Annual Monitoring Report

Section 106 and U.C.A. 9-8-404 Programmatic Agreements

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Pursuant to the April 2007, executed Section 106 Programmatic Agreement: Implementation for Federal-Aid Transportation Projects in the State of Utah, as amended, Section XIII. Administrative Stipulations, B. Monitoring Implementation of this Agreement, the Utah Department of Transportation is required to submit the following Annual Monitoring Report to the Federal Highway Administration, Utah State Historic Preservation Officer and the Advisory Council on Historic Preservation to assist the signatory parties with: (1) accurately assessing the degree to which the agreement and its manner of implementation constitute an effective program alternative under 36 CFR Part 800, (2) to determine whether the agreement should remain in effect, and (3) , to recommend whether and how the agreement should be improved through appropriate amendment

Pursuant to the March 2008, executed Programmatic Agreement for Implementation of U.C.A. 9-8-404 for State-Funded Transportation Projects in Utah, Section III, the Utah Department of Transportation is required to submit the following annual report to the State Historic Preservation Officer to assist the signatory parties with (1) accurately assessing the degree to which the agreement and its manner of implementation constitute an effective program alternative under U.C.A. 9-8-404, (2) to determine whether the agreement should remain in effect, and (3), to recommend whether and how the agreement should be improved through appropriate amendment

EXECUTIVE SUMMARY

This report summarizes activities carried out under, and documents the effectiveness of, the *Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation, the Utah State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Section 106 Implementation for Federal-Aid Transportation Projects in the State Of Utah*, as amended (106 PA), and the *Programmatic Agreement Between the Utah Department of Transportation and the Utah State Historic Preservation Officer Regarding Implementation of U.C.A. 9-8-404 for State-Funded Transportation Projects in Utah (404 PA)*. It covers actions for which Section 106 and 404 consultation was concluded between October 1, 2009 and September 30, 2010 (FY2010), in accordance with stipulations XIII.B.1. and XIII.B.2 of the 106 PA and stipulation III of the 404 PA. PA actions or projects that were "in progress" with determinations or findings still pending as of September 30 are not reflected in this report; the results of those consultations will be reported in subsequent reports, once Section 106 or 404 compliance has been completed.

The Utah Department of Transportation (UDOT) processed 141 Federal-aid projects and 67 state-funded projects in FY2010. Of these, 19 required external review by the SHPO (Tier 2 projects): 13 projects had a finding of no adverse effect, and 6 resulted in an adverse effect finding. The remaining projects were processed as Tier 1 projects (no historic properties affected). The proportion of the various findings of effect for the past two reporting years has remained consistent, but it differs in the first reporting year. The percentage of eligible properties dropped between FY2009 and FY2010.

Assessment of performance under each set of stipulations in the Section 106 PA has led UDOT to make the following recommendations for amendments, adding clarification language, and providing additional training:

- Training to clarify responsibilities under the 6004 CE delegation;
- Training to clarify the difference between Federal NAGPRA and Utah NAGPRA;
- The notification procedure for discoveries remains unclear and amendments are needed to the PA to clarify the process;
- Amend the Section 106 PA to include the USACE as a signatory;
- Amend the 404 PA or execute a new PA with the Corps for state-funded projects;
- Amend the Section 106 PA to clarify Stipulation I.I. regarding other Federal agencies and consider adding them as concurring parties to the PA;
- Continue to work towards developing agreements with other tribes to streamline the Section 106 process;

- Meet with the tribes with whom FHWA and UDOT have PAs to discuss ways to improve the process, and any changes that need to be made;

- For certain projects that adversely affect historic buildings, the PQS should continue to expend additional effort in engaging CLGs in the resolution of adverse effects;

- Additional tracking on eligibility and effect will take place; should similar trends continue, futher analysis will be conducted;

- The *de minimis* agreement should be added as an attachment to the PA and language added where appropriate;

- Section 4(f) requirements should be incorporated where appropriate and language clarified to ensure that the PA does not contradict them;

- Change the language in Stipulation IX.C.1. to require that boundaries be established for every historic property;

- The various tracking forms used to compile this report as well as the tribal PA reports should be revised and consolidated to decrease data entry time and time spent by the PQS compiling the information for the reports;

- The region PQS should be invited to the preconstruction meeting to explain the procedures for discovery;

- The ECS on a project should receive additional training on discoveries.

Now in its third year of implementation, the findings of this report demonstrate that the PAs continue to be effective environmental streamlining tools by improving project delivery while ensuring that effects to cultural resources as a result of Federal-aid highway and state-funded projects are appropriately taken into account during project planning.

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INTRODUCTION

The *Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation, the Utah State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Section 106 Implementation for Federal-Aid Transportation Projects in the State Of Utah* (106 PA) went into effect on April 16, 2007, streamlining the Utah Department of Transportation (UDOT) procedures under Section 106 of the National Historic Preservation Act (NHPA). This PA was amended on April 16, 2010.

The *Programmatic Agreement Between the Utah Department of Transportation and the Utah State Historic Preservation Officer Regarding Implementation of U.C.A. 9-8-404 for State-Funded Transportation Projects in Utah* (404 PA), went into effect on March 19, 2008, streamlining the UDOT procedures under U.C.A. 9-8-404, the Utah Antiquities Act.

This report summarizes activities carried out under, and documents the effectiveness of, the 106 PA and the 404 PA. It covers actions for which Section 106 and 404 consultation was concluded between October 1, 2009 and September 30, 2010 (FY2010), in accordance with stipulations XIII.B.1. and XIII.B.2 of the 106 PA and stipulation III of the 404 PA. PA actions or projects that were "in progress" with determinations or findings still pending as of September 30 are not reflected in this report; the results of those consultations will be reported in subsequent reports, once Section 106 and 404 compliance have been completed.

BACKGROUND

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment on such undertakings: "The section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning" (36 CFR §800.1(a)). The implementing regulations, 36 CFR Part 800, define the process for how Federal agencies meet these statutory responsibilities: "The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties" (36 CFR §800.1(a)).

The regulations (36 CFR §800.14) allow for the development of program alternatives by the Federal agency. The Federal Highway Administration (FHWA) implements the Federal-aid Highway Program (FAHP) by funding and approving state and locally sponsored transportation projects that are administered by UDOT. The Utah FHWA Division Administrator is the "Agency Official" responsible for ensuring that this Program complies with Section 106 of NHPA, as amended, and its implementing regulations, 36 CFR Part 800, as amended.

For those projects processed as Categorical Exclusions (CEs) for which UDOT acts as FHWA under the *Memorandum of Understanding Between Federal Highway Administration, Utah Division, and the Utah Department of Transportation for the State Assumption of Responsibility*

for Categorical Exclusions (signed 7/1/2008), UDOT has also assumed the responsibility for compliance with Section 106 and Section 4(f) of the DOT Act of 1966. Under this MOU, the UDOT Executive Director is the "Agency Official" responsible for ensuring that the Federal-aid Highway Program complies with Section 106.

Section 404 (Agency Responsibilities), Chapter 8 (History Development), Title 9 (Community and Culture Development) of the Utah Code Annotated (U.C.A) states that "Before expending any state funds or approving any undertaking, each agency shall (i) take into account the effect of the expenditure or undertaking on any historic property; and (ii) unless exempted by agreement between the agency and the state historic preservation officer, provide the state historic preservation officer with a written evaluation of the expenditure's or undertaking's effect on the historic property" (U.C.A. 9-8-404(1)(a)). UDOT administers the state-funded transportation program in the state of Utah and is responsible for ensuring that the Department is in compliance with U.C.A. 9-8-404. UDOT has not developed administrative rules for implementing the statute. The 404 PA referenced above outlines the process used to implement U.C.A. 9-8-404. It essentially mirrors the Section 106 process as outlined in the PA for Federal-aid transportation projects.

The primary goal of the 106 PA is to streamline the Section 106 process. This is accomplished through the following measures:

- FHWA authorizes UDOT to initiate, and in most cases, conclude consultation with the SHPO and other consulting parties. FHWA retains the responsibility to consult with Tribes and is still responsible for Section 106 compliance, except where that responsibility has been assumed by UDOT (CEs).
- The Section 106 PA establishes two tiers of project review, based on the type of impacts to historic properties: Tier 1 projects are those that result in a finding of no historic properties affected, and do not require case-by-case review by the SHPO (following appropriate screening by UDOT; see Attachment 4 the PA); Tier 2 projects are those that result in a finding of no adverse effect or adverse effect, and require case-by-case review by the SHPO. UDOT submits determinations of eligibility, findings of effect, and cultural resource reports for projects that qualify as Tier 1 to the SHPO on a quarterly basis.
- Under Section 6004 of SAFETEA-LU (Pub. L. 109-59), UDOT has assumed the responsibility for projects classified as Categorical Exclusions (CEs) (effective June 30, 2008; Attachment 1 of PA). Under this delegation, UDOT has also assumed the responsibilities of FHWA for complying with Section 106 and 36 CFR Part 800 (except for tribal consultation). The PA defines the process for UDOT acting as FHWA for Section 106.

As in the 106 PA, the 404 PA establishes two tiers of project review, based on the type of impacts to historic properties. UDOT submits determinations of eligibility, findings of effect, and cultural resource reports for projects that qualify as Tier 1 to the SHPO on a quarterly basis. The 404 PA includes all other provisions of the 106 PA, except that FHWA and the Council are not involved and Section 4(f) does not apply. UDOT initiates tribal consultation at the discretion of the UDOT Professionally Qualified Staff (PQS), depending on the nature and scope of the

undertaking. In general, UDOT would initiate consultation on the same type of projects for which consultation would be initiated under the 106 PA.

The UDOT has divided the state into four regions: Region 1 includes Box Elder, Cache, Davis, Weber, Morgan, and Rich counties; Region 2 includes Tooele, Salt Lake, and Summit counties; Region 3 includes Juab, Utah, Wasatch, Duchesne, and Daggett counties; and Region 4 includes Millard, Beaver, Iron, Washington, Sanpete, Sevier, Piute, Wayne, Garfield, Kane, Carbon, Emery, Grand, and San Juan counties. Regions 1, 2 and 3 each have one archaeologist, and Region 4 has two archaeologists because the region is so large and is rich with archaeologically significant resources. In addition, the UDOT headquarters in Salt Lake City has one architectural historian and the Cultural Resource Program Manager.

TRAINING

The Cultural Resource Program Manager held an initial training for the rest of the UDOT PQS after it was executed in 2007. UDOT holds quarterly meetings and an annual meeting with the PQS to discuss cultural resource issues and/or receive training. When a new PQS is hired, he/she is sent to Section 106 training, usually given by the Council, and is provided training by a UDOT PQS. Two new PQS were hired during FY10 and have been trained. The training that is provided appears to be adequate to help the regions stay consistent and to keep each PQS up to date on new processes and requirements.

A questionnaire was sent to all the PQS (n=7) to assess their understanding and knowledge of the 106 PA. Fifteen true/false questions were developed that were taken from the PA (Appendix 1). The PQS were also asked to provide the reference to the appropriate stipulation(s) in the PA. The responses indicated that the PQS know what is in the PA, but some of the stipulations may not be completely clear: One PQS was unclear about the role of FHWA in the 6004 CE delegation (Question 7); two incorrect answers on Question 11 indicate that the requirements for Section 4(f) do not mesh well with Section 106; there was one incorrect answer on Question 12, which relates to discovery notifications; and there was one incorrect answer on Question 13, which is about NAGPRA.

Recommendations: 1) training to clarify responsibilities under the 6004 CE delegation; 2) amend the PA to include Section 4(f) where appropriate (see **Section 106 Process,** below; 3) the notification procedure for discoveries remains unclear and amendments are needed to the PA to clarify the process; and 4) training is needed to clarify the difference between Federal NAGPRA and Utah NAGPRA.

APPLICABILITY AND SCOPE

Stipulation I.I of the 106 PA is a provision that allows cooperating Federal Agencies who recognize FHWA as the lead Federal agency for an undertaking to have FHWA act on their behalf in fulfilling their responsibilities under Section 106. The US Army Corps of Engineers (Corps), who is required to comply with Section 106 when issuing a permit under the Clean Water Act (404 permit) for a FHWA project, has been conducting their own Section 106 compliance for the issuance of the permit if they have not been involved in the Section 106

process, which has sometimes caused delays on projects and results in two consultation letters submitted to SHPO for the same area. Because many of FHWA/UDOT projects require a 404 permit, in order to streamline the process it is recommended that the Section 106 PA be amended to include the Corps, and they become a signatory.

The same issue applies when the project is state-funded and there is no other Federal agency except the Corps. UDOT's compliance for U.C.A. 9-8-404 is essentially the same as for Section 106, as defined in the 404 PA, without FHWA and Council involvement. In order to not duplicate the process, it is recommended that either the 404 PA be amended, or a new PA be executed similar to the 106 PA with FHWA, with the Corps as the lead Federal agency.

Recommendation: 1) Amend the Section 106 PA to include the Corps as a signatory, and to clarify Stipulation I.I; 2) amend the 404 PA or execute a new PA with the Corps for state-funded projects.

PROFESSIONAL QUALIFICATIONS STANDARDS

UDOT has provided a Cultural Resource Program Manager who submits the quarterly reports after reviewing them for appropriateness, evaluating whether or not the PQS staff is properly taking into account the effects of projects on cultural resources, and determining that there is no loss in quality of work. All actions taken by UDOT under the authority of the PAs have been carried out by or under the direct supervision of a person who meets the Secretary of the Interior's Professional Standards, as published in 48 FR 44738-44739, and who has been permitted (for archeology only) by the State of Utah pursuant to U.C.A 9-8-305 and its implementing rules. In addition, UDOT has provided for a full-time architectural historian who serves all four UDOT regions.

Recommendation: No concerns or amendments have been identified.

CONSULTATION WITH TRIBES

UDOT staff has made good-faith efforts to identify and include tribal governments who have demonstrated an interest in participating as a Section 106 consulting party. FHWA and UDOT have executed three (3) programmatic agreements (Agreements) with tribal governments documenting alternative procedures for consultation under Section 106, and are in the process of executing additional agreements. Each of the three executed Agreements authorizes UDOT to consult with the Tribe on any matter pertaining to the Agreements, although FHWA remains responsible and will honor any request by a tribe for government-to-government consultation, not withstanding any provisions of the Agreements. The agreements also include projects that are exempted from review by the Tribes. These are projects that are unlikely to have the potential to cause effects to historic properties. The executed Agreements are with the following tribal governments:

- Confederated Tribes of the Goshute Indian Reservation, executed on July 29, 2008
- Cedar Band of Paiute Indians, executed on Sept. 29, 2008
- Indian Peaks Band of Paiute Indians, executed on Sept. 29, 2008

- Shivwits Band of the Paiute Indians, anticipated Feb. 2011

Tribal consultation under the 404 PA, although initiated at the discretion of the UDOT PQS, is generally done for the same type of projects for which consultation would be initiated under the 106 PA.

UDOT has developed a tracking form for the Tribal PAs that documents on which projects consultation was done and describes tribal responses, concerns, and resolution of concerns. The form also lists those projects for which consultation was not conducted and which exemption applied.

The Tribal PAs are an effective streamlining tool by improving project delivery while ensuring that effects to cultural resources as a result of Federal-aid Highway projects are appropriately taken into account. A time savings by UDOT of 30 days per project is realized on exempted projects that do not require tribal notification. The tribes also realize time savings because they do not have to review notifications on every project. The PAs ensure that the Tribes are provided opportunities to participate fully in the Section 106 consultation process.

Project notification to tribes other than those with which FHWA and UDOT have PAs is based primarily on geographic proximity of the reservations to the project, or known areas of interest. Responses are rarely received—usually only from the Hopi and the Paiute Indian Tribe of Utah—and responses that are received rarely express any concerns, other than to keep the tribe informed if a site will be adversely affected or if human remains are discovered. Additional PAs with these tribes will aid in understanding their area of interest and on what types of projects they want to be notified.

Tribal consultation on one project, 600 West and Bangerter in Salt Lake County, has involved a large number of tribes throughout Utah, Arizona, Colorado, New Mexico and Wyoming, although the Confederated Tribes of the Goshute have been the most active. A site that is known to be of importance to the tribes is located adjacent to the project. Consultation on this project has included a number of meetings, a field visit, and presentations to the Goshute Tribal Council and the Utah Tribal Leaders Council. Tribal monitors who were agreed on by all the interested tribes were present during the subsurface investigations. Consultation will continue throughout the project.

Recommendations: 1) Continue to work towards developing agreements with other tribes to streamline the Section 106 process; 2) meet with the tribes with whom FHWA and UDOT have PAs to discuss ways to improve the process, and any changes that need to be made.

PARTICIPATION OF OTHER CONSULTING PARTIES AND THE PUBLIC

UDOT staff has made good-faith efforts to identify and include representatives of local governments and individuals and organizations with a demonstrated interest in undertakings. UDOT seeks and considers the views of the public by providing the public with information about the undertaking and its effects on historic properties. This is generally done through public meetings held in conjunction with NEPA, but also through presentations at city council

meetings, historical society meetings, and notices of adverse effect. For projects that will affect historic buildings, representatives of the Certified Local Government (CLG) are often consulting parties, but sometimes it is difficult to engage them. The UDOT PQS has found that some CLGs and their representatives are unaware of the benefits of the National Register Preserve America and other programs that could reinforce community awareness of historic preservation and its benefits.

During FY2010, the UDOT architectural historian and the Region PQS have actively notified local preservation organizations, primarily CLGs, of potential impacts of UDOT projects to eligible properties, and solicited their comments. These efforts have increased the awareness of Section 106 and the role of communities in the consultation process among the volunteers who serve on local preservation commissions and the planners who serve the CLGs. Depending on the project impact and the interest expressed by historic preservation representatives, the mitigation of adverse effects can further long-term historic preservation goals of these communities. For example, mitigation for the impacts to historic properties of the 10th West Project in Logan included funds provided to the Logan CLG to survey additional areas to expand their historic district, or to create new districts.

Recommendation: For certain projects that adversely affect historic buildings, the PQS should continue to expend additional effort in engaging CLGs in the resolution of adverse effects.

CE DELEGATION

Under Section 6004 of SAFETEA-LU (Pub. L. 109-59), UDOT has assumed the responsibility for projects classified as Categorical Exclusions (CEs) (MOU, effective June 30, 2008). Under this delegation, UDOT has also assumed the responsibilities for complying with Section 106 and 36 CFR Part 800 (except for tribal consultation).

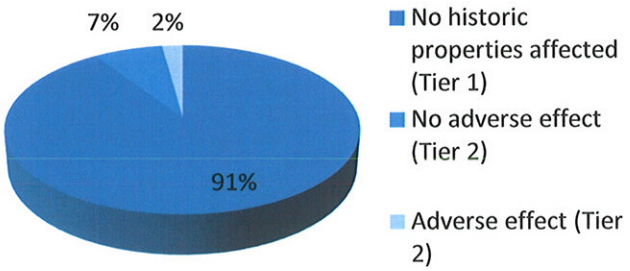
FHWA's monitoring of the Section 106 delegation has identified no instances where UDOT has not satisfied the terms and conditions of the MOU. In accordance with the MOU, FHWA has been involved in some Section 106 issues on CE projects that have implications for the program.

Recommendation: No concerns or amendments have been identified.

PROJECT REVIEW

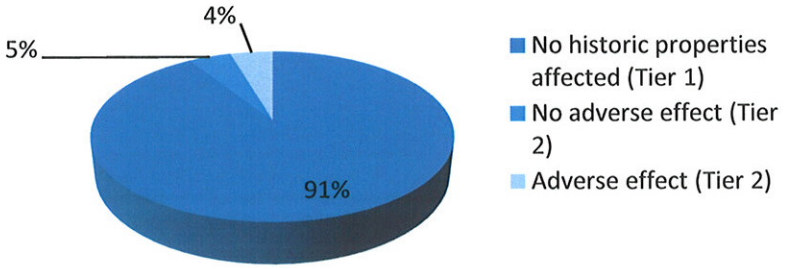
According to data provided by the UDOT Regions, between October 1, 2009 and September 30, 2010, UDOT processed 141 Federal-aid Highway Program (FAHP) projects. As depicted in Figure 1, a majority of the projects (128) were exempted from further review after appropriate screening by the PQS (Tier 1 projects: No Historic Properties Affected). Thirteen (13) projects required external review by the SHPO (Tier 2 projects). Of the Tier 2 projects, 10 projects resulted in no adverse effect findings and 3 resulted in adverse effect findings. A list of all the proejcts is included as Appendix 2 of this report.

Figure 1. FY2010 Federal-Aid Highway Projects



According to data provided by the Regions, UDOT processed 67 state-funded highway projects and encroachment projects during FY2010. The majority of these (61) were exempted from further review after appropriate screening by the PQS (Tier 1 projects; No Historic Properties Affected) (Figure 2). Six (6) projects required external review by the SHPO (Tier 2 projects). Of the Tier 2 projects, 3 projects resulted in no adverse effect findings and 3 resulted in adverse effect findings.

Figure 2. FY2010 State-Funded and Encroachment Projects



One hundred thirty-five (135) Federal-aid Highway projects were processed as Categorical Exclusions (CEs). Out of those, all but 5 qualified for delegation to UDOT, which gave UDOT the authority and responsibility for Section 106 compliance. These 5 were non-delegated CE documents, which require FHWA approval. UDOT staff processed 1 project as an Environmental Assessment (EA) and 2 projects as re-evaluations of an EIS. Three (3) projects were completed where no environmental document was processed, but the Section 106 process was completed. These were federally funded or approved projects by other agencies or those projects by other parties that required an encroachment permit from UDOT.

Fifty-seven (57) state-funded projects were processed as state environmental studies, requiring compliance under 9-8-404. Ten (10) projects were completed where no environmental document was processed, but 9-8-404 compliance was done. These were primarily utility projects that required an encroachment permit from UDOT.

A total of 200 archaeological sites and 163 architectural properties were recorded during FY2010 on FAHP projects (Figures 3 and 4). Of the archaeological sites, 108 were determined eligible

for the National Register of Historic Places (NRHP). Of the architectural properties, 70 were determined eligible for the NRHP.

Figure 3. Architectural Properties Recorded - FAHP Projects

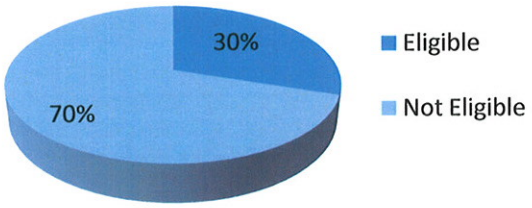
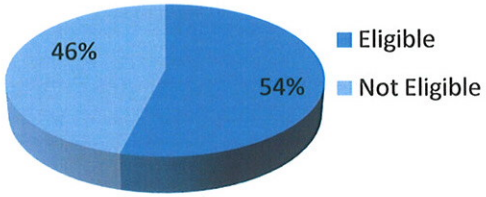


Figure 4. Archaeological Sites Recorded- FAHP Projects



A total of 23 archaeological sites and 22 architectural properties were recorded during FY2010 on state-funded and encroachment projects (Figures 5 and 6). Of the archaeological sites, 7 were determined eligible for the National Register of Historic Places (NRHP). Of the architectural properties, 16 were determined eligible for the NRHP.

Figure 5. Archaeological Sites Recorded - State Projects

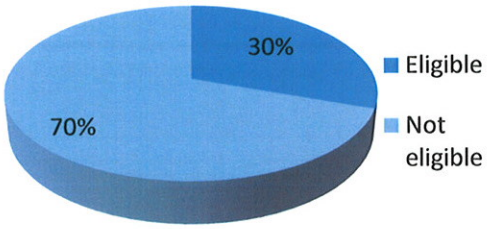
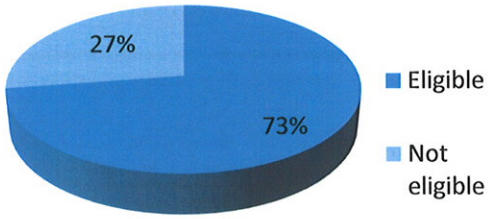


Figure 6. Architectural Properties Recorded - State Projects



The findings of effect from the three years the PAs have been in place were compared to determine if there are any trends that may indicate areas of concern (Figures 7 and 8).

Figure 7. Findings of Effect - FAHP Projects

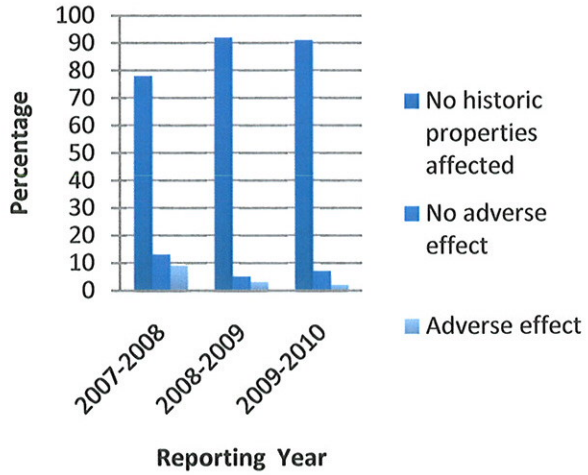
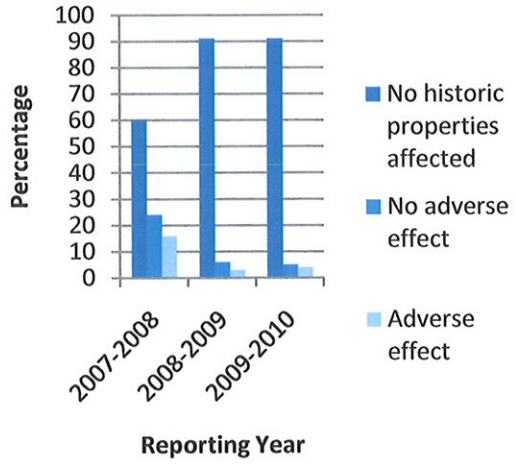
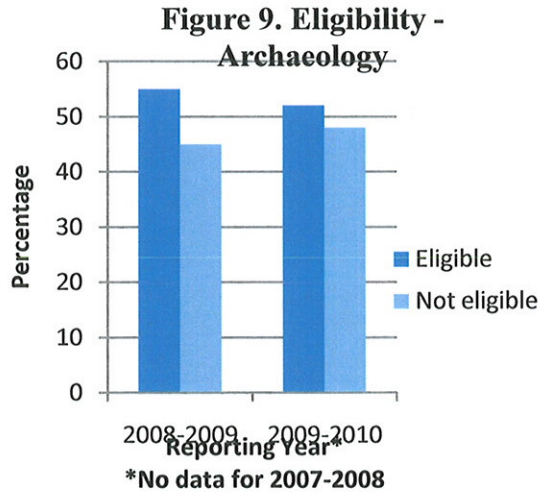


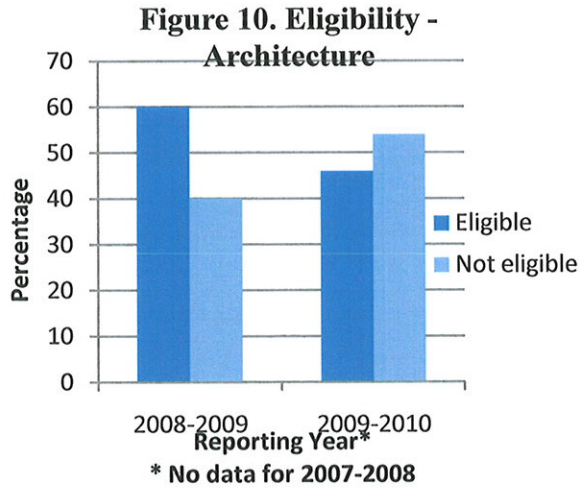
Figure 8. Findings of Effect - State Projects



The findings of effect for the past two reporting years (both FAHP projects and state projects;) have been very similar to each other in that the number of projects with no historic properties affected is very high, with only a few no adverse effect and adverse effect findings. The results for 2007-2008 are quite different (especially for state projects), with a smaller percentage of no historic properties affected findings and a higher percentage of no adverse effect and adverse effect findings. There are a number of possible reasons why this first year of the PA was different: 1) Projects for the FY2008 Annual Monitoring Report may include project determinations that were made before implementation of the PAs, when projects with no historic properties affected were not tracked as closely. FY2008 was the first full fiscal year since execution of the PA. Did having the option of using Tier 1 review with no SHPO consultation affect how the PQS determined effect?; 2) the consultants designing the roadways became more sensitive to trying to avoid Section 4(f) properties after 2008; 3) there just happened to be a greater percentage of projects with effects to historic properties.

The eligibility evaluations from the 2008-2009 and 2009-2010 reporting years were compared to determine if there are any trends that may indicate areas of concern (Figures 9 and 10). This information was not tracked for the 2007-2008 reporting year.





A smaller percentage of properties were determined eligible in FY2010 than in FY2009, both for archaeology and architecture. In fact, in FY2010, the majority of the architectural properties were determined not eligible. After interviewing the PQS for a possible explanation for this, it would appear that nothing was done differently from one year to another with regard to evaluating eligibility, but that the projects (especially the large ones in urban areas) just happened to be in areas that had more altered or out-of-period buildings.

Recommendation: Additional tracking on eligibility and effect will take place; should similar trends continue, futher analysis will be conducted.

THE SECTION 106 PROCESS

In accordance with 36 CFR §800.3(c)(4), the 106 PA states that "If the SHPO/THPO fails to respond within 30 days of receipt of a request for review of a finding or determination, the agency official may either proceed to the next step in the process ... or consult with the Council in lieu of the SHPO/THPO". However, in order to make a *de minimis* impact finding under Section 4(f), written concurrence from the SHPO is needed on a Section 106 finding of no adverse effect or no historic properties affected. This apparent contradiction was addressed in the FHWA *Guidance for Determining De Minimis* issued on December 13, 2005: "FHWA or FTA must inform the SHPOs and THPOs who are parties to such PAs, in writing, that a non-response that would be treated as a concurrence in a "no adverse effect' or "no historic properties affected" determination will also be treated as the written concurrence for purposes of the FHWA or FTA *de minimis* impact finding. It is recommended that this understanding of the parties be documented by either appending the written notice to the existing PA, or by amending the PA itself". FHWA has an executed agreement with SHPO regarding this issue (Appendix 3).

Because Section 4(f) requires written concurrence from SHPO on a finding of no historic properties affected (as well as no adverse effect) in order to make a *de minimis* impact finding, the Tier 1 projects defined in the 106 PA appear to not be in compliance with Section 4(f). However, the 106 PA defines a finding of no historic properties affected as one of the following: no sites present, no eligible sites (historic properties) present, or historic properties present, but

completely avoided. None of these scenarios would lead to a Section 4(f) *de minimis* impact finding, but would be "no use".

Stipulation IX.C.1. of the 106 PA states that "Where historic property boundaries have not previously been established, the PQS may identify recommended boundaries…". Both Section 106 and Section 4(f) require boundaries to determine effect and use.

Recommendations: 1) The *de minimis* agreement should be added as an attachment to the PA and language added where appropriate; 2) Section 4(f) requirements should be incorporated where appropriate and language clarified to ensure that the PA does not contradict them; 3) change the language in Stipulation IX.C.1. to require that boundaries be established for every historic property.

POST-REVIEW DISCOVERIES

Human remains were found during the data recovery investigations on a site on the Dixie Drive Project. UDOT sent notifications to FHWA, SHPO, Tribes, and the Division of Indian Affairs in accordance with Stipulation XI.B. UDOT received no objections on the plan for addressing the discovery and the remains were completely excavated. Once the report on the remains has been completed, disposition will be determined in accordance with the Utah NAGPRA.

A discovery of a historic trash dump was reported during water line trenching for the Wall Avenue Project in Ogden. UDOT notified FHWA, tribes, and SHPO in accordance with Stipulation XI.B. Trenching was continued to aid in determining the depth and horizontal extent of the site. An archaeological monitor documented artifacts and determined the extent of the site and historic research was conducted to determine the history of the area in the vicinity of the discovery and to aid in the NRHP eligibility evaluation. The site was determined not eligible to the NRHP and the project continued.

During construction at a site on the Aneth Lighting Project in San Juan County (Navajo Reservation) that had previously been determined ineligible, the archaeological monitor reported two features as discoveries. Consultation was conducted with the Navajo Nation Historic Preservation Department (NNHPD), FHWA, and the Council and it was determined that the features would be treated as a discovery and tested to determine the nature and integrity of the features. Testing revealed a small pitstructure with only the floor features intact, and a mealing house that was remarkably intact. However, it was determined, with NNHPD concurrence, that the site as a whole remained not eligible.

Recommendation: See Training, Above, and Inadvertent Effects or Foreclosure, below.

ADMINISTRATIVE STIPULATIONS

Documentation

The data provided by the regions suggest that all documentation supports the findings and determinations made under the Agreements, is consistent with 36 CFR 800.11, and has been

processed in accordance with the *UDOT Guidelines For Identifying, Recording, and Evaluating Archaeological and Paleontological Resources* (previously titled *UDOT Guidelines for Archeological Survey and Testing*). Documentation prepared by consultants has been reviewed and approved by the PQS prior to submission to SHPO.

Recommendation: No concerns or amendments have been identified.

Monitoring Implementation

A notice of availability for public inspection (Appendix 4) was issued to interested parties and published in the two statewide newspapers on Dec. 27, 2010. A letter was sent to Federal and State agencies and the tribes notifying them that the report is available on UDOT's website. A copy of this report has been provided to FHWA, Utah SHPO, USACE, and the Council 30 days before the Annual Monitoring Meeting.

The Annual Monitoring Meeting with the signatories (including the USACE) has been scheduled for January 31, 2011 to discuss the findings and to offer the opportunity for the signatory parties to propose amendments to the PA. The Council has declined to participate in the meeting but is provided the opportunity to comment.

If the recommendations made in this report are agreed upon by all signatories, the changes will be made.

ESTIMATED TIME AND COST SAVINGS

Implementation of the PAs has substantially reduced the UDOT region PQS's workload. Although each is required to complete a Tier 1 Screening Form and enter information into a database for every project, they no longer are required to prepare the consultation materials on the determination of eligibility and effect for each project. The Tier 1 screening form is filled out for every Tier 1 project and the project added to the region's tracking spreadsheet. The screening form and the spreadsheet take approximately 30 minutes to complete. For 189 projects, this would result in around 95 hours of additional work, spread out over the 5 archaeologists and 1 architectural historian and one year. The PQS spends between 2 and 10 hours preparing the SHPO consultation materials, which results in a minimum of 378 hours over the year. This is a minimum savings of 283 hours.

Administration of the PAs has required additional staffing hours and administrative duties in the UDOT Environmental Services Division that were not required prior to implementation of the PAs. The Cultural Resource Program Manager receives the Tier 1 projects from each region PQS, conducts QC on them, and compiles them to submit to SHPO and FHWA on a quarterly basis. Each quarterly submission takes between 8 and 16 hours, depending on the number of projects. This results in 32-64 hours of administrative effort over the year. The Cultural Resource Program Manager also prepares the Annual Monitoring Report, which takes between 40 and 80 hours. The overall time savings realized in workload is approximately 140 hours.

The real time savings is for project delivery, because on Tier 1 projects, UDOT saved between 15 and 30 days per project by not having to request SHPO concurrence, which meant that projects, particularly those for which a CE was completed, could move to construction more quickly. This provision also saves SHPO staff time in not having to review documentation, except on a quarterly basis, for projects that will not affect historic properties. By eliminating from SHPO review routine projects and those that do not affect historic properties, SHPO staff is able to concentrate on the limited number of projects that will adversely affect historic properties.

Implementation of the PA has not substantially changed FHWA's workload because UDOT had been operating in a similar framework since the 1990 delegation agreement between FHWA, SHPO, and UDOT.

Recommendation: The various tracking forms used to compile this report as well as the tribal PA reports should be revised and consolidated to decrease data entry time and time spent by the PQS compiling the information for the reports.

PUBLIC OBJECTIONS

No public objections have been communicated to UDOT or FHWA.

INADVERTENT EFFECTS OR FORECLOSURE

There has been one instance of foreclosure in FY2010. Two isolated finds were discovered during construction of the I-15 Corridor Expansion project in Utah County. The first discovery was on August 2, 1010, at the ABC yard in Lindon just north of the 200 South. The second was on August 9, 2010, near the interchange with Center Street in Provo. Both were discarded headstones and were found mixed with imported fill material used in road construction of I-15, along with other debris (concrete, asphalt, boulders). No other artifacts, features, or human remains were found in association. No known cemeteries or archaeological sites are present in either area (based on Class I data). Research was done on the names on the headstones to identify original burial locations and verify that the headstones had been discarded (one is from Vernal, the second from Sanpete County). These determinations were made by the Environmental Control Supervisor (ECS) for Provo River Contractors, the I-15 construction team, who was called to investigate the discovery.

At the time of the discoveries, the construction team made a unilateral decision to continue with the construction and dispose of the headstone. Neither the UDOT Region 3 archaeologist nor environmental manager was notified, simply because the I-15 CORE office and the construction team were not aware the region should be notified.

UDOT and members of the consultant environmental team held a meeting with the Deputy SHPO for Archaeology and the State Archaeologist to discuss these finds and determine what measures need to be taken to ensure that the discovery procedures are followed on this and all projects. Since the discoveries, the Environmental Lead for the I-15 CORE office and the ECS have been made aware of our discovery procedures (Standard Specification Section 01355 Part 1.13),

especially those regarding discovery of human remains. Communication has improved and the Environmental Lead and ECS contact the region on nearly a weekly basis regarding discoveries and construction schedule and activities. There have been additional discoveries along I-15, but all have been historical and modern (or indeterminate) debris obviously imported as fill material.

The Department needs to ensure that construction contractors and Environmental Control Supervisors on each project are aware of Standard Specification 01355, Part 1.13, and that they need to contact the region PQS if they have a discovery. This is especially true for "island projects", which are large projects that have their own office and act independently of the region.

Recommendations: 1) The region PQS should be invited to the preconstruction meeting to explain the procedures for discovery; 2) the ECS on a project should receive additional training on discoveries.

IMPLEMENTATION OF RECOMMENDATIONS FROM FY2009

- Hold additional training and refresher workshops to help the regions stay consistent and to keep each PQS up to date on new processes and requirements.
  This was done through the quarterly and annual meetings. The regions are becoming more consistent, and there were no new processes or requirements to implement.

- Continue to work towards developing agreements with other tribes to streamline the Section 106 process.
  One tribal agreement is anticipated to be signed in January, 2011 and two others are near completion.

- For certain projects that affect historic buildings, PQS should expend more effort in engaging CLGs, especially in the resolution of adverse effects.
  This recommendation was deleted because SHPO believes that we make a good-faith effort and do not need to continue trying to engage them if they do not respond to our initial efforts. The PQS have made an adequate level of effort in engaging the CLGs; some CLGs are more active than others. UDOT will continue to try to work with them on resolution of adverse effects.

- Amend the PAs to include no adverse effect findings in Tier 1 projects. This was made in the proposed changed to the PA in Attachment C.
  Including no adverse effect findings in Tier 1 projects is problematic because of Section 4(f) requirements for SHPO concurrence in the finding. Because the number of projects with a no adverse effect finding is quite small, the streamlining effects of including them would be negligible. Therefore, it was determined that this change would not be made at this time, but that we would continue to monitor these findings and explore the potential of handling the Section 4(f) determinations programmatically.

- Better use of the checklist of the steps required in Section 106 consultation (provided with the initial PA training) would minimize omitting steps in the process.

The PQS are either using the checklist or have developed versions for their own use.

- Improved communication among the various team members and checking the mitigation commitments database before construction advertisement may help prevent awarding construction contracts before mitigation has occurred.
  Improved communication and a heightened awareness of Section 106 and U.C.A. 9-8-404 commitments have prevented a repeat of the occurrence.

- There is still some confusion over the notification and review process when a discovery is made. Efforts will be made to clarify this process.
  Training was held to clarify the discovery process and language has been added to our MOA template to help ensure compliance.

RECOMMENDATIONS FROM FY2010 REVIEW

- Training to clarify responsibilities under the 6004 CE delegation;

- Training to clarify the difference between Federal NAGPRA and Utah NAGPRA;

- The notification procedure for discoveries remains unclear and amendments are needed to the PA to clarify the process;

- Amend the Section 106 PA to include the USACE as a signatory;

- Amend the 404 PA or execute a new PA with the Corps for state-funded projects;

- Amend the Section 106 PA to clarify Stipulation I.I. regarding other Federal agencies and consider adding them as concurring parties to the PA;

- Continue to work towards developing agreements with other tribes to streamline the Section 106 process;

- Meet with the tribes with whom FHWA and UDOT have PAs to discuss ways to improve the process, and any changes that need to be made;

- For certain projects that adversely affect historic buildings, the PQS should continue to expend additional effort in engaging CLGs in the resolution of adverse effects;

- Additional tracking on eligibility and effect will take place; should similar trends continue, futher analysis will be conducted;

- The *de minimis* agreement should be added as an attachment to the PA and language added where appropriate;

- Section 4(f) requirements should be incorporated where appropriate and language clarified to ensure that the PA does not contradict them;

- Change the language in Stipulation IX.C.1. to require that boundaries be established for every historic property;

- The various tracking forms used to compile this report as well as the tribal PA reports should be revised and consolidated to decrease data entry time and time spent by the PQS compiling the information for the reports;

- The region PQS should be invited to the preconstruction meeting to explain the procedures for discovery;

- The ECS on a project should receive additional training on discoveries.

ANNUAL MONITORING REPORT ASSESSMENT AND RECOMMENDATIONS

The PAs continue to accomplish the goals of the signatory agencies, as evidenced by the results of this annual report. It has improved project delivery by resulting in considerable project cost and time savings for UDOT. It has also succeeded in reducing the workload of the SHPO staff in that fewer UDOT projects required external review.

UDOT finds that the PAs remain an efficient and effective program alternative for taking into account effects of the Federal-aid Highway Program on historic properties and for affording the ACHP a reasonable opportunity to comment on undertakings covered by the PAs. UDOT recommends that the PAs remain in effect. Recommendations have been made to amend the PAs to add clarifying language, as described in this report, and for additional training.

APPENDIX 1: QUESTIONNAIRE

Section 106 Programmatic Agreement

2011 Annual Review Questionnaire

T	F	Citation	Question
☐	☐		Tier 1 projects have the potential to affect historic properties, but following screening specified in Attachment 4, may be determined to require no case-by-case review or consultation with the SHPO because they result in a finding of no historic properties affected.
☐	☐		This Agreement shall not apply to undertakings that occur on or affect tribal lands as they are defined in 36 CFR 800.16(x). Tribal lands are all lands within the exterior boundaries of any Indian reservation, and all dependent Indian communities. For such undertakings, FHWA shall follow the procedures in 36 CFR Part 800.
☐	☐		UDOT has responsibility for government-to-government consultation with Tribes as defined in 36 CFR 800.16(m).
☐	☐		SHPO consultation on the APE will not be required on projects with the potential for substantial indirect/or cumulative effects.
☐	☐		Other individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties.
☐	☐		UDOT shall make FHWA and SHPO aware of any and all public controversy as it relates to the historic properties potentially affected by the proposed undertaking, including properties of religious and/or cultural significance to the Tribes.
☐	☐		If a project is delegated under the 6004 MOU, FHWA does not need to be a signatory on the Memorandum of Agreement (MOA).
☐	☐		If the FHWA has reason to believe that UDOT's performance does not satisfy the terms and conditions of the 6004 CE MOU in Attachment 1, it may intervene to identify the problem. If the problem cannot be resolved to the satisfaction of FHWA, FHWA may reassume responsibility for Section 106 for that project.

T	F	Citation	Question
☐	☐		Tier 2 projects are only those that result in a finding of adverse effect.
☐	☐		UDOT's Regional PQS shall submit to the Central PQS a list of all projects that were processed as screened undertakings (Tier 1) (Attachment 4) in that quarter. The Central PQS will compile a complete list of Tier 1 projects for submission to FHWA and the SHPO by the end of the quarter (December 31, March 31, June 30, and September 30).
☐	☐		Does the following pertain if there is a Section 4(f) resource on the project: "If the SHPO fails to comment on the multiple findings contained in a submission within 30 calendar days of receipt, UDOT may assume they have no objection and proceed to the next step in the consultation process pursuant to 36 CFR 800.3(c)(4)".
☐	☐		If neither the SHPO nor a Tribe files an objection within 72 hours to UDOT's plan for addressing the discovery, UDOT may carry out the requirements of 36 CFR 800.13 on behalf of FHWA and the Council does not need to be notified.
☐	☐		Native American remains and any funerary objects, sacred objects, or objects of cultural patrimony (cultural objects) found within the APE shall be treated pursuant to the Native American Graves Protection and Repatriation Act (NAGPRA) of 1992 or Utah NAGPRA ((J.C.A. 9-9-40 J, et seq., and its implementing Rule R230-1).
☐	☐		If UDOT wishes to consult with the SHPO on the identification of consulting parties, the SHPO shall have 45 days to respond or concur. If SHPO does not respond within that time period, UDOT may assume SHPO concurrence.
☐	☐		UDOT shall notify all consulting parties of findings of effect (no historic properties affected, no adverse effect, adverse effect).

APPENDIX 2: PROJECT TRACKING

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
						Resources		Finding of Effect			
Project Number	Project Name	PIN	Region	Environmental Document Type	Antiquities Project Number	Total #/type (historic architecture (ha) or archaeology (a)) recorded	Eligible #/type (historic architecture (ha) or archaeology (a))	No Effect (Tier 1)	No Adverse Effect	Adverse Effect	Comments
HPP-0158(116)0	SR-158 Improvements, Weber County, Utah	5522	1	CE	U-09-EP-0578p,s	None	None	X			
STP-0204(6)2	SR-204 (Wall Ave); 23rd Street to US 89 - Wall Ave Discovery	5645	1	CE	U-09-ST-0453s	1a	None	X			
F-0106(11)3	SR-0106; Main Street and Parrish Lane	7194	1	CE	N/A	1/ha	1/ha		X		
F-LC57(20)	800 North; 1000 West to 2000 West; Clinton, Utah	7196	1	CE	U-09-ST-0052p,s	1/a , 6/ha	2/ha		X		
S-ST99(67)	State Border on State Highways, Signing	7480	1	CE	N/A	None	None	X			
F-I15-8(121)334	I-15 Near Clearfield, Bridges F-63, F-66, F-80	7868	1	CE	N/A	None	None	X			
F-0039(17)6	SR-39; Washington Blvd. to Harrison Blvd	7926	1	CE	N/A	None	None	X			
F-LC11(39)	D&RGW Rail Trail; Farmington to Legacy Parkway	7929	1	CE	N/A	1/a	1/a		X		The original survey and 106 compliance review was conducted in 2006. Phased construction of segments of the trail has been instituted and each proposed phase is checked against the original 106 compliance to ensure there are no changes to effects and eligibility. No changes for this phase)

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
						Resources		Finding of Effect			
Project Number	Project Name	PIN	Region	Environmental Document Type	Antiquities Project Number	Total #/type (historic architecture (ha) or archaeology (a)) recorded	Eligible #/type (historic architecture (ha) or archaeology (a))	No Effect (Tier 1)	No Adverse Effect	Adverse Effect	Comments
F-0089(202)406	US-89; Weber Co. Line to SR-203 (Harrison Blvd.)	7953	1	CE	N/A	None	None	X			
F-R199(60)	I-15; SR-13 in Corinne to SR-240; SR-240 to SR-13	7954	1	CE	N/A	None	None	X			
F-R199(61)	I-84; SR-102 to I-15; I-15, Elwood to Tremonton	7955	1	CE	N/A	None	None	X			
F-0089(207)502	US-89; Swan Creek Box Culvert	7963	1	CE	N/A	1/ha	1/ha			X	
ADA-R199(11)	ADA Pedestrian Access Project in Region One	8121	1	CE	N/A	None	None	X			
F-LC11(40)	F-LC11(40); D&RGW Rail Trail, Roy Segment	8175	1	CE	U-06-BC-0033s	1/a	1/a		X		The original survey and 106 compliance review was conducted in 2006. Phased construction of segments of the trail has been instituted and each proposed phase is checked against the original 106 compliance to ensure there are no changes to effects and eligibility. No changes for this phase.

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
						Resources		Finding of Effect			
Project Number	Project Name	PIN	Region	Environmental Document Type	Antiquities Project Number	Total #/type (historic architecture (ha) or archaeology (a)) recorded	Eligible #/type (historic architecture (ha) or archaeology (a))	No Effect (Tier 1)	No Adverse Effect	Adverse Effect	Comments
F-LC11(41)	Denver & Rio Grand Western Rail Trail; Layton City	8198	1	CE	U-06-BC-0033s	1/a	1/a		X		The original survey and 106 compliance review was conducted in 2006. Phased construction of segments of the trail has been instituted and each proposed phase is checked against the original 106 compliance to ensure there are no changes to effects and eligibility. No changes for this phase.
F-TOC9(39)	Layton City Interconnect	8227	1	CE	N/A	None	None	X			
F-TOC9(40)	US-89 Interconnect	8228	1	CE	N/A	None	None	X			
F-89(217)412	SR-89 from 26th to 40th; Rotomill and Overlay	8233	1	CE	N/A	None	None	X			
F-0091(37)14	US-91; MP 14 to 16, Median Barrier	8240	1	CE	N/A	None	None	X			
F-I15-8(123)358	I-15; Various Locations Between MP 357.6 to 364; Median and Shoulder Cable Barrier	8288	1	CE	N/A	None	None	X			
F-I15-7(284)315	I-15; MP 315.41 to MP318.5; Rotomill and Overlay	8457	1	CE	N/A	None	None	X			
F-I15-8(132)350	I-15; 2700 North to Hot Springs; Rotomill & Overlay	8470	1	CE	N/A	None	None	X			
F-I15-8(127)381	I-15; 10th North to SR-30	8500	1	CE	N/A	None	None	X			
F-I15-8(126)379	I-15; I-84 to 10th North	8501	1	CE	N/A	None	None	X			
F-I15-8(128)352	I-15; SR-126 to SR-91	8502	1	CE	N/A	None	None	X			

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
						Resources		Finding of Effect			
Project Number	Project Name	PIN	Region	Environmental Document Type	Antiquities Project Number	Total #/type (historic architecture (ha) or archaeology (a)) recorded	Eligible #/type (historic architecture (ha) or archaeology (a))	No Effect (Tier 1)	No Adverse Effect	Adverse Effect	Comments
F-0091(38)0	SR-91; I-15 to SR-13; Rotomill and Overlay	8503	1	CE	N/A	None	None	X			
N/A	Request to Add an Access Gate on Interstate 84 at Milepost 82.9	N/A	1	CE	N/A	None	None	X			
F-LC43(28)	Bonanza Drive (Between SR-224 & SR-248	6285	2	CE	N/A	2/a	2/a	X			
F-LC35(197)	5600 West; 13100 South to Herriman Parkway	7635	2	CEIII	N/A	None	None	X			
N/A	I-215 Precast Paving, 3800 South to 4500 South	N/A	2	CE	N/A	None	None	X			
STP-LC35(155)	1200 West Connector Road	5284	2	CEIII	N/A	1/a; 2/ha	1/a; 0/ha		X		
F-I215(131)23	I-215; North Temple to Davis County Line	6601	2	CE	N/A	1/a	0/a	X			
F-LC35(184)	1300 South; 500 West to 700 West	6621	2	CE	N/A	2/a; 5/ha	2/a; 2/ha	X			
F-I80-4(124)169	I-80; EB/WB Over Weber River at Echo Jct.	7262	2	CE	N/A	None	None	X			
F-TOC9(15)	Salt Lake Area VMS Expansion Phase II	7527	2	CE	N/A	1/a	1/a	X			
F-I80-4(126)146	I-80 Eastbound Structure #F-801 at Atkinson Canyon	7607	2	CE	N/A	None	None	X			
S-0210(10)8	SR-210; Mouth of Canyon to Tanner's Flat	7882	2	CE	N/A	2/a	2/a	X			
F-I80-4(132)145	I-80; Silver Creek to Wanship & Coalville to Echo	7950	2	CE	N/A	None	None	X			
F-0154(56)21	SR-154; 2100 S to 4100 S; MP 21.01 to 24.32	7951	2	CE	N/A	1/a	1/a	X			
F-0224(11)6	SR-224; SR-248 to Bear Hollow	7952	2	CE	N/A	None	None	X			

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
						Resources		Finding of Effect			
Project Number	Project Name	PIN	Region	Environmental Document Type	Antiquities Project Number	Total #/type (historic architecture (ha) or archaeology (a)) recorded	Eligible #/type (historic architecture (ha) or archaeology (a))	No Effect (Tier 1)	No Adverse Effect	Adverse Effect	Comments
F-I80-3(163)127	I-80 WB, Mainline MP 127 and Ramp	8236	2	CE	N/A	None	None	X			
F-I80-4(134)167	I-80 MP 167 to 180	8237	2	CE	N/A	None	None	X			
F-R299(105)	Various- Grantsville and Wendover Main Streets	8255	2	CE	N/A	None	None	X			
F-0186(11)	North Temple Viaduct	7648	2	CE	N/A	3/a, 2/ha	1/a, 1/ha		X		
F-0190(5)4	SR-190; Big Cottonwood Canyon - Maxfield Bridge	6599	2	CE	N/A	1/ha	1/ha			X	
F-I80-1(46)0	I-80 West Various Locations Between MP 0 and 99	8357	2	CE	N/A	None	None	X			
F-0201(20)7	SR-201; 7200 West to 8400 West	8422	2	CE	N/A	1/a	1/a	X			
F-I80-4(136)148	I-80; Silver Creek to Wanship	8423	2	CE	N/A	1/a	1/a	X			
N/A	I-80; MP 0 to 10, Microsurface	8480	2	CE	N/A	2/a	2/a	X			
F-LC35(197)	Herriman, New 5600 West Alignment	7635	2	CEIII	N/A	None	None	X			Environmental document redone after scope change.
S-0154(60)12	SR-154 & 9000 South, South Jordan	8306	2	CE	N/A	None	None	X			
F-I80-2(56)60	I-80; MP 60 to MP 80	8476	2	CE	N/A	2/a	2/a	X			
F-I80-3(166)125	I-80; 1300 East to End of PCCP	8504	2	CE	N/A	None	None	X			
F-0154(62)21	SR-154; Bangerter Highway 2100 South to Airport	8506	2	CE	N/A	1/a	1/a	X			
F-0171(30)7	SR-171, 3500 South; 2700 West to Redwood Rd.	8507	2	CE	N/A	None	None	X			
S-I15-7(285)312	I15 Southbound Off-Ramp to Beck Street	8700	2	CE	N/A	None	None	X			
F-R299(112)	Bridge Deck Repair Various Locations Region 2 2010	8671	2	CE	N/A	1/a	1/a	X			
F-I80-4(118)141	I-80; Summit Park Bridge	6593	2	CE	N/A	None	None	X			

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
						Resources		Finding of Effect			
Project Number	Project Name	PIN	Region	Environmental Document Type	Antiquities Project Number	Total #/type (historic architecture (ha) or archaeology (a)) recorded	Eligible #/type (historic architecture (ha) or archaeology (a))	No Effect (Tier 1)	No Adverse Effect	Adverse Effect	Comments
S-0089(173)316	SR-89; State Street 6400 to 9000 South	7001	2	CEIII	U-10-LI-0269ps	1/a, 99/ha	1/a, 48/ha		X		
F-0154(57)14	SR-154; Bangerter Highway @ 4100 South	7945	2	CE	N/A	1/a	None	X			
F-LC35(154)	10600 South; 1300 East to 1700 East	5282	2	CEIII	U-10-UI-0409ps	1/ha	1/ha	X			
F-R399(90) / S-R399(87)	SR-164; MP 0 to 2.67 & SR-147; MP 15 to 17	7923	3	CE	NA	None	None	X			
F-0089(213)323	US-89; Boys Ranch to Birdseye	7924	3	CE	NA	None	None	X			
F-R399(88)	Safe Sidewalks, SR-198 & SR-115 Payson	7982	3	CE	NA	None	None	X			
STP-3100(2)1	Currant Creek Road	4824	3	CE	NA	1ha/1a	1ha	X			
RR-399(200)	Railroad Crossing Upgrade Near Maple High School	7970	3	CE	NA	None	None	X			
F-0068(48)26	SR-68; Grandview to 400 South	5336	3	CE	NA	None	None	X			
S-R399(77)	Bridge Scour Repair (OD-22, OF-464, OD-588)	7499	3	CE	NA	None	None	X			
F-0089(218)65	US-89; 100 North to 800 North	8252	3	CE	NA	None	None	X			
F-0040(78)41	US-40; Strawberry Maint. St. to Soldier Creek	6752	3	CE	NA	None	None	X			
F-0040(77)0	US-40; Daniels Summit to Strawberry Maint. St.	6754	3	CE	NA	None	None	X			
F-0089(226)327	US-89; 1200 N. Mapleton to Springville	8388	3	CE	NA	None	None	X			
F-0040(81)145	US-40; Vernal Main Street to Naples	6756	3	CE	NA	None	None	X			
F-I15-6(197)254	I-15; Shoulder Reconstruction and Bridge Deck	8269	3	CE	NA	None	None	X			
F-LC49(116)	SR-189; 3700 North to 4200 North	7915	3	CE	NA	None	None	X			

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
						Resources		Finding of Effect			
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F-I15-6(199)222	I-15 Various Locations Between MP 221.95 – 253.04	8287	3	CE	NA	None	None	X			
STP-LC49(93)	Lehi 2300 West; Lehi Main Street to Ashton Way	5084	3	EA	U-09-EP-0615ps	12ha/5a	3ha/2a		X		
F-TOC9(36)	Northern Utah County Signal Interconnect	8153	3	CE	NA	None	None	X			
F-0189(34)9	US-189, Provo Canyon, MP 9 to MP 12	8223	3	CE	NA	None	None	X			
S-0040(88)60	US-40 Passing Lanes	7969	3	CE	NA	3a	1a	X			
F-0089(218)65	US-89; 100 North to 800 North	8252	3	CE	NA	None	None	X			
F-I15-5(39)211	I-15; MP 211 to MP 222	6576	3	CE	NA	None	None	X			
F-0189(20)1	US-189; Heber to Provo Canyon--Materials Storage Site	6469	3	CE	NA	None	None	X			
F-R399(58)	US-191; Indian Creek	6886	3	CE	NA	None	None	X			
F-0265(17)1	SR-265 and SR-52; Various Locations	8546	3	CE	NA	None	None	X			
F-0006(134)174	US-6; MP 174 (800 North Spanish Fork)	8632	3	CE	NA	None	None	X			
F-R399(39)	US-189 & US-89; Concrete Pavement Grind	6580	3	CE	NA	None	None	X			
F-I15-6(204)229	I-15; End of PCCP near Nephi to Doc Steele's	8675	3	CE	NA	None	None	X			
F-I15-6(202)200	I-15; MP 200 to MP 211	8474	3	CE	NA	None	None	X			
F-I15-6(201)282	I-15; 1200 West to Utah County Line	8509	3	CE	NA	None	None	X			
F-0040(86)160	US-40; MP 160.0 to 168.0	7981	3	CE	NA	None	None	X			
Encroachment	Rockville to Springdale 12,470 Volt Underground Distribution Line UTU-87819	N/A	4	N/A	N/A	None	None				

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
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Encroachment	Utah DTS/DWR Buried Fiber Optic Cable Installation at Quail Creek State Park	N/A	4	N/A	N/A	1(ha)	none	x			
F -I15-1(79)2	I-5 Welcome Center	6623	4	CE	N/A	None	None	x			
F-0012(31)0	Maintenance activities along SR-12; Mileposts 0-8	8291	4	CE	N/A	6 (a)	1 (a)	x			
F-0089(20)21	Maintenance Activities along US-89 from milepost 21 to 55	7978	4	CE	N/A	11 (a)	7 (a)	x			
F-R499(1041)	Cable Barrier in Selected Locations along I-15	8297	4	CE	N/A	3 (ha)	1 (ha)	x			
F-R499(85)	Variable Message Signs and Highway Advisory Radio Sites on I-15	7748	4	CE	U-10-SZ-0361	None	None	x			
F-I15-2(53)42	Washington County Line to Hamilton Fort	8483	4	CE	N/A	None	None	x			
F-0012(32)7	SR-12; Red Canyon to SR-63 Junciton	8487	4	CE	N/A	6 (a) 1 (ha)	3 (a)	x			
IM-15-1 (75)34	I-15; Black Ridge to Iron County Line	4423	4	CE	N/A	1 (ha) 2 (a)	1 (ha)		x		
F-0089 (235)131	US-89; Panguitch to Orton Junction	8486	4	CE	N/A	None	None	x			
F-0089 (234)97	US-89; Large Wash to Long Valley	8485	4	CE	N/A	None	None	x			
F-0059 (6)0	SR-59; Arizona to Apple Valley	8517	4	CE	N/A	None	None	x			
F-0089(204)290	US-89, Fairview to County Line, MP 284 to 297	7920	4	CE	N/A	none	none	X			Chip seal confined to roadway prism
F-I15-1(81)0	Arizona State Line to Scipio ATMS, Phase I - I5 & I-70 Interchange	6846	4	CE	U-09-HO-0363	3/a	1/a	X			all sites will be avoided by the project as proposed

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
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NH-0089(127)65	Material Source for US-89, 300 North in Kanab to Kanab Creek Bridge	3424	4	CE	U-09-HO-0351	2/a	none	X			
F-0090(147)165	Scope Change to Include Slope Flattening and Culvert Extension, US-89; Junction to Marysvale	6057	4	CE	U-09-LI-0544	3/a	none	X			
F-I15-4(51)138	I-15; Dog Valley to Baker Canyon, MP 138 to 144	7993	4	CE	N/A	none	none	X			Chip seal confined to roadway prism
F-0228(3)0	SR-228; Leeds Main Street, MP 0 to 1.821	7919	4	CE	N/A	4/a	4/a	X			all sites will be avoided by project as proposed (ARRA fund project)
F-I70-2(46)73	I-70; Spring Canyon to Wide Hollow	7991	4	CE	N/A	1/a	1/a	X			
F-I70-1(72)0	I-70; I-15 to Summit; MP 0 to 7.24	7990	4	CE	N/A	3/a	3/a	X			all sites will be avoided by project as proposed
F-0009(25)27	SR-9; Rockville to Springdale; MP 27 to 32	7992	4	CE	N/A	2/a	2/a	X			all sites will be avoided by project as proposed
F-0010(38)31	SR-10; MP 30.8 to MP 34.0	6150	4	CE	U-09-LI-00224	2/ha	1/ha			X	Rock Creek Wash Bridge rehabilitation will adversely effect the structure
F-0089(211)86	US-89; Virgin River Bridge to Glendale	7995	4	CE	N/A	none	none	X			all site will be avoided by project as proposed
F-0028(64)8	SR-28; MP 0 to 12.56	7989	4	CE	N/A	none	none	X			Chip seal confined to roadway prism
F-0132(46)	SR-132; Fountain Green to Moroni	8250	4	CE	N/A	none	none	X			
F-0018(67)7	SR-118; MP 6.9 to 10, Chip Seal	7530	4	CE	U-09-HO-0465	1/a	1/a	X			Chip seal confined to roadway prism

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
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F-R499(86)	SR-143 (MP 2. To 2.4 & SR-274 (MP 0.57 to 1.3), Scope Change on SR-143 to MP 2.64 to 3.24	7486	4	CE	N/A	none	none	X			Chip seal confined to roadway prism
SRS-2009(12)	Ephraim-Gunnisaon Infrastructure Projects	7852	4	CE	U-09-HO-0623	none	none	X			construct new sidewalks inpreviously distrubed areas
F-LC41(15)	300 North, Main to 300 West, Richfield	6082	4	CE	U-09-HO-0528	none	none	X			Intersection upgrade, repave, sidewalk, curb and gutter
SRS-2009(11)	Huntington Infrastructure Project	7853	4	CE	U-09-HO-0529	none	none	X			construct new sidewalks inpreviously distrubed areas
none	SR-153, SR-21, SR-160; Encroachment, Beaver City Waterline	N/A	4	CE	U-09-HO-0626	2/a	2/a	X			sites will be avoided by under-boring. (Initial project description included Federal lands-hence Section 106, later limited to private property and UDOT owned ROW)

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
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F-I15-1(85)19	I-15; MP 19 to 27; Microsurfacing	7746	4	CE	N/A	None	None	X			Microsurface seall confined to roadway prism. 53 historic and prehistroic sites have been identified in ROW. Mitigation commitment in CE prohibiting ROW entry without clearances from UDOT NEPA/NHPA Specialist.
F-0191(76)126	US-191; Crescent Junction to Moab, Spot Improvements	7917	4	CE	N/A	9/a	4/a	X			all sites will be avoided by project as proposed
F-R499(69)	Halchita Bridge on Navajo Nation Lands	7293	4	CE	none - NNHPD # HPD-09-1332	none	none	X			
HSIP-0024(3)86	SR-24;MP 86 to 117, Add Guardrail	7575	4	CE	N/A	none	none	X			sites are in the project vicinity but far outside area of proposed construction effect
None	US-6; Construction of Horse Canyon Rest Area/Tourist Information Center	N/A	4	CE	U-08-MQ-0662	1a	none	X			
F-LC07(10)	Price River Trail	7417	4	CE	U-09-HO-0625	none	none	X			
F-I15-3(30)27	I-15; Anderson Junction to Black Ridge	6772	4	CE	U-10-LI-0006	8a	2a	X			all sites will be avoided by project as proposed
F-0191(77)49	US-191;Blanding Main Street	7997	4	CE	N/A	none	none	X			
F-0491(6)2	US-491; Monticello Port of Entry Upgrade	8184	4	CE	N/A	none	none	X			

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
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F-0191(76)126	US-191; Crescent Junction to Moab; Emery Telcom Fiberoptic Line to Support UDOT ATMS Addendum	7917	4	encroachment - no environmental document	U-10-MQ-0028	46/a	19/a	X			fiberoptic installation design altered to completely avoid all eligible sites
F-LC37(9)	Bluff Fort Visitors/Interpretive Center	7413	4	enhancement	U-10-MQ-0330	3/ha	3/ha	X			eligible elements of the Bluff Historic District were documented on ILS forms. All are outside the area of proposed construction effect
F-0191(88)36	US-191, Jct of SR-262 to Shirtail Corner (SR-95)	8494	4	CE	N/A	none	None	X			surface only project
IM-70-2(37)83	I-70, Wide Hollow to Fremont Junction	2772	4	CE	N/A	3a (previously recorded)	?	X			all three sites overlap on CURES, eligibility unknown, but fencing proposed in this location, was cancelled
F-R499(106)	Rural Roads in Sevier County	8361	4	CE	N/A	none	none	X			all work confined to road shoulder or previously disturbed areas
F-0010(52)47	SR-10, Huntington Main Street	8491	4	CE	N/A	none	none	X			all work confined to road shoulder or previously disturbed areas

Section 106 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
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F-R499(114)	US-6 & SR-10, Micro-surface in Carbon & Emery Counties	8489	4	CE	N/A	none	none	X			all work confined to road shoulder or previously disturbed areas
S-LC53 (47)	Southern Parkway, Washington Dam Road to SR-9	6963	4	EIS Reevaluation	U-09-MQ-0712	20 (a) 1 (ha)	14 (a)			x	
S-LC53 (45)	Southern Parkway, New Airport to Washington Dam Road	6836	4	EIS Reevaluation	U-10-MQ-0042; U-10-SQ-0362; U-10-SQ-0540	34 (a) 8 (ha)	3 (ha) 19 (a)			x	

U.C.A. 9-8-404 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
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S-0252(6)0	Proposed Wetland Mitigation Site for the SR-252/1000 West Project	6457	1	SES, Type B	U-09-SJ-0747p	None	None	X			
S-0252(6)0	SR-252; 1000 West, Logan, Utah	6457	1	SES, Type B	U-08-SJ-0212p,s	4/a ,10/ha	2/a , 6/ha			X	
S-I15-7(270)315	I-15; 500 West to Parrish Lane (NB)	6969	1	SES, Type A	N/A	None	None	X			
S-0204(8)5	SR-204 & North Street, Harrisville	7441	1	SES, Type A	U-09-UT-0429p,s	1/a, 2/ha	1/ha		X		
S-0089(187)459	US-89; Main Street to 700 East, Logan, Cache County	7493	1	SES, Type A	N/A	None	None	X			
S-0091(34)22	SR-91 in Nibley – MP 22.3	7580	1	SES, Type A	N/A	None	None	X			
S-0091(033)	SR-91, Sardine Canyon, Deer Signs and Deer Guards	7581	1	SES, Type A	N/A	None	None	X			
TS-0037(6)2	SR-37 & 1500 West, Clinton	7817	1	SES, Type A	U-09-UT-0658p,s	1/a	None	X			
TS-0091(35)25	US-91 & 100 West, Logan, Cache County	7818	1	SES, Type A	N/A	None	None	X			
S-0107(8)0	SR-107; SR-110 East to SR-126, MP 0 to 4.517, Chip Seal	7871	1	SES, Type A	N/A	None	None	X			
S-0089(224)408	US-89 & Skyline Drive, South Ogden, Weber County	8338	1	SES, Type A	N/A	None	None	X			
S-0089(228)424	US-89 MP 423.98 at Split	8369	1	SES, Type A	N/A	None	None	X			
S-0030(50)102	SR-30 MP 99.240 to 108.160; Center Rumble Strip, Cache County	8370	1	SES, Type A	N/A	None	None	X			
N/A (Encroachment Permit)	Farmington Crossing North Multi-Use Trail	N/A	1	SES, Type A	N/A	None	None	X			
S-0154(52)16	SR-154; 4700 So. & 5400 So. & SR-173 Flex Lanes	7720	2	SES	N/A	None	None	X			
S-TOC9(32)	I-80 WB VMS Parley's Summit	8015	2	SES	N/A	None	None	X			

U.C.A. 9-8-404 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
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S-I215(146)11	I-215 On-Ramp to Southbound I-15	8276	2	SES	N/A	None	None	X			
ADA-R299(12)	ADA Pedestrian Access Project in Region Two 2010	8120	2	SES	N/A	None	None	X			
S-R299(109)	5600 West; New Bingham to 9000 South	8313	2	SES	N/A	None	None	X			
F-0032(36)9	SR-32; Rockcliff to Kamas	8497	2	SES	N/A	1/a	1/a	X			
S-0111(16)2	SR-111 & 8200 South, West Jordan	8699	2	SES	N/A	None	None	X			
S-I215(139)	SR-171; I-215 West at 3500 South	7477	2	SES	N/A	None	None	X			
S-0089(222)362	SR-89; State Street at 12300 South	292/853	2	SES	N/A	None	None	X			
S-0154(63)19	SR-154; Bangerter Highway at 3100 South	8521	2	SES	N/A	None	None	X			
S-0035(5)32	D-561, Emergency Scour Repair, Tabiona	**8204**	3	SES	NA	None	None	X			
S-0073(20)33	SR-73; Ranches Road to Redwood Road	**8182**	3	SES	NA	None	None	X			
S-LC49(118)	SR-147; 2550 East to US-89, MP 14.4 to 15.2	**8164**	3	SES	NA	1ha/1a	1ha/1a		X		
S-R399(42)	Pioneer Crossing--Bennett Parcel	**6697**	3	SES	NA	None	None	X			
S-0114(20)7	SR-114, Geneva Road at the Provo River	**7949**	3	SES	NA	None	None	X			
S-TOC9(34)	Heber Signal Interconnect	**8014**	3	SES	NA	None	None	X			
S-0040(75)115	US-40; Roosevelt L Intersection	**7004**	3	SES	U-09-UI-0714ps	5ha	4ha			X	
S-0068(61)31	SR-68 and Pony Express Drive	**8171**	3	SES	NA	None	None	X			
S-0089(223)329	900 North Signal in Springville	**8305**	3	SES	NA	None	None	X			
none	SR-92; North Fork of Provo River	**none**	3	SES	NA	None	None	X			
none	Strawberry Maintenance Shed	**none**	3	SES	NA	1ha	1ha			X	
S-0191(85)268	US-191; MP 268 to MP 269	**8382**	3	SES	NA	None	None	X			

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S-0073(19)36	SR-73 & West Commerce Dr., Saratoga Springs	8172	3	SES	NA	None	None	X			
MP-R399(41)	MVC—2100 North, Redwood Road to I-15—Materials Storage Sites	6692	3	SES	NA	None	None	X			
S-0121(14)6	SR-121 at 750 North in Roosevelt	7583	3	SES	NA	None	None	X			
S-0089(241)345	US-89 & SR-146, 100 East, Pleasant Grove	8536	3	SES	NA	None	None	X			
S-0006(133)161	US-6 & I-15 SB Ramps, Santaquin	8535	3	SES	NA	None	None	X			
NA	Fuel reduction/vegetation thinning along Interstate 15	N/A	4	N/A	N/A	2 (a)	1 (a)	x			
S -I15-4(52)133	Maintenance activities along I-15 from milepost 133 - 135	8366	4	SES	N/A	6 (a)	None	x			
Non-Pin	SR-143; MP47 to MP49 Culvert Maintenance	N/A	4	SES	N/A	None	None	x			
S-0160(7)3	Traffic Signal at SR-160 & SR-21	8430	4	SES	N/A	None	None	x			
Encroachment	DNR Fuel Reduction	N/A	4	N/A	N/A	None	None	x			
S-0089(215)1	US-89 Kanab Main Street Signing	8197	4	SES	N/A	None	None	x			
S-0014(27)13	SR-14; MP 13-14	8450	4	SES	N/A	None	None	x			
N/A	SR-119; Austin Culinary Waterline Upgrade, Encroahcment, MP 8.23 to 9.05	N/A	4	N/A	U-09-HO-0465	1/ha	1/ha	X			Encroachment project without UDOT project number or PIN. BLM took Section 106 lead. Site 42SV2571, Annabella Canal, interesection SR-118 ROW, but will be avoided by directional boring underneat the structure.

U.C.A. 9-8-404 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
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N/A	SR-62; PacifiCorp Utility Line Encroachment, MP 2.14 to 2.26	NA	4	N/A	N/A	none	none	X			UDOT ROW is fee title and completely distrubed
None	SR-17, SR-9; LaVerkin Culinary Waterline Upgrade, Encroachment	N/A	4	N/A	N/A	none	none	X			
None	SR-119; Centra Com Fiberoptic Line Encroachment; MP 3.398 to 4.212	N/A	4	N/A	N/A	none	none	X			The utility company has commited to directional boring underneath the Venice Canal to avoid effect
HSIP-R499(4)	Signing for HRRR in San Juan County	7737	4	SES	N/A	none	none	X			mitigation commitment to restrict placement on signs in previously disturbed areas
S-R499(89)	R4, Barrier Replacement/Upgrade, Various Locations	8064	4	SES	N/A	none	none	X			all work is confined to existing roadway prism (toe of fill to top of cut slope). Eligible sites will be avoided
none	SR-12; Torrey Town - AES Waterline Encroachment, MP 121.84 to 122.16	none	4	encroachment - no environmental document	N/A	none	none	X			design changed to avoid site completely

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S-0010(42)9	SR-10; Quitchupah Hill Climbing Lane, Material Source Addendum	7035	4	environmental clearances by contractor - no document	U-10-MQ-0107	2a	1a	X			Construction company has committed to avoiding site 42EM2609 by using the existing culvert crossing to access the material pit, leaving site unaltered.
S-0118(11)17	SR-118(11)17; SR-118, Spot Improvement at MP 17.4 and Slope Flattening between MP 15.5 and 18.0	5786	4	SES	N/A	none	none	X			ROW is complete disturbed through project area except for the location of the canal crossing. Site will be avoided in the ROW during construction activities
S-R499(98)	R4. Various Locations, Rumble Strips	8222	4	ES	N/A	none	none	X			rumble strips are proposed on six different highways, over 288 miles, throughout R4. Sites are known to be or will be in the ROW in all locations. Mitigation commitment requiring construction to be confined to existing pavement will be added to advertisement package

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S-I70-1(68)23	I-70; MP 23 to 56, Construct Deer Ramps	7577	4	ES	N/A	none	none	X			Canals will be avoided in the ROW during construction activities
S-R499(90)	SR-24, Bridge Scour Repair and Material Sources	N/A	4	ES	U-10-LI-0184	none	none	X			
none	I-70; Frontier/Emery Telcom Fiberoptic Installation, MP 182 to 187	N/A	4	encroachment - no environmental document	done 2000	1/a	none	X			
S-R499(108)	Bridge Deck Repairs, Various Locations in Region 4	8410	4	ES	U-10-EV-0299	1a/2/ha	1a/2/ha		X		
S-R499(111)	Region 4 Asphalt Overlay, US-191; Various Locations	8498	4	ES	N/A	none	None	X			surface only project

U.C.A. 9-8-404 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
						Resources		Finding of Effect			
Project Number	Project Name	PIN	Region	Environmental Document Type	Antiquities Project Number	Total #/type (historic architecture (ha) or archaeology (a)) recorded	Eligible #/type (historic architecture (ha) or archaeology (a))	No Effect (Tier 1)	No Adverse Effect	Adverse Effect	Comments
S-0010(42)9	SR-10, Quitchupah Hill Climbing Lane, Material Source 2	7035	4	N/A	U-10-MQ-0532	2a	None	X			Segment of Emery Canal, site 42EM2609, in this project was fully mitigated before the construction of the passing lane. However, the property owner of the west half of site 42EM727 (in the area proposed for material removal) refused mitigation at time of data recovery. To protect parts of site not mitigated, environmental fence around site boundary will be put in place.
S-0010(49)23	SR-10, MP 23 to 24	8384	4	ES	N/A	1a	none	X			all work confined to previously disturbed erosional channel/abandoned ditch excavation
S-0089(242)158	US-89, Repair and Replace Existing Driveway Approaches	8680	4	ES	N/A	none	none	X			all work confined to road prism (curb to curb)

U.C.A. 9-8-404 Projects for PA Annual Reports (October 1, 2009 to September 30, 2010)											
						Resources		Finding of Effect			
Project Number	Project Name	PIN	Region	Environmental Document Type	Antiquities Project Number	Total #/type (historic architecture (ha) or archaeology (a)) recorded	Eligible #/type (historic architecture (ha) or archaeology (a))	No Effect (Tier 1)	No Adverse Effect	Adverse Effect	Comments
S-01028(13)25	SR-128, MP 25-26	8456	4	ES	N/A	none	none	X			work confined to roadway prism including sub-base (no culvert extension or ditch cleaning)

APPENDIX 3: SECTION 4(F) AGREEMENT

Statewide programatic agr

U.S. Department
Of Transportation
Federal Highway
Administration

Utah Division
2520 West 4700 South, Ste. 9A
Salt Lake City, UT 84118-1847

June 12, 2007

File: Section 4(f) *De Minimis*

Mr. Wilson Martin
State Historic Preservation Officer
Division of State History
300 South Rio Grande Street
Salt Lake City, Utah 84101

Subject: Section 4(f) De Minimis Determination; Pursuant to SAFETEA-LU Section 6009
In Conjunction with Section 106 Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the Utah State Historic Preservation Officer, and the Utah Department of Transportation

Dear Mr. Martin:

This letter was prepared in response to the FHWA December 13, 2005 Guidance regarding Section 6009 (a) of the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity: A Legacy for Users (SAFETEA-LU) Act Pub. L. 109-59. Section 6009 allows increased flexibility with respect to minor transportation impacts to Section 4(f) properties, including historic properties. It simplifies the processing and approval of federally funded transportation projects that have a *de minimis* impact on lands protected by Section 4(f). For historic properties, a finding of *de minimis* impact on a historic site may be made by the FHWA when Section 106 consultation results in the *written* concurrence of the SHPO with the determination of "no adverse effect" or "no historic properties affected".

Public Law 109-59 (SAFETEA-LU) has no new Section 106 implications other than the requirement for written SHPO concurrence with Section 106 findings of effect for individual Section 4(f) properties. It does require FHWA to notify the SHPO of FHWA's intent to utilize the finding of "no historic properties affected" or "no adverse effect" for individual Section 4(f) properties as a basis for making a Section 4(f) *de minimis* use finding.

The December Guidance offers two specific points of relevant direction:

> **Question B. How should the concurrence of the SHPO and/or THPO, and ACHP if participating in the Section 106 determination, be documented when the concurrence will be the basis for a *de minimis* finding?**
>
> **Answer:** Section 4(f) requires that the SHPO and /or THPO, and ACHP if participating, must concur in writing in the Section 106 determination of "no adverse effect" or "no historic properties affected." The request for concurrence in the Section 106 determination should include a statement informing the SHPO or THPO, and ACHP if participating, that the FHWA or FTA intends to make a *de minimis* finding based upon their concurrence in the Section 106 determination.

MOVING THE AMERICAN ECONOMY

Under the Section 106 regulation, concurrence by a SHPO and/or THPO may be assumed if they do not respond within a specified timeframe, but Section 4(f) explicitly requires their written concurrence. It is recommended that transportation officials share this guidance with the SHPOs and THPOs in their States so that these officials fully understand the implication of their concurrence in the Section 106 determinations and the reason for requesting written concurrence.

Question C. Certain Section 106 programmatic agreements (PAs) allow the lead agency to assume the concurrence of the SHPO and/or THPO in the determination of "no adverse affect" or "no historic properties affected" if response to a request for concurrence is not received within a period of time specified in the PA. Does such concurrence through non-response, in accordance with a written and signed Section 106 PA, constitute the "written concurrence" needed to make a *de minimis* finding?

Answer: In accordance with the provisions of a written and signed programmatic agreement, if the SHPO and/or THPO does not respond to a request for concurrence in the Section 106 determination within the specified time, the non-response together with the written agreement, will be considered written concurrence in the Section 106 determination that will be the basis of the *de minimis* finding by FHWA or FTA.

FHWA or FTA must inform the SHPOs and THPOs who are parties to such PAs, in writing, that a non-response that would be treated as a concurrence in a "no adverse effect" or "no historic properties affected" determination will also be treated as the written concurrence for purposes of the FHWA or FTA *de minimis* use finding. It is recommended that this understanding of the parties be documented by either appending the written notice to the existing PA, or by amending the PA itself.

According to 2005 Guidance, by transmittal of this letter, the FHWA is notifying your office of FHWA's intent to make the Section 4(f) *de minimis* use finding for properties where a determination of no historic properties affected (no effect), or no adverse effect have been concurred in by your office or when your office has not replied within the appropriate timeframe with written concurrence.

By the following signature, the SHPO acknowledges it has been notified of the intent of the FHWA to make a *de minimis* finding based on Section 106 determinations of effect for specific properties.

Yours truly,

Walter Waidelich
Division Administrator

Concurrence: _____ 7/19/07
~~Wilson Martin,~~ State Historic Preservation Officer Date

Matthew T. Seddon, RPA
Deputy State Historic
Preservation Officer

APPENDIX 4: PUBLIC NOTICE OF AVAILABILITY

NOTICE TO THE PUBLIC
OF THE AVAILABILITY OF THE ANNUAL MONITORING REPORT
FOR IMPLEMENTATION OF THE SECTION 106 AND U.C.A. 9-8-404
PROGRAMMATIC AGREEMENTS

The Federal Highway Administration (FHWA) and the Utah Department of Transportation (UDOT) are providing notice to the public that the annual monitoring report on the implementation of the Section 106 Programmatic Agreement (106 PA) titled *First Amended Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation, the Utah State Historic Preservation Officer, and the Advisory Council on Historic Preservation* and the U.C.A. 9-8-404 Programmatic Agreement (404 PA) titled *Programmatic Agreement Between the Utah Department of Transportation and the Utah State Historic Preservation Officer Regarding Implementation of U.C.A. 9-8-404 for State-Funded Transportation Projects in Utah* is available for public inspection. This document covers the Federal fiscal year 2010 (FY2010) between October 1, 2009 and September 30, 2010.

The annual report is available for review at http://www.udot.utah.gov/main [Inside UDOT/ Project Development/ Environmental/Section 106 Programmatic Agreement Information/FY2010 Annual Report]. Interested members of the public may comment to the signatory parties to the PAs. Any person or group wishing to submit comments regarding this report may do so in writing. Comments should be postmarked by January 25, 2011, and should be directed to one of the following:

Edward Woolford, Environmental Program Manager
Federal Highway Administration - Utah Division Office
2520 West 4700 South, Suite 9A
Salt Lake City, UT 84118
Edward.woolford@dot.gov

Betsy Skinner, UDOT Cultural Resource Program Manager
Utah Department of Transportation
4501 South 2700 West
Box 148450
Salt Lake City, UT 84114-8450
eskinner@utah.gov

At any time during regular office hours, the Annual Monitoring Report will be available for public inspection during regular business hours at the UDOT Calvin Rampton Complex, Salt Lake City, at the address above.