How is NRHP eligibility determined?

The NHPA of 1966, as amended (16 U.S.C. § 470), requires federal agencies to take into account the effects of their undertakings on historic properties and afford the SHPO and other parties with a demonstrated interest a reasonable opportunity to comment on such undertakings. Regulations for Protection of Historic Properties (36 C.F.R. Part 800) implement Section 106 of the NHPA. These regulations define a process for the responsible federal agencies to consult with SHPO or the THPO, Native American groups, other interested parties, and, when necessary, the Advisory Council on Historic Preservation (ACHP) to ensure that historic properties are duly considered as federal projects are planned and implemented. To be determined eligible for inclusion in the NRHP, properties must be important in American history, architecture, archaeology, engineering, or culture. They also must possess integrity of location, design, setting, materials, workmanship, feeling, and association, and meet at least one of four criteria listed on this page. Properties may be of local, state, or national importance. Typically, historic properties are at least 50 years old, but may be younger if they are of exceptional importance.

CULTURAL RESOURCES

AFFECED ENVIRONMENT

Cultural Resource Regulations

Cultural resource investigations were performed to establish the proposed action’s compliance with federal laws identified below. Cultural resources generally include archaeological sites, historic buildings and structures, artifacts and objects, and places of traditional, religious, and cultural significance. Historic property refers to cultural resources that are listed or eligible for listing in the NRHP.

For the proposed action, FHWA is the lead agency responsible for compliance with the National Historic Preservation Act (NHPA). Under NHPA, the lead federal agency must take into consideration the effects of its actions on historic properties (sites or places eligible for or listed in the NRHP). NHPA stipulates that the lead federal agency make determinations of NRHP eligibility and project effects in consultation with the SHPO. The State Historic Preservation Officer (also SHPO) is the appointed official in each state charged with administering the national historic preservation program mandated by NHPA.

In 1992, NHPA amendments allowed federally recognized Native American tribes to assume any or all of the functions of a SHPO with respect to tribal land (Section 106(i)(2)). Pursuant to these amendments, the Community applied for and was granted THPO status in February 2009. As a result, federal agencies must consult with THPO in lieu of SHPO for actions occurring on, or affecting historic properties on, Community land. Consultation with an Indian tribe must respect tribal sovereignty and the government-to-government relationship between the Federal Government and Indian tribes.

National Environmental Policy Act

NEPA requires federal agencies to consider the impacts of their activities on the human environment, which includes historic properties. NEPA stipulates that:

➤ federal agencies work to preserve important historical and cultural aspects of our national heritage [Section 101(b)(4)]
➤ compliance studies involving historic properties require coordination with other preservation laws such as NHPA

National Historic Preservation Act

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and afford SHPO and/or THPO and other parties with a demonstrated interest a reasonable opportunity to comment on such undertakings. Section 106 compliance is implemented through the regulations for Protection of Historic Properties (36 C.F.R. Part 800). To be determined eligible for inclusion in the NRHP, properties must be at least 50 years old, meet at least one of four criteria of significance, and retain sufficient historic integrity to convey that significance. The four criteria of significance are:

➤ Criterion A – be associated with events that have made a significant contribution to the broad patterns of our history
➤ Criterion B – be associated with the lives of persons significant in our past
➤ Criterion C – embody the distinctive characteristics of a type, period, or method of construction; or represent the work of a master; or possess high artistic values; or represent a significant distinguishable entity whose components may lack individual distinction
➤ Criterion D – have yielded, or may be likely to yield, information important in prehistory or history

Integrity is assessed in terms of location, design, workmanship, materials, setting, feeling, and association. The significance of a property may be at the local, state, or national level, depending on its historical associations. Typically, historic properties are at least 50 years of age, but more recent properties may be considered for listing if they are of exceptional significance.

American Indian Religious Freedom Act

The American Indian Religious Freedom Act established that it is the policy of the federal government to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise their traditional religions. If a place of religious importance to American Indians may be affected by a proposed federal project, the American Indian Religious Freedom Act promotes consultation with Indian religious practitioners, which may be coordinated with Section 106 consultation under NHPA (see above). Amendments to Section 101 of NHPA strengthened the interface between the two Acts by clarifying that:

➤ Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion in the NRHP [16 U.S.C. § 470a(d)(6) (A)].
➤ In carrying out its responsibilities under Section 106, a federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties as described in subparagraph (A) [16 U.S.C. § 470a(d)(6)(B)].

National Register Bulletin #38

Amendments to NHPA in 1980 directed the Secretary of the Interior to study means of “preserving and conserving the intangible elements of our cultural heritage such as arts, skills, folklore, and folkways... and to recommend ways to ‘preserve, conserve, and encourage the continuation of the diverse traditional prehistoric, historic, ethnic, and folk cultural traditions that underlie and are a living expression of our American heritage’” (16 U.S.C. § 470a note). As an eventual response, federal guidelines were established (as published in National Register Bulletin #38 [Bulletin #38]) to define, document, and evaluate TCPS (Parker and King 1990). Bulletin #38 was intended to help determine whether properties thought to have traditional cultural importance would
be NRHP-eligible and to assist federal agencies in evaluating such properties.

A TCP is generally defined as a property eligible for inclusion in the NRHP “because of its association with cultural practices or beliefs of a living community that a) are rooted in that community’s history, and b) are important in maintaining the continuing cultural identity of the community” (Parker and King 1990). The guidelines in Bulletin #38 were appropriate for evaluating potential TCPs associated with the proposed action.

**Identification of Cultural Resources**

**Previously Recorded Resources**

A records search was performed in 2002 that covered a broad portion of the valley between the Sierra Estrella and SMPP. Over 300 previously recorded archaeological sites within or partly within the Study Area were identified from archaeological investigations conducted between 1955 and 2002. These sites were categorized as:

- prehistoric artifact scatters (166 sites)
- prehistoric habitations (45 sites)
- prehistoric villages (14 sites)
- prehistoric and historic canals (14 sites)
- historic trash dumps (13 sites)
- prehistoric rock piles, rings, and outlines (12 sites)
- prehistoric lithic scatters/ quarries (4 sites)
- prehistoric mounds (9 sites)
- prehistoric petroglyphs (10 sites)
- historic structures/foundations (4 sites)
- historic roads (1 site)
- prehistoric trails (3 sites)
- historic mining operations (3 sites)
- unknown sites (no information available) (4 sites)

The identified sites were:

- listed in the NRHP (2 sites)
- determined to be NRHP-eligible (27 sites)
- determined to be potentially NRHP-eligible (122 sites)
- determined to be NRHP-ineligible (15 sites)
- not assessed for NRHP eligibility (136 sites)

Three years later, a supplemental records search was performed to address newly included areas of the Study Area along I-10 (Patapago Freeway) and SR 101L (Agua Fria Freeway). The additional investigation identified 27 previously recorded prehistoric and historic archaeological sites, 5 historic-period linear sites (railroad lines, roadways, and canals), and 129 historic building properties. In addition, historical maps indicated that several prehistoric canal alignments had been documented in the Study Area. Of the archeological sites, 5 were considered NRHP-eligible, 5 were not eligible, 9 were not evaluated for eligibility, and the eligibilities of 8 were unknown because information was lacking. Historically documented prehistoric canals in the area were viewed as potentially eligible resources that should be investigated if encountered. The 5 historic-period linear sites were considered eligible. Of the 129 historic building properties, 25 were previously recommended as NRHP-eligible, 37 were recommended as not eligible, and 67 had not been evaluated.

**Field Survey**

After known sites were researched by records investigations, field surveys were conducted to identify historic properties that could be affected by the proposed action. In 2003 and 2004, the initial cultural resources survey for the project documented 19 archaeological sites and 191 isolated occurrences (Darling 2005). The survey resulted in the recording of 6 new archaeological sites and the expansion of the boundaries of 4 previously recorded sites. In addition, the conditions of 9 other previously recorded sites were updated, with no changes to their previously defined boundaries. The isolated occurrences included individual artifacts, features, and small groupings of artifacts that did not qualify as sites. Of the newly recorded or updated sites, 19 were determined NRHP-eligible and one of the sites was determined not eligible.

In 2005, 2006, and 2009, supplemental surveys were performed (Brodbeck and Pratt 2005; Brodbeck 2006a; Dorigo 2006; Fackler et al. 2009). The purposes of these surveys were to:

- evaluate the NRHP eligibility of properties with historic buildings that were not documented in earlier studies and, consequently, provide the information needed to determine whether they
The South Mountains as a historic resource

SMPP, which occupies much of the land area of the South Mountains and is NRHP-eligible, has played a key role in the development of the City of Phoenix’s parks and recreation program. It is NRHP-eligible because of its rich history:

• The park’s origins began in 1924 when prominent local citizens, aided by then-Congressman Carl Hayden, started a process to obtain 13,000 acres from the federal government. The parkland was conveyed in 1927 by BLM to the City of Phoenix by a grant under the Recreation and Public Purposes Act (RPPA).

• The National Park Service developed the original Master Plan for the park in 1934; this represented the largest municipal park planning effort in the United States.

• The development of the park from 1933 to 1942 was the direct result of President Franklin D. Roosevelt’s New Deal programs, which provided relief from the Great Depression by employing the Civilian Conservation Corps (CCC).

• Today, the park retains many of its original CCC-constructed buildings, structures, and facilities, and it retains its master-planned layout and design.

In 1989, the City of Phoenix listed SMPP in the City of Phoenix Historic Property Register as a Nonresidential Historic District. The City of Phoenix Historic Preservation Office is in the process of nominating SMPP for listing in the NRHP. SHPO has concurred that SMPP is eligible for the NRHP under Criteria A, B, C, and D for its numerous important historical associations.

Qualification of Section 4(f) Resources

Survey and evaluation conducted by the Department of Transportation (DOT) under Section 4(f) Evaluation

• Survey additional alignment configurations introduced as part of the iterative EIS process
• Survey agricultural fields that had been plowed since the original survey

Of the documented sites from the 2005 supplemental survey, one prehistoric site, six historic sites, and two historic linear sites—a railroad and a canal—were determined NRHP-eligible. As a result of the findings, the action alternatives were reconfigured to avoid the historic properties determined NRHP-eligible.

In 2006, two additional surveys were performed. These surveys assessed historic sites that had not been previously evaluated for NRHP eligibility and that had been included in the area of potential effects as a result of shifts in the action alternative alignments. The properties include SMPP, the Roosevelt Canal, and three farmhouses. SMPP was determined NRHP-eligible. The Roosevelt Canal was determined eligible with contributing and noncontributing components. The three farmhouses were determined not eligible.

In 2009, an additional supplemental survey and an additional records search were conducted to identify surveys conducted and sites recorded within 1 mile of the W59 and E1 Alternatives since the original records search. The supplemental survey documented nine isolated occurrences, but no new archaeological sites or historic properties.

A survey and records search of two additional areas within the Study Area occurred in September 2011. These efforts focused on areas where Western Area Power Administration (Western) towers and lines would be relocated to accommodate the proposed freeway. The surveys covered 101 acres and documented eight sites: six NRHP-eligible sites and two NRHP-ineligible sites. Three previously unrecorded sites were discovered. NRHP-eligible and formerly eligible properties exist near Dobbins Road in Laveen near the W59 Alternative. The Hudson Farm district is eligible for listing in the NRHP under Criterion A for its association with Laveen’s agricultural development. In addition, four structures—the two cement stave silos on the Hudson Farm, the dairy flat barn on the Hackin Farmstead/Dairy, and the dairy head-to-toe barn on the Tyson Farmstead/Barnes Dairy—are individually eligible under Criterion C for their design and construction (Solliday and Macnider 2012).

Although previously recommended as eligible for the NRHP (Brodbeck and Pratt 2005), the Dobbins Road Streetscape (6000 Block of West Dobbins Road) was reevaluated and determined to be not eligible because many components of the streetscape, including buildings, vegetation, and views of agricultural fields, have lost their historic character (Solliday and Macnider 2012). SHPO concurred with these eligibility recommendations on July 16, 2012.

Identification of Traditional Cultural Properties

A TCP evaluation within the proposed action’s area of potential effects was conducted. Ten locations were identified by the Community as places of cultural importance that could qualify as NRHP-eligible TCPs. The NRHP eligibility of two of the properties was confirmed by FHWA through consultation with the Community. To be in full accordance with NHPA, all ten potential TCPs were evaluated for NRHP eligibility.

Traditional Cultural Properties

The initial field survey for the proposed action (Darling 2005) identified ten potential TCPs: the South Mountains, two prehistoric village sites, an active shrine site, two prehistoric petroglyph sites, and four prehistoric trail sites. As a result of TCP evaluations and consultations with the Community, five TCPs have been identified within the area of potential effects. The South Mountains were determined eligible for NRHP listing as a TCP under Criterion A and B. The two prehistoric villages, Villa Buena [AZ T12:29 (ASM)] and Pueblo del Alamo [AZ T12:52 (ASM)], were determined eligible for listing in the NRHP as TCPs under Criterion A and as archaeological sites under Criterion D. An active shrine site, AZ T12:112 (ASM), was determined eligible as a TCP under Criterion A and as an archaeological site under Criterion D. One petroglyph site, AZ T12:198 (ASM), was determined eligible as a TCP under Criterion A and as an archaeological site under Criterion D.

In addition, two of the ten potential TCPs identified by the initial field survey were found to be eligible for listing in the NRHP under Criterion A as contributors to the South Mountains TCP. These included a prehistoric trail site [AZ T12:197 (ASM)] and a prehistoric petroglyph site [AZ T12:198 (ASM)], both of which retained qualities that contributed to the NRHP eligibility of the South Mountains TCP.

Four sites identified as potential TCPs included three trail sites and one heavily altered rock art site. The trail sites—AZ T12:201 (ASM), AZ T12:207 (ASM), and AZ T12:211 (ASM)—were determined not eligible for NRHP listing as TCPs but eligible under Criterion D as archaeological sites. The rock art site, AZ T12:208 (ASM), was determined to be not eligible for NRHP listing as a TCP but eligible under Criterion D as an archaeological site.

Environmental consequences

Prehistoric Site Impacts, Action Alternatives, Western and Eastern Sections

All action alternatives would affect archaeological resources. All but one of the archaeological sites are eligible for the NRHP under Criterion D. Table 4–45 presents the number and types of NRHP-eligible archaeological sites that would be affected by the action alternatives.

The action alternatives in the Western Section would affect artifact scatters, mostly visible in agricultural fields; the scatters likely represent the remains of prehistoric habitations and related agricultural activities. In contrast, the E1 (Preferred) Alternative would affect NRHP-eligible archaeological sites that are activity-specific sites, such as small artifact scatters, lithic quarries, and trails. The construction footprint would avoid a petroglyph site in the E1 Alternative corridor.

The W59 (Preferred) Alternative would affect the greatest number of sites in the Western Section, while...