CULTURAL RESOURCES ISSUES IN APD PROCESSING

The Bureau of Land Management

October 27, 2004

APD Permitting Timeline

- NOS Submitted to BLM (Public Posting for 30 days)
- APD Submitted to BLM (Posted for 30 days if no NOS)
- Seven Day Letter (identifies deficiencies in APD)
- On-Site (within 15 days of NOS or APD submittal)
- Corrections of Deficiencies Submitted = Technically Complete APD (within 45 days after Seven Day Letter)
- Thirty Day Letter (identifies reasons for delay of APD approval)
- **Uncorrected Cultural Problems Stop the Clock**
- **Required Consultation with SHPO, Tribes, Publics**
- Cultural Corrections and/or Consultations Completed, and NEPA done =
- **APD Approved**
- or
- No Response within 45 Days after On-site or Seven Day Letter = NOS or APD Returned (APD must be resubmitted and process starts over)

Who's Who in the APD Cultural Process

- Consulting Archeologist –
  - Conducts Class III cultural resource inventories
  - Identifies cultural sites and evaluates for the NRHP, providing data and a *recommendation* to the Agency Archeologist
  - Provides recommendation of effect of the proposed action on historic properties
- Agency Archeologist –
  - Determines need for a Class III cultural resource inventory
  - Defines the area of potential effects for a proposed action
  - Reviews Class III inventory report to determine its adequacy
  - Makes *determinations* of eligibility for cultural sites based on data provided by Consulting Archeologist, considering the recommendation, often in consultation with SHPO
  - Ensures Agency has met requirements for NHPA **and** NEPA with regard to cultural resources
- State Historic Preservation Officer (SHPO)
  - Reflects the interests of the State and its citizens, requiring that the Agency must notify or consult with the SHPO regarding eligibility of cultural sites to NRHP, project effect on and treatment of historic properties

What's Required for the Process to Work?

- **COMMUNICATION**
  - Between project proponent (oil & gas Operator) and Agency
  - Between Operator and Consulting Archeologist
  - Between Consulting Archeologist and Agency
  - Between Agency, Operator, SHPO, Native American Tribes, interested parties

What's Required for the Process to Work?

- **TRUST**
  - Agency must have confidence in the work submitted by the Consulting Archeologist
  - SHPO must have confidence in the Agency to fulfill its responsibilities
  - Public must have confidence that the information analyzed for the project is accurate

Issues Hampering the Process

- Fieldwork for Class III Inventories
- Site Evaluations
- Reporting Class III Inventories

Class III Inventory Fieldwork Issues

Issue: Problems Caused by Poor Definition of APE

- APD Process Delayed Due to:
  - Project deficiencies
  - Guaranteed field checks by BLM
  - Additional fieldwork by Consultants
  - Report revisions
  - Poor assessment of settings for sites (when settings are relevant to eligibility)

Solution: Agency Defines APEs

- Current standard APEs represent minimum areas for well pads (10 acres) and common linear projects (100 foot corridor width for roads & small pipelines)
- The APE starts where the project is originally staked, where Class III inventory must be conducted and sites evaluated prior to redesign for site avoidance
- Rule of Reason must be applied by Agency to determine private land inventory requirements
- Settings assessments may require *visibility analyses* and *back sight maps* to determine if the undertaking may cause effects on historic properties
- COMMUNICATE with Agency Archeologist if any questions about APE definition arise; call from field

Issue: Inadequate Documentation of All Cultural Resources Within Survey Areas

- Consulting Archeologists must record all cultural remains over 50 years of age within the inventory area and those within APE must be evaluated

- Non-compliance leads to:
  - Increased Agency time in field checks
  - Added delays & costs to industry associated with additional fieldwork
  - Cultural Resource Use Permit violations

Solution: Document All Cultural Resources within Inventory Areas

- Increases agency confidence in work
- Fewer field checks
- Fewer deficiencies
- Fewer report revisions
- Faster APD processing

Site Evaluations & Assessments of Effect

Solution: Provide More Detailed Information in the Justification

- Specify site elements that support relevant Criteria of Eligibility in justification
- Communicate with Agency Archeologist
- Advantages of resolving issue:
  - Expedited review by Agency Archeologist
  - Fewer deficiencies and revisions
  - Faster APD processing time

Issue: Evaluative Testing

- Methods poorly explained (why sites tested, or not; locations & numbers of tests, and reasons for termination)
- Inadequate descriptions of deposits (on surface and within tests)
- Insufficient information for agency determination of eligibility
- More field checks by Agency Archeologist
- Overall delays in APD process

Solution: More Details About Methods and Deposits

- Explain testing strategy & rationale for placements of tests (is sample statistical, stratified, intuitive, random?) and show locations of all tests on site map
- Justify reasons for terminating tests
- Describe surface deposits (explain differences across site and show on map)
- Describe deposits within tests; provide photos and/or profiles for formal test units
- Detail cultural materials recovered (types & depths), and address integrity of deposits
- Explain why testing results represent important information (what research questions will be answered?)

Benefits of Good Site Testing

- Fewer field inspections
- No added costs and delays due to additional fieldwork
- Fewer deficiencies and report revisions
- Faster APD processing

Issue: Evaluating Sites for which Settings are Potentially Significant

- Designated National Historic Trails
- Other Historic Linear Features and Properties
- Native American Tribally Sensitive Sites

Issue: Designated National Historic Trails

- Assessments of effect are complex because each trail is eligible in its entirety
- Setting may be an important quality, depending on overall integrity
- Adverse effects must be mitigated
- Mitigation may involve project redesign
- APD clock is stopped for assessment
- Assessment involves OCTA & NPS consultation
- 30 day SHPO consultation required

Solution: Designated National Historic Trails

- Communicate with Agency Archeologist when trails are in or near project area
- *Visibility analyses* and *back sight maps* are tools to determine if trail is in APE
- If in APE, trail must be evaluated in terms of National Register qualities of integrity
- Early consideration of project mitigation if adverse effects are anticipated

Issue: Evaluation of Historic Sites

- *DEFINITIONS:*
  - Historic linear features include wagon roads, railroads, highways, irrigation facilities, telegraph lines, stock trails/drifts
  - Other historic sites include ranches, homesteads, mines, stockherding camps, trash dumps
- *PROBLEMS:*
  - Consideration of National Register Criterion D only
  - APD clock is stopped while problems are resolved
  - Assessment may involve interested party consultation
  - Mitigation may involve project redesign
  - 30 day SHPO consultation may be required

Solution: Evaluation of Historic Sites

- Record and evaluate all properties greater than 50 years old in or near project area
- Historic records search often needed
- Evaluate under *all* National Register criteria of eligibility
- Communicate with Agency Archeologist if there is a question

Benefits of Adequate Evaluations of Historic Sites

- Fewer field inspections
- No added costs and delays due to additional fieldwork and/or historic records search
- Fewer deficiencies and report revisions
- Early SHPO consultation
- Fewer late project changes
- Faster APD processing

Issue: Native American Tribally Sensitive Sites

- ISSUE INVOLVES:
  - Rock art, stone circles/alignments, cairns, burials, and others previously known in the area
  - Identification when in or near project area
  - Complete documentation of features for agency evaluation
  - Consultant provides information/raw data; Agency interprets & determines consultation needs; *Agency* initiates consultation
- PROBLEMS:
  - Delayed Native American consultation
  - More field checks
  - More deficiencies to correct
  - Delayed APD processing

Solutions: Native American Tribally Sensitive Sites

- Communicate with Agency Archeologist
- Thorough documentation facilitates determinations of eligibility & effect
- Early initiation of Native American consultation
- Fewer field checks
- Fewer deficiencies
- Early notification to applicant allows consideration of project changes or rescheduling

Class III Inventory Reports

Class III Inventory Report

- This is the document in which the Consulting Archeologist communicates the project to the Agency, and the way the Agency communicates the proposed action to the SHPO, the public, and if necessary, a judge

Class III Inventory Report Issues

- Editing
- References Cited
- Achieving Report Standards
- Maps
- Photographs

Issue: Poor Editing

- Reports contain inconsistencies and inaccuracies due to rushed production
- Conspicuous errors in style, format and spelling cause confusion and don’t convey meaning and intent of documentation
- Copied sections often create or compound errors

Solution: Edit, Edit, Edit!

- Hire an editor, or have someone else edit your document. If not, put it away for a while and come back to it fresh
- Edit for content, substance and grammar
- Use “Spell-check” and “Grammar-check”
- Be careful when you cut and paste! Re-read section in its new context to see if it makes sense

Issue: References Cited

- References are an important portion of a report, particularly to reviewers and future researchers who use the reports.

- Common problems include:
  - Lack of reference citations
  - Incomplete reference citations
  - Poor editing of references

Solution: Edit, Edit, Edit!

- Benefits of overall adequate editing:
  - The document communicates the project accurately to the Agency, the SHPO, the public, and if necessary, a judge
  - Fewer deficiencies
  - Fewer report revisions
  - Faster APD processing

Issue: Achieving Report Standards

- Reports lack basic elements required to meet BLM standards
- BLM standards are not fully met
  - Incomplete project description
  - Inadequate background research
  - Poor explanation of methodology
  - Insufficient information for inventory results
  - Inappropriate management recommendations

Solution: Fully Comply with Reporting Standards

- Refer to *Cultural Resources Class II and Class III Report Standards* and *Wyoming SHPO Photographic and Archival Standards for Reports and Site Forms*: Keep copies handy and use these standards as a check list when preparing reports
- Communicate with Agency Archeologist
- Benefits of adequate inventory reports:
  - Fewer deficiencies
  - No delays due to report revisions
  - Faster APD processing

Issue: Maps

- Illegible or poor quality copies are difficult for reviewers to read, causing questions
- Too much information often depicted on one map, obscuring the project and sites
- Too little information to fully convey project elements and site effects
- Outdated or inaccurate map when project undergoes changes (cultural map differs from application map)

Solution: Good Map Elements

- Depict sharp, crisp images of all contour lines, topographic features, structures and landmarks
- Emphasize project and relevant cultural resources
- Depict all elements of projects
- Produce multiple maps, if one map is too busy
- Show relevant previously recorded sites on main map; plot other known sites in area on another map
- Applicants provide same map to consulting archeologists as provided to BLM with application; date all map revisions
- For SITE MAPS follow standards (VIII.B.8): use as check list, especially show relationship to APE
- Use v*isibility analyses* & *back sight maps*, when required
- Communicate with agency archeologist

Issue: Photographs

- Insufficient photographic documentation
- Poor quality photographs:
  - Out of focus
  - Not printed on photo-quality paper
  - Bad exposures
  - No direction of view
  - Image does not convey the intent
  - Extraneous elements in frame (shadows, fingers, camera strap, lens cap)

Solution: Good Photographs

- *A picture is worth a thousand words:* greater project complexity merits more photographs
- Follow standards (VIII.B.9) for all site photographs: use as check list
- Follow *Wyoming SHPO Photographic and Archival Standards for Reports and Site Forms*
- Use digital cameras as backup for 35mm cameras to check quality of photographs