

- Age requirement: 50 years or older

- Criteria considerations



Concluding the identification and evaluation step

- No historic properties affected – SHPO agrees, process finished.
- Historic properties affected – process continues.



Step 3: Assessment of adverse effects

- Does the project alter characteristics that make the resource eligible?
 - Consider all qualifying historic qualities
 - Can be direct or indirect effects



What types of activity are considered adverse?

- Physical destruction or damage from an undertaking.
- Alteration of the property including work done to preserve a property not performed to the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.
- Removal of the property .
- Changes in historic purpose and use.
- Changes in the property's setting.
- Introduction of visual, atmospheric or audible elements.
- Neglect of a property.
- Transfer, lease, or sale out of Federal ownership without adequate restrictions or conditions to ensure long-term preservation of the property.



STEP 4: Resolution of Adverse Effects

- Agency must invite ACHP to participate.
- Agency consults with SHPO and other consulting parties to seek ways to avoid the adverse effect.
- Agency determines appropriate steps to mitigate adverse effect.
- Memorandum of Agreement concludes process.
- If no agreement between SHPO and agency, the Advisory Council provides final comments.



Memorandum of Agreement (MOA)

- Usual result of a finding of Adverse Effect.
- Used to mitigate unavoidable damage.
- Outlines plan for mitigation of the adverse effect.



Project begins

- Review process is completed:
 - After final SHPO correspondence or....
 - After final ACHP correspondence or.....
 - After MOA is signed by all required parties.




Archaeology & Sec. 106 Review

- As part of the review process, the SHPO may recommend archaeological investigations be conducted within the Area of Potential Effect (APE)
 - Based on whether intact archaeological sites might be present.
 - Are known archaeological sites present?
 - What is the previous land-use or ground disturbance?
 - Have previous archaeological surveys or excavations been conducted within or near the project?
- Phased approach
 - Phase I - Resource Identification
 - Phase II - Evaluation
 - Phase III - Mitigation



When submitting projects for review, please provide:

- 1) Project location with specific boundaries shown on a USGS 7.5' topographic map
- 2) Detailed description of the nature and extent of the project activities
- 3) Document existing disturbance areas
- 4) Provide photographs!
- 5) Note any buildings, foundations, cemeteries, rock overhangs, or recognizable cultural features greater than 50 yrs in age.



Professional Qualifications (36 CFR 61)

- **All** archaeological investigations must be conducted under the supervision of an archaeologist who meets the professional qualifications.
- MA/MS or Ph.D. in Archaeology or Anthropology (plus additional professional, field, research, and supervisory experience)

Phase I Investigations -inventory of all potentially eligible archaeological resources

- Conduct background research of existing information.
- Field survey designed to *IDENTIFY* archaeological sites within the APE.
 - Pedestrian survey
 - Plow stripping
 - Controlled Surface Collection
 - Shovel Test Probes (STPs)
 - Deep testing of buried deposits





❑ Presence of *above ground features* such as: cemetery headstones, house foundations, depressions indicating wells or privies, fence rows, etc...

Subsurface Testing: STP's excavated at 10-15 m intervals over the entirety of the project area, where slopes are less than 20%, and to a depth in which no archaeological materials could occur.





- Complete Technical Report including all identified sites within the APE.
- Provide recommendations for whether additional work is required.

Phase II Evaluation

- Fieldwork designed to evaluate an archaeological site's eligibility for inclusion in the NRHP.
 - Archaeological sites are most often eligible under Criterion D for having yielded or likely to yield information important in prehistory or history.
 - *Integrity* refers to preservation of intact deposits and the quality of information recovered.

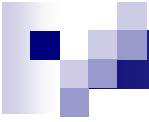


❑ Field Methods:

Excavation Units and deep testing

Designed to reveal stratification, features, artifact patterning, and diagnostic materials.





□ Technical Report with recommendations of eligibility

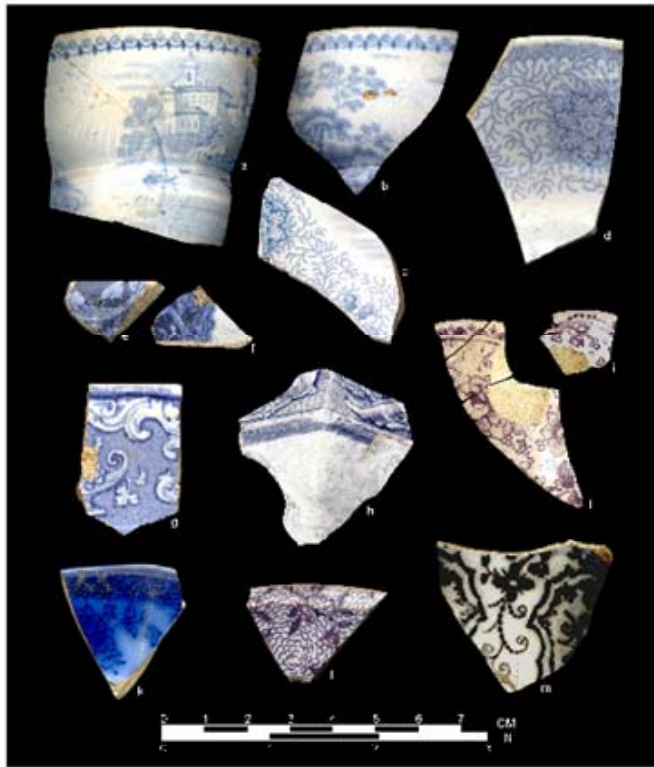
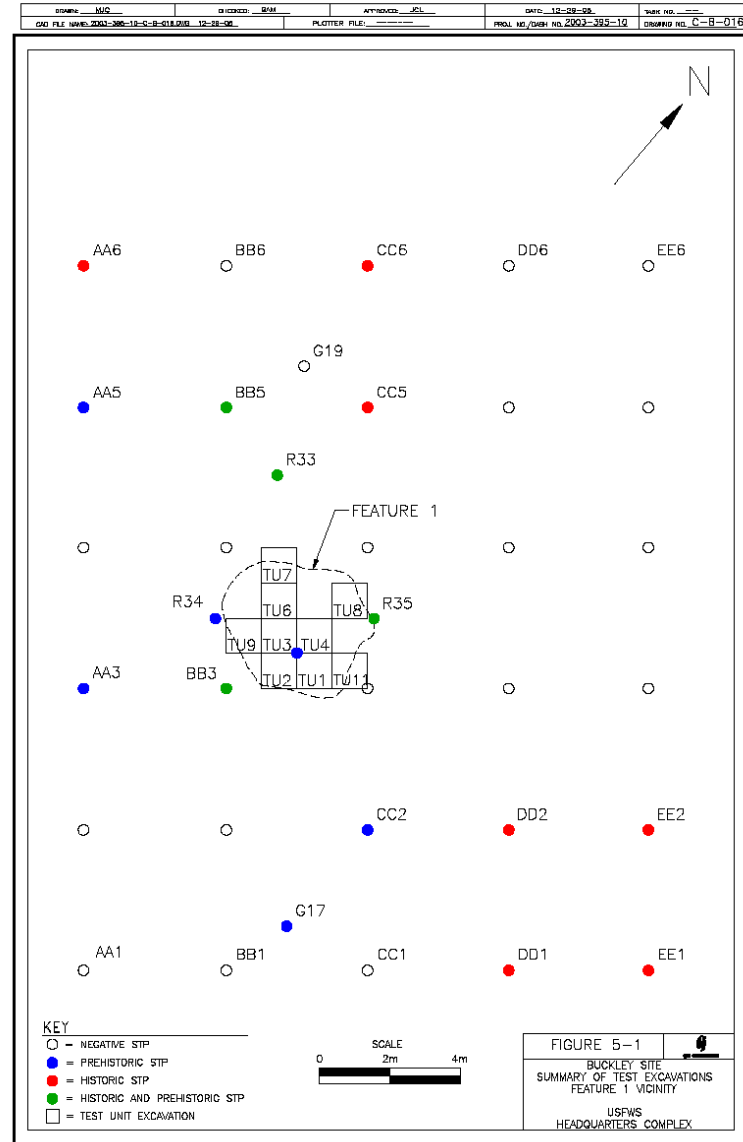



Plate 4. Select examples of transfer printed ceramic vessels recovered from the Reed Farmstead site

a-d. underglaze, lines, floral, and scenic, Rhone pattern (pattern T-02, a. is vessel C33); e-f. underglaze, floral (pattern T-03); g-h. underglaze, scenic, Classical Antiquities series (pattern T-01, h. is vessel C3); i-j. underglaze, floral (pattern T-05); k. underglaze, flow blue, floral, Tonquin pattern (pattern T-07); l. underglaze, floral (pattern T-04); m. underglaze, flow black/mulberry, floral (pattern T-06, vessel C26)



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- If a resource is recommended to be ***not eligible***, and consulting parties concur, then no further archaeological work is required.

 - If a resource is considered ***eligible*** and the agency finds there to be an adverse effect, two options:
 - 1) Avoid or
 - 2) Mitigate (Phase III Data Recovery)

Phase III Data Recovery

- Mitigation of the adverse effect through data recovery excavations
 - In general, involves relatively large scale excavations, detailed laboratory analysis, and production of a comprehensive report



□ Phase III techniques:


Block Excavations
Mechanical stripping




- ❑ Identify cultural occupations
- ❑ Determine artifact distributions
- ❑ Expose, excavate, and map features



- ❑ Collect samples for dating or species
- ❑ Understand how the site relates to settlement/history of region

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- At the point in the process when it is determined that eligible resources are either not present or will not be adversely effected...
 - No resources identified during a phase I, or
 - No eligible sites following a phase II, or
 - Completion of phase III mitigation plan

 - Project may proceed!

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- <http://www.wvculture.org/shpo/review.html>
 - (304) 558-0240
 - West Virginia Division of Culture and History
The Culture Center
1900 Kanawha Blvd. E.
Charleston, WV 25305-0300

