

Section 106 for the Uninitiated, Agitated, and Underinformed



Overview of Section 106

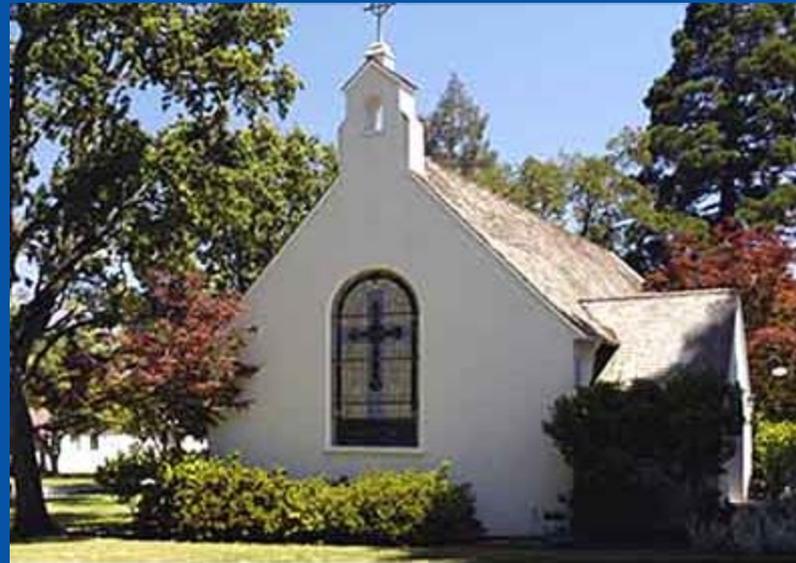
Section 106 of the National Historic Preservation Act requires all federal agencies to take into account the effects of their undertakings on historic properties.



Project Planning

Section 106 is:

- Planning tool
- Early in the planning process.



Photograph: NoeHills Travels in California



Section 106 and NEPA

- Section 106 and NEPA are **not** the same
- Section 106 **first** and then NEPA
- “Categorically-excluded” projects under NEPA are **not** exempt from Section 106 review.



Roles in Section 106 – Federal Agency



- ✓ Determine if there is an undertaking
- ✓ Consult with interested parties
- ✓ Define area of potential effects (APE)
- ✓ Identify historic properties
- ✓ Assess effect(s)
- ✓ Consult with SHPO



Roles in Section 106 – State Historic Preservation Office (SHPO)

- Mandatory consulting party
- Peer review
- Liaison
- Guidance on Section 106



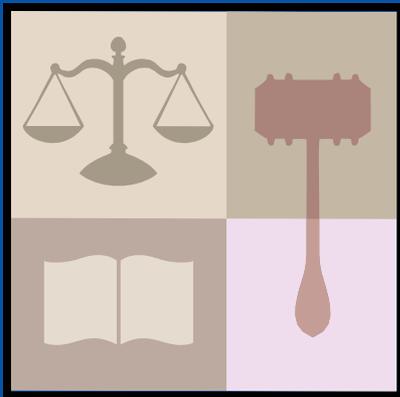
Roles in Section 106 – SHPO - **What we do not do**

- Research, identify historic properties, or determine project effects
- Have a complete list of all historic properties within the State.
- Conduct site visits for every project.
- Can **not** stop projects.



Roles in Section 106 – Consulting Parties

- Individuals and organizations with a direct interest in the project
 - Legal
 - Economic
 - Concern about undertaking's effect



Roles in Section 106 – Consulting Parties

Mandatory consulting parties include:

- SHPO
- Tribal Historic Preservation Officer (THPO)
- Federally-recognized tribes
- Local governments
- Applicants for federal funds, licenses, or permits



Steps in Section 106

- ✓ Initiate consultation
- ✓ Consulting Parties
- ✓ Area of Potential Effect (APE)
- ✓ Identify Historic Properties
- ✓ Finding of Effect
- ✓ Mitigation



How to Initiate Consultation

- Do you have an undertaking?
- Have you included the entire scope of the project?
- Who can submit?



Consulting Parties

Consulting parties have a direct role in the proposed project

- SHPO
- Tribal Historic Preservation Officer (THPO)
- Federally-recognized tribes
- Local governments
- Applicants for federal funds, licenses, or permits



Interested Persons

- **Federal agency must:**
 - provide the public with information about the project
 - allow the public the opportunity to comment
- **Public may on their own:**
 - contact the agency **first**
 - contact the SHPO if communication efforts are unsuccessful



Defining the APE

- Most critical steps of the Section 106 process
- Area directly/indirectly affected by the project



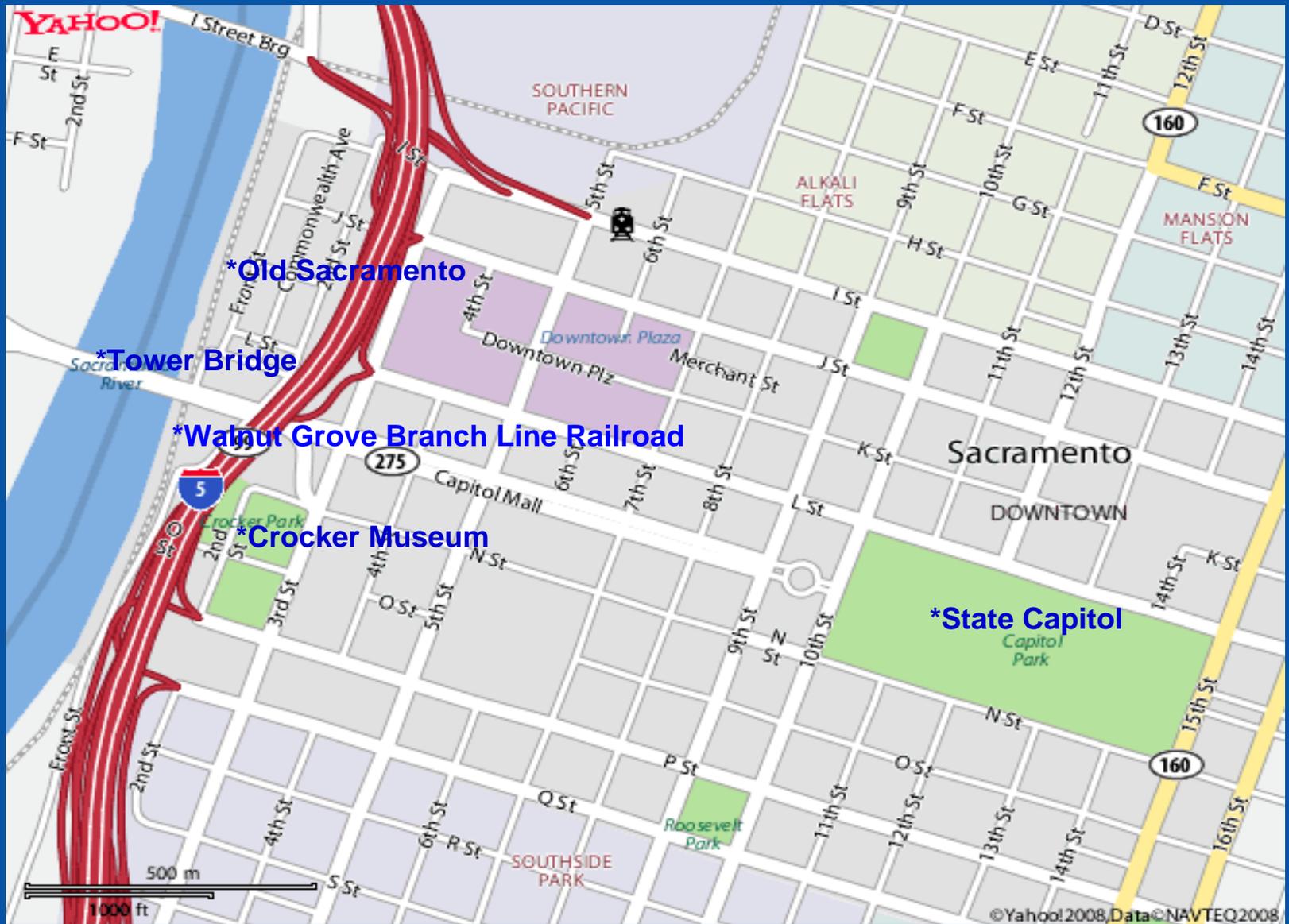
Defining the APE



Defining the APE – What to consider

- Direct effects
- Visual effects
- Audible effects
- Socio-cultural effects
- Indirect or secondary effects





Defining the APE – What the SHPO needs

- **Complete** description of the undertaking
 - Will there be ground disturbance?
 - Physical parameters – height, depth, width, length
- How did you choose your boundaries?
- Support documents
 - Maps
 - Drawings
 - Photographs

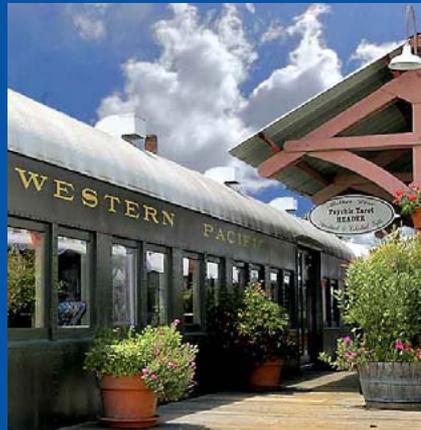




Identification

A historic property is defined as

“any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places.” [36 CFR § 800.16]



Identification – NRHP

50 years of age



Photograph: NoeHills Travels in California



Identification – NRHP

Retain Integrity



Photograph: NoeHills Travels in California



Identification – NRHP

A. Event, Patterns of History



Photograph: NoeHills Travels in California



Identification – NRHP

B. Person



Photographer: Signs of the Times photo



Identification – NRHP

C. Design/Construction



Identification – NRHP

D. Information Potential



Figure 8: 2216 Geary Street, Feature 8, upper portion cleared; note strata and surface.



Figure 9: 2216 Geary Street, Feature 8 exposed before interior excavation.

Identification – Reasonable & Good Faith Effort

- Things to take into account:
 - Past planning, research and studies
 - Magnitude and nature of the project
 - Degree of federal involvement
 - Potential for effect
 - Likelihood for historic properties



Identification – Reasonable & Good Faith Effort



- Background research
- Consultation
- Oral History
- Sample field investigation
- Field survey

Identification

What the SHPO needs

- Photographs
- Construction dates
- CHRIS record search
- Cultural Resource Reports/Surveys
- Drawings
- DPR 523s
- Maps





Determining Effect



- What effect will the project have on historic properties?
 - No historic properties affected
 - No adverse effect
 - Adverse effect

Determining Effect

What the SHPO needs

- Narrative
 - Describe effects
 - Reasoning behind your finding of effect
- Alternatives
- Supporting documentation
 - Specifications
 - Photo simulations
 - Maps
 - Drawings



Adverse Effects

- Demolition
- Alteration
- Removal of a property from its original setting
- Change in use
- Neglect or abandonment
- Introduction of visual, atmospheric, or audible elements
- Transfer out of federal ownership



Resolving Adverse Effects

Memorandum of Agreement (MOA)

- Signatories – Federal Agency, SHPO, ACHP
- Concurring parties – local government, tribes
- Outlines terms and conditions





Contact Info

<http://www.ohp.parks.ca.gov>

The screenshot shows the homepage of the California Office of Historic Preservation. At the top, there is a navigation bar with the CA.GOV logo and the text "Office of Historic Preservation CALIFORNIA STATE PARKS". A search bar is located on the right side of the header. Below the header is a main navigation menu with links for "State Parks", "OHP Home", "What's New", "Workshops", "CEQA", "CHRIS", "LEED", "THPO", "Landmarks", and "Newsletter". A secondary navigation bar includes "SHPO", "Staff Contacts", "FAQs", "Decisions Pending", "Org Chart", and "Contact Us". The main content area features a large banner image of a historic building with the text "Office of Historic Preservation" and the California State Parks logo. Below the banner is a "Programs" section with a table of links:

Programs	Library	SHR Commission	Links
→ Architectural Review			→ California Main Street
→ Governor's Awards			→ Incentives
→ Local Govt Assistance			→ Preservation Grants
→ Project Review			→ Registration

On the right side of the main content area, there are links for "OHP PUBLICATIONS and DPR 523 FORMS", "WHAT'S NEW", and "UPCOMING TRAINING and WORKSHOPS". Below the "Programs" section, there is a "Welcome to OHP" message and a paragraph describing the mission of the Office of Historic Preservation (OHP) and the State Historical Resources Commission (SHRC). The mission statement reads: "The mission of the Office of Historic Preservation (OHP) and the State Historical Resources Commission (SHRC), in partnership with the people of California and governmental agencies, is to preserve and enhance California's irreplaceable historic heritage as a matter of public interest so that its vital legacy of cultural, educational, recreational, aesthetic, economic, social, and environmental benefits will be maintained and enriched for present and future generations." Below this, another paragraph states: "California is characterized by a rich historical past and a bright, promising future. The State's historical resources represent the contributions and collective human experiences of a diversified population spanning 10,000-12,000 years of occupancy in California. This heritage is embodied in the cultural and historical landscapes of California as evidenced by archaeological remains, historic buildings, traditional customs, tangible artifacts, historical documents, and public records extant in California. All these evidences of the past contribute to the sum total of California's history. Such historical resources provide continuity with our past and enhance our quality of life." At the bottom of the page, there is a link for "More About OHP".



