

STEP TWO: IDENTIFY HISTORIC PROPERTIES

D: Reporting Survey Results

Ideally, the survey will identify all cultural resources (historic, archaeological or traditional cultural) located in the area of direct and indirect effect (APE) of the proposed undertaking. The survey report should also document identification efforts with other interested parties and Tribes, and any resulting information. Adequate information gathering leads to one of two outcomes, based on the Principal Investigator's report and recommendations, the written agency concurrence with that recommendation, and agreement by SHPO. The first possibility is that no sites are located, usually referred to as "a negative" or "no properties" inventory and currently subsumed in the ACHP's No Properties Affected finding (36 CFR 800.4(d)). Documentation standards for No Properties Affected are defined at § 11(d). The second possibility is that sites are located. In that case the agency needs to evaluate the historic significance and integrity of those sites in an Eligibility determination.

Documentation standards to be submitted to SHPO for a finding of No Properties Affected by reason of no sites present is found at 36 CFR 800.11(d): and include a description of the undertaking, federal involvement, APE (with maps as necessary), steps taken to identify any cultural resources, sources consulted, persons, tribes and agencies consulted, and the basis for the finding that No Properties are present.

If either the agency or the principal investigator is uncertain about the level of information required in a situation, consultation with the SHPO staff is recommended.

Report Format

The following annotated checklist should be referenced in preparing reports for SHPO review. We will accept reports containing equivalent information in different format, such as might be required by other agencies.

Each report should be prefaced with a Letter of Submission, identifying all relevant agencies, a brief project description, and explicit agency recommendations, determinations and findings for which SHPO comment and review are requested. See Appendix 6 for an example of a Submission Letter and Appendix 4 for a recommended Report Format.



To ensure that cultural resource reports meet the information needs of the SHPO, and thereby eliminate the possibility of undue project delays, the agency and Principal Investigator should be certain that Inventory Report contains the following information:

1. CRABS data entry sheet (one is provided in appendix 5).
2. title sheet with the following information:
 - a. title;
 - b. who the report was prepared for;
 - c. author and Principal Investigator with signature;
 - d. preparator's company/agency address;
 - e. date;

- f. relevant agency project or permit numbers.
3. table of contents.
4. project and methodology narrative section presenting the following:
 - a. summary of project, describing the proposed work and defining the undertaking;
 - b. List of all agencies involved in the project;
 - c. definition of the **Area of Potential Effect**, including the expected vertical and horizontal extent of ground disturbances;
 - d. for whom and the reason the survey was conducted;
 - e. when and by whom the fieldwork was conducted;
 - f. survey techniques employed and the *rationale for the use* of those techniques for the particular survey. In instances in which different techniques were used in different areas of the project, that must be documented in narrative and map. Include field condition descriptions; and
 - g. the actual number of acres surveyed must be indicated, rounded up to the whole acre. In undertakings with more than one area to be surveyed, the acreage of the individual survey areas, and the total surveyed area should be reported.
5. section that lists the legal descriptions of each of the following: the APE, areas surveyed, areas not surveyed, and agency/ownership.
6. section describing the general topography, geology and vegetation of the project area.
7. summary of previous research and survey in the area, including locations, types and eligibility status of known sites.
8. statement as to when, where and by whom the required file search was carried out and a summary of the results of that file search. We recommend that the CRIS file search request for previously recorded sites in the APE be designed to include township sections or quarter sections adjacent to the project boundaries to identify sites which may overlap or spill over the APE boundaries, and as a means of identifying likely site types to expect to the APE. The CRIS system searches to quarter section.
9. section containing a brief historic overview or culture history of the area as applicable to the cultural resources under consideration.
10. section detailing the results of the inventory, with site-by-site discussion (if sites are located in the APE). Efforts and results of consultation with others including Tribes also needs to be documented.
11. section containing site by site justified recommendations of eligibility, with reference to criteria of significance, context, and integrity.
12. recommendations for avoidance, additional work necessary and mitigation for each site as appropriate. (This is optional where no sites are identified or the agency will submit a separate Effect/Mitigation Report.).
13. a map or maps must be included which show the location of the undertaking at the largest feasible scale. Regardless of other maps, a copy of the appropriate 7.5' U.S. Geological Survey topographic map(s) must be included. Maps must clearly delimit the undertaking area, areas surveyed, and the location and boundaries of any identified cultural resources within APE. We recommend that any known sites within 1/4 of a mile of the project area (located by survey or identified in the CRIS file search) be located on the map(s). At minimum, and in addition to any other maps, - sites, Isolated Finds and survey areas must be unambiguously located on clear copies of the relevant segments of the 1:24,000 (7.5') series of U.S. Geological Survey topographic maps. Ownership or administrative boundaries, quad name, township, range and section information must be indicated on maps. When the spatial relationships between sites is important, a map showing the distribution of the sites in the undertaking area should be included. Boundaries of previously disturbed areas, and areas of proposed project disturbance, as well as proposed design changes or reroutes for avoidance must be clearly mapped in relation to cultural resources.

14. Individual site maps should be included for each site and should contain:
 - a. true or magnetic north, scale and datum;
 - b. boundaries, delineated and numbered buildings, structures, features or activity areas, location of diagnostic artifacts, approximate topographic contours, landscape features;
 - c. boundaries of proposed and previous disturbance;
 - d. recommended reroutes or avoidance redesigns; and
 - e. boundaries of other sites located within 100 m.
 - f. shapefiles must be included in the digital copy submitted to SHPO, or to the agency, for SHPO. Shapefiles include site boundaries, inventory area and APE.
15. large linear sites such as irrigation systems, trails or railroads should be depicted on a single map showing the entire known extent of the property.
16. photographs or laser quality photocopies of photographs must be included of buildings, structures and structural ruins that may be impacted by an undertaking. These photographs must allow SHPO to determine the structure's overall shape, size, the placement of windows and doors, materials (e.g., a photograph of the foundation) and techniques of construction (e.g., the corner notching on a log building). Captions must describe the photographs. If the photographs do not convey the necessary information, additional photographs will be requested.
17. photographs or laser quality photocopies, and plan drawings of representative examples of diagnostic artifacts recovered from prehistoric and historic sites should be included. In reports submitted for eligibility evaluation, photographs of features such as stone rings, hearths, foundations, or fence lines should be low angle, two dimensional, clear and numerous. In all reports, test units or natural exposures used to evaluate subsurface potential should be photographed. Photos of the site itself and view shed should also be included. All photo images should be clear and captioned. If photographs are of insufficient quality to allow a judgment to be made, SHPO will have no option except to wait while the photographic deficiencies are corrected.
18. a statement indicating curation agreements should be explicit.
19. complete and typed Montana CRIS forms (see Appendix 4) or equivalent must be included for all sites located by the survey. Updated site forms should be included for previously recorded sites in the APE as well as those relocated to determine that they were outside the APE. For architectural properties, the Montana Historical and Architectural Inventory form is recommended. Paleontological localities should be recorded on the appropriate paleontological form.
20. provide a bibliography listing sources consulted; oral interviews and additional records searches performed such as county land entry and mining claim records, General Land Office or Sanborn maps.
21. Both hardcopy and digital copy with shapefiles are required.



The required information must be sufficiently clear and detailed to allow the Agency and SHPO to make informed decisions regarding efforts to identify cultural resources, the location, significance, and integrity of cultural resources; and the kind and amount of effect that will occur because of the undertaking. Reports that do not do this are not acceptable. It should be remembered that while consultants may make recommendations, the Agency in consultation with SHPO (or the Keeper alone) makes formal eligibility determinations in the 106 process. It should also be understood

that the Agency is responsible for choosing appropriate options in consultation with SHPO and others, although the Principal Investigator's recommendations, as well as any other recommendations will be carefully considered.

In general, if a report deals with multiple sites, it should be organized to make it as convenient as possible for users to locate individual site information. Whenever practical, narration, figures, tables, recommendations, etc. relating to a single site should be placed in a section devoted to that site. This will speed review by SHPO, benefit later researchers and simplify agency cultural resource management in the future.

Submission of Reports to SHPO For Federal Undertakings:

Consultation with SHPO and other interested parties is the responsibility of the federal agency. We at Montana SHPO assume that when we are contacted by a proponent or their consultants regarding possible impacts to cultural resources, that it is at the request of or because of federal agency requirements of that company to do so. The company may in that sense be acting on the behalf of the agency, but the agency nonetheless remains responsible for "compliance." Frequently there are multiple landowners or public land managing agencies, Tribes and other interested parties in a single undertaking or project. It is also the responsibility of the lead federal agency to solicit and consider the concerns of those parties. SHPO will attempt to alert an agency to possible interested parties but does not coordinate consultation for the agency or a proponent submitting compliance documents on behalf of an agency. Thus, SHPO needs to be notified of interested parties and receive copies of consultation with those interested parties to consider that consultation.

SHPO will review and comment upon negative survey (or inventory) reports submitted directly from proponents in which no cultural resources were located (and no other cultural concerns were identified), if there is no objection from the federal agency. However, most land managing agencies such as the BLM, USFS, BIA, BOR and others, have general policies against proponents submitting reports directly to SHPO without prior agency review and approval. Also, remember that other agencies and interested parties may need to review the report and that SHPO is not responsible for soliciting those other comments. But if an inventory report is complete, includes consultation with appropriate others, and concludes that no cultural resources are in the project APE, SHPO will review those findings and provide comment to the agency or to the company for transmittal to the agency as requested. If a contractor submits a report, the cover letter must state which federal agency and proponent the report was prepared for and provide the name and address of both the agency and proponent contact.

While SHPO can assist the proponent in this fashion it does not change the agency's ultimate responsibility for making a No Properties Affected finding. In the absence of other agreement such as a Programmatic Agreement, it is always preferable from our perspective that the federal agency first review the adequacy of identification efforts and provide their findings to SHPO along with the report, prior to action by the agency or the proponent.

SHPO will not evaluate the adequacy of avoidance stipulations, the eligibility of cultural resources, or the effect to eligible properties solely in consultation with proponents or their consultants (unless this is part of a PA accepted by the SHPO and the ACHP). By statute and regulation, evaluations of eligibility are made by agencies directly, in consultation with SHPO, and sometimes the Keeper. Similarly, agencies in consultation with SHPO, and sometimes the ACHP, are the only parties able to make formal assessments of possible effects to eligible properties. A proponent or their consultant may make recommendations to the Agency concerning eligibility or effect, but it is the sole responsibility of the Agency to reach and state their own findings and request the comments or concurrence of SHPO.

The SHPO has **thirty days** to concur, object, or make other comment on survey reports for the adequacy of documentation and efforts to identify and consider possible effects to cultural resources.

Note that if SHPO does not agree with an agency or agency designee definition of the APE, we may not be able to comment other than we disagree with the defined APE, and thus are unable to concur in the findings proposed by the agency. Without agreement on the APE, no subsequent finding by the agency could adequately consider all reasonably foreseeable potential effects caused by the federal undertaking.

Therefore, as emphasized above, *it is best to resolve any questions about the APE during the agency's consultation regarding appropriate scope of identification effort and before any field survey proceeds.*



The federal regulations provide that in cases where the SHPO and the agency disagree about the adequacy of documentation or identification efforts, and they cannot resolve the disagreement that the agency will consult directly with the ACHP. Interested parties may also request ACHP participation.

Submission of Reports to SHPO

For State Lands - It is the general policy of the Department Natural Resources and Conservation (State Trust Lands) that all reports concerning actions on State Lands, pursuant to the State Antiquities Act, conducted by proponents or their consultants, be submitted directly to DNRC. DNRC will then consult with SHPO. Generally, if state lands and a federal agency are involved, DNRC anticipates that the federal agency will submit the report to SHPO (*DNRC Guidelines*, Rennie 1996:1-2).

No Sites-No Properties Affected

If no cultural resources are identified during a survey, the “negative inventory” report should be sent to the SHPO, most often with a cover letter from the agency indicating their acceptance of the report as their own. Once the SHPO has concurred that no properties are located in the APE, the agency may conclude its Section 106 responsibilities and the undertaking may proceed as directed by the agency. For record keeping purposes, the report detailing the negative inventory report will be kept on file and maintained at SHPO as part of the CRABS database.

Sites Located

If the inventory results in the location of cultural resources, which may not be avoided, the agency must submit an Inventory Report and move to eligibility evaluation, which is discussed in the next section of these Guidelines. Many agencies mesh the identification step with the evaluation step, by including evaluations and recommendations of eligibility in the inventory report. However, this is not always possible as additional fieldwork and/or research and documentation is sometimes necessary to evaluate eligibility.

Sites Located - But Undertaking Redesigned to Avoid Effects

It is sometimes possible, if the survey is carried out early in the project's planning process, to redesign the undertaking to completely avoid effects to all cultural resources (whether or not they have been evaluated for eligibility) or to avoid effects to those determined to be eligible, i.e. those that are Historic Properties. This saves considerable time in that no further fieldwork is usually required. In such a case, SHPO will still need to review explicit written stipulations from the Agency of project redesign for complete avoidance before concurring that the undertaking has been sufficiently

redesigned to avoid effects to all cultural resources or to all Historic Properties. Agency documentation requirements for such a finding of No Properties Affected are defined at §800.11(d). If there are no objections within 30 days the agency has fulfilled its Section 106 responsibilities, pursuant to 36 CFR 800. Appropriately determining a No Properties Affected finding result does not include cutting donut holes or corridors in the APE or determining that portions of a site are noncontributing – it means there are no sites in the APE or that the Undertaking and APE have been modified to avoid all potential effects to any cultural resource - evaluated or not. Linear Sites Note: This is particularly true for linear sites such as irrigation features where some segments may have been impacted by cumulative developments more than others. Rather than define segments with presumed less integrity “noncontributing” or cutting holes in sites or the APE, we recommend, depending on the nature and scope of the undertaking, there is a decreased likelihood that additional alterations will affect the overall integrity or significance of the site as a whole. But that is based on consultation and assessment not eliminating the portions of presumed reduced integrity from consideration as noncontributing. If as part of undertaking conditions or redesign a buffer zone is proposed between direct effects such as a pipeline and an eligible or unevaluated site SHPO must be consulted and its concurrence obtained or the ACHP can be consulted. 30 meters is often proposed as a buffer but appropriateness depends on the nature of the undertaking and the site.

If cultural resources are not *completely avoided* they must be evaluated for significance and integrity to assess effects.