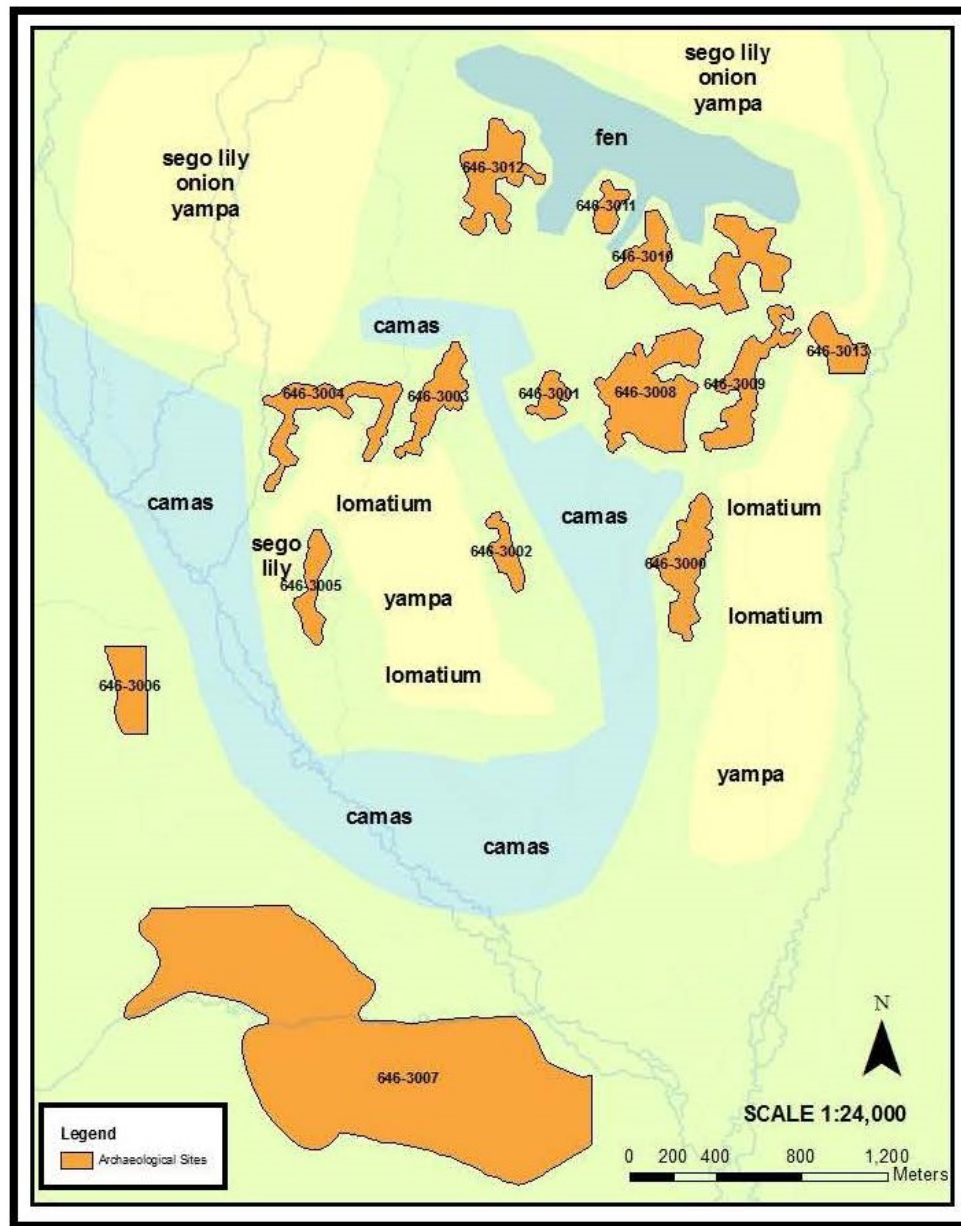


OREGON ARCHAEOLOGICAL GUIDELINES:

STATE AND FEDERAL LAWS, RESEARCH, FIELD METHODS AND ANALYSES, NATIONAL REGISTER OF
HISTORIC PLACES EVALUATIONS, AND DOCUMENTATION STANDARDS



Oregon State Historic Preservation Office

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ABSTRACT

Archaeologists conducting compliance investigations must convey importance of place through research, that includes working with and understanding local (community) perspectives, replicable field methods, and adherence to professional documentation standards. Conveying that importance is an enormous responsibility for professional archaeologists, requiring an understanding of the context of people, places, and activities of the past, and the ability to apply the National Register of Historic Places (NRHP) criteria with support and justification while attempting to avoid falsehoods and bias.

Some archaeologists have learned over the years that failure to convey such perspectives has a negative effect on the discipline of archaeology. To the contrary, putting meaningful effort into an archaeological investigation serves communities, conveys professionalism, and adds support to the discipline of archaeology in the compliance world. For these reasons, the Oregon Archaeology Guidelines (Guidelines) are designed to navigate archaeologists through the compliance process, address biases, falsehoods and other barriers to increase the ability of report reviewers to concur with determinations of eligibility and findings of effect.

The Guidelines rely on information from existing guidance documents, such as the Secretary of the Interior (SOI) Standards for Archaeological Research and archaeological examples from National Park Service (NPS) National Register Bulletins on applying the NRHP criteria. They include how to both consider and assess eligibility as (e.g.,) a Site (using the NRHP definition) or District, and how to develop an understanding of the historic context of places prior to conducting fieldwork. The Guidelines use existing references, such as the Advisory Council on Historic Preservation (ACHP) Section 106 guidance for implementing regulations at 36CFR800 and incorporating Traditional Knowledge or Indigenous Knowledge. Each with the intent of assisting the compliance archaeologist with their responsibilities.

The Guidelines promote conveying views of Tribes, descendant, and underrepresented communities. The Guidelines also include a section on Federal guidance related to documentation standards to explain what the SHPO needs to concur, to avoid delays. These include knowing how to make a determination or recommendation of eligibility under each of the four criteria (a requirement of Section 106 [36CFR800.4(c)(1)] and backed by ORS 358.905) with support and justification, and how to make a finding (or recommendation) of effect based on any characteristics of a property that qualify it for the NRHP.

To achieve the objectives of the Guidelines, the document is separated into five main categories that address different aspects of compliance investigations. The five compliance-based categories include State and Federal Laws, Research, Field Methods and Analyses, National Register of Historic Places Evaluations, and Documentation Standards. Each section relies on applicable Federal and State legal and guiding documents relative to compliance objectives. Where applicable, falsehoods and biases that have unfortunately entered the professional archaeological vernacular are dispelled, in both an effort to inform, and remove barriers to SHPO concurrence.

Throughout the document, consulting or coordinating with Tribes, descendant, and underrepresented communities is stressed. In places, archaeologists are reminded of the responsibility they have conducting compliance investigations, where they are commenting on places that are important to living communities, they may not be part of. The intent with such reminders is to highlight the holistic field of archaeology, a subfield of anthropology, and a worldwide discipline grounded in understanding people

of the past, their places, and activities. It also serves as a reminder that the NRHP acknowledges important places at the National, State, and Local (Community) levels. Tribes, descendant, and underrepresented communities have places important to them (along with all Oregon communities) at each level. As such, archaeologists must work with groups to ensure that they are not offering an opinion on significance that is not based on input and conveyance from the appropriate community.

To highlight the overall objective of the Oregon Archaeology Guidelines, the Preface discusses an actual example of an NRHP listed place in Oregon that reflects several common falsehoods in compliance that unfortunately are used far too often to support not eligible statements. The Preface serves as an example of comparing how the NRHP criteria and integrity are applied to places relating to the dominant culture, versus those of Tribes, descendant, and underrepresented communities. The example is not meant to suggest the property should not be listed on the NRHP, but rather to show that a place with no archaeological objects, features, or sites (despite massive archaeological efforts to find them), without any buildings, structures, districts, or objects, a complete lack of at least three aspects of integrity, on a heavily disturbed landform, is still able to be listed on the NRHP.

ACKNOWLEDGEMENTS

The Oregon Archaeological Guidelines include a collection of input from archaeologists and historic preservation professionals throughout the state, including representatives from Tribes, university archaeology and anthropology faculty, state and federal agencies, and private organizations. Information from these sources took three years to collect and organize with applicable laws and guiding documents. Each individual and organization that offered their time and input are greatly appreciated for their contributions.

DRAFT

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PREFACE

Fort Clatsop is listed on the National Register of Historic Places (NRHP) under Criterion A and B, as it should be. Of the five NRHP property types, Fort Clatsop is listed as both a Building (Fort replica) representing the “alleged Fort site” and Site (Salt Works replica and Memorial) (NPS Form 10-900 1988 on file at Oregon SHPO). Large archaeological trench excavations in 1948, 1957, 1958, and 1961 (and later) attempted to find evidence of the fort and any objects associated with the Corps of Discovery. To date, no physical trace of the fort or the members of the expedition have been found. Since the winter of 1805-06, “the fort soon fell into disrepair” and was burned. Decades later, after the burning, the fort site was disturbed by activities associated with logging, a lumber mill, a homestead, and a small farm. Of the seven aspects of integrity for eligibility to the NRHP, Association, Setting, Feeling, and Location apply. Support for Design is based on a sketch by William Clark. The physical evidence of Workmanship and Materials of the 1805-06 fort are completely absent. Fort Clatsop meets common unsupported (and false) statements on why archaeological objects or sites are not considered eligible to the NRHP. It is in a disturbed area, has failed to yield any associated archaeological object, site, or feature from numerous excavations, and lacks integrity. The concern here is not why Fort Clatsop is eligible or listed, but rather why too many archaeologists tend to struggle with affording places the same level of consideration.

Fort Clatsop is one example of significance of place. Despite archaeological excavations yielding absolutely no trace of the people and their activities, it does not preclude listing on the NRHP. In fact, Fort Clatsop would be eligible to the NRHP regardless of any archaeological investigation at that location. Taking it a step further, what if an archaeological investigation at Fort Clatsop only found a single associated object (isolate)? Would that mean the place is not eligible by those with the false belief that isolates are “by definition not eligible” (even though no such definition exists)? Places can be eligible to the NRHP, and such places may contain one or more archaeological objects, sites, or no physical remains of any past activities. In other words, for this example, the object is not being evaluated, the importance of people and place is.

Archaeology is more than digging holes to uncover artifacts. It is more than focusing on artifacts to learn about the past. It is more than counting artifacts. It is more than intact strata. Archaeology is holistic. It requires focused and targeted research and experience. In Oregon, it is about learning about the past and working with Tribes and descendant and underrepresented communities. It is about understanding people, places, and activities from the past. It requires an understanding of context, and intra-and inter-site comparisons. It is for these reasons and more, that archaeologists conducting investigations must do their best to promote the discipline itself and gain the support of Tribes and communities that have direct ancestral and cultural connections to the places they study. Archaeology is a subfield of Anthropology, and archaeologists must never forget that their efforts in the world of compliance have impacts on cultures often different from their own. They must take responsibility for their statements on the past, or decisions on whether a place is significant or not, as each have real life impacts on living communities.

The Guidelines are compliance based, providing a process for State Historic Preservation Office (SHPO) concurrence. For that concurrence, archaeologists must convey original targeted research, replicable field methods, an understanding of how to *actually* apply the NRHP criteria with support and justification, as opposed to using falsehood or unverified statements, and adhere to documentation standards that allow all reviewers to understand the basis for findings and determinations. Throughout,

the Guidelines emphasize working with Tribes, descendant, and underrepresented communities. Their voices are essential for any archaeological investigation.

Archaeological objects and sites do not occur in a vacuum. “Seeing the forest for the trees” may be as simple as looking beyond an object or site to (e.g.,) patterns of nearby archaeological sites, place names, and associations with important resources. That type of understanding needs to be developed *before* fieldwork from targeted research to understand the context place. Connecting the results of fieldwork to that context offers some support to communities that the archaeologist has an informed understanding of past people, place, and activities. Applying the NRHP criteria must include support and justification based on that targeted research relating to that context of place, combined with replicable field methods, and any analyses. This level of professionalism makes it easy for SHPO to concur with eligibility.

As with the Fort Clatsop example above, disturbance, lack of integrity, presence of a single archaeological object (isolate), or lack thereof, do not disqualify places from the NRHP if any of the criteria are met based on context from research. The same NRHP considerations given to Fort Clatsop must also be applied to all Oregon places associated with all communities, including Tribes, descendant, and those often underrepresented in the compliance process.

-John Pouley,
State Archaeologist

UPDATES:

Updates to each version of the Oregon Archaeological Guidelines will be summarized here. Below, each update will identify the date of implementation, the associated section in the document, and applicable page numbers.

Currently, there are no updates to version 1.0.

DRAFT

INTRODUCTION

The Oregon Archaeological Guidelines (Guidelines) are designed to provide standards for archaeological professionals in the state. The focus is compliance based, to assist federal and state agencies, Tribes, and project proponents with understanding all facets of an archaeological investigation where the State Historic Preservation Office (SHPO) has a legal responsibility to concur, or not, with aspects of the archaeological work, including determinations of eligibility (DOE) to the National Register of Historic Places (NRHP) and findings of effect (FOE). As such, following the Guidelines is intended to greatly increase SHPO concurrence, by providing all interested parties in a project or undertaking a better understanding of responsibilities and what SHPO needs to concur.

The Guidelines are also an attempt to decrease the need for archaeologists to seek SHPO guidance directly. While that is still important for some investigations, the Guidelines are intended to inform on important topics relating to compliance based archaeological investigations. Each topic either providing information or addressing SHPO recommendations or expectations based on existing guidance documents.

Throughout the document, working with Tribes, descendant, and underrepresented communities in a meaningful way is emphasized. Developing and maintaining such relationships is critical for archaeologists wanting to work in Oregon. Repeated throughout the Guidelines is that archaeological sites do not occur in a vacuum. Working with Tribes, descendant, and underrepresented communities along with pre-fieldwork targeted research provides a better contextual understanding of past people, places, and activities, whether archaeological objects or sites are known or later identified during fieldwork or not.

The Guidelines also attempt to address common myths or falsehoods in compliance archaeology. The intent is to avoid unnecessary delays where SHPO is unable to concur due to a reliance on a falsehood that contradicts actual processes defined in applicable laws or related guidance documents. A second objective is to improve professional awareness for archaeological investigations in Oregon.

How to use this document:

The Guidelines are divided into categories that primarily relate to federal and state compliance based archaeological investigations. The categories include State and Federal Laws, Research, Field Methods and Analyses, National Register of Historic Places Evaluations, and Documentation Standards. Each category is meant to provide information that the SHPO needs to understand its role (applicable legal processes), and to inform archaeologists on what types of information are useful to understand the basis for their findings and determinations or recommendations.

The Guidelines are a living document meaning it will be updated periodically. Any changes will be documented in the Updates section following the Preface, specifically addressing what was changed, and where in the document.

Archaeologists should check for updates to the Guidelines for each project/undertaking or investigation they are preparing for, to ensure they have the most up-to-date version. Feedback on the Guidelines is always appreciated, although preference is given to input consistent with Federal or State laws, rules, or regulations, associated processes, and that promotes the holistic discipline of archaeology.

Categories:

The five principal categories of the Guidelines are briefly summarized below. Archaeologists are strongly encouraged to familiarize themselves with each category to assist with their investigations.

Understanding each category will assist compliance investigations, with the intent resulting in quality reports with solid research, replicable field methods, informative analyses, support, and justification for NRHP determinations of eligibility, and documentation standards that capture the context of people, place and activities. Agencies and project proponents that hire professional archaeologists for compliance should familiarize themselves with the Guidelines and these categories, so they not only understand SHPO expectations, but also professional standards in archaeology that are necessary to navigate applicable legal processes.

State and Federal Laws:

The State and Federal Laws category includes a list of state and federal laws, rules, and regulations regarding archaeological investigations *not on federal lands* that are applicable in Oregon, depending on landownership, federal involvement, and to some extent, the type of investigation. Each reference includes either a brief statement on the applicability of the law and a summary of relative sections. Archaeologists conducting work in Oregon are responsible for complying with all applicable laws associated with their investigations and are further encouraged to look up each on their own to develop a more thorough understanding.

Research:

The Research category is meant to convey two important concepts. First, that research lends confidence to reviewers of archaeological reports. It is the principal basis for demonstrating that the archaeologist understands the context of their investigation, in terms of past people, places, and activities. It also informs field methods and provides support and justification for applying NRHP criteria. Second, targeted research demonstrates that consultation/coordination was ongoing and meaningful, and involved Tribes or descendant and underrepresented communities (that may also include local community groups or individual stakeholders) as applicable. Combined, the two concepts demonstrate that it is possible to identify a place as significant prior to conducting fieldwork, regardless of the existence of any archaeological site or object (as with the Fort Clatsop example in the Preface). It also informs the archaeologist that the presence of any associated archaeological site or object within such an area may be part of the significance of that place.

Field Methods and Analyses:

Field methods must be replicable, and for compliance-based projects/undertakings, address the horizontal and vertical extent of the area of potential effects (APE) (both direct and indirect). They must be informed by research, address archaeological objectives, and maintain professional documentation and recording standards. Field methods must be based on a “good faith effort”, supporting that the archaeologist is operating in their professional capacity as an advocate for the discipline, Tribes, descendant, and underrepresented communities, and applicable legal processes. Analyses need to be anticipated, to the extent possible based on research, and included in fieldwork planning. They should also be flexible, to attempt to address both expected and unexpected results of fieldwork as well as varying field conditions.

National Register of Historic Places Evaluations:

Understanding the NRHP criteria, and how to apply them is important to support recommendations and determinations of eligibility. Using actual examples from National Register (NR) Bulletins (15, 16A, 16B, 36, and 38) and Best Practices Review guidance, combined with compliance objectives (e.g., 36CFR800.4, 36CFR800.5, ORS 358.905) it is possible to understand how to apply the NRHP criteria with both support and justification. Any place can be determined eligible or listed in the NRHP if it meets any of the criteria. Since archaeological sites do not occur in a vacuum, any evaluation should consider eligibility as a single property, and as a district where multiple related properties exist. For compliance based archaeological investigations, it is important to understand that all four criteria must be addressed. The principal reason is that being able to understand if any qualifying characteristics of a property will be directly or indirectly affected by a project/undertaking provides information on methods to avoid, minimize, or mitigate adverse effects. It is also important for archaeologists to understand that significance under the four NRHP criteria is from the National, State, and Local (Community) level. Understanding context from research, and consultation or coordination with Tribes and descendant and underrepresented communities can identify easily visible or understood patterns of events. Finally, the section makes it clear that places can be eligible to the NRHP whether they contain archaeological objects or sites, or not.

Documentation Standards:

Documentation Standards are important for reviewers to understand the basis for any findings and determinations (as per 36CFR800.11). Said another way, this is where the archaeologist puts it all together in a professional report that supports the holistic discipline of archaeology. Based on this concept, reports should convey professional standards by archaeologists. These include an understanding that the appropriate legal processes were known and followed. That original research for the specific project/undertaking is included to demonstrate the archaeologist understood the context of place prior to conducting their field investigation. That fieldwork is replicable and informed from research and addresses the objective of the archaeological investigation. That analyses were anticipated and implemented based on research and understanding the context of place. That all findings and recommendations or determinations (e.g., under 36CFR800.4 and 36CFR800.5) by the archaeologist include an understanding of all four NRHP criteria, with support and justification. That the archaeologist/agency understands the differences between a No Effect, No Adverse Effect, and Adverse Effect finding. In addition to these, prior to submission to SHPO, compliance reports should be edited and include in-text and reference citations based on an appropriate style guide.

Professionalism:

Professionalism in compliance archaeology is based on experience, understanding of research objectives, methods and analyses, applying the NRHP criteria, and documentation standards. Archaeologists must strive to continually learn and apply that knowledge to the discipline. Based on these concepts, consider the following.

Professional archaeologists working in Oregon must commit to understanding and learning compliance objectives. For example, archaeologists need to fully understand any legal requirements for their investigation to understand their role and to prevent violations of state or federal laws. They need to commit to targeted and original research for the area of their investigation before fieldwork. They need to understand and utilize replicable field methods and analyses that directly relate to the objective of

the investigation. They need to fully understand through their experience how to apply all four NRHP criteria to places, with or without archaeological objects or sites. They also need to possess the ability to provide support and justification for their findings and determinations or recommendations.

Statements on NRHP eligibility, which are based on research, field methods and analyses, require experience often not obtained during undergraduate or graduate archaeological studies. While there are exceptions, professional archaeologists may be influenced in their views on the NRHP from their educational background, mentors- or lack thereof, or simple lack of experience with applying the criteria and how they fit within the holistic discipline of archaeology in the compliance world. For applying the four NRHP criteria, the archaeologist must know how each are applicable and consider individual properties as well as at the district level if applicable.

Archaeologists that do research and fieldwork for compliance objectives that have developed a pattern of not understanding how to apply the NRHP to places with or without archaeological objects or sites can call into question the discipline of archaeology as well as professional standards. In other words, representatives from Tribes, descendant, and underrepresented communities may ask “what has archaeology ever done for us?”.

Without conducting targeted research about people, place and activities to provide historic context, or understanding how to apply the NRHP criteria, it is difficult for any reviewing Tribe or agency to have confidence that the professional archaeologist is offering any contribution, let alone making it easy to understand their findings, determinations or recommendations. Any place, archaeological site, or location of an archaeological object is in an area of interest to Tribes, and possibly descendant and underrepresented communities. When such places are determined or recommended not eligible under each of the four criteria, without considering research, providing support and justification, or failing to include any evidence of meaningful consultation or coordination, it affects professionalism. Based on the Preface it would not be a stretch of the imagination to think some might ask “why is the disturbed Fort Clatsop that failed to identify a single archaeological object after massive excavations listed on the NRHP when those same arguments were used to say a place important to us is not eligible?”

To truly work towards a standard of professionalism, the challenge is to continually strive to develop as an archaeologist and support the discipline. Work with Tribes, descendant, and underrepresented communities and gain experience with evaluating places with support and justification. Always be mindful of people, places and activities, and consider districts with any NRHP recommendation or determination. Whenever possible, nominate places with or without archaeological objects or sites to the NRHP under any combination of the four criteria. That level of experience adds to the archaeologist’s contribution to the discipline, which in turn will promote professionalism, and provide an acceptable answer to the question “what has archaeology ever done for us?”.

STATE AND FEDERAL LAWS

For private and non-federal public lands in Oregon, archaeologists need to be aware of all applicable Oregon Revised Statutes (ORS), associated Oregon Administrative Rules (OAR), Federal Acts and Codes of Federal Regulations (CFR). To assist in these objectives, the following addresses state laws and rules, as well as federal laws and regulations that may be applicable for archaeological investigations on non-federal public and private lands in Oregon. Some of these laws also refer to other processes or guidance necessary for compliance.

The National Register of Historic Places (NRHP) is the most important process referenced in law for compliance archaeological investigations. It is referenced in State law, it is a principal compliance component of the National Historic Preservation Act (NHPA), most notably in Section 106 (54 U.S.C. § 306108) and its implementing regulations at 36CFR800 and Section 110 (54 U.S.C. § 306101 and 306102). It is also the basis for assessing project or undertaking effects. It is important for archaeologists working in Oregon to fully comprehend how to apply the NRHP criteria with support and justification and assess effects which are addressed throughout the Guidelines and in its own section.

Things to Consider:

In Oregon, important factors determining applicable laws include whether there is a federal nexus, and whether an archaeological excavation or collection of archaeological objects is necessary on Oregon private lands or non-federal public lands. Each of these dictates different and at times overlapping legal guiding processes.

In addition to the above, archaeological investigations in Oregon require different types of archaeologists depending on legal processes. For State law, these include “professional archaeologists” and “Oregon Qualified Archaeologists”. Each are different, although it is possible for archaeologists to meet both requirements. It is important to note that only the “Oregon Qualified Archaeologist” has a vetting and approval process.

A third type of archaeologist are those that meet the Secretary of the Interior (SOI) Professional Qualifications Standards for “Prehistoric” Archaeologists and Historic Archaeologists. Depending on the guiding legal processes, any combination of these three types of archaeologists may be required. However, the SOI qualified archaeologist will only be required if there is a federal nexus. If the undertaking is on private or non-federal public lands in Oregon, an Oregon Qualified Archaeologist may be necessary if collection and excavation permits are needed.

Is there a federal nexus, and why is that important?

An important part of compliance archaeology is understanding if there is a federal nexus. The reason is the presence or absence of a federal nexus dictates the legal guiding process, and defines specific roles, including that of SHPO.

A federal nexus occurs if a project involves any federal funding, license, or approval, in part, or in whole (see 36CFR800 in this section). If there is a federal nexus, the lead federal agency, or their designee (State, Local or Tribal government) is required to consult with SHPO on the undertaking. The consultation, in part, involves the APE, and requests for concurrence on any determinations of eligibility (DOE), or findings of effect (FOE) (only No Effect and No Adverse Effect). Each of these must come from the lead federal agency or designee. If a contractor is used for any of the compliance investigations, the

lead federal agency or designee should either submit the work of their contractor to SHPO or make it clear that they agree with the (e.g.), findings and determinations so SHPO can either concur or not. Unfortunately, Oregon SHPO at times receives reports on archaeological investigations from contractors, only to learn later that the federal agency is not yet ready for the report to be submitted to SHPO.

Oregon Revised Statutes and Oregon Administrative Rules:

The statutes and rules referenced below are applicable on non-federal public and private lands in Oregon. They focus on certain objectives of each, what constitutes violations (if any), and defined roles. As stated at the beginning of this section, it is important for archaeologists to be aware of each of these statutes and rules, including sections not addressed in the Guidelines. It is recommended that archaeologists take time to conduct their own research into these laws to make sure they have a solid understanding of roles, responsibilities, and what constitutes a violation. It is also important to be mindful that valid rules have the force and effect of law. As such, each statute and rule discussed below have legal requirements that archaeologists must adhere to, including any not referenced in this section.

Links for each ORS and OAR discussed below are available on-line at the Oregon SHPO Archaeological Services page. Other sources such as a comprehensive history of Oregon archaeological statutes and rules (Griffin 2009) provide added context, such as the reason certain statutes were needed, and which groups (such as SHPO, Tribes, Professional and avocational archaeologists) aided the Oregon Legislature in their development. Ultimately, the responsibility of understanding all guiding legal processes is up to each individual archaeologist, including accessing publicly available information beyond this document.

ORS 97.010 – Definitions

There are several definitions in ORS 97.010 that are not included below. As with all ORS in this document, please refer to the actual statute for more information. The definitions included below are intended to inform and create awareness as they have applicability to the types of places archaeologists may encounter during their investigations. The two terms defined in ORS 97.010 included below are for cemetery, and interment, as these are places archaeologists may encounter during their investigations.

According to ORS 97.010, a **cemetery** is in part a place used for permanent interment of human remains, or intended for interment or disposition of human remains. **Interment** is defined in part as a means for the disposition of human remains by burial. These are included primarily as an attempt to inform archaeologists that archaeological sites can include human remains or interments from the earliest record of people in what we now call Oregon. As cemeteries and places of interment where loved ones and people of their community laid them to rest, they should be treated with respect, kindness, and protected until processes relating to the statutes and rule below are addressed.

ORS 97.740-760 - Native American Cairns, Burials, Human Remains, Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony:

Terms, prohibitive and permitted actions are included in ORS 97.740-760. A violation of ORS 97.745 constitutes a Class C felony (ORS 97.990 [5][a]). Archaeologists need to have an Inadvertent Discovery Plan (IDP) with all appropriate contacts and processes prior to conducting fieldwork in the event any known or potential Native American cairns, burials, human remains, funerary objects, sacred objects or objects of cultural patrimony are encountered.

ORS 97.740 Indian Tribe:

Indian tribe is defined as meaning “any tribe of Indians recognized by the Secretary of the Interior or listed in the Klamath Termination Act, 25 U.S.C. 3564 et seq., or listed in the Western Oregon Indian Termination Act, 25 U.S.C. 3691 et seq., if the traditional cultural area of the tribe includes Oregon lands.” Please note, the definition of “Indian Tribe” is different from the definition of Oregon Tribe referenced in ORS 390.235(1)(d) and further defined in OAR 736-051-0010 (3).

ORS 97.740 Professional Archaeologist:

A professional archaeologist is defined in ORS 97.740 (6) as: *a person who has extensive formal training and experience in systematic, scientific archaeology*. Please note, a person meeting the definition of a professional archaeologist, does not necessarily equate to meeting the definition of an “Oregon Qualified Archaeologist” (discussed later under ORS 390.235 and OAR 736-051-0070), or the Secretary of the Interior (SOI) professional qualifications.

ORS 97.745 Prohibited Acts:

According to ORS 97.745, Native American cairns, burials, human remains, funerary objects, sacred objects and objects of cultural patrimony are protected. The protections cover harmful impacts as stated below, in addition to possession, public display, or sale of such items.

No person shall willfully remove, mutilate, deface, injure or destroy any cairn, burial, human remains, funerary object, sacred object or object of cultural patrimony of any native Indian. Persons disturbing native Indian cairns or burials through inadvertence, including by construction, mining, logging or agricultural activity, shall at their own expense reinter the human remains or funerary object under the supervision of the appropriate Indian tribe [ORS 97.745 (1)].

In the event of any discovery or identification of any cairn, burial, human remains, funerary object, sacred object, or object of cultural patrimony, all work must stop at the location, and the appropriate representatives defined in ORS 97.745 must be contacted. These include representatives from the Oregon State Police (OSP), Legislative Commission on Indian Services (LCIS), appropriate Tribes (determined by LCIS) and Oregon SHPO. The list of contacts for Inadvertent Discoveries is available on the LCIS website and needs to be incorporated into any Inadvertent Discovery Plan (IDP) with accurate contact information.

Two terms are defined in ORS 97.740. Other terms are included with references to the statutes where definitions exist. The two terms defined include Indian Tribe and Professional Archaeologist.

ORS 97.750 Permitted Acts:

According to ORS 97.750, “any proposed excavation by a professional archaeologist of a native Indian cairn, or burial shall be initiated only after prior written notification to” the SHPO, OSP, and with the written consent of the appropriate Indian Tribes (as determined by LCIS). It is important to note that burial is defined in ORS 358.905 later in this section. The written notification from appropriate Tribes is also required for any human remains, funerary object, sacred object or object of cultural patrimony (each defined in ORS 358.905).

ORS 182.164-168 - State Agencies to Develop and Implement Policy on Relationship with Tribes:

According to ORS 182.164, State agencies must develop and implement policies that: “identify individuals responsible for developing and implementing programs of the agency that affect Tribes; establish a process to identify such programs; promote communication between the agency and Tribes; promote positive government-to-government relations with Tribes; and establish a method for notifying employees of the agency of the provisions of this statute and the policy of the agency.” Archaeologists working for State agencies should be mindful of any communication with tribes resulting from government-to-government discussions to ensure they are both representing their respective agency. If an archaeologist is under contract, they should check with the agency to ensure they are aware of any responsibilities they may have under their policy.

ORS 192.345 (11) - Public Records Conditionally Exempt from Public Disclosure:

The statute makes it clear that the location of archaeological objects and archaeological sites are exempt from public disclosure. There are two exceptions: The first, is if the governing body of an Indian Tribe requests such information due to a connection to their cultural or religious activities. The second, is if the archaeological object or site is part of an existing, commonly known, and publicized tourist facility or attraction.

ORS 358.905 – Archaeological Definitions:

Archaeological definitions are in ORS 358.905. Some are included below. It is important to note that ORS 358.905 also references definitions previously discussed in ORS 97.740 and vice versa.

Archaeological Objects:

According to ORS 358.905, archaeological objects in Oregon are part of the physical record of an indigenous or other culture found in the state, or waters of the state. They are at least 75 years old, and represent material remains of past human life and activity. Examples of archaeological objects include, but are not limited to tools, technological by-products, dietary by-products, symbols, facilities, and monuments.

Archaeological Sites:

Archaeological sites are defined as locations containing archaeological objects, that have a contextual association with each other, and biotic or geological remains or deposits. Examples in statute include, but are not limited to shipwrecks, quarries, villages, camps, burials, lithic scatters, homesteads, and townsites. Based on the definition in statute, an archaeological site consists of at least two contextually associated archaeological objects.

Site of Archaeological Significance:

The statute defines a site of archaeological significance as “any archaeological site on, or eligible for inclusion on, the National Register of Historic Places as determined in writing by the State Historic Preservation Officer; or any archaeological site that has been determined significant in writing by an Indian tribe.”

Burial:

“Means any natural or prepared physical location whether originally below, on or above the surface of the earth, into which, as a part of a death rite or death ceremony of a culture, human remains were deposited.”

Funerary Objects:

“Means any artifacts or objects that, as part of a death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later.”

Human Remains:

“Means the physical remains of a human body, including, but not limited to, bones, teeth, hair, ashes or mummified or otherwise preserved soft tissues of an individual.”

Object of Cultural Patrimony:

“Means an object having ongoing historical, traditional or cultural importance central to the native Indian group or culture itself, rather than property owned by an individual native Indian, and which, therefore, cannot be alienated, appropriated or conveyed by an individual regardless of whether or not the individual is a member of the Indian tribe. The object shall have been considered inalienable by the native Indian group at the time the object was separated from such group.”

Burials, Funerary Objects, Human Remains, Objects of Cultural Patrimony and Sacred Objects:

Due to the nature of burials or human remains often lacking surface manifestations, any archaeological site that has yielded one or more burials or human remains in the past should include written notification from appropriate Tribes prior to any archaeological excavation. The written notification should accompany the archaeological permit application (under OAR 736-051-0070 and 0080 described below) to SHPO, or delays could occur involving objections and dispute resolution processes. In addition, Tribes can review all recovered material from any archaeological excavation to assess if any of these defined objects or remains are part of the collection, regardless of whether they have previously been identified at the subject site or not.

Public Lands:

Public Lands are defined as any lands owned by the State, a city, county, district, or municipal or public corporation. It is important to consider this definition regarding when archaeological permits are needed (discussed below under ORS 390.235 and OAR 736-051-0000 to 0090), which is different than for private lands in Oregon.

ORS 358.910 - Policy:

According to ORS 358.910, the Legislative Assembly declares that: 1) archaeological sites are finite, irreplaceable and nonrenewable, part of the cultural heritage of the people of Oregon, and such sites and their contents located on public lands are under the stewardship of the people of Oregon to be protected and managed in perpetuity by the state as a public trust; and 2) the State of Oregon shall preserve and protect the cultural heritage of the State embodied in archaeological objects and sites that are of significance.

ORS 358.920 - Violation:

According to ORS 358.920 (1)(a), “a person may not excavate, injure, destroy or alter an archaeological site or object or remove an archaeological object located on public or private lands in Oregon unless that activity is authorized by a permit issued under ORS 390.235 (Permits and conditions for excavation or removal of archaeological or historical material).” Based on this definition, professional and academic archaeologists alike must understand that there can be no collection or removal of archaeological objects on non-federal public land, or private land in the state, without first obtaining a permit. Since any injury, destruction, alteration in addition to excavation or removal requires a permit, it is important

to understand all legal requirements under the applicable ORS 390.235 and its associated Oregon Administrative Rule (OAR).

ORS 390.235 - Archaeological Excavation and Collection Permits:

According to ORS 390.235 (1)(a), “A person may not excavate or alter an archaeological site on public lands (or private per ORS 358.920), make an exploratory excavation on public lands to determine the presence of an archaeological site or remove from public lands any material of an archaeological, historical, prehistorical or anthropological nature without first obtaining a permit issued by the State Parks and Recreation Department” (delegated to SHPO). It is important to note here that when ORS 358.920 was opened and updated to include private lands, the change was not made to ORS 390.235, which was not opened at that time. To address the contradiction, the associated OAR defines processes for permits on both public and private lands under this statute.

According to ORS 390.235, “any archaeological materials apart from Native American human remains, funerary objects, sacred objects and objects of cultural patrimony recovered under an issued permit shall be under the stewardship of the State of Oregon” to be curated at the University of Oregon Museum of Natural and Cultural History (UOMNCH). Given the statement above regarding private lands, the landowner has control over the disposition of archaeological materials (aside from the exceptions above) recovered under a permit issued on their property. The statute additionally addresses alternate curation facilities and transfer of possessory rights by the UOMNCH to appropriate Tribes.

ORS 390.237 – Removal without Permit:

Under ORS 390.237, it states that “if any individual or institution excavates or removes from the land any materials of archaeological, historical, prehistorical or anthropological nature without obtaining a permit under ORS 390.235”, any materials (with the exception of Native American human remains, funerary objects, sacred objects, objects of cultural patrimony) shall be under the stewardship of the State of Oregon and shall be assigned to the UOMNCH with the expressed approval of the appropriate Indian tribe.

Oregon Administrative Rules Governing the Issuance of Archaeological Permits (OAR 736-051-0000 to 0090):

The OAR governs the issuance of archaeological permits on non-federal public and private lands in Oregon. In addition, it defines in detail processes in the associated ORS 390.235. Select portions of the rule are addressed below. As with each statute discussed in this section, it is recommended that archaeologists familiarize themselves with the full text of the rule.

Project proponents that will either potentially, or actually excavate, injure, destroy, or alter an archaeological site or object must hire an archaeologist to get a permit for that activity to comply with statute. However, the permit is for the archaeologist meeting the requirements of an Oregon Qualified Archaeologist (OQA) to conduct an archaeological excavation and collection, not for the project to simply proceed itself.

Dispute Resolutions:

According to OAR 736-051-0000, disputes may occur: over the issuance of an archaeological permit pursuant to ORS 390.235; over curation facilities for archaeological objects uncovered pursuant to a permit issued under ORS 390.235; or over the disposition of human remains or funerary objects as defined in ORS 97.750.

Disputes may arise among “entities with approval authority” (defined as: SHPO, Oregon Tribes, and landowners, or land managing agencies) over an archaeological permit application. As of July 1, 2023, “Entities with approval authority” are able to object to the issuance of a permit based on: terms or conditions of a permit application; in response to a failure of an applicant to comply with terms or conditions from a prior issued permit; over a failure to address comments to a report intending to satisfy terms and conditions of a prior permit; or due to a known prior violation of ORS 390.235 by an applicant that failed to obtain a permit. “Entities with approval authority” may, with UOMNCH, approve or object to the choice of an alternative curation facility.

In addition, disputes may also arise among applicants over any proposed terms or conditions to a permit application, or an objection to the issuance of a permit. Applicants may also dispute the choice of an alternate curatorial facility proposed by an “entity with approval authority”.

Archaeological Permit Definitions:

Several terms are defined in OAR 736-051-0010, and 0070. It is important for permit applicants and “entities with approval authority” to learn and understand defined terms, and when and how they are applicable. It is equally important for applicants considering vetting and approval as an OQA to learn and understand how terms associated with that process are defined and used.

Archaeological Permits on Non-Federal Public Lands and Private Lands:

The archaeological permit definitions in OAR 736-051-0070 are important to understand as they are used in the processes for applying for permits on non-federal public lands (OAR 736-051-0080), and private lands (OAR 736-051-0090) in Oregon. There is a difference between both types of land in the state regarding when an archaeological permit is needed. It is important for archaeologists to know whether their investigation is on non-federal public or private land, and when an archaeological excavation and collection permit is required.

Inadvertent Discovery Plan (IDP):

According to OAR 736-051-0080 (4)(j) and OAR 736-051-0090 (2)(b), all permit applications under ORS 390.235 must include an IDP specific to any burial, human remains, funerary objects, sacred objects, or objects of cultural patrimony in the research design. Additional information on an IDP template is in the Field Methods and Analyses section of this document.

Non-Federal Public Lands:

According to ORS 358.905 (1) (j) ““Public lands” means any lands owned by the State of Oregon, a city, county, district or municipal or public corporation in Oregon.” Archaeological permits are required for *any* archaeological excavation of any kind on non-federal public lands. This includes but is not limited to presence/absence excavations/probes/cores, etc. to identify buried archaeological sites or objects, shovel probes, formal 1x1 m (and larger) test units, up to and including backhoe trenches to (e.g.,) identify features. Archaeological permits are also required for *any* collection of archaeological objects, whether from excavation or not, regardless of context.

Private Lands

Archaeological permits are required on private lands for most archaeological excavations and *any* collection of archaeological objects. The one excavation exception is presence/absence probes/cores, etc. For these, a permit is not required until an archaeological site (two archaeological objects or a feature) is identified. Based on the definition in ORS 358.905, archaeologists may want to consider

getting a permit ahead of time prior to working on private land, to avoid delays after an archaeological site is identified.

As mentioned above, according to ORS 358.905(c)(A) archaeological sites contain archaeological objects. They are also evidence of “past human life or activity” which may be represented by one or more features. Based on the definition, two or more archaeological objects or the presence of at least one feature would constitute an archaeological site. In OAR 736-051-0090 (c), it further states that if additional investigation is necessary for an archaeologist to establish the boundary of a site, continue excavation of any exploratory probes, or conduct further archaeological excavations or collection of archaeological objects, such activities will require a permit. As with non-federal public lands above, a permit is for an archaeologist, that meets the requirements of the OQA to conduct archaeological investigations, as opposed to permitting a project.

Disclosure of Prior State or Federal Archaeological Law Violations:

In OAR 736-051-0080 (f), it requires all permit applications to include “a statement from the applicant disclosing any prior state or federal archaeological law violations”. In addition to State statutes and Federal law, it is important to note, that valid rules have the force and effect of law.

As such, for state law, permit applicants must report on any prior violations of ORS 97.745, ORS 358.920, ORS 390.237 or *failure to comply with **any terms and conditions*** of a permit issued under ORS 390.235 and the applicable OAR 736-051-0000 to 0090. For federal law, violations of (e.g.,) Archaeological Resources Protection Act (ARPA) or the Native American Graves Protection and Repatriation Act (NAGPRA) must be disclosed.

Federal Acts and Codes of Federal Regulations:

The Federal Acts and Codes of Federal Regulations (CFR) referenced below are intended to focus on the objective of each, and any defined roles. Those discussed either define roles (e.g., SHPO) or can be applicable on non-federal public and private lands in Oregon in addition to Federal lands. It is important for archaeologists to understand applicability of each for federal undertakings. The primary emphasis below is on the National Historic Preservation Act (NHPA) including Sections 101, 106, 110, 304 and the Secretary of the Interior (SOI) Qualifications for Archaeologists (“Precontact” and Historic), the NRHP, Curation Standards, and the American Indian Religious Freedom Act (AIRFA).

National Historic Preservation Act (54 U.S.C. § 100101):

The National Historic Preservation Act (NHPA) sets the federal policy for preserving the nation’s heritage. Specific sections of the NHPA are summarized below. As a background to the NHPA, according to Title 54 of the United States Code:

The National Historic Preservation Act (“Act”) became law on October 15, 1966, Public Law 89-665, and was codified in title 16 of the United States Code. Various amendments followed through the years. On December 19, 2014, Public Law 13-287 moved the Act’s provisions from title 16 of the United States Code to title 54, with minimal and non-substantive changes to the text of the Act and a re-ordering of some of its provisions. [The National Historic Preservation Act as amended through December 16, 2016, and Codified in Title 54 of the United States Code].

[Section 101 \(54 U.S.C. § 302101 and 302301\)](#)

According to Section 101, the Secretary of the Interior (SOI) is authorized to “expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture” at the National, State and Local levels. In consultation with the National Conference of State Historic Preservation Officers (NCSHPO), the SOI created regulations for State Historic Preservation Programs. Part of these regulations indicate that State programs submitted to the SOI under these regulations shall be approved if it is determined that it provides for the designation and appointment by a Governor of a State Historic Preservation Officer (SHPO) among other criteria.

[Section 101 \(54 U.S.C. § 302302\)](#)

The responsibilities of the SHPO are further addressed in Section 101. These include:

- Cooperating “with Federal and State agencies, local governments, and private organizations and individuals” to “direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties”.
- “Identify and nominate eligible properties to the NRHP and to administer applications for listing historic properties on the NRHP.”
- Develop and implement a comprehensive statewide preservation plan (available on the SHPO website).
- “Administer the State program of Federal assistance for historic preservation within the State”.
- “Advise and assist as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities.”
- Cooperate with the SOI, “the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development.”
- “Provide public information, education, and training and technical assistance in historic preservation.”
- “Cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified”.

[Section 106 \(54 U.S.C. § 306108\)](#)

Section 106 and its implementing regulations (36CFR800) are a process. Following the steps are important to achieving compliance and for developing relationships with parties that have a role in the process. For example, Tribes and Tribal Historic Preservation Offices (THPO) are mentioned the most in the implementing regulations (36CFR800) for Section 106 compliance. Consultation with a THPO or Tribe that attaches religious and cultural significance to properties within the APE for an undertaking, should occur early (36CFR800.2[c][2][ii][A] to best achieve successful compliance.

To understand the Section 106 process in basic steps, consider the outline below summarizing pertinent sections of the implementing regulations (36CFR800). For greater detail, please refer to the regulations in their entirety. The regulations and other helpful information (e.g., Section 106 flowchart) on the Section 106 process are available at the Advisory Council on Historic Preservation (ACHP) website.

[36CFR800.1 Purposes:](#)

Under 36CFR800.1, it states that Section 106 requires Federal agencies to consider the effects of their undertakings on historic properties and to provide the ACHP an opportunity to comment on such

undertakings. Undertakings are defined in 36CFR800.16(y) as “a project activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with Federal financial assistance; and those requiring a federal permit, license or approval.” Undertakings can be on federal lands, in whole, or in part; or not at all (non-federal public and private lands). In other words, a federal undertaking either has federal funding, a federal permit, a federal license, or requires the approval of a federal agency.

It is important to note that if a project would not be possible without federal funding, a federal permit, a federal license, or approval, even if the Federal agency is only approving a connection or access, it is an undertaking. The undertaking would thus become the totality of the project, which can extend beyond the area where Federal approval occurs. This is referred to as the “but for” concept. In other words, if not for the approval, the project would not proceed. For more information, refer to the ACHP website.

36CFR800.2 Participants in the Section 106 Process:

Under 36CFR800.2, it makes it clear that it is the statutory responsibility of the Federal agency to fulfill the requirements of Section 106. With that said, the Federal agency may still delegate legal responsibility to a State, local, or tribal government official. Any Federal agency responsible for Section 106 compliance must also ensure that employees or contractors of the agency meet the professional qualifications standards of the SOI. The current SOI professional qualifications standards for archaeology are included below.

The SOI Archaeology Professional Qualifications at a minimum include:

- Graduate degree (archaeology, anthropology, or closely related field)
- One year full-time professional experience (2080 hours) in archaeological research, administration, or management
- Four months (160 hours) of supervised field and analytic experience (in general North American archaeology)
- Demonstrated ability to carry research to completion.
- For “Prehistoric” (Precontact) Archaeologists,
 - One year of full-time professional experience (2080 hours) at a supervisory level in the study of archaeological resources of the precontact period.
- For Historic [Historical] Archaeologists,
 - One year full-time professional experience (2080 hours) at a supervisory level in the study of archaeological resources of the historic period.

In addition to qualifications, 36CFR800.2(a)(4) addresses other responsibilities of the Federal agency, such as involving consulting parties in all findings and determinations. Consulting parties are identified in 36CFR800.2(c) as: SHPO/THPO, Tribes, Local Governments, Applicants for Federal assistance, and any other individual/organization with a demonstrated interest in the undertaking. In 36CFR800.2(c)(1)(i), the role of the SHPO is defined as: reflecting “the interests of the State and its citizens in the preservation of their cultural heritage.” In addition, the SHPO “advises and assists Federal agencies in carrying out their section 106 responsibilities and cooperates with such agencies, local governments and

organizations and individuals to ensure that historic properties are taking [sic] into consideration at all levels of planning and development.”

36CFR800.3 Initiation of the Section 106 Process:

Under this section, the agency official determines whether a proposed federal action is an undertaking (as defined in 36CFR800.16[y]), and whether there is any potential to cause effects on historic properties (as defined in 36CFR800.16[l] [1 and 2]).

This is also one place where the 30-day SHPO/THPO review is stated. More specifically, if the SHPO/THPO fails to respond within 30 days of receipt of findings or determinations, the federal agency may proceed to the next step in the Section 106 process or consult with the ACHP in lieu of the SHPO/THPO. Under 36CFR800.3, it addresses involving consulting parties aside from SHPO/THPO, including the public, local governments, applicants and Tribes.

36CFR800.4 Identification of Historic Properties:

The process for identifying historic properties involves consultation, inventory, application of the NRHP criteria, determinations of eligibility, and findings of effect (further discussed in the Documentation Standards section of the Guidelines [36CFR800.11]). The beginning of the process for identification is determining the APE. Under this part, the Federal agency is to determine the APE in consultation with the SHPO/THPO. The APE must take into consideration both direct and indirect effects for the totality of the undertaking.

After the APE is determined, the federal agency must consult with Tribes regarding whether it partially or entirely contains any Historic Properties of Religious and Cultural Significance to Indian Tribes (HPRCSIT). The section also makes it clear that Tribes have special expertise in assessing the eligibility of any HPRCSIT.

After inventory of the APE is complete, and “in consultation with the SHPO/THPO and any Indian tribe” that attaches religious and cultural significance to any properties identified “and guided by the Secretary’s Standards and Guidelines for Evaluation”, the federal agency must apply the National Register criteria (36 CFR Part 63) to all properties within the APE (36CFR800.4[c][1]). The SHPO/THPO is given 30 days to concur or not with all federal agency Determinations of Eligibility (DOE). “If the agency official and the SHPO/THPO do not agree, or if the council [ACHP] or the Secretary [SOI] so request, the agency official shall obtain a determination of eligibility from the secretary pursuant to 36CFR63” (36CFR800.4[c][2]). Similarly, the SHPO/THPO have 30 days to concur or not with No Effect and No Adverse Effect Findings of Effect (FOE). If the SHPO/THPO do not concur, the federal agency official can either consult with the objecting party or provide the ACHP with supporting documentation to review the finding. Adverse Effects are addressed through consultation with the SHPO/THPO and by applying the criteria of adverse effects (see 36CFR800.5). More information on DOE and FOE are addressed in the National Register of Historic Places Evaluation and Documentation Standards sections of the Guidelines.

36CFR800.5 Assessment of Adverse Effects:

The federal agency, in consultation with the SHPO/THPO and any tribe that attaches religious and cultural significance to identified historic properties, shall apply the criteria of adverse effect to historic properties within the APE. Adverse Effects occur “when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property’s location, design, setting,

materials, workmanship, feeling, or association” (36CFR800.5[a][1]). Examples of Adverse Effects include physical destruction or damage, alterations, removal, change of the character of use, introduction of visual or atmospheric or audible elements, neglect, or transfer, lease or sale out of federal ownership. The process of assessment is discussed again later in the Documentation Standards section.

[36CFR800.6 Resolution of Adverse Effects:](#)

If it is determined that the undertaking will result in adverse effects, the Federal agency must consult with the SHPO/THPO and other consulting parties, including Tribes, to develop and evaluate alternatives or modifications that would avoid, minimize, or mitigate adverse effects on historic properties. If mitigation is needed to address adverse effects, a Memorandum of Agreement (MOA) should be developed with consulting parties outlining specific roles and procedures. The agency official, SHPO/THPO, and ACHP are required signatories for an MOA.

[Things to Consider:](#)

Documentation Standards (36CFR800.11) are specifically addressed in the Section 106 implementing regulations, as well as the Guidelines. This is important for several reasons, but more specifically for the archaeologist to understand how to provide support and justification for any determination of eligibility or finding of effect.

Support and justification come from making a case, based on an understanding of the historic context of people, place, and activities, applying the NRHP criteria, and assessing if any qualifying characteristics will be adversely affected by an undertaking. It is important to avoid falsehoods, such as basing eligibility on the number of archaeological objects, presence of tools or features, intact strata, or simply avoiding any application of the criteria by stating an area is disturbed or information potential is exhausted.

Support and justification involve more than a statement. Referring to the later National Register of Historic Places Evaluations section, a statement such as “the site is not eligible under Criterion B because it is not associated with a person significant in the past” would lack support or justification. On its own, the statement means nothing. However, if the statement indicates what sources were used in researching the place (e.g., ethnographic sources, stories of legendary figures (Coyote, Salmon, Fox...) [if published or permitted by appropriate Tribes], place name documents...), it adds a level of support and justification for the statement. In other words, how do you know there are no significant people associated with the place? Where did you look? Name sources, discussions, etc. Basically, show your work.

As a final consideration for this part, any submission to SHPO of a DOE or FOE must be done by the lead federal agency, or State, local or tribal government delegated that legal responsibility. Submissions by a contractor on their own will not be reviewed unless they are accompanied by documentation from the lead Federal agency indicating whether or not their formal determinations are consistent with the work of the contractor.

[Section 110 \(54 U.S.C. § 306101 and 306102\)](#)

According to Section 110, “the heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency”. To achieve that objective, the agency official is responsible for developing a “preservation program for the identification, evaluation, and nomination to the” NRHP, “and protection of historic properties.” The preservation program will ensure “that historic properties under the jurisdiction or control of the

agency, are identified, evaluated, and nominated to the National Register”. In addition, any listed or eligible historic properties will be managed and maintained “in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with Section 106”.

Any procedures under Section 110 must adhere to compliance with Section 106 and be consistent with the ACHP regulations. The agency is further required to develop a process to that effect, “for the identification and evaluation of historic properties for listing in the” NRHP.

Section 304 (54 U.S.C. § 307103):

Section 304 of the NHPA addresses limitations on access to information, confidentiality of the location of sensitive historic resources, access determination, and consultation with the ACHP. Section 304 is additionally referenced in 36CFR800.6 and 36CFR800.11, as well as in National Register Bulletin 16A and the NPS 10-900 form.

According to the NHPA, Section 304 states that “the head of a Federal agency or other public official receiving grant assistance pursuant to this Act, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may”:

- Cause a significant invasion of privacy;
- Risk harm to the historic resource; or
- Impede the use of a traditional religious site by practitioners.

National Register of Historic Places 36CFR60:

The NRHP regulations in part define Federal and State authorities and roles, as well as eligibility criteria. Part of that process directly connects to the NHPA and the National Environmental Policy Act (NEPA). Examples referencing the role of the SHPO include:

The State Historic Preservation Officer is the person who has been designated by the Governor or chief executive or by State statute in each State to administer the State Historic Preservation Program, including identifying and nominating eligible properties to the National Register and otherwise administering applications for listing historic properties in the National Register [36CFR60 (m)].

The State Historic Preservation Program is the program established by each State and approved by the Secretary of Interior for the purpose of carrying out the provisions of the National Historic Preservation Act of 1966, as amended, and related laws and regulations [36CFR60 (n)].

Notwithstanding any provision hereof to the contrary, the State Historic Preservation Officer in the nomination notification process or otherwise need not make available to any person or entity (except a Federal agency planning a project, the property owner, the chief elected local official of the political jurisdiction in which the property is located, and the local historic preservation commission for certified local governments) specific information relating to the location of

properties proposed to be nominated to, or listed in, the National Register if he or she determines that the disclosure of specific information would create a risk of destruction or harm to such properties. [36CFR60.6 (x)]

Native American Graves Protection and Repatriation Act (NAGPRA) (43 U.S.C. § 10):

According to 43 U.S.C. § 10.1 (a), the Native American Graves Protection and Repatriation Act (NAGPRA) “recognizes the rights of lineal descendants, Indian Tribes, and Native Hawaiian organizations in Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony”. The act is applicable to “any State or local government agency (including any institution of higher learning) within the United States that receives Federal funds and has possession or control of a holding or collection”. In addition, the act is applicable to any Federal agency that either has possession, control, holding, or responsibilities on Federal or Tribal lands. Archaeologists must understand NAGPRA, where it applies, and how to address any Inadvertent Discovery in the field, lab, curation, or during any activities related to Federal undertakings where remains or associated objects are encountered.

According to the National Park Service (NPS) NAGPRA website: “NAGPRA requires Federal agencies and institutions that receive Federal funds (including museums, universities, state agencies, and local governments) to repatriate or transfer Native American human remains and other cultural items to the appropriate parties by--

- Consulting with lineal descendants, Indian Tribes, and Native Hawaiian organizations on Native American human remains and other cultural items.
- Protecting and planning for Native American human remains and other cultural items that may be removed from Federal or tribal lands.
- Identifying and reporting all Native American human remains and other cultural items in inventories and summaries of holdings or collections; and
- Giving notice prior to repatriating or transferring human remains and other cultural items.”

It is important to note that Oregon also has provisions in ORS (e.g. 97.745) under which Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony can be repatriated under circumstances not covered by NAGPRA.

National Environmental Policy Act (NEPA) (42 U.S.C. § 4321):

According to NEPA, the Federal Government is required to preserve the important historic, cultural, and natural aspects of the Nation’s collective heritage. As with the NHPA, NEPA requires federal agencies to take environmental considerations, including historic properties, into account for decision making relating to their actions. One principal difference between NEPA and the NHPA is that for the latter, Section 106 applies to any federal undertaking that may affect historic properties, and the former only requires an Environmental Impact Statement (EIS) when it is determined that significant affects to the human environment will occur (based on an Environmental Assessment [EA]). As such, there are instances when NHPA applies yet there is no EIS responsibility for the federal agency. It is important to

note that NEPA and the NHPA are different federal laws. For example, addressing historic properties under the NHPA includes different processes than those in NEPA.

36CFR79 Curation of Federally Owned and Administered Archaeological Collections:

The curation regulations were approved in 1990 and updated in 2022. They provide guidance on repository standards and long-term care of collections. Among the requirements of a repository as it relates to archaeological collections, is that it must be able to demonstrate that it is able to provide adequate long-term curatorial services for several defined purposes.

Among these purposes are long-term maintenance of records relating to the identification, evaluation, documentation, study, preservation, or recovery of a resource (such as site forms, field notes, drawings, maps, photographs, slides, negatives, films, video and audio cassette tapes, oral histories, artifact inventories, laboratory reports, computer cards and tapes, computer disks and diskettes, printouts of computerized data, manuscripts, reports, and accession, catalog, and inventory records). Many of these relate to archaeological investigations based on sections in the Guidelines (e.g., Research, Field Methods and Analyses, National Register of Historic Places Evaluations, and Documentation Standards).

As used for purposes of this part: (a) Collection means material remains that are excavated or removed during a survey, excavation or other study of a prehistoric or historic resource, and associated records that are prepared or assembled in connection with the survey, excavation or other study. (1) Material remains means artifacts, objects, specimens and other physical evidence that are excavated or removed in connection with efforts to locate, evaluate, document, study, preserve or recover a prehistoric or historic resource. [§ 79.4 Definitions].

Under long-term care of these collections, federally approved repositories must also provide access and facilities to study a collection, and handling, cleaning, stabilizing and conserving the collection in a manner to preserve it. Federally approved repositories may also include a State, local or Indian tribal repository, a university, museum or other scientific or educational institution that operates or manages a repository for curatorial services (§ 79.6[a][3]). The agency or repository official must also make the collection available for scientific, educational and religious uses, research potential, religious or sacred importance, among others (§ 79.10[a]).

American Indian Religious Freedom Act (AIRFA) (42 U.S.C. § 1996):

The American Indian Religious Freedom Act (AIRFA) protects and preserves traditional religions of Native Americans. The act also addresses sacred objects and access to sites for ceremonial and traditional rites. It is important to consider AIRFA when complying with other federal and state laws. For example, Section 106 of the NHPA requires, among other responsibilities, federal agencies to consult with Tribes that may attach religious and cultural significance to properties within the APE of their undertakings. Oregon statute incorporates sacred objects as well, which are included in ORS 97.740, ORS 358.905, 390.235, and OAR 736-051-0000 through 0090 which are all applicable for archaeological investigations in the state on non-federal public and private lands.

RESEARCH

Research lends confidence to reviewers of archaeological reports. Archaeological investigations in Oregon must be based on research for the archaeologist to understand contextual relationships between (e.g.,) people, resources, places, activities, archaeological objects and sites, place names, stories, traditions, environmental history, etc. Research also provides context for reports on archaeological investigations that become part of curated collections at repositories. Archaeologists should never forget that they are creating records for posterity, based on available information at the time of their study. Archaeology (especially for compliance archaeology) requires contributions from research. Identifying new, targeted, or original sources of information assists with that objective.

Based on the above, it is worth emphasizing that archaeologists, while trained in part to document and study contextual relationships of cultural assemblages, must remember the holistic nature of the discipline to assist with identifying and understanding other associations from their research. In other words, as has been emphasized throughout this document, archaeological objects and sites do not exist in a vacuum. Understanding the importance of context not only contributes to the discipline of archaeology, but also to compliance-based efforts. It can also provide the archaeologist with information that a place may be eligible to the NRHP with or without archaeological objects or archaeological sites prior to any fieldwork.

This is especially true for archaeologists conducting research for a compliance project/undertaking that requires applying the NRHP criteria. Please refer to the National Register of Historic Places Evaluations section later in this document for more detail. For this section, it is important for archaeologists to be aware that buildings, sites, districts, structures, and objects are the National Register eligible property types as defined in National Register Bulletin 15 (United States Department of the Interior, National Park Service 1997 [USDI NPS 1997a]). It is also important to understand how the National Register defines these properties. For example, the property type “site” is not specific to archaeological sites. In fact, the definition recognizes that places may not contain objects while still consisting of a location of a “prehistoric” or historic event or pattern of events.

*A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure. A site can possess associative significance or information potential or both, and can be significant under any or all of the four criteria. **A site need not be marked by physical remains if it is the location of a prehistoric or historic event or pattern of events and if no buildings, structures, or objects marked it at the time of the events** [USDI NPS 1997a (bold text added for emphasis)].*

In part, this is why it is important for archaeologists to conduct research about place, in addition to whether there are actual physical remains from activities in the past. Consider a place name (toponym) that suggests it is derived from an activity area, such as Camas Valley. While all areas of the valley may or may not have physical remains of harvesting or processing camas, the fact that the name survives to this day is significant for several reasons. One is that it likely represents a pattern of events related to that resource. The fact the name survives is indicative of not just camas harvesting and processing, but

also likely of managing that resource on the land. Consultation/coordination with Tribes is important during the research phase of any project, especially regarding areas with such named places.

State Permit Research Requirement:

Since there are multiple avenues of research, archaeologists should avoid reliance on one or a few sources of information (e.g., reliance on only Oregon Archaeological Remote Records Access [OARRA]). It is also difficult to convey an understanding of the context of an area targeted for archaeological investigations if research is reduced to simply including a table of reports on previous archaeological projects in support of their investigation.

Whether applying for a state permit or not, the description of a research design in the OAR (below) is worth referencing in this section. If for no other reason, it stresses a level of effort that conveys the archaeologist is knowledgeable about the context of people, place, and activities through time for their investigation.

A research design that explicitly develops the rationale behind the archaeological investigation. The research design supports the applicant's understanding of appropriate archaeological methods, theoretical paradigms, analyses, curation, laws, anticipated results, and an understanding of the context of place through time. Tribal coordination will assist the applicant in developing research designs, which includes background information from any pertinent publications, gray literature, informants, Tribes, ethnographies, historic properties of religious and cultural significance, traditional cultural properties, known archaeological objects and sites, historic documents or National Register bulletins relevant to the objectives of the archaeological investigation and its location. The research design includes appropriate field and analytical methods to achieve any research objectives based on informed expectations... [OAR 736-051-0080].

As discussed in the previous section, the research design in OAR 736-051-0080 becomes part of the terms of an issued archaeological permit. Failure to comply with terms and conditions of an issued permit is a violation of the rule, which has the same force and effect as statute. Entities with review authority may object to a permit application by an applicant for a prior permit violation. For that reason, it is important that the archaeological permit research design criteria are met, and that it is also followed as evidenced in the report submitted by the permittee. With that said, even if a permit is not needed, research is a critical part of any archaeological investigation. Referring to the first sentence in this section, if an archaeologist is submitting a report for review by SHPO to concur with (e.g.,) determinations of eligibility and findings of effect, good research goes a long way towards that objective.

Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation: Standard I Research.

The Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (available at https://www.nps.gov/articles/sec_stds_id_standards.htm [SOI Standards]) address three specific standards. Of these, the SOI Standard I addresses the importance of research to inform field

methods. While field methods are discussed later, understanding the basic concept of knowing an area of an investigation, before the investigation, provides valuable information that will later come in handy for applying the NRHP criteria with support and justification. Each of these are part of the compliance process, and as such, expected by reviewers, including SHPO. Since the SHPO has a concurring role for Section 106, as well as under ORS 358.905 in addition to Oregon Tribes, research needs to form part of the basis for determinations of eligibility and findings of effect. Based on that concept, the SOI Standard I is an important component to lending confidence to reviewers that the research level of effort supports that the archaeologist understands the area of their investigation and has developed field methods based on that context to achieve compliance objectives.

*Archival research and survey activities should be designed to gather the information necessary to achieve defined preservation goals. The objectives, chosen methods and techniques, and expected results of the identification activities are specified in a research design. These activities may include archival research and other techniques to develop historic contexts, sampling an area to gain a broad understanding of the kinds of properties it contains, or examining every property in an area as a basis for property specific decisions. Where possible, use of quantitative methods is important because it can produce an estimate, whose reliability may be assessed, of the kinds of historic properties that may be present in the studied area. Identification activities should use a search procedure consistent with the management needs for information and the character of the area to be investigated. Careful selection of methods, techniques and level of detail is necessary so that the gathered information will **provide a sound basis for making decisions** [SOI Standards (bold text added for emphasis)].*

Context:

Understanding context of place for an archaeological investigation is not new to the discipline. Going back to the *New Archaeology* and publications such as Binford (1962, 1980, 1982) and even earlier with Taylor (1945), land use patterns, logistical mobility, forager and collector subsistence patterns and “mapping on” strategies were specifically looking at broader relationships of places and the connectivity manifested in archaeological properties. In other words, archaeologists were specifically advocating for more understanding of cultural contexts to better understand the places of their investigations.

Context is also a foundation for NRHP evaluations. According to USDI NPS (1997a:7), “historic contexts are those patterns or trends in history by which a specific occurrence, property, or site is understood and its meaning (and ultimately its significance) within history or prehistory is made clear”. As an example from the same bulletin, USDI NPS (1997a:12) “a property must be associated with one or more events important in the defined historic context” to be eligible under Criterion A. Given the above, research is fundamental for understanding and defining the context of place, which is a critical part of developing appropriate field methods and applying NRHP criteria with support and justification. Understanding context can provide support that a place may be eligible to the NRHP, archaeological site or not. Or, if one or more archaeological sites exist in an area, it can shed light on associated activities manifested amongst them, or why they exist in certain places, possibly representing a (e.g.,) pattern of events supporting a Criterion A District.

A great example of this comes from a proxy presentation on the Malheur Headwater Project (2001-2009) at the 2023 Northwest Anthropological Conference by Pete Cedena. The Malheur Headwater Project (MHP) involved an archaeological landscape study, that expanded the Malheur National Forest's understanding of known archaeological sites and their relationship with the natural and geological environment. The MHP creates a framework for understanding context by connecting archaeological sites and academic research to place. As a result, it was able to identify connections among a patterning of archaeological sites with specific resources (Figure 1). In this example, the patterning is consistent with a "pattern of events" for Criterion A eligibility.

While each individual archaeological site could be evaluated to the NRHP, it would also make sense to look at the area as a district. For a district, the encompassing boundary would include the archaeological sites, any associated objects ("isolates") and the associated plant resources. Collectively, they represent a property with associated events "important in the defined historic context". Even if a small project area or undertaking APE partially covered the district, based on research and context, the assessment should not only be whether there is a potential effect to any of the archaeological sites. It should also include an assessment on potential effects to the entirety of the district, based on context of place, which would include the associated resources.

Below, text from National Register Bulletins are provided as examples of ways to develop an understanding of the context of place. Much of that information is repeated later in the National Register of Historic Places Evaluations section of this document. Information on context is critical during the research phase of any archaeological investigation, and as discussed later, a major part of both applying the NRHP criteria and addressing Documentation Standards that allow reviewers to understand the basis for any findings of effect or determinations of eligibility.

Statements on Context from National Register Bulletin 15:

As discussed earlier, for Section 106 (54 U.S.C. § 306108) and its implementing regulations under 36CFR800.4(c)(1) it states: "Apply National Register Criteria". Since the National Register Bulletin 15 subtitle is "How to Apply the National Register Criteria for Evaluation", it is a useful source for achieving the 36CFR800.4(c)(1) objective. It includes discussions on the importance of context for applying the NRHP criteria. Much of that context is understood from targeted research.

If an archaeologist fails to consider and document the context of their investigation through research, and later fieldwork and application of the NRHP criteria, it will make it difficult for SHPO and other reviewers to understand the basis for both determinations of eligibility and findings of effect. As mentioned earlier in USDI NPS (1997a:7), context consists of "...patterns or trends in history by which a specific occurrence, property, or site is understood and its meaning (and ultimately its significance) within history or prehistory **is made clear**" (bold text added for emphasis). The concept is and has been the same for the discipline of archaeology for decades.

For the NRHP, context is important for understanding the area of an archaeological investigation, which may be eligible on its own whether archaeological objects or sites exist or not (again, refer to the Preface and discussion on Fort Clatsop). However, if there are associated archaeological objects, or sites, it also provides a framework for both assessing their individual eligibility (using the USDI NPS [1997a] definition of the Site property type), or if they are part of a district based on a shared relationship to that context.

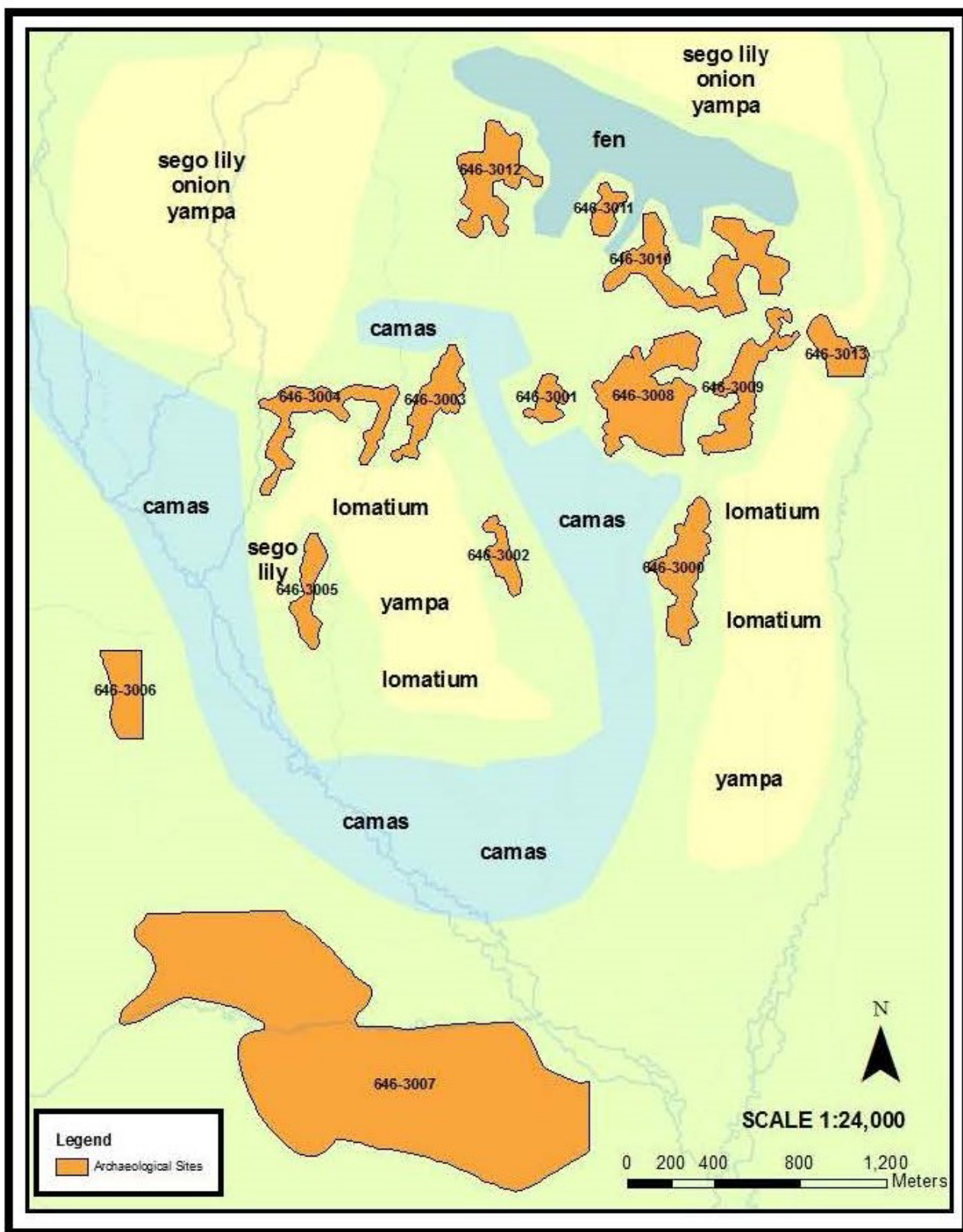


Figure 1. Context of place as a method to understand the location of archaeological assemblages based on available resource types (2023 Northwest Anthropological Proxy Presentation for Pete Cadena)

Context is further addressed in another statement in NR Bulletin 15 (USDA NPS 1997a:7) where *“Its core premise is that resources, properties, or happenings in history **do not occur in a vacuum** but rather are part of larger trends or patterns [bold text added for emphasis]. As mentioned, such an understanding is not only incredibly useful for applying the NRHP criteria to archaeological objects or sites, or places where an archaeological investigation will occur, but also for connectivity indicative of an archaeological district. If archaeological properties “do not occur in a vacuum ...”, is the archaeologist aware of the context of their investigation to the point they can make such connections to broader patterns? Collectively, research and later fieldwork, analyses, and application of the NRHP criteria must all be based on an understanding of context.*

*The information that a property yields, or will yield, **must** be evaluated within an appropriate historic context. This will entail consulting the body of information already collected from similar properties or other pertinent sources, including modern and historic written records. The researcher must be able to anticipate if and how the potential information will affect the definition of the context. The information likely to be obtained from a particular property must confirm, refute, or supplement in an important way existing information [USDI NPS 1997a:22] [Bold text added].*

Statements on Context from National Register Bulletin 16A:

National Register Bulletin 16A (United States Department of the Interior, National Park Service 1997b [USDI NPS 1997b]) is subtitled: “How to Complete the National Register Registration Form”. All archaeologists conducting compliance investigations should have a strong understanding of all NR Bulletins, including 15 (How to Apply the National Register Criteria for Evaluation) and 16A which offers guidance on supporting eligibility using Narrative Descriptions, and Statements of Significance.

All professional compliance archaeologists are encouraged to nominate archaeological sites and districts to the NRHP, in addition to places with or without archaeological objects or sites based on research and working with Tribes, descendant, and underrepresented communities. While the level of effort for achieving concurrence for a compliance determination or recommendation of eligibility is possible within a report on investigations, understanding how to make a case in the National Register Registration form (also called a National Park Service [NPS] 10-900 form) is useful. Not only is it useful for statements on eligibility, but some of the same arguments for eligibility can be used to support that a place, archaeological object, site, or district do not meet any of the criteria. As with other NR Bulletins, NR Bulletin 16A stresses the importance of understanding context.

Because historic contexts are organized by theme, place, and time, they link historic properties to important historic trends. In this way they provide a framework for determining the significance of a property and its eligibility for National Register listing [USDI NPS 1997b:4].

Statements on Context from National Register Bulletin 16B:

According to NR Bulletin 16B, “Historic contexts serve as the foundation for decisions about the identification, evaluation, registration, and treatment of historic properties” (USDI NPS 1999:8). Much of the discussion in NR Bulletin 16B, albeit somewhat dated, does stress for archaeological sites the importance of understanding patterns, location, and utilizing ethnographic sources to assist with historic context considerations. As stated earlier, research focused on such information can lead to the understanding that a place may be eligible to the NRHP whether archaeological objects or sites are identified during fieldwork or not.

Statements on Context from National Register Bulletin 38:

National Register Bulletin 38 addresses context in several sections. One titled: Conducting Background Research indicates the objective is to understand what is already known about an “area’s history, sociology, and folklife” to “provide clues as to what kinds of places may be important and who may know about them” (USDI NPS 2024:30). National Register Bulletin 38 goes on to emphasize the importance of reviewing “published and unpublished materials on the historic and contemporary composition of the area’s social and cultural communities” (USDI NPS 2024:30). Among the sources of such information referenced, include anthropologists, SHPO, THPO “and any other official agency or organization that concerns itself with matters of traditional culture” (USDI NPS 2024:30).

Another section addresses a theme repeated throughout the Guidelines, Engaging with Traditional Communities. In this section, National Register Bulletin 38 stresses the importance of professionals (as well as community members) to engage with experts on the area or places they are studying. For state or federal compliance projects, this is a critical step. Archaeologists should always reach out to such experts to expand their understanding of places they will be investigating. Context is important in that regard, and having such conversations will greatly expand any archaeologists’ understanding of place before conducting any fieldwork. It will also help them to understand if places may already be eligible to the NRHP, whether they contain archaeological sites or objects or not.

The Engaging with Traditional Communities section continues by identifying such experts as any “individuals or groups who may attribute traditional cultural significance to the study area or places within it”. As stated in the Preface of this document, “archaeologists must never forget that their efforts in the world of compliance have impacts on cultures often different from their own”.

SHPOs and THPOs can be helpful in identifying points of contact but may not be fully informed and authoritative about all potentially interested groups. The assistance of historians, ethnographers, sociologists, folklorists, archaeologists, and others who may have conducted research in the area or otherwise worked with its communities may be necessary to find ways of contacting and conferring with such groups in ways that are both effective and consistent with their systems of leadership and communication [USDI NPS 2024:32].

The focus on context remains, with renewed emphasis. The statement below National Register Bulletin 38 (USDI NPS 2024) regarding understanding place within its historic context comes with questions to assist with identifying such places. The same format is included in the National Register of Historic

Places Evaluations section in this document. Research for *any* archaeological investigations should consider the statement below and questions to address.

The significance of a place can be understood only when it is evaluated within its historic context. Historic contexts are those patterns or trends in history by which a place is understood and its meaning (and ultimately its significance) within history can be demonstrated. The historic context for a TCP is grounded in the importance of the place from the unique cultural perspective of a community. Asking the following questions may be helpful in understanding a place.

- *Who or what is the traditional community?*
- *How do its members define themselves and how have they been identified by others? What do the community's members share in terms of beliefs, practices, or activities?*
- *How long have they shared these cultural characteristics, and have these changed over time?*
- *How do these cultural characteristics differentiate them from members of the wider public?*
- *What are the physical resource types associated with their traditional culture? How important are the physical places to maintaining cultural identity? [USDI NPS 2024:46].*

Thoughts on Context:

Oregon SHPO has a legally defined responsibility to concur or not with determinations of eligibility (DOE) under 36CFR800 and ORS 358.905. For SHPO to concur with a DOE, it needs to be presented in terms of context, in relationship to any observed archaeological objects or sites. Referring again to the Preface in this document, merely stating that an archaeological site is disturbed, lacks integrity, or only has a certain number of objects would not make that argument without targeted research, working with Tribes, descendant, and underrepresented communities, and a strong grasp on the context of people, place, and activities. One could easily argue that due to the great responsibility of an archaeologist to make a determination or recommendation of eligibility, they must be able to offer justification and support based on context that often extends beyond a project area, APE, or boundary of an archaeological site.

In a 2022 *American Antiquity* article titled: “*This Place Belongs to Us*”: *Historic Contexts as a Mechanism for Multivocality in the National Register*, the authors discuss how historic context of place is often overlooked and replaced with more familiar terms such as “significance” and “integrity” (Hanson et al. 2022). This sort of “play it safe” approach where Criterion D is the primary focus (which is not consistent with 36CFR800.4[c][1]) only addresses if a site “might” be important for future research. Such overreliance on the scientific value based on the research potential of archaeological sites has, according to Hanson et al. (2022:443), resulted in downplaying the cultural, historical, or social value of place, disproportionately silencing Native American history.

As referenced throughout the Guidelines, the Fort Clatsop example in the Preface serves as a demonstrative example of highlighting the importance of place beyond any scientific value. However, while in that example the result is a NRHP eligible place, that level of application of the criteria and historic context is rarely applied to Tribes or descendant and underrepresented communities. As a

holistic discipline, archaeologists must focus on patterns of events, context, and people of the past. There are reasons why archaeological sites exist where they do, which again is why they should not be evaluated in a vacuum.

Traditional Cultural Knowledge, Traditional Ecological Knowledge, Traditional Knowledge, and Indigenous Knowledge:

Oregon SHPO strongly believes that Traditional Cultural Knowledge (TCK), Traditional Ecological Knowledge (TEK), Traditional Knowledge, and Indigenous Knowledge (IK) are fundamental parts of research objectives prior to and for any archaeological investigation. Research involving Tribal Consultation or coordination to that objective provides important context relating to the place of an archaeological investigation. For SHPO to concur with determinations of eligibility and findings of effect under Section 106, meaningful consultation or coordination on these subjects (among other topics) if requested by Tribes must occur (even though SHPO is not a participant in the Government-to-Government consultation process). For that to happen, federal agencies (for Section 106 - even if they have delegated authority to a state or local agency) must make meaningful efforts to achieve that objective. Even for projects without a federal nexus, or any state archaeological permit application research design, SHPO considers meaningful efforts requesting tribal coordination to be a principal research responsibility for any archaeologist working in Oregon. As stated in other places in the Guidelines, archaeological sites do not occur in a vacuum and should not be evaluated as if they do. In addition, failure to research places to understand context can also impact perceptions of the professional quality of an archaeological report. That in and of itself can also affect whether SHPO is able to concur with a determination of eligibility or finding of effect, let alone that a good faith effort was met.

The most recent document to address Traditional Knowledge is National Register Bulletin 38: Identifying, Evaluating, and Documenting Traditional Cultural Places (United States Department of the Interior, National Park Service 2024 [USDI NPS 2024]). The document provides an example of the Coso Hot Springs, in California, that are listed in the NRHP as a district as a traditional spiritual and medicinal center.

Two ACHP documents address IK and Historic Preservation. The first is a 2021 document titled: "Traditional Knowledge and the Section 106 Process: Information for Federal Agencies and Other Participants". (<https://www.achp.gov/sites/default/files/2021-05/TraditionalKnowledgePaper5-3-21.pdf> [ACHP 2021]). The second is a 2024 document titled: "Policy Statement on Indigenous Knowledge and Historic Preservation" (<https://www.achp.gov/sites/default/files/policies/2024-03/PolicyStatementonIndigenousKnowledgeandHistoricPreservation21March2024.pdf> [ACHP 2024]). Prior to discussing these, there is also a November 30, 2022, Executive Office of the President Memorandum (EOPM 2022) (Office of Science and Technology Policy and Council on Environmental Quality) that provides "Guidance for Federal Departments and Agencies on Indigenous Knowledge". The EOPM (2022) defines IK as follows:

Indigenous Knowledge is a body of observations, oral and written knowledge, innovations, practices, and beliefs developed by Tribes and Indigenous Peoples through interaction and experience with the environment. It is applied to phenomena across biological, physical, social,

cultural, and spiritual systems. Indigenous Knowledge can be developed over millennia, continues to develop, and includes understanding based on evidence acquired through direct and indirect contact with the environment and long-term experiences, as well as extensive observations, lessons, and skills passed from generation to generation. Each Indian Tribe, Native Hawaiian, and Indigenous community has its own place-based body of knowledge.

Indigenous Knowledge is based in ethical foundations often grounded in social, spiritual, cultural, and natural systems that are frequently intertwined and inseparable, offering a holistic perspective. Indigenous Knowledge is inherently heterogeneous due to the cultural, geographic, and socioeconomic differences from which it is derived, and is shaped by the Indigenous Peoples' understanding of their history and the surrounding environment. This knowledge is unique to each [Indian Tribe, Native Hawaiian community, or] group of Indigenous Peoples, and each may elect to utilize different terminology or express it in different ways. Indigenous Knowledge is deeply connected to the Indigenous Peoples holding that knowledge [EOPM 2022].

The concept of using different terminology has been the topic of discussions in the Pacific Northwest. For example, the Federal Columbia River Power System (FCRPS) Traditional Cultural Property/Historic Property of Religious and Cultural Significance to Indian Tribes Sub-Committee has held discussions to emphasize and convey the comprehensive connectivity related to these concepts. Ecological knowledge is part of the culture of Tribes, and traditional cultural practitioners continue to use that knowledge to inform on the importance of place, whether a TCP or HPRCSIT, or other concept of cultural connectivity. These topics continue to become embedded within broader contextual themes that support a high level of understanding about cultural connections to environmental practices. These connections are also addressed in several applicable legal guiding documents.

Among other federal laws and responsibilities of federal agencies, the NHPA is specifically called out in EOPM (2022). In that reference, it refers to the Section 106 implementing regulations at 36CFR800 requiring consultation with any Tribal Nation that may attach religious and cultural significance to properties within the APE of an undertaking while also recognizing the special expertise of Tribal Nations **"including Indigenous Knowledge"** (bold text added for emphasis) in identifying such properties.

Whether through tribal consultation, coordination, published materials, etc. archaeologists need to be aware of any views on places by Tribes that are available to them. As support for that importance, consider a statement from one northwest tribe (Confederated Tribes of the Colville Reservation [CTCR]) included in ACHP (2021). The statement offers their perspective of TEK, among other "voluminous and compound" places and resources.

We have been called on to defend traditional information, knowledge, and places frequently in the last few years in relation to state, local, federal and international undertakings here in the Columbia Plateau. Our comments regarding TEK, Sacred Sites, places of religious and cultural significance, Indian trust assets, traditional foods' role in maintaining healthy minds and bodies, and the association between historic properties and ceremonial and ritual use is voluminous and compound. This is particularly true when determining areas of potential effect and cultural

resource ties to natural resources, for example, the River, or the importance of air and water quality to traditionally gathered food and medicinal plants. Each iteration of justifying Native American traditional practices in light of various undertakings and impacts is individualized and not easily condensed [ACHP 2021].

As a subfield of anthropology, one objective of archaeology (even for compliance purposes), is to (as best as possible) understand places from the perspective of the community to which they are connected. In that regard, archaeologists must work with communities to understand the places they study, and for compliance purposes, to be able to apply the NRHP criteria with support and justification. In short, compliance and applying all four NRHP criteria is about more than intact strata, number of archaeological objects, presence of tools or features, or whether there has been any disturbance or not. It is about people, places, and activities.

As mentioned in the Preface to this document, it is also about how a community views a place, whether it is the more dominant culture as is the case for Fort Clatsop, or a tribal community. The role of the archaeologist is not to speak for archaeological objects or sites, but to understand the places they occupy and their associated context. That can only happen through working with Tribes, descendant, and underrepresented communities. Taking the time to work with these communities is part of federal and state compliance and should not be overlooked.

For example, of the ACHP (2024) 12 Policy Principals, two statements are worth mentioning. One regarding ACHP authority, and the second a call directed to the preservation community. The latter resonates with Oregon SHPO, as a standard that is necessary for archaeological compliance objectives. It is important to consider both, when attempting adherence to the Policy Principals discussed in ACHP (2024).

AUTHORITY. The ACHP has the statutory responsibility to advise on matters relating to historic preservation; to advise the President, Congress, and state [including SHPO] and local governments regarding historic preservation matters; and, to recommend methods to federal agencies to improve the effectiveness, coordination, and consistency of their historic preservation policies [ACHP 2024].

The policy also calls on the preservation community to ensure that the appropriate amount of time and resources are dedicated to the identification, documentation, utilization, management, and safeguarding of Indigenous Knowledge, along with developing guidance to inform these activities [ACHP 2024].

The 12 Policy Principles in ACHP (2024) include: 1) Respect and Relationship Building, 2) Valid and Self Supporting, 3) The Section 106 Process, 3a) Identification and Documentation, 3b) Evaluation, 3c) Assessment of Adverse Effects, 3d) Resolution of Adverse Effects, 4) Agreement Documents and Program Alternatives, 5) Compensation, 6) Administrative Record, 7) Consultation Timelines, 8)

Protocols and Processes, 9) Professional Qualifications, 10) Managing Sensitive Information, 11) Sacred Sites, and 12) United Nations Declaration on the Rights of Indigenous Peoples. All archaeologists conducting work in Oregon should familiarize themselves and adhere to the best of their ability with these principles to assist with compliance efforts in the state.

Place Names:

Based on statements above, research is necessary for understanding place. Working with Tribes, descendant, and underrepresented communities is a critical part of that objective. In addition to working with these communities, consider also identifying Place Names on United States Geographic Survey (USGS) Topographic Maps (current or historic), General Land Office (GLO) maps, or from other historical or ethnographic sources. Place names are important, for the simple reason that they have meaning. Consider places such as “French Prairie”, “Camas Valley”, “Wapato Creek”, “Beaver Hill”, “Chemeketa”, etc. In these examples, researching place names can also provide a starting point for discussions with Tribes, descendant, or underrepresented communities to assist with understanding the context of place, in addition to any related activities by people of the past.

A Note on Tribal History:

Tribes have living members and community. Like all people on the planet, the ancestors of Oregon Tribes utilized available resources, along with skill and ingenuity to keep themselves fed, clothed, and protected. Like all people on the planet, their ancestors make sense of the world based in part on their environment, beliefs, practices, stories, and connection to place.

Tribal History did not just occur before the contact period (Lewis and Clark, Spanish Galleon “Beeswax” wreck, etc.). Given this, archaeologists should not assume that Tribes do not have connections to places with buildings, refuse scatters, railroads, hydroelectric dams, highways, farms, etc. They have been here for all these additions to the archaeological (and what we often refer to as either historic or historical) record, and far beyond to time immemorial. Another way to look at this, is that archaeological sites “interpreted as “not Tribal”” often involve Tribal members (Dickson and Steinmetz 2022:57) and occur in places important to Tribes. As such, archaeologists are strongly encouraged to avoid interpreting when they think Tribes should be included in discussions on archaeological objects, sites, or places without archaeological objects or sites. Develop those relationships and work with the communities that have connectivity from the deepest past to the present and future.

Considering Respectful Nomenclature:

Research relating to any tribe, descendant or underrepresented community must recognize that some nomenclature used in the past and present may have origins meant to characterize groups of people in negative ways. Recognizing such terms and including disclaimers for quotes used, or simply not using them, if possible, can help to reinforce the idea that we are simply trying to use the discipline of archaeology to learn a little more about people from the past while avoiding unnecessary harmful language. If there is any question about terms to use for a tribe, descendant, or underrepresented community, reaching out to them regarding that issue is important. The same holds true for any statements on their history that may have origins in attempts to discredit or diminish their cultural connection to place, deep history, accomplishments, or story.

In National Register Bulletin 38 (USDI NPS 2024:36), in a section titled “Reconciling Sources” it discusses “differences between historical documentation and the information shared by contemporary

community members”. The section continues by stating that “the most common kind of discrepancy occurs when ethnographic and ethnohistorical documents do not identify a place as playing an important role in a community’s traditions and culture, while contemporary community members say the place does play such a role.” For this and other reasons, it is important to work with communities and not rely solely on accounts that may or may not consist of accurate information or may never have intended to address importance or significance.

Accountability and Avoiding Biases:

Any type of place, whether an archaeological site (disturbed or not, with intact strata, or not), a place with a single archaeological object, a Traditional Cultural Place (TCP), Historic Property of Religious and Cultural Significance to an Indian Tribe (HPRCSIT), Storied Landscape, Cultural Landscape, etc. can be nominated to the NRHP if any of the criteria are met. These examples typically fall under the “Site” or “District” property types. As mentioned above, it is important to know that the NRHP is place based. Unfortunately, archaeologists can easily fall into the trap of only understanding eligibility in terms of archaeological objects, and sites if they neglect to adhere to the holistic nature of the discipline. Such biases can lead to a failure to recognize the importance of place. In fact, biases also exist where the dominant culture is often afforded place-based recognitions, while other groups have not been given the same attention.

Consider the many NRHP listed places associated with the Lewis and Clark Corps of Discovery. Several are listed on the NRHP. The overwhelming majority of these NRHP listed properties have no associated archaeological objects, features, or sites, despite considerable efforts to find them.

In the Preface for the Guidelines, Fort Clatsop, a NRHP listed property, is addressed. Archaeological excavations have occurred there for several decades, without identifying any direct connection to the Corps of Discovery occupation. Here, the dominant culture can make a case for significance, based on the place itself. However, other places where survey and excavation fail to identify archaeological objects or sites, or the number of objects is considered too low, are considered not eligible without applying the NRHP criteria with any support or justification. In this example, not eligible recommendations or determinations are made without incorporating actual research involving, (e.g.), consultation, coordination, ethnographic sources, tribal publications, websites, historical documents, etc. that can support the importance of the place itself. If archaeology truly is a holistic field, then archaeologists need to consider the importance of place based on their research, including consultation or coordination with Tribes or descendant and underrepresented communities as applicable. The *National Register of Historic Places* has the word “national” in its title, but it also is clear that places can be eligible at the State level, as well as the Local (community) level. For the latter, working with communities and having accountability within the discipline of archaeology are critical components.

Including Fort Clatsop in the Preface as an example is meant to convey to archaeologists how biases can exist in the discipline regarding NRHP evaluations. There is nothing wrong with Corps of Discovery places being listed on the NRHP without any physical evidence. However, the biases relate more to the lack of places significant to other cultures being afforded the same level of importance.

Archaeologists conduct research as a principal part of the discipline. As with Fort Clatsop, research can identify places as NRHP eligible prior to fieldwork and regardless of the presence of any archaeological objects or sites, amount of disturbance, or lack of integrity. Without any trace of the Corps of Discovery,

the eligibility of the place where Fort Clatsop was located is completely based on research, without any consideration to the many impacts to that place since the winter of 1805-06.

Now consider a time when an archaeological object is found that is attributed to the Corps of Discovery at Fort Clatsop. Is it not eligible if it is just an isolate? Is it not eligible if it is not a tool? Any trace of the Corps of Discovery relates to the already established importance of the place. As such, by association it would contribute to the eligibility of Fort Clatsop.

The examples above are meant to shed light on current and unfortunate biases in Oregon that are easily avoidable. Two of several examples to consider would be Table Rock, and Glass Buttes. Both are well understood to be important places to several Tribes. Both also have archaeological sites related to that importance. However, taking a closer look at these archaeological sites, some are considered not eligible, because they are looked at individually in a vacuum, and considered to “lack data potential”. The avoidable bias in part relates to the failure to consider the broader context of place. For archaeologists, remembering the holistic nature of the discipline can assist with better understanding and awareness of the places they investigate. Again, accountability is important.

Based on these examples, it is important for archaeologists to take the research aspect of a project or undertaking serious and attempt to develop a strong understanding of the place of their investigations, prior to conducting fieldwork. If an archaeologist identifies through research a place as (e.g.,) the location of an important event (or series of events or activities), whether at the National, State, or Local (community) level, it should be treated as such regardless of the presence of related archaeological objects or features. Place-based information provides context to archaeological investigations which as stated above is a critical part of applying the NRHP criteria. It also provides the potential to understand if a place is eligible to the NRHP whether archaeological objects or sites are encountered or not. For reviewers of archaeological reports, it is also an indicator of a “good faith effort” and a measure of accountability.

FIELD METHODS AND ANALYSES

Field methods involve compliance with state and federal laws, archaeological professional standards, informed research (context relating to people of the past, place, and activities), address objectives, and must be replicable. Analyses also adhere to professional standards, are anticipated (to some extent) from research, and based on results of field methods. Collectively, field methods and analyses (along with legal requirements and targeted research) form the basis for applying the four NRHP criteria. Prior to any fieldwork, the archaeologist must already possess a firm understanding of legal responsibilities, the context of people, place, and activities from the past, a strong understanding of the NRHP (e.g., NR Bulletins 15, 16A, and 38), and how to inform reviewing parties so they understand the basis of their findings and determinations or recommendations. Collectively, these compliance objectives are intended to identify *places* that are eligible to the NRHP, even when associated archaeological objects or sites are not identified.

Technological Advances:

Advances in technology continue to allow archaeologists to collect considerable data in less time or implement new data to assist with understanding the past. Information from these technological advances can be stored and shared in many ways. Currently, Oregon SHPO has the capacity to collect shapefiles (point, line, polygon) along with Portable Document Format (PDF) reports. Depending on the type of technological data, this may limit the ability of SHPO in how it is shared or accessed, if at all. Oregon SHPO encourages using advances in technology to assist with archaeological objectives. It is hoped that in the future our capacity will grow to a point where our ability to store and share technological data improves.

Field Methods:

In the world of compliance archaeology, time, people, money, access, surface visibility etc. all create situations affecting the level of effort. While Oregon SHPO recognizes these constraints, we still have a role in reviewing and ensuring an adequate level of effort was implemented. Archaeologists have a role in maintaining the professional standards of the discipline, and along with agencies and project proponents have a role in ensuring that a “good faith effort” is met.

Field methods need to adhere to all applicable State or Federal laws, rules, and regulations. Archaeologists must know information such as landownership, when a permit is needed, general logistics relating to access and what equipment is required by an investigation, and how to document archaeological objects or sites discovered or needing an update. Archaeologists also need to be prepared for discoveries of Native American human remains, burials, funerary objects, sacred objects or objects of cultural patrimony and what immediate steps need to be taken if encountered during any field investigations, whether survey, excavation, or traversing an area to get to a project or undertaking area.

Context, a Case Study Example:

Consider an archaeological survey that results in the identification and recording of a shell midden site and adjacent fish weirs. Field methods relating to their eventual identification and recording possibly would involve pedestrian survey at a specified transect spacing. Recording the archaeological sites may involve creating a sketch map, taking overview photos noting direction based on compass bearing and declination, dimensions of features, observed artifacts, photos of any diagnostic tools or features with a

scale, Global Positioning System (GPS) point, poly and line data with attributes, type of shell, traditional plants, impacts, etc. including all necessary descriptive aspects to clearly document what the site looked like at the time of recording. In addition to the documentation aspect, recording the archaeological site would also involve a narrative of access, and legal location descriptions. These field methods are all important, as are others not mentioned.

Aside from the field documentation aspect, consider if research prior to recording these archaeological sites identified a primary reference that states a village was located at that exact place and that an important person to a tribe was born there. In that case, the area may have been specifically targeted during the survey, to identify if remnants of the village exist. Whether targeted or not, understanding the context of the place would give the archaeologist information to suggest the midden and weirs could relate to the village. That information can be added to the site form, and in the report on the archaeological investigation. It also assists with applying the NRHP criteria to the site.

Based on the combination of research and field methods for this example, a case could be made to justify NRHP eligibility of the archaeological site under criterion A (pattern of events), B (person important to history), C (constructed weirs), and D (important information potential from [e.g.,] the shell midden). It would also give the archeologist reason to reach out (again) to the appropriate Tribe or Tribes regarding the immediate results of their field methods in the event they would want to be informed of the connections made to their research.

The case study above is an actual example from Oregon that exists but is not specifically referenced to protect the location of the archaeological site. However, it is included to convey that research, field methods (and analyses) and NRHP evaluations complement each other. The level of effort by the archaeologist must go beyond field observations alone to not only promote the discipline, but to serve as a useful tool for compliance-based efforts relating to histories of Tribes, descendant, and underrepresented communities. Field methods and analyses support these efforts but are not the stand-alone source for supporting NRHP evaluations.

Even if archaeological objects, sites, or features were not observed at the location where the village had been, it should still be considered as a *place* for NRHP consideration. The Preface to this document provides such an example of an NRHP listed place without archaeological objects, sites, or features, despite considerable efforts to find them.

Permits, Collection, and Recovery:

All archaeologists must be aware of all applicable state and federal laws, including whether a Programmatic Agreement (PA) or Memorandum of Agreement (MOA) is involved (and what they need to do to comply with applicable stipulations). If there are questions regarding when a permit is needed, please refer to the State and Federal Laws section of this document, and the actual applicable statutes and rules themselves.

State laws require permits for excavation and gathering of archaeological materials, to salvage archaeological materials from unavoidable destruction or for archaeological investigations sponsored by a recognized institution of higher learning, private firm or Indian tribe. Any archaeological materials (except for Native American human remains, funerary objects, sacred objects and objects of cultural patrimony where disposition, reburial, left in place, etc. is up to appropriate Tribes) recovered under a permit on non-federal public lands are under the Stewardship of the State of Oregon to be curated at

UOMNCH (or UOMNCH and appropriate Tribes approved alternate curatorial facility). On private lands, disposition is up to the landowner (except for Native American human remains, funerary objects, sacred objects and objects of cultural patrimony where disposition, reburial, left in place, etc. is up to appropriate Tribes). All archaeological materials recovered under a permit must be collected and documented.

Reburial of artifacts after excavation is not consistent with statute for non-federal public lands. For private lands, the landowner has disposition authority over collections after Tribes have had the opportunity to review collected materials for Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony, and after the archaeologist has completed all requirements associated with ORS and the issued permit. If the landowner chooses to rebury objects on their property, they may do so, but they would still need to comply with all applicable ORS.

Oregon SHPO has addressed these issues in previous archaeological guidelines (most recently in the past two versions [2007 and 2013 respectively]). In the 2007 guidelines, it states: "When work is being done under a State of Oregon Archaeological Excavation Permit, everything from excavation units should be collected in the field and taken back to the laboratory. All artifacts should be curated following analysis" (*Oregon Archaeology Guidelines* 2007:33). Similarly, in the 2013 guidelines it states: "It is important to note, in Oregon all artifacts recovered under a state archaeological permit must be collected. Reburial of artifacts is not permitted" (*Guidelines for Conducting Field Archaeology in Oregon* [2013:23]).

Case Study Regarding Collection:

Regardless of ORS, not all communities agree with collecting archaeological objects from permitted surface recovery or subsurface excavations. With that said, there are examples to consider regarding how access to collections by archaeologists can correct unsupported hypotheses. For one such example, consider a series of archaeological investigations over more than a decade that led to a hypothesis that an area believed by a tribe to have been occupied by their direct ancestors since time immemorial was incorrectly thought to have been abandoned repeatedly throughout history. After each abandonment, the area was suggested to be repopulated by completely different people. The entire concept of abandonment and repopulation having been based on changes in projectile point typology, as if the local inhabitants were unable to adapt or be innovative with technology like all other people throughout the region where the same pattern exists. After 25 years of continued citation and perpetuation of the hypothesis, the collections from the earlier archaeological investigations were accessed to disprove the abandonment/replacement hypothesis and find out if support exists for the view of the subject tribe.

Access to the repository with the archaeological collections allowed for updated analyses and comparison with archaeological collections in the area since the previous hypothesis was published. Based on review of past and more recent collections and analyses in addition to new analyses and reassessment of the original data, the hypothesis of repeated abandonment followed by repopulation by completely different groups was debunked (Pouley 2020). In this case study, if access to the collections was not available, the initial incorrect hypothesis would likely continue to be perpetuated.

The case study is an example of the discipline of archaeology itself, which at times takes a back seat to compliance archaeology which is primarily project driven as opposed to testing hypotheses. Archaeology not only learns from contemporary investigations, but also by reassessing or using new techniques to provide new or updated information from prior investigations. The case study is provided as one suggestion about how the discipline of archaeology might be able to continue to learn from an existing

collection, if access and provenience exist in a way that considers contexts from Tribal sources and helps correct misconceptions previously held.

Requirements:

For field methods to be replicable, (e.g., survey transects, GPS data, photos with scale, location data, excavation unit orientation, excavation forms, screen size, surface observations, access descriptions, dates of fieldwork, crew members, ground visibility, etc.) they require supporting data to clearly understand what was done, where it was done, how it was done, why it was done, and when it was done. Since collecting data in the field is considered by SHPO to be a professional requirement at a high standard, specific information is considered necessary with submittals to our office. For the discipline of archaeology, replicability of field methods is a critical part of that professional standard, although there is variability in how it is best accomplished. With that said, the main objective of replicable field methods is that any archaeologist working in the same place in the future should never question where work was done, how it was done, etc. There should also never be any question about whether the archaeologist was ever in the field, or whether they did the work they claim to have done.

The topics below address the “what, where, how, why and when” of replicable field methods.

Adherence to these methods is intended to support, with research, SHPO concurrence with support and justification for determinations or recommendations of eligibility under the four NRHP criteria, and subsequently concurrence with any findings or recommendations of effect. Each topic collectively is meant to convey the concept of replicability, the importance of reliance on research and the context of people, place and activities, to support compliance objectives.

Sketch Maps:

Sketch maps are an important replicable field tool for documenting the “what” and “where” of recording archaeological objects and sites. They often include information beyond what is typically captured for GPS generated maps. For example, in addition to the location of artifacts, features, boundaries and excavation units, sketch maps can include specific topographic features or landmarks that assist with relocating the site (e.g., rock outcrop, waterway, compass bearing to a mountain peak visible on the horizon, grove of trees, rapids, standing structures, etc.). Fence lines or two-track access roads not depicted on a USGS map or not visible in aerial photographs, for example, if depicted on a sketch map provide an added level of assistance for relocating a site or orienting previously recorded aspects of a site during subsequent visits. In addition to assisting with locating a site, sketch maps also orient the archaeologist to observations regarding archaeological objects and features within the boundary of a site, in addition to any shovel probes, excavation units, exposed features, etc. Oregon SHPO strongly recommends including sketch maps in reports and site forms when a site is recorded or updated.

Photograph Considerations:

Photographs or photos are an important documentation tool for field methods. For report reviewers and for later research, they help convey an understanding of many aspects of compliance fieldwork and help orient the reader to the place of the investigation. They are also a useful tool for documenting many important parts of archaeological investigations. These can include overviews, miscellaneous crew photos, conditions such as ground visibility, archaeological features, archaeological objects, excavation units/probes, and profiles and much more. Photos are also critical for site revisits, to assess site condition and damage, and to relocate sites for future site visits. It is important to note that photos are

useful far beyond the scope of the immediate project. Based on the above, the following are considered professional and replicable standards that report reviewers find useful.

Photo Logs:

Not all photos taken in the field need to be included in a State of Oregon Archaeological Site Record (site form) or report on investigations. With that said, replicability, repeatedly capturing the same data for photos is a professional standard. Much of that data can be transferred into figure captions for any included in an archaeological report or site form. For curation of field notes with any collections, it also provides later researchers with an understanding of what each photo depicts. Photo Logs are also not necessary to include in compliance reports on investigations, but it is important to describe the fields captured in the Field Methods section and to mention where copies of photos are kept (curation facility, office, etc.). Photo Logs are an essential element of the curated site collection and need to be included at the curation facility along with copies of all photographs. For photo logs, consider the following:

Somewhere on the form, it is a good idea to include a project name, Smithsonian Trinomial, or Field Designation for the focus of the archaeological investigation. It may also be useful to include information on the device used to take photos, and at what resolution or pixels per inch (PPI) or dots per inch (DPI). For replicability, consider numbering each photo sequentially (both on the Photo Log, and embedded in the actual Joint Photographic Experts Group [jpg] or other file), with information relating to Smithsonian Trinomial/Field Designation (as applicable), direction (in degrees, noting declination at the time), description (e.g., excavation of Test Unit 3 in progress, site overview, plateau side-notched projectile point surface find, Feature 2, etc.), photographer name or initials, and date. At times, it may also be useful to include GPS data for photo points and direction. For survey/inventory where no recording of archaeological sites or objects occurs, instead of Smithsonian Trinomial/Field Designation, consider using the name of the project or undertaking. However, for these types of investigations, if survey yields one or more archaeological objects or sites, put the field designation in the photo description section. Much of this data can also be embedded in digital photos as well.

Photos and photo logs should be part of all archaeological field investigations. At a minimum, photo documentation should include project, Smithsonian Trinomial/field designation, date, detailed description, orientation, photo number which should correspond to the photo log or recorded with photo metadata, and name/initials of photographer.

Overview Photos:

Overviews accomplish several tasks for archaeological investigations. They can provide information on the project area or APE at the time of a survey, including ground visibility, weather, general topography etc. Overviews are also important for archaeological sites, to provide an understanding of the setting, features, locations of concentrations, but also to help future archaeologists navigate to the site (especially if they include GPS data as well).

For these, consider taking overviews from the center of the archaeological site at each of the cardinal directions, followed by overviews looking towards the site, from each direction as well. It may also be helpful to include photos that clearly show prominent landscape features clearly, even if not at cardinal directions. Again, not all photos need to be included in a report or site form, however they all need to be part of the curated site collection. The time to take photos is during fieldwork, and it is a good idea to have more to choose from later. As with most field photographs, having a scale is recommended for overviews, if possible. Consider using a person on the crew and possibly referencing them in the

description part of the Photo Log and their height if there are no other scale options available. Photo descriptions for overviews should also include important information like location of a site datum, if a person is standing in the densest artifact concentration, or if a significant landscape feature is visible. Even though a photo may include certain things within it, they are not always obvious to someone who was not there. It is even useful to include in photo descriptions (and photo point) if they capture something that may also be within a site sketch map.

Miscellaneous Crew Photos:

Miscellaneous crew photos are useful to depict field methods such as survey transect spacing, excavations in progress, use of recording devices (transit, total station, alidade, GPS, etc.), monitoring in progress, or even of the entire crew to be used in the acknowledgment section of the report. As mentioned above, there should never be any doubt that an archaeologist or crew were in the field or conducting the work they provide in their reports. Miscellaneous crew photos are one way to both support the work was done, but also useful to demonstrate how certain aspects of fieldwork were accomplished.

Survey Photos

Taking photos of the crew conducting survey addresses two important objectives in the associated report. First, it provides documentation that a survey did in fact take place. Second, if the photo shows the transect spacing of the crew, it adds a level of professionalism and indicates that the survey methods described were in fact adhered to in the field. Survey photos can also depict the survey conditions and could document areas within the project area that were not surveyed due to dense vegetation, or steep and rocky conditions. Survey photos also help convey things like slope, vegetation coverage, etc.

Feature Photos:

Photos should include a readable metric or standard scale for precontact or historical features respectively and include the direction towards the subject (Figure 2). At times, a photo board may be useful to convey information from the Photo Log in the image itself. However photos of features are taken, they need to be at a distance that clearly conveys the subject. For example, a photo of “Pictograph Panel A” from a distance that does not clearly depict the panel itself or images, would not be useful for documentation purposes, although it might work as an overview. Understandably, this may be difficult for some types of features (e.g., fish weirs), so there are times when the archaeologist does not have access for closer photographs. In these instances, consider taking a GPS point from where the photo was taken, with a bearing (noting declination at the time), along with a description regarding the inability to get closer. It is also important to consider multiple photos of features from different perspectives. For example, taking a photo of an eroded hearth feature looking primarily straight down (with a scale) to clearly depict a detailed image. Then, take a photo of the same feature from a perspective where the horizon is visible, to assist with orienting future archaeologists to the location to assess condition or extent of continued erosion.

Photos of Archaeological Objects:

As with features, photographs of archaeological objects should include a readable and appropriately sized (e.g., do not use a one-meter [m] scale for a 4-centimeter [cm] projectile point) metric or standard scale for precontact or historical objects respectively (Figure 3 and Figure 4). Consider carrying a blue (Figure 3) or gray background to help if the ground surface makes it difficult to clearly depict the subject.



Figure 2 – Stacked rock feature (Loci B) at archaeological site 35SH256, October 22, 2012, at 360° (15°43' east declination) with one meter scale (Photo by John Pouley).



Figure 3 – Obsidian Cliffs sourced Biface #8 from the 35MA375 cache, August 2, 2016 (Photo by John Pouley).



Figure 4 - Harmonica part, 35WA1554, Maxville, Wallowa County (circa 1920-1950) (Photo by Mark Tveskov).

For photos of diagnostic objects (e.g., projectile point, can, etc.) the type should also be noted (e.g., Plateau side-notched, Hole-in-Cap...). Photos of objects should include a scale and be taken at a close enough distance to make it clear what the object is and its entire size. Consider taking photos of different sides or from different views to convey type. Material should also be considered, if known (e.g., obsidian, fine-grained basalt, metal, etc.).

[Excavation Units/Probes/Augers/Constant Volume Samples/etc. Photos:](#)

Photographs of excavation units are useful at different stages, including surface level (Figure 5), subsequent levels, as well as for any encountered features or *in situ* objects. For excavation unit photos during any of these stages, several different types of scales are useful. For example, each photo should include a north arrow depicting how the unit is oriented. A meter scale outside the unit is useful for surface level photos and can be left in place for others taken throughout the course of the excavation. As excavation continues, it is also helpful to include scales depicting vertical depth, which can be placed in the corner of the excavation unit. In addition to these, scales can be used within the unit if specific objects or a feature are photographed, or to depict intrusions, such as tree roots, spring seepage, bioturbation or krotovina. At the end of excavation, the vertical scale, north arrow, and possibly other scales are important to include for photographs of any walls of the excavation unit, especially if profiles will additionally be drawn to show stratigraphic breaks, soil horizon boundaries, Munsell® soil color transitions, etc. Care needs to be taken to ensure that excavation and documentary photos are “report quality” and taken in full sun or full shade, as applicable for field conditions and for accurately depicting and conveying the subject of the photograph.

For shovel probes, augers, and Constant Volume Samples (CVS), photos with a scale on the surface may be useful upon completion to document the diameter of the excavation and support that it meets the Field Methods described in a permit or later in the report on the investigations. Scales capturing the vertical depth can also be used in photos to further demonstrate that Field Methods described in a

permit or later report on the investigations were met, or if an impenetrable layer (bedrock) prevented further excavation.

Excavation Wall and Cutbank Profile Photos:

One or more excavation walls should be photographed after completion of the unit, especially those that have also had wall profiles drawn (Figure 6). Similarly, exposed landforms (e.g. cutbank) should be photographed, especially if additionally profiled, to either demonstrate exposed archaeological objects or features, to compare with excavation unit profiles, or both. These photos should include a vertical scale as well as a north arrow (if possible) at the base or on the surface. These photographs also need to be taken in a professional manner that best displays and documents the excavation or cutbank profile. Photo boards are useful to include in both excavation wall photos and cutbank profiles. The former depicting information such as the Smithsonian Trinomial or Field Designation, direction (e.g., North, South, East, or West), base of excavation level and depth in cm, and date. While the latter can include similar information as applicable.

Photo Replication:

Using previous photographs from archaeological surveys, excavations, or surface recordings are an important tool for assessing things like overall condition relating to any subsequent human or natural effects. For compliance archaeology, such replications provide visual documentation of effects, or if previous attempts to reduce (e.g.,) erosion are working as planned. Replicating historical photos can also convey any changes and may also help orient the archaeologist when recording a site. If previous archaeological investigation photos, or historical photos are known from research, adding replication to the field methods may be useful to assist with compliance objectives. As with most photos, including GPS point data and a compass bearing with declination for replications assists with future efforts to capture the same image perspective.

Video:

Currently, SHPO does not have the capacity to accept video recordings to assist with documenting archaeological sites. With that said, it is useful for the archaeologist to capture information and thoughts (if narrated) about observations at an archaeological site, progress during an excavation, or possibly even to capture effects as they are happening. The information collected, if nothing else, can help during later write-up, especially if some time has elapsed since fieldwork. Photo stills can also be taken from video to use in report write-up.

It is possible that one day SHPO will be able to accept video documentation to include with all data from recorded archaeological sites, but until then, it is still a useful tool to consider during fieldwork. If videos are captured during site documentation, they need to be included with the curated site collection at the repository.

Using a Compass:

A compass is an important tool that provides replicable data. Whether using a handheld type requiring adjustment for declination, or a digital type, a compass can provide important field data from archaeological investigations. For example, a compass can assist with the direction a photograph is taken (in degrees), orienting excavation units (e.g., to true north), generating sketch maps (along with a tape measure or electronic measuring device) by orienting the direction from (or a backshot towards) a set point (e.g., datum or sub-datum) towards any mapped landscape feature, archaeological objects,



Figure 5 – Surface of 1x1 m Test Unit 5 at 35MA375 (trowel points north) (Photo by John Pouley).



Figure 6 – North wall of 1x1 m Test Unit 2 at 35MA375 at the completion of excavation (Photo by John Pouley).

features, site boundaries, etc. A compass can also be used to triangulate a position when GPS is not available. In addition to these examples, a compass is helpful to maintain survey transects, or to determine the slope of the terrain or aspect when recording an archeological site. When writing Field Methods for a report or permit application, identifying all perceivable ways a compass will be incorporated into data collection is useful for reviewers. Primarily because it provides added confidence that the archaeologist is conveying how parts of their investigation will include replicable data.

Global Positioning System (GPS) Geospatial Data:

While SHPO typically only needs archaeological site boundary polygons, archaeological object/tight cluster points or linear site data generated from GPS to include in our statewide inventory, other information is useful for curated collections, or (e.g.,) information in site forms and reports on archaeological investigations to assist with replicability. Including GPS data for photo points, excavation units, site datum, archaeological features, temporally diagnostic tools, cutbank profiles, archaeological objects, etc. all provide replicable data that can assist with future visits to an archaeological site (navigating to the site, locating photo points, features, concentrations, etc.). Similarly, line features generated with GPS can assist with (e.g.,) documenting survey transects or recording linear features. Polygon generated GPS features can help with documenting archaeological site boundaries, areas within archaeological sites, or broader place-based recordings that may or may not contain archaeological objects or sites. With any GPS data collected in the field, consider documenting the error rate/accuracy and the device used for recording. Archaeologists should also collect (as appropriate) point, poly and line data when visiting archaeological sites recorded or last visited before the advent of GPS.

Minimum reporting requirements for GPS include preparing a table with Universal Transverse Mercator (UTM) or Latitude and Longitude (or both) point data, documenting (e.g.,) photo points, site datum, shovel probe or test unit locations, temporally or functionally diagnostic tools, features, or locations of cutbank profiles. For site and line data, include a description (e.g., site boundary, feature, artifact concentration, depression...). For all, be sure to match GPS data with items depicted in the site sketch map legend. The GPS data should be curated with the site collection. Be sure to include the curation facility where they are stored. Shapefiles for survey data (transects), site boundaries, and single archaeological objects or tight cluster point data are required for SHPO submissions with reports on investigations along with a mention of other data collected and where that information is curated.

It should also be noted that a sketch map can take the place of GPS data if not available. With that said, GPS data does not replace a sketch map.

Using Probability Models

Probability models often fail to address both historical and precontact archaeology, different types of archaeological sites, and places that may be eligible to the NRHP with or without archaeological objects or sites. For these reasons alone, probability models typically do not address compliance needs, such as (e.g.,) Section 106, because they fail to address all property types (e.g., HPRCSIT, TCP, historical archaeological sites, location of pictographs and petroglyphs, etc.) and tend to only address precontact flat ground archaeological sites near water.

This is especially the case for models that are untested, or based on limited, or even faulty data. For example, suggesting an area as low probability, because it has not been surveyed, does not support that it is low probability. Also, areas of low probability may still contain specific types of archaeological sites,

that may be less common in other areas. For example, areas with steeper slopes may not have village sites, or archaeological sites associated with a variety of resource gathering activities, but they may include spiritual sites, pictographs or petroglyphs, mining sites or sites and objects related to hunting. Probability models for these types of places should be understood to some extent based on research and actual survey data.

While probability models can be based on historic contexts from currently available information, they are generally not useful in compliance archaeology for the reasons mentioned above. Under 36CFR800.4, inventorying the APE is an important step that also involves consultation with SHPO and any Tribes to assist in identifying any properties of religious and cultural significance to them. As stated, the latter will most often not show up in probability models.

For the reasons above, probability models do not address the full range of property types that may be eligible to the NRHP. There are simply too many variables relating to complex culture histories. To the contrary, research, including Consultation and coordination, along with inventory are considered by SHPO to be the best methods for identifying historic properties.

Archaeological Survey (Inventory):

Archaeological surveys have several objectives. Among them is to identify and record previously unknown archaeological objects and sites, or to locate and update previously recorded archaeological objects and sites. For compliance purposes, archaeological surveys must cover both the horizontal and vertical extent of the APE to support a “reasonable and good faith effort” (36CFR800.4[b][1]). Archaeological surveys must also adhere to professional archaeological standards and be based on an understanding of the historical context of place. Consider the SOI Standards for identification.

According to the SOI Standards, the purpose of identification activities is to gather the most up-to-date information on historic properties in an area, which is important for those responsible for preservation planning. Oregon SHPO agrees. The SOI Standards are consistent with professional archaeological standards and help report reviewers understand that a “good faith effort” has been met. To the contrary, reliance on desktop surveys, or previous surveys do not support “a good faith effort”, as both fail to support the discipline of archaeology, or compliance objectives.

Role of Identification in the Planning Process: Identification is undertaken for the purpose of locating historic properties and is composed of a number of activities which include, but are not limited to archival research, informant interviews, field survey and analysis. Combinations of these activities may be selected and appropriate levels of effort assigned to produce a flexible series of options. Generally identification activities will have multiple objectives, reflecting complex management needs. Within a comprehensive planning process, identification is normally undertaken to acquire property-specific information needed to refine a particular historic context or to develop any new historic contexts. (See the Guidelines for Preservation Planning for discussion of information gathering to establish plans and to develop historic contexts.) The results of identification activities are then integrated into the planning process so that subsequent activities are based on the most up-to-date information. Identification activities are also undertaken in the absence of a comprehensive planning process, most frequently as part of a specific land-use or development project. Even lacking a formally developed preservation

planning process, the benefits of efficient, goal-directed research may be obtained by the development of localized historic contexts, suitable in scale for the project area, as part of the background research which customarily occurs before field survey efforts [DOI NPS Archaeology and Historic Preservation SOI Standards and Guidelines 1983:44721].

“Desktop” Surveys and Reliance on Previous Surveys:

Two types of surveys that are problematic are “desktop” surveys and a reliance on previous surveys. Of these two, the former is universally not accepted by Oregon SHPO as a “good faith effort” or meeting any professional standard by avoiding research and fieldwork. For the latter, it depends on several variables relating to when the previous survey occurred, what methods were used, and how it relates to the current proposed project or undertaking. With that said, the best approach towards a good faith effort, or due diligence, is to conduct original research, and inventory the APE or project area regardless of whether it has been previously surveyed or not.

On rare occasions, Oregon SHPO receives “desktop surveys”, which typically are based on looking at Oregon Archaeological Records Remote Access (OARRA - pronounced “aura”) or aerial photos without involving any fieldwork. While information obtained from “desktop surveys” may relate to a small portion of research objectives, these are almost universally not accepted by SHPO as stand-alone products as they do not represent a “reasonable and good faith effort” (36CFR800.4[b][1]), whether a project has a federal nexus or not. Typically, they lack any effort at consultation or coordination with Tribes and underrepresented and descendant communities. They also tend to lack any understanding of the context of place as well. In addition, they often cite a lack of archaeological objects or sites as a reason for a project to proceed, even when there has never been any research associated with the location, or archaeological survey of any kind.

Given the above, SHPO reviewers prefer survey, because there is considerable data to suggest that factors (e.g., time of year and ground visibility, different transect spacing, deposition, erosion, age of any objects not recorded that may now meet federal or state thresholds for archaeology, etc.) can affect when archaeological sites either become observable, or were perhaps missed during an earlier inventory. As an example, archaeological surveys (in previously inventoried areas) after the heavy fire season of 2020 resulted in the recording of over one thousand new archaeological sites. Of these, many would have been visible fire or not. All this means is that most archaeological surveys do not offer 100% certainty, which is why there are Inadvertent Discovery Plans (IDP) or procedures for Post Review Discoveries (36CFR800.13). However, these plans do not take the place of survey, they are meant to address the fact that most inventories are not one hundred percent accurate. Desktop surveys also do not meet professional standards, such as those described in the SOI Standards above.

Pedestrian Survey

Pedestrian surveys are used to locate archaeological objects and sites, examine the areas around archaeological objects and sites, locate previously recorded archaeological objects and sites, or to assess the surface manifestation of archaeological objects or features within archaeological sites. The methods employed should be replicable and cater to the size of the study area.

After understanding the context of a study area from research, the objective of an archaeological survey is essentially to develop a plan, implement the plan, document the work, and assess whether

anticipated results were met, or not, and why. Each part of the objective supports replicability. In other words, document the methods utilized and results of the work to the point archaeologists in the future can know what was done, how it was done, where it was done, etc.

Pedestrian Survey and the Area of Potential Effects (APE)

As mentioned in the State and Federal Laws section, the APE is comprised of where both direct and indirect effects have the potential to occur due to a proposed undertaking. Oregon SHPO uses the same approach for non-federal projects. In terms of the APE, it is important to understand that, for example, if a Programmatic Agreement (PA) is in place, and it specifically states the entire APE (including both direct and indirect effects) will be surveyed, then SHPO will expect that to happen, with appropriate SOI qualified professionals depending on known or anticipated property types. Direct and indirect effects for the horizontal and vertical extent of the entire APE must be addressed, to the extent possible.

Ground Visibility

Pedestrian surveys need to document ground visibility to either demonstrate a relatively high potential for being able to identify surface archaeological sites and objects, or to suggest areas with lower potential. For comparability, Oregon SHPO recommends addressing visibility with specifically defined terms. For example, if “poor, average, or excellent” are used, what do they mean? Similarly, if percentages are used, are they addressing the overall project area average for the entire area surveyed? For example, if visibility is around 50%, is that because half the APE had 100% visibility, and the other half zero visibility? Be specific when addressing visibility and talk about differences (if any) throughout the area of the survey. In addition to providing descriptions with defined terms and noting any changes in visibility throughout a survey area, it is also important to document visibility with one or more overview photos as needed, as examples. If areas have zero ground visibility due to (e.g.,) surface ground water, dense vegetation, document where these areas exist within the APE, including photos as additional support.

Transect Intervals

The objective of pedestrian survey transect intervals is to provide a scientific replicable method for increasing the probability of encountering surface manifestations of archaeological sites, whether unknown or previously recorded. In that regard, the narrower the interval the higher the probability, and consequently, the wider the interval the lower the probability.

Oregon SHPO recommends a 15-meter (m) maximum transect interval for pedestrian surveys. At that distance, for most pedestrian surveys, SHPO is confident that the level of effort is appropriate, that it meets professional archaeological standards, and promotes a “good faith effort”. Any proposed larger transect interval must clearly demonstrate that the probability for identifying surface manifestations of archaeological sites would not decrease. Consequently, for narrow linear surveys or those (e.g.,) less than five acres, support for why transect intervals less than 15 m were not considered should be evident.

Pedestrian survey transect interval spacing needs to be replicable. Tools such as GPS data can help with that objective. If the survey is conducted by one person, they should be able to generate a line feature indicating each transect. If more than one person, a “lead” can use the GPS to generate their transects with an understanding that each additional person would be 15 m (or less) apart. Including documentation of transects (e.g., maps showing GPS data, photos) in a report is appreciated in this

regard, as it helps support the level of effort and spacing, as opposed to later computer-generated straight lines that may not be accurate representations of actual transect intervals.

When more than one person is surveying, consider having a lead, where others stagger off at 15 m intervals (or less). Ideally, the lead would be slightly ahead of the next person, who is slightly ahead of the next, etc. where all but the lead would base their spacing from the next closest person slightly ahead of them (who would be in their peripheral vision). In this example, the lead would be responsible for maintaining the survey line, either by sighting with a compass, using GPS, or (e.g.,) following a fence line etc. Each successive person on the line would only need to maintain their spacing from the next closest person slightly ahead of them. In this example, there may also be times when transects will need to follow landscape features or shorelines that may require “pinching in” as transect spacing is not maintainable. As the terrain allows, transects are restored when intervals can be restored.

The sample method above is replicable but would require information such as compass bearing and declination at the time of survey, or GPS line data or the starting point of the lead, etc. The important thing to consider regarding replicable transect intervals is to make sure the field methods utilized are clearly explained. It is also useful to take photographs of the spacing of the crew, demonstrating the field methods in action. In addition, if an archaeological object, feature, or site is identified, prior to conducting recording of the site, the lead, and possibly others, should mark their stopping point so they know where to pick up once survey resumes.

Meandering Transects

Meandering off the straight line transect is necessary for several reasons (e.g., avoiding obstacles, checking a nearby outcrop for pictographs or petroglyphs, inspecting a hilltop, tree throw, etc.). At times, meandering transects may be of use to focus on areas of relatively good visibility, when the actual transect has poor visibility. These may be difficult to describe for replicability purposes, but that may be addressed with GPS, photos, or any combination thereof. It may also be important to provide a percentage of the area of good visibility that was surveyed, in addition to percentages of poor visibility. Meandering transects can also be of use when an archaeological site is identified, to assist with understanding surface manifestations.

Survey Velocity

The maximum Oregon SHPO pedestrian survey velocity recommendation (without subsurface probing) is 30 acres, per person, per eight-hour day. If more than 30 acres per person per day is proposed or utilized, there needs to be a statement as to why, with the understanding that SHPO or any other reviewing party may not accept that as a “good faith effort”. With a 15 m transect interval maximum, 30 acres per person per day is attainable in most situations, depending on terrain, ground visibility, and number of archaeological objects and sites encountered.

Inspecting and Documenting Places (National Register Bulletin 38):

Any archaeology survey has a strong likelihood of covering areas with places of religious, traditional and cultural significance. According to the National Register Bulletin 38 (USD I NPS 2024), it is strongly encouraged to work with communities prior to fieldwork to assist with researching and understanding a place. During the inventory portion of an investigation, such as for an APE complying with Section 106 of the NHPA, it is also important to work with traditional experts. Such experts may even be willing to assist with identifying or locating traditional places in addition to recording them.

When places are significant to a community, and include archaeological objects or sites, it is ideal when the archaeologist and the traditional expert can work together. If a traditional expert is not available to be in the field, the archaeologist should consider information from their research and discussions with any knowledgeable members of the community to assist with inspecting and documenting places. As addressed in the Preface, this part of an inventory is one example of how a place can be eligible to the NRHP whether there is only a single archaeological object, an archaeological site, or neither.

Relationships between archaeological objects and sites and plant communities (see Figure 1) can also be established with the assistance of traditional experts to help understand significant patterns of events relating to past cultural activities.

Even where a place is readily discernible to the outside observer, visiting the place with a traditional expert may help that expert recall additional information for a more complete record. Site visits may also allow traditional experts an opportunity to identify and discuss the particular character-defining features that constitute significant aspects of a particular place, for example, quiet, viewsheds, plant materials, architectural features, landscape elements, or the presence of spiritual power. Site visits may also help to assess boundaries [NPS 2024:34].

Inspecting and Documenting Archaeological Objects and Sites:

Recording an archaeological object, or archaeological site requires specific data. Much of that data addresses two important objectives. The first being a description of the object or site, and the context of where it exists. The descriptive data depends on what archaeological object(s) or features exist, with supporting data including GPS, photos with scale, maps, and descriptions of the context of place (vegetation, topography [e.g., slope, contour], river terrace, pluvial lake margin, etc.). The second objective is how to locate the site or object, which may require a narrative of access (typically on a site form), GPS data, and any other observations to help future archaeologists navigate to the archaeological object or site.

Field documentation requires methods to support the two objectives above. Below, information useful when recording some common types of archaeological objects are included (lithic debitage, stone tools, historical cans and bottles, and features). The intent is to support the concept of replicability during documentation, so that the data can be combined with other data from analyses, or comparison with other similar archaeological sites.

Lithic Debitage:

Documenting lithic debitage requires an understanding of human induced conchoidal fractures and the types of raw materials that allow for predictable knapping outcomes. In other words, documenting lithic debitage should address observed flake attributes as support that they are likely the product of past human activities and not natural occurrences. For archaeological sites with relatively large lithic debitage scatters, descriptive data from the total or a representative sample of the population will address the same objective. Documenting lithic debitage should also include a statement on observed raw material type(s), actual or estimated total counts, along with photos (with scale) of all, or a sample for future reference or later visits to the same site. Flake attributes (or a sample) can also offer

information on reduction stage or the types of knapping activities at the site. In addition to these, for obsidian samples, the results of sourcing must be included in the report submitted to SHPO.

Things to Consider:

Identifying flake attributes provides supporting evidence of human activity. As such, it is useful to include a description of a representative sample in a site description (or for a single object). Include attributes for whole flakes such as: visible platform, bulb of percussion, erailure scar, ventral side, dorsal side, percentage of cortex (if any) on dorsal side, number of dorsal flake scars, and termination (e.g., feathered, hinged, stepped), or if it appears to be shatter. For proximal or distal flake fragments, include visible flake attributes supporting human manufacture. Flake attributes can also be supported with one or more sample photographs (with a scale), if taken at a close distance that makes it easy to observe them (Figure 7).

For raw material type, if known or presumed, state what it is believed to be (e.g., obsidian, fine grained basalt, cryptocrystalline silicate (CCS), petrified wood, argillite, etc.). If obsidian is observed, consider whether a sample has been submitted (or should be submitted) for sourcing and if so, include the identified source (e.g., Whitewater Ridge, Obsidian Cliffs, Devil Point, Inman Creek, etc.). Obsidian sourcing enables identification of patterns relating to mobility and trade, which would otherwise be incredibly difficult to understand.

Stone Tools:

Documenting stone tools should include photos that capture the object clearly with a scale (e.g., Figure 3), in addition to GPS point data, and inclusion in a site sketch map. The photos for tools serve two principal functions. First, it provides a clear image of the object to assist with any later visit to the site. For example, if an initial recording identifies a mortar on the surface, if a later visit also only identifies one mortar, it is possible to match them as either the same or tell if they are different. Second, they let other archaeologists know what type of tool the recorder believes it to be. For example, a photo of a Cascade C projectile point variety lets archaeologists reviewing the site form or report understand why it is considered that type. If it is just stated that the site or object consists of a Cascade C type, other archaeologists would have to just take their word on it. Without some type of documentation supporting a Cascade C type or what is believed to be that type, there would be no replicability so to speak. Also, not all archaeologists have a full understanding of every artifact type, and at times, may be unsure in their assessment, which is fine. In that case, the photo would be useful, and could include a caption to the effect of “Projectile point resembling a Cascade C variety”, or “... possibly a Cascade C variety” etc.

Illustrations of tools are strongly recommended, especially for any archaeologist with artistic abilities. Combined with photos, illustrations can emphasize flaking patterns or enhance evidence for grinding or pecking that may not be as visible in a photograph. For illustrations, as with photos, it is important to include a scale or measurement, include multiple sides and width (as necessary) (Figure 8) or indicate if the object is drawn to scale.

Documenting tools can be complex, especially if several are present over a relatively large area. For these, consider using a different color or type of flagging to mark their location, or double flag them if that makes them stand out amongst all other objects and features. Stone tools can provide relative age ranges for archaeological sites, suggest specific activities, and even demonstrate evidence for trade networks. Recording stone tools should also include GPS point data, photos, illustrations, all depicted on



Figure 7 – Ventral side of a cryptocrystalline silicate flake, with visible bulb of percussion, errillure scar, and feathered termination at 35SH256 (October 22, 2012) (Photo by John Pouley).

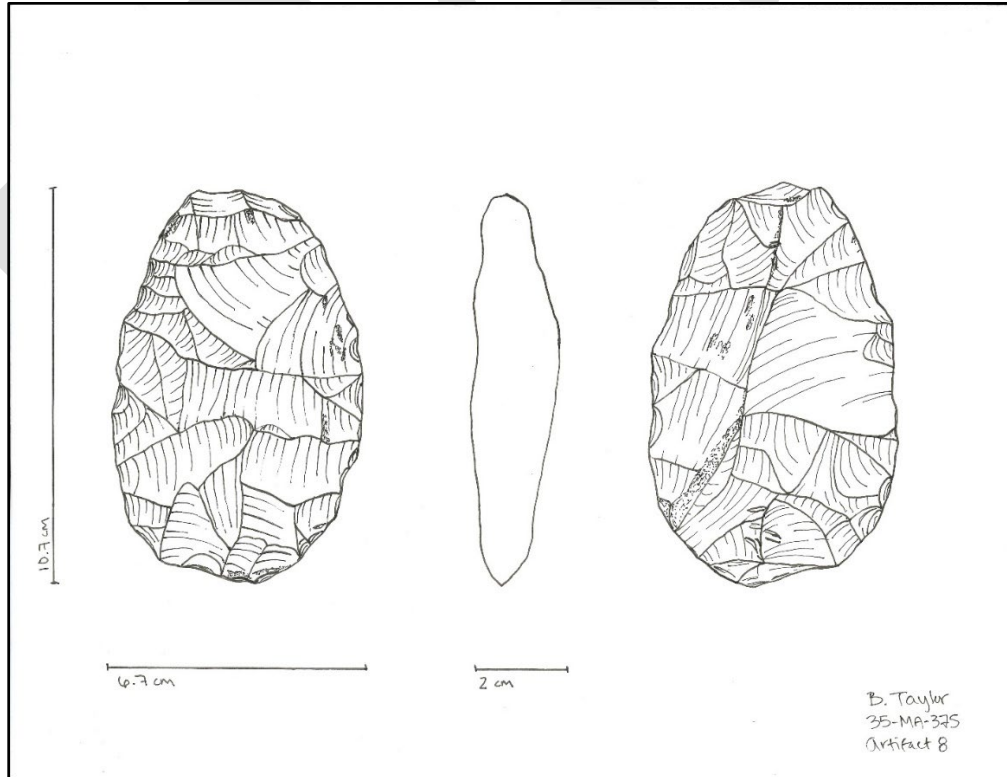


Figure 8 – Biface #8 from the 35MA375 cache, illustration by Breanne Taylor.

a sketch map to demonstrate where they are in relationship to a site datum. For sites with multiple formed tools, assigning unique numbers to each enables cross-referencing between maps, illustrations and photos.

Historical Cans and Bottles:

Several research aids exist to assist with understanding how to identify historical cans and bottles (e.g., Intermountain Antiquities Computer System [IMACS], Southern Oregon Digital Archives [SODA]). Such chronologies help with identifying what types of features are indicative of manufacture type and temporal period. It is important to cite sources and include photos, with scale (metric or standard) of historical bottles or cans to provide support for type and date (Figure 9, Figure 10, Figure 11 and Figure 12). For example, manganese was used in bottle glass up to (circa) 1917. Archaeologically, the use of manganese in such glass making is useful, as ultra-violet rays from sunshine cause it to turn a shade of amethyst (sometimes called sun-colored amethyst). Identifying amethyst glass in the field, subsequently provides a relative date of no later than 1917, or pre-1918 which meets the (e.g.,) ORS 358.905 age requirement for an archaeological object. For bottles, information can additionally be obtained relative to date and function based on features such as (e.g.,) mold, neck finish, base mark, base profile, lip forms, lipping tool marks, and closures (Intermountain Antiquities Computer System [IMACS] 1992).

Features:

Documenting features should include many of the methods and categories of information previously discussed (e.g., GPS point, line, or poly data, photos, illustrations, sketch maps, etc.). For example, surface features should at a minimum be photographed with a scale, include dimensions, number/estimates of ([e.g.,] cobbles or boulders [and material type if known, such as basalt, granite, obsidian, andesite, etc.], Fire Cracked Rock [FCR]) including material type, type of mussel shell (*Margaritifera falcata*, *Gonidea angulata*) or type (foundation, housepit depression or culturally modified tree [CMT]) to name a few. For sites with multiple features, number and describe each separately.

Documenting Important Places from Research without Archaeological Objects or Sites:

During the previous research section, understanding the context of place is emphasized. For example, places may have names, tribal publications may refer to places as important for any number of reasons, historical accounts may identify places where underrepresented communities were present, or there may be references to important places on historical maps. As has been stated, archaeology is holistic. For that reason, and as a subfield of Anthropology, during fieldwork, archaeologists should collect field data on such places, whether archaeological objects and sites are identified or not. Such data may be as simple as an overview photograph and notes but depends on the context of the area. For example, if the importance of a place is related to a certain landmark or view, a description and detailed photos, as well as compass readings may be appropriate.

For compliance purposes, as discussed later in the National Register of Historic Places Evaluations section, the only eligible property types include buildings, sites, districts, structures or objects.

Understanding the definition of each makes it clear that archaeological objects or sites do not need to be present for a place to be eligible to the NRHP. Even with SOI qualifications for archaeology, history, architectural historians, etc. archaeologists are trained to do research on the context of place. Based on that research, or through consultation/coordination, it is possible to identify NRHP eligible places prior to fieldwork that may not include archaeological objects or sites. Whether any are identified during



Figure 9 – Embossed Whiskey bottle (1883-1885) with Wine or Brandy Neck Finish and Irregular Polygon Base Profile (IMACS User's Guide 1992) (Photo by Chelsea Rose).

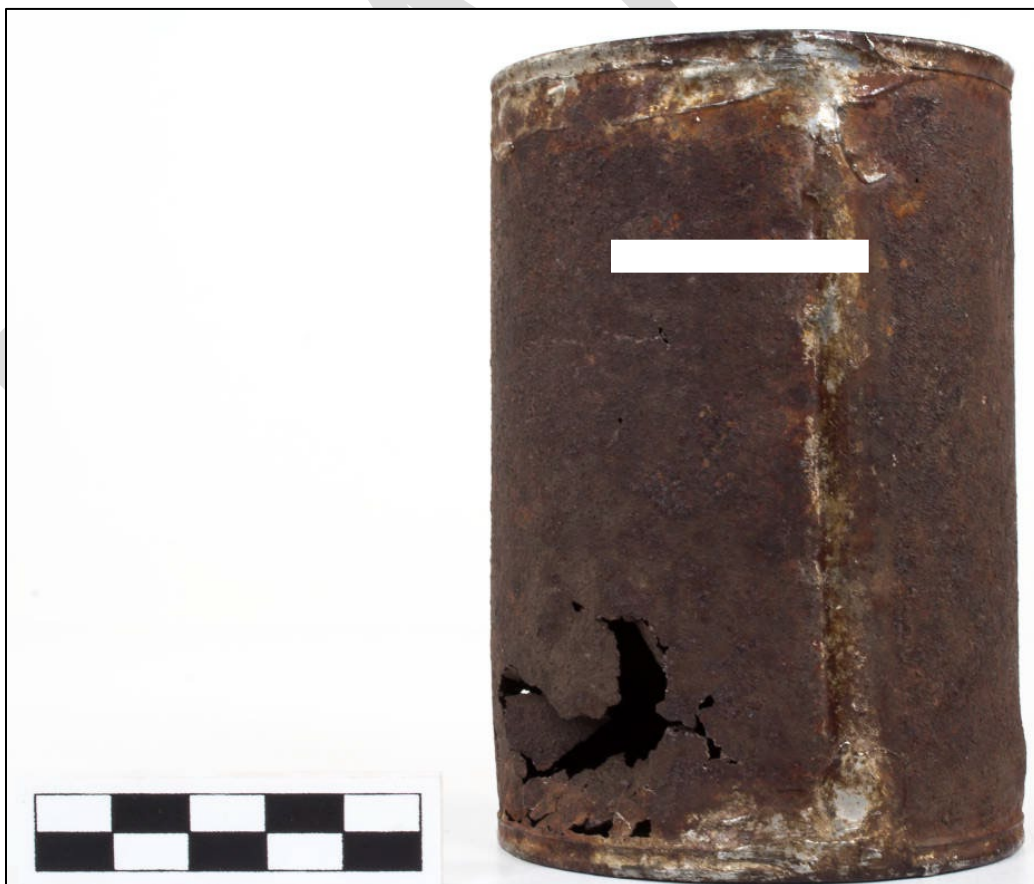


Figure 10 – Evaporated Milk Can (side) with lap side seam closure and hand soldered, stamped ends (1885-1903) (5 cm scale) (Southern Oregon Digital Archives, Jim Rock Historic Can Collection).



Figure 11 - Evaporated Milk Can (Bottom) from Figure 10 with Hole-in-Cap, (5 cm scale) (Southern Oregon Digital Archives, Jim Rock Historic Can Collection).



Figure 12 - Evaporated Milk Can (Top) from Figures 10 and 11 with punched opening, (5 cm scale) (Southern Oregon Digital Archives, Jim Rock Historic Can Collection).

fieldwork or not should not diminish the importance of place. With that said, if archaeological objects or sites (even an isolate) relate to the importance of place (consider a projectile point at an important hunting area), then they should be included as part of the NRHP evaluation of the place.

Consider a published tribal oral tradition passed down for generations. According to the oral tradition, a boy turns himself into a salmon and swims from the falls at Oregon City to the mouth of the Santiam River, where he falls asleep. The sleeping boy in *The Skookum and the Wonderful Boy* is later turned into a salmon shaped stone by Coyote to serve as a signal for salmon that need to head up the Santiam (Lyman 1900, Zenk 1976, and Ramsey 1977). Archaeologists and cultural staff from the Confederated Tribes of the Grand Ronde did fieldwork in 2018 and were able to locate the salmon shaped rock (Tribal Staff Locates Singular Rock (Salem Weekly News August 16, 2018).

For the example above, if an archaeologist learns about a place like the salmon shaped rock while conducting research, they should both reach out to the applicable tribe and indicate that they will attempt to identify anything related to the account during fieldwork. While such features would not be recorded as archaeological sites, using archaeological methods to document and describe them would make sense for later NRHP eligibility recommendations. The important thing to consider is that working with appropriate Tribes should occur throughout the process.

In another example, research for an archaeological site along Battle Creek in Salem resulted in identifying a place name reference. The reference (Minto 1908) discusses a hill called *Beaver Hill* that was apparently named by local Native Americans because it is shaped like a beaver. However, Minto (1908) also references a beaver swamp below the hill suggesting the place name may relate to the fact that it is a place with beaver. Whether due to its shape, location near a place with beaver, or a combination of both, archaeologists should consider that information if conducting fieldwork in that area. Along with consultation/coordination, the archaeologists should consider both applying the NRHP criteria to the named place, in addition to using the information from research as context for any associated archaeological objects or sites in the vicinity that may relate to the place name.

Previously Documented Archaeological Objects and Sites:

There are two general concepts to consider relating to the replicability of field methods. The first relates to using previous information about an archaeological object or site to compare with the current investigation. The second relates to when a previously recorded object or site is not located, and the importance of documenting where the archaeologist looked.

When documenting a previously recorded archaeological object or site, the archaeologist should assess whether the earlier field methods were useful to (e.g.,) navigate to the object or site or to understand the extent and type of material assemblage to compare with the current investigation. If (using these examples) the information was not useful, then the current recording should address any shortcomings. It is also important to use the descriptions from all previous recordings of the archaeological object or site with current observations. Avoid just stating that the condition is unchanged. Instead, document what was observed to support the condition has not changed. If changes are observed, or there is more than one object, or the site is larger, it is additionally important to document the changes. Oregon SHPO expects archaeologists to update site forms for any visit to previously recorded sites or objects.

In the event that a previously recorded archaeological object or site is not located, it is important for the archaeologist to document where they looked. Use GPS and photographs to provide replicable

information supporting that the most recent attempt to locate the site or object occurred in the correct or approximate location. In other words, avoid just stating that a (e.g.,) site could not be identified, without providing data supporting the level of effort. Otherwise, it is unclear if the archaeologist was even looking in the recorded location of the archaeological object or site.

Wet Archaeological Sites:

In Oregon, there are several wet environments where saturated archaeological sites may occur. For example, coastlines, riverine environments, lakes. The British Columbia Archaeology Branch of the Ministry of Forests has recently updated their Bulletin 28: Wet Site Guidelines. The guidelines provide useful information on assessing, surveying, and recording wet sites, as well as indirect impacts. For excavation the guidelines additionally address methods and techniques, as well as packaging and transport. Given the unique topography of Oregon, and documented wet archaeological sites (e.g., Sunken Village), having a plan in place prior to an investigation on landforms where wet archaeological sites are likely should be part of both research and field methods and analyses.

Excavation:

Archaeological excavations are used to address several objectives. These can include compliance with state or federal laws, to look for buried archaeological sites (as described earlier), to learn more about archaeological sites, to salvage eroding archaeological sites or features, or to conduct damage assessments. Each requires thought based on the size and shape of the excavation (e.g.,) unit/probe/core/auger, frequency and distribution, and method of excavation to achieve maximum control to assist desired research objectives. Report reviewers at SHPO expect excavations to adhere to replicable processes and address research objectives to the point where the level of effort is both consistent with the discipline of archaeology and compliance objectives.

As mentioned above, the APE for Section 106, or project area is both horizontal and vertical. To address the vertical portion during survey or evaluation, subsurface data is often needed. This can initially include the use of GPR, Magnetometer, or a systematic method of excavating shovel probes, Constant Volume Samples (CVS), cores, or at times careful use of backhoes to collect deeply buried data on strata, anthropogenic soils, buried archaeological objects or features. It is important to also note that Oregon SHPO does not consider Shovel Scrapes to be an appropriate method for survey or excavation, in part because they fail to address any potential for buried archaeological sites beyond forest duff.

In places in Oregon (e.g., Harney Basin), the potential for deeply buried paleosols and archaeological objects or sites is relatively high. For such areas, if deep core samples at greater depths are not an available method, there may need to be a combination of (e.g.,) shovel probes, CVS, or use of backhoes followed by undertaking/project related excavation monitoring. The potential for buried properties should be addressed in the research section of any permit application or report on archaeological investigations based on available data, in addition to results from past or current field methods.

In areas where deeply buried paleosols and archaeological objects or sites are known, or have a high probability, methods for documenting such properties should target the best available method. It is important that such methods are utilized early, as opposed to failing to acknowledge the known or high potential. Archaeologists with a heavy geoarchaeology background should be involved in such assessments, along with consultation/coordination with Tribes, descendant, and underrepresented communities.

Deep Testing:

In September 2024, the Society for American Archaeology (SAA) Advisory Board approved a request to form a Geoarchaeology Task Force. The impetus for the forming of the group was based on concerns relating to a dearth of deep testing in U. S. archaeology and incorrect beliefs on the types of landforms where such testing can yield results.

Oregon SHPO will continue to expand upon our deep testing section of the Guidelines. For the time being, five questions based on guidance by the SAA Geoarchaeology Task Force are included below, followed by a section on Geoprobe Coring. It is also worth mentioning that even if the vertical APE for an undertaking or project is relatively shallow, research should still address whether or not there is a potential for deeply buried paleosols, archaeological objects or sites at a particular location, or whether or not any have been encountered from previous archaeological work on the same landform. As addressed in the Research and National Register of Historic Places Evaluations sections of this document, such information adds to the context of place.

- 1) Will the undertaking or project involve subsurface disturbance or impacts?
- 2) Will the impact extend beyond the terminal limit of shovel testing (approximately one meter)
- 3) Are there landforms and geomorphic settings with the potential for deeply buried archaeological objects or sites dating to the Pleistocene through the Holocene?
- 4) Are there buried surfaces or soil horizons present with potential for evidence of past human occupation?
- 5) Is it possible for such locations within the undertaking APE or project area to be avoided?

Geoprobe Coring in Archaeology (by Loren Davis)

Geoprobe coring rigs can be used to collect intact vertical sequences of subsurface soils, sediments, and cultural materials in archaeological sites by using hydraulic pressure and a vibrating tap hammer to advance rigid plastic sleeves encased in steel sample tubes into the ground. Sampling typically occurs in 1.5 m (5') intervals and greater depths are reached by advancing a stack of sample tubes into the ground. The maximum depth of sampling is determined by the hardness and clastic size of the subsurface deposits, the strength of the machine model, and other variables. Depending on the model of Geoprobe used, cores can be obtained from 30 meters (100') or below the surface. Different Geoprobe models have various capacities that enable sampling under a wide range of conditions of depth and sedimentary characteristics. Geoprobe's Dual Tube (DT) system involves the creation of a cased borehole where a larger diameter sequence of steel tubes is advanced into the ground as subsurface samples are collected (Figure 13). The sample sleeve is extracted but the outer steel casing tubes are left in place, which keep the down-hole deposits from collapsing into the sample hole. The plastic sample sleeve can be split lengthwise (Figure 14), enabling technical description and screening of the deposits it contains for geoarchaeological and archaeological contents (Figure 15). The Geoprobe coring technique is ideal for sampling intact stratigraphic sequences even from below the water table—a feat not possible with traditional archaeological excavation methods.

Shovel Probes:

Shovel probes can assist with identifying subsurface boundaries of archaeological sites, addressing presence/absence of buried archaeological objects or sites, or assist with investigating the immediate area around a single archaeological object. As with all field methods, data relating to Shovel Probes

should be replicable and exhibit a level of control (e.g., 10 cm levels, strata). As with any compliance archaeological investigation, the vertical APE is just as important as the horizontal in terms of the extent of direct and indirect effects. Shovel Probes, in that regard, must be able to reach the full vertical extent of the APE, or other methods will need to be incorporated into the study. Use of a bucket auger can assist with reaching deeper levels.

At a minimum, data from Shovel Probes must document diameter (30-cm), level (10-cm), sediment descriptions, strata, spacing interval, depth of recovered archaeological objects. Some of this data can be difficult at deeper levels or when a bucket auger is used to reach greater depths. In these instances, sediment and stratigraphic descriptions may need to rely on other data, such as Munsell® color. Again, the idea of replicable data is that archaeologists reading the report should know what was done, where it was done, how it was done... Shovel probes should also have unique identifiers (alpha-numeric designation) which should also be added to forms and any report tables. The location of shovel probes should also be documented with GPS, with the UTM or lat/long included in the report. Photos with scale demonstrate diameter and can show one or more strata.



Figure 13 – Oregon State University (OSU) graduate student Gabby Ridenour operates a Geoprobe model 7822 DT coring rig to collect stratigraphic samples (Photo provided by Loren Davis).

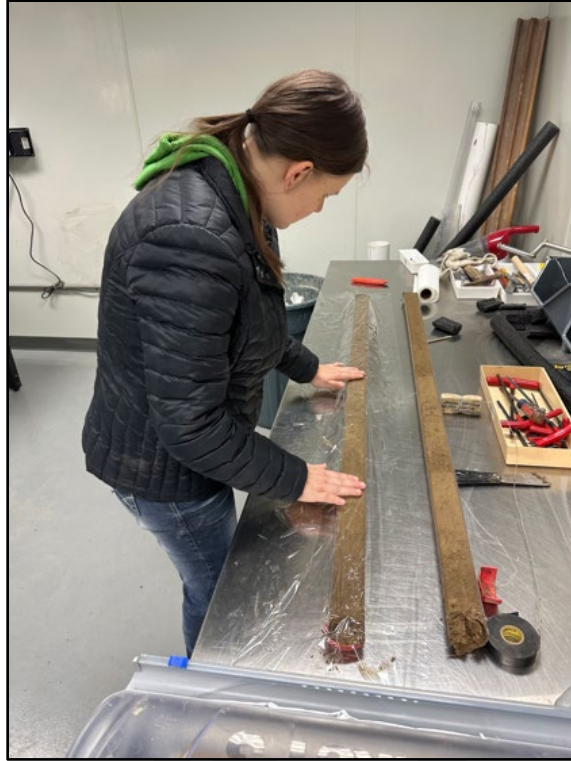


Figure 14 - OSU graduate student Gabby Ridenour cutting and wrapping sediments exposed in a split Geoprobe core for later study (Photo provided by Loren Davis).



Figure 15 - Describing and recording soil and sediment data from a split Geoprobe core (Photo provided by Loren Davis).

Constant Volume Samples (CVS):

Constant Volume Samples (CVS) were developed by former Mount Rainier Archaeologist Greg Burtchard to address “inherent inadequacies and inconsistencies of traditional archaeological shovel probes, including poor control of the size and volume of shovel probes, and inconsistent and inadequate control of vertical provenience” (Presentation at the 2016 Northwest Anthropological Conference in Tacoma, Washington by Eric Gleason and Jacqueline Cheung [Gleason and Cheung 2016]). The CVS method involves cylindrical probes *and* formal 1x1 m excavation units based on data yield. The primary purpose of CVS is to identify buried archaeological components over relatively large areas, often lacking surface manifestations of past human activity.

Subsurface site boundaries, site integrity, and artifact distribution can be initially investigated using CVS (Gleason and Cheung 2016). The units are faster than Shovel Probes, yet similar in shape, with a 30-35 cm diameter. The difference between Shovel Probes is that CVS are excavated in 10-liter “levels”, with each level filling a 10-liter bucket. Data from CVS is recorded based on top and bottom elevation of each “level” to assist with volumetric and vertical control. The sediment removed in each 10-liter level is separately screened through 1/8" mesh hardware cloth and results documented. Given optimum conditions and the use of specialized post-hole diggers, CVS units can be rapidly excavated to a depth of up to 150 cm below the ground surface. Volumetric control in CVS probes can be used to estimate and predict subsurface artifact density, which can guide the placement of larger formal excavation units to reduce the need for more and increase the probability of more predictable data yield.

As with Shovel Probes, stratigraphy from CVS must be documented, in addition to sediment descriptions, level (top and bottom), and recovered archaeological objects (by Level) must be noted. The location of CVS should be documented with GPS, with the UTM or lat/long included in the report.

Formal Excavation Units:

Formal excavation units at a minimum measure 1x1 m. For compliance archaeology, they primarily assist with NRHP evaluations (typically under criterion A, C, and D, where B most often relates to more targeted research [but not always – consider if archaeological excavations did yield an object associated with William Clark at Fort Clatsop, or identify a village known to be the birthplace of an important person such as Annie Miner Peterson]), and mitigation of adverse effects (based on NRHP qualifying characteristics under the four criteria and consultation). As with other excavation types, formal excavation units should have their location recorded with GPS, and include photos from the surface level, each successive level, and at termination (for the curated collection). For more information see the Photographic Considerations above.

Documenting the location for formal excavation units (and why it was chosen), their orientation (and declination), position of a unit datum, method of excavation, observed strata, documented soil descriptions, and any archaeological objects, features, anthropogenic soils, etc. encountered should be replicable and exhibit a level of control. Wall profiles with photos should depict data from soil descriptions as well depicting stratigraphic breaks. Field methods for such excavations should also address recovery, labeling, field forms (e.g., Level Form, Unit Summary, Profile Description...) and post-field cleaning and processing.

Excavation Depth:

The depth of archaeological excavations is a complex issue that is based on several factors. These include the objective of the investigation, background research relating to prior archaeological

investigations in the vicinity or on similar landforms, depth of ground disturbance for a federal undertaking or project, soil horizons, and potential for deeply buried paleosols, to name a few. Based on these factors, it is difficult to set a standard for a minimum depth. With that said, the termination of any type of archaeological excavation unit/probe/sample, must be based on actual data. As stated, some of that data comes from background research, and some from fieldwork.

In the past, Oregon SHPO has set a minimum of 50 centimeters (cm) below the surface if the final two 10 cm levels lack any archaeological objects or features. That minimum standard is effective for some areas of Oregon, but there are places where archaeological sites are known to be deeper, beyond the 50 cm two sterile level standard. In fact, buried paleosols are now known to extend in places beyond the reach of more standard archaeological excavation methods. Based on this information, archaeologists need to consider several factors, in addition to those addressed above, to fully understand the context of their investigations.

Based on the above, there are a few things to consider. First, if an archaeologist is, for example, excavating a 30 cm diameter shovel probe, or a 1 x 1 meter (m) test unit for an undertaking or project that will impact the upper 20 cm of ground, that does not mean excavation should stop at 30 cm below surface. For this and any similar scenario, all excavation units should extend to at least 50 cm with the last two levels being sterile. If archaeological objects or features extend beyond that depth, excavation needs to continue until two consecutive sterile levels have been reached unless impenetrable bedrock is encountered, or the depth becomes unsafe based on Occupational Safety and Health Administration (OSHA) standards. Such data will provide context to that place, as well as the immediate vicinity.

Second, if an undertaking or project impacts over 1 m of ground from the surface, archaeologists can address OSHA requirements by implementing larger block excavations (e.g., 2 x 2 m), or include monitoring with an Inadvertent Discovery Plan (IDP) for archaeological objects and human remains, funerary objects, sacred objects, and objects of cultural patrimony. Please note, an IDP is not a starting point. At times, backhoe trenches, with monitoring, may assist with deeper undertakings or projects after archaeological excavation units/probes/samples have either indicated archaeological deposits continue to deeper levels, or based on background research suggesting they are known to be much deeper at a particular location.

Third, most excavations on non-federal public and private lands in Oregon require a permit issued by SHPO. Permit applications require a research design that among other considerations require methods that address depth of excavation.

Soil Descriptions:

Soil descriptions provide important information including presence and locations of Horizons, which can assist archaeologists in understanding the post depositional context, places, and associated activities of people from the past. They can also provide important data on the likely depth or depths of such activities for areas without documented archaeological sites. Soil descriptions can provide important replicable data that allow comparisons to other excavation units in the immediate area or excavations separated by any number of years.

Oregon SHPO considers soil descriptions to be an important part of an archaeological excavation but acknowledges that there are many ways to document replicable data. One worth consideration by

Gregory Vogel (Vogel 2002), provides a step-by-step process for Soil Descriptions that is easily replicable.

According to Vogel (2002), the principal components of soil description include: Soil Horizon, Color (Munsell®), Texture, Structure, Inclusions, Ped Linings, Roots, Biopores, Redox Features, and Boundary. For each, step-by-step methods for collecting data are provided. Whether using Vogel (2002) or another method for soil descriptions, it is important to make it clear what was done, how it was done, and what the resulting data means.

Excavation Type and Methods (non-exhaustive):

For excavation type and methods, replicability is a primary objective. The outline below is meant to convey both that and minimum requirements. For permit application and report reviewers, using the list below as applicable, and other methods addressed above support professional standards have been met.

As discussed in the State and Federal Laws section of this document, all excavations on non-federal public lands require a permit, as well as any on Private lands within a site. In addition, according to OAR 736-051-0090 (1)(c), permits are also required to test boundaries of a site on private land. Given all the types of excavations associated with or without the need of a permit, the methods below are a guide based on supporting the robust research design requirement in OAR 736-051-0080 and OAR 736-051-0090 and in the Research section of this document.

- Excavation Type:
 - Subsurface Archaeological Site Boundary shovel probes (Requires a permit).
 - Presence/Absence of archaeological objects or sites shovel probes (Requires a permit on non-federal public lands; on private lands, a permit is required as soon as two archaeological objects are encountered that are contextually associated with each other, or biotic or geological remains or deposits).
 - Opportunistic Shovel probes for investigating immediate vicinity around an archaeological object (Requires a permit on non-federal public lands; on private lands, a permit is required as soon as two archaeological objects [including the original surface object] are encountered).
 - Cores (Presence/Absence and Opportunistic Shovel probes)
 - CVS (Presence/Absence and Opportunistic Shovel probes)
- Methods:
 - Screen Size:
 - On the basis and need for replicability, the Oregon SHPO standard is 1/8" for precontact archaeological sites, and 1/8" or 1/4" for historical archaeological sites. Nested 1/8" and 1/4" screens are additionally supported, especially for presence/absence shovel probes.
 - If during fieldwork, a need to change from 1/8" to 1/4" is identified, (e.g., due to wet clayey sediment), an archaeologist may attempt to contact SHPO and appropriate Tribes to either request a change or discuss amending a permit. Due to staff capacity, time of day, day of the week, etc. there is no guarantee that such recommendations will be addressed.

- If such a request is attempted, it must include photo documentation supporting the need to change.
- For presence/absence, boundary, opportunistic, and CVS, the Oregon SHPO standard is 1/8" wire mesh.
- Dimensions:
 - Shovel Probe Diameter: (Minimum) 30 cm (top to bottom [cylindrical]).
 - CVS 30-40 cm.
 - Formal Excavation Units: 1x1 m, 1x2 m, 2x2 m, etc.
- Depth:
 - Target depth of excavations must be supported by research relative to the landform. Methods should address the potential for buried archaeological deposits, including those that may be deeper than standard excavations (shovel probes) can reach and based on the likelihood for paleosols.
 - Areas with demonstrable likelihood that any buried archaeological objects or sites may be relatively shallow (10-20 cm below surface), the minimum depth for excavation should be no less than 50 cm with the last two 10 cm levels being sterile prior to termination (minimum SHPO standard for areas where deeper archaeological deposits are unlikely based on geomorphology).
 - Demonstrable potential for deeper archaeological deposits should incorporate larger (e.g., 1x1 meter, 1x2 meter) test units using the two sterile level model prior to termination. Be mindful of adhering to OSHA standards.
 - The potential for even deeper archaeological deposits should consider larger block excavations first, prior to implementation of (e.g.,) the use of a backhoe. Use of a backhoe should be based on a number of factors and include coordination with appropriate Tribes and SHPO. High probability areas that may include Native American burials, human remains, funerary objects, etc. should use non-invasive remote sensing (GPR) first, followed by more careful excavation as opposed to use of backhoe trenching.
 - Deep testing based on geomorphology of the landform, including previously documented deep archaeological objects or sites should utilize appropriate methods, such as deep coring.
- Levels:
 - For all shovel probes, and Formal Excavation Units, 10 cm levels are the SHPO standard. Excavation by strata is also fine but should not exceed 10-cm in depth if used. If there is a need to remove demonstrably modern fill, that should be addressed in the permit research design, or through consultation with SHPO.
- Location/Orientation:
 - Point data (GPS) for Subsurface Boundary Probes, Presence/Absence Shovel Probes, Cores, CVS Probes, and Formal Excavation Units (describe [e.g.,] at center, NW corner, Unit Datum, etc.)
 - For Opportunistic Shovel Probes, the archaeological object should have GPS point data (in addition to a description and photo with scale [metric

for precontact, standard for historical]). For associated opportunistic shovel probes, just indicate distance from the object, and number implemented (e.g., four shovel probes one meter from the object along the cardinal directions (N, S, E, and W).

- Indicate spacing of Presence/Absence shovel probes (e.g., every 10 m N-S/E-W, random, grid or linear).
- Reason for placement (non-exhaustive list) (explain why an excavation unit/probe/core was used at a specific spot):
 - Arbitrary
 - E.g., if previous shovel probing identifies a diffuse or dense buried archaeological site without surface manifestations, Formal Excavation Units may be placed arbitrarily within the larger site, at least at first.
 - Adherence to a grid or linear distribution (e.g., every 10 m N/S and E/W)
 - Typically for presence/absence shovel probes or deep cores.
 - Based on data from cores (anthropogenic soils, archaeological objects, features, etc.).
 - Based on CVS data (anthropogenic soils, archaeological objects, feature, etc.).
 - Investigate archaeological objects, features, or possible anthropogenic soil in an exposure (e.g., cutbank profile).
 - Investigate a surface archaeological object concentration.
 - Investigate a surface feature
 - Based on existing Formal Excavation Unit Data
 - E.g., adjacent to a feature partially identified within a wall profile, to expand a 1x1 into a 1x2 to further expose a feature, concentration, or articulated faunal remains, etc.

- Field Documentation

- Level Forms (e.g., Shovel Probes, Cores, Formal Excavation Units)
 - Smithsonian Trinomial/Field Designation/Project or Location (as applicable)
 - Excavation Type (see above)
 - Alpha-numeric Shovel Probe/CVS Shovel Probe designation (e.g., SP #1, SP#2, or SP A, SP B...), Core designation, Formal Excavation Unit designation (e.g., TU1, TU2, etc.)
 - Formal Test Unit designation (e.g., TU1, TU2, etc.)
 - Level (1 [0-10], 2 10-20, etc.)
 - Site Datum (as applicable)
 - UTM or Lat/Long
 - Unit Datum (e.g., NW corner of unit, 10 cm above ground surface)

- Unit Datum elevation relative to Site Datum (e.g., 1.54 m below site datum).
- Date(s) of fieldwork
- Project Name (as applicable)
- Names of Archaeologists (excavating, screening, compiling associated field forms).
- Level descriptions
 - Number and types of archaeological objects/level
 - Non-archaeological objects (younger than 75/50 years)/level
 - Relative Comments
 - Bag Catalog# for recovered objects
 - Bags should be labeled with information such as:
 - Project
 - Date
 - Bag #
 - Unit/Probe designation
 - Smithsonian Trinomial/Field Designation
 - Feature # (as applicable)
 - Provenience (level, depth [below datum (bd), below surface (bs)]), such as Level 3 (20-30 centimeters below datum [cmbd])
 - Three-point provenience X, Y, Z (as applicable)
 - Screen Size
 - Names of Excavator(s)
 - Contents and counts
 - Comments
 - Photo Number(s) as applicable
 - Sediments/roots/gravels/bioturbation/cryoturbation...
 - Exposed features
 - Plan view at the base of each level
- Level soil description considerations
 - Strata (I, II, III)
 - Soil Horizons (e.g., O, A, B, C)
 - Munsell® color
 - Texture and Texture Class
 - Structure
 - Inclusions
 - Ped Linings
 - Roots
 - Biopores
 - Redox Features
 - Boundary (e.g., abrupt, clear, smooth, broken, etc.)
- Photos taken (reference photo log #)

- Any diagnostic (temporal/functional) objects recovered need to be photographed with a scale
- Shovel Probe Overviews (sample) indicating direction (e.g., north arrow)
- Shovel Probe (sample) with scale supporting diameter
- Shovel probe profiles showing depth and stratigraphy
- General overview(s) of ground visibility
- Miscellaneous crew photos of excavations in progress
- Screen size (1/4", 1/8")
- Reason for termination (consider context of place)
 - Examples:
 - Two sterile levels after exceeding the depth likely to contain archaeological materials, supported in the approved research design.
 - Depth (too deep)
 - Impenetrable layer (rock) encountered
- Wall Profiles:
 - Include levels, strata, and any other relative data (e.g., krotovina, FCR, tephra, charcoal staining, faunal remains, etc.), with a scale.
 - Line levels should be used as a reference for measurements.
 - Indicate wall orientation (North, South, Northwest, etc. or degrees with declination).
 - Photo of profiled wall with scale and north arrow.
- Unit Summary Form:
 - Project
 - Smithsonian Trinomial/Field Designation
 - Unit (e.g., TU 1, TU 2, etc.)
 - Size (e.g., 1x1 m)
 - Total number of bags
 - Orientation (true north, magnetic north, degrees with declination)
 - Excavators
 - Beginning elevations
 - Start date and End date
 - Unit Datum coordinates (as applicable)
 - Excavation unit elevation relative to Unit Datum
 - Photo numbers
 - Profile Drawn (Y/N)
 - If yes indicate which wall(s)
 - Number of strata
 - Comments

- E.g., Depths most cultural material recovered from, observed strata, positive or negative, whether sediments are intact, whether unit exposed edge of a feature. Basically, this is a good time to reflect and summarize what was learned during excavation, without reiterating what happened in each level.

Inadvertent Discovery Plan in Field Methods:

Archaeological permit applications require an IDP for Native American human remains, funerary objects, sacred objects and objects of cultural patrimony (see State and Federal Laws section). However, it is also important to develop an IDP that addresses archaeological objects and sites that may be encountered during project implementation or archaeological monitoring (discussed below). Currently, there is an IDP template created through consultation between Oregon Tribes, LCIS, and SHPO. It is not a requirement to use this IDP template, but it is one that SHPO considers both appropriate, and up to date in terms of appropriate contacts.

Whether using the IDP template or another, it is important that the plan also address observation of archaeological objects or sites visible on the surface, that may have been overlooked during the initial pedestrian survey. For this example, if an archaeological monitoring crew were heading to an area to monitor project generated ground disturbance yet identify previously unrecorded archaeological objects or sites (whether at the area of monitoring or not), they need to be both documented, and involve reaching out to SHPO, LCIS, and appropriate Tribes to inform each on the discovery.

Purpose and Importance of Document (By Elissa Bullion)

The purpose of an inadvertent discovery plan is to establish appropriate procedures to respond to archaeological features or objects, or human remains, burials, funerary objects, sacred objects, and objects of cultural patrimony that are unexpectedly encountered during a project. These procedures must be designed to ensure that materials and remains are correctly and respectfully identified, protected, and treated, according to the guidance of all appropriate parties. Native American burials are sacred places and represent a continuing connection between living cultures and their ancestors. The laws recognize and codify the Tribes' rights in the decision-making process regarding ancestral remains and associated objects. It is important to note that **an inadvertent discovery plan is not a replacement for due diligence, robust project design, and consultation with appropriate Native American Tribes.**

These procedures help teams fulfill their legal obligations with regard to SHPO permit requirements, and protection of archaeological and cultural materials and human remains. OAR 736-051-0080(4)(i) specifies that to successfully apply for an archaeological permit, "The application must be complete and include...An inadvertent discovery plan specific to any burial, human remains, funerary objects, sacred objects, or objects of cultural patrimony..." Furthermore, burials, human remains, funerary objects, sacred objects, or objects of cultural patrimony are protected by a range of Oregon laws, including ORS 97.740-.994 and 358.905-.961.

While an IDP for archaeological objects and features that are not burials, human remains, funerary objects, sacred objects, or objects of cultural patrimony is not required under the SHPO permit rules, it is strongly recommended. Less than 20% of Oregon has been surveyed for cultural resources and

documented in OARRA, and people have inhabited the region of what we now call Oregon since time immemorial. This means there is always a possibility that cultural resources may be encountered.

Essential Components of an Effective Inadvertent Discovery Plan:

At its core, an effective IDP tells personnel when and where to stop work, and who to call.

Structuring the document:

While there is no required structure for your IDP, the most effective plans have a layout that is easy to follow, lays out the procedure step-by-step, and highlights the most important information. An outline format, with each step separated into bullet points makes it easier for people to keep track of where they are in the procedure and determine the next step. You may also choose to include a flowchart. These can be effective tools to summarize the process and show the differences in steps between types of discoveries and outcomes, in an easy-to-follow format.

Work stoppages and protecting the discovery:

Every IDP needs to include guidance on stopping work and protecting discoveries from further disturbance or damage. Key to this guidance is providing adequate protection for the known discovery as well as additional remains, burials, objects, or features which may also be present, but not yet identified. Ideally, protection measures should be directed on site by a trained professional archaeologist familiar with the archaeological history and context of the location. However, your IDP should be tailored to the range of personnel who may have to manage an inadvertent discovery.

- Broad work stoppage. The first thing that should occur for any type of inadvertent discovery, or suspected discovery, is a work stoppage. For discoveries of potential human remains, burials, funerary objects, objects of cultural patrimony, and sacred objects, this stoppage should extend to ALL ground disturbing work and any other work that could potentially further disturb the context (for example, if objects are found on the surface, vehicle traffic should be stopped across the entire area until it has been checked). For other kinds of discoveries, we recommend a work stoppage within a minimum 100ft/30m buffer, with work continuing outside of the buffer with caution,
- Creation of a protective buffer. A buffer area is a space created around the discovery within which all work is stopped, and additionally, access by personnel and vehicles is restricted to those needed to conduct any specific protective measures or identification. This buffer should be tailored to the context; however, we recommend a minimum buffer of 30m/100ft for archaeological features and objects, and 100m/300ft for human remains. This should be expanded or modified according to the expertise of a professional archaeologist. The buffer should be marked in a way that is easy to identify for project personnel without drawing attention to the area.
- Protection of specific object/feature/remains. It is recommended that some specific guidance on protection of the discovery be included, especially in cases where a professional archaeologist will not be present on site for the duration of the project. Some particular points of guidance that are highly suggested include:

- For suspected human remains, touch and disturb the area as little as possible, especially until it has been confirmed that they are not part of a criminal investigation.
- any methods to protect the discovery should not directly touch the object, feature, or remains if possible. This is especially important when dealing with burials, human remains, and other fragile contexts.
- If the discovery is in a high traffic or public area, it should be covered in a way that blocks it from view, but that does not bring extra attention. For example, use a dark colored tarp or equipment that is already on site to shield the area.
- Secure any back dirt or material removed from the location of the discovery and make sure it is not further disturbed

Notifications:

Every IDP needs to include two components related to notifying appropriate parties: 1) guidance on who to notify when, and 2) an up to date and complete list of required contacts. Notifying the proper parties early is key to the successful execution of an IDP. Notifications should occur immediately following work stoppage and may overlap with the set-up of protective measures.

The following guidance needs to be included in your IDP: **When an inadvertent discovery of human remains, or potential human remains, occurs, the Oregon State Police, SHPO, the Legislative Commission on Indian Services (LCIS), and the appropriate Native American Tribes must be contacted as soon as possible.** These notifications may be preceded by internal communication to the project archaeologist (if not already on site), project manager, and agency official (if applicable) depending on how roles have been assigned. We recommend having a single point of contact (with a backup) for notifications to minimize miscommunication and identifying this individual clearly in the IDP.

For inadvertent discoveries of other archaeological or cultural materials of features, we recommend including the following guidance in your IDP: **When an inadvertent discovery of other archaeological or cultural materials of features occurs, the project archaeologist must be notified as soon as possible if they are not on site to examine the discovery and evaluate whether it is archaeological or cultural. If it is determined to be archaeological or cultural, then internal project notifications should occur, as well as notifications to SHPO, LCIS, and the appropriate Tribes.**

Having a table in your IDP with updated primary and secondary contacts is a clear and easy way to keep track of notifications. The specific contacts Oregon State Police, SHPO, the Legislative Commission on Indian Services (LCIS), and the appropriate Native American Tribes can be found on the LCIS website, which is consistently updated. Project and agency personnel (if applicable) should be listed as well. A primary and secondary contact should be listed for each required contact if possible. Because it is important to contact people as soon as possible, a phone call should be the first method attempted for notifications.

Roles and responsibilities:

We recommend having a list of roles and responsibilities that personnel are assigned to before the project starts, or at the start of work each day. Having this list minimizes confusion and can help identify gaps in response for after-action reports if needed. Generally, there are two categories of responsibilities to be assigned: 1. Ordering and maintaining work stoppage and other protective measures and 2. notifying parties. The exact delegation of responsibilities is up to the project proponents to assign as makes most sense.

Confidentiality:

In the state of Oregon, the location of archaeological sites (inclusive of human burials, remains, and funerary objects) is confidential information (ORS 192.345(11)). Beyond this legal requirement, confidentiality is important as a matter of respect, as well as an important protective tool against looting and other damaging behavior. It is recommended that this requirement for confidentiality be explicitly stated and explained in your IDP. Recommended guidance includes sharing information on a need-to-know basis, directing personnel not to talk to the media or public, take photos, or post about the discovery on social media.

Other recommendations:

Timelines and timestamps – Barring extenuating circumstances, efforts to make notifications should be made as soon as possible. Personnel should not wait until the end of the workday or until they are back at the office. Including suggested timelines and places to document the timing of each step (with initials so it is clear who recorded the information) can help personnel stay on track and understand how the situation unfolded if there are questions after the fact.

Physical copies - Even if all personnel have been briefed on the protocols, it is always a good idea to have a physical copy of the plan accessible during fieldwork. This ensures that all information is consistently available and used, and protects against dead batteries, lack of cell phone service, and faulty memory.

Visual guide – We recommend a visual guide that includes a range of artifacts from both pre- and post-contact periods. It may be helpful to tailor this guide to the specific region or context your project is occurring in. Images of human remains, burials, funerary objects, or sacred objects should NOT be in these guides as they are sensitive and should only be identified by the appropriate experts.

Evaluation:

After documentation of any (non-burial, human remains, funerary objects or objects of cultural patrimony) IDP, the NRHP criteria need to be applied with support and justification including connections to any patterns of events, potential for a district, and based on research and associations with the significance of place. This may take time and should not be rushed to avoid further delays. As discussed in the Research section, this contextual information should already be developed from targeted research regarding place. As discussed later in the National Register of Historic Places Evaluation section, assessments must address all four criteria with support and justification. Combined, the information can help apply the criteria of adverse effect (36CFR800.5), which is also appropriate for non-federal projects. The most important aspect of an IDP to understand is that it is not a starting point.

In other words, an IDP functions as a backup after a good faith effort to identify archaeological objects or sites have been completed.

Monitoring:

Archaeological monitoring of project related ground disturbance is an additional measure that can be taken to protect against damage to archaeological objects and sites after a good faith effort to identify them above and below ground have occurred. Monitoring ground disturbance without any prior attempt to identify archaeological objects or sites, and without a permit, could be a violation of ORS 358.920 (see State and Federal Laws section). If during monitoring archaeological objects or sites are encountered, or Native American human remains, funerary objects, sacred objects or objects of cultural patrimony, the IDP must be followed. If a permit is not in hand by an Oregon Qualified Archaeologist (see State and Federal Laws section), no further work may occur at the location until one is obtained.

Oregon SHPO requires a Professional Archaeologist as defined in ORS 97.740 at a minimum for monitoring. Tribal/cultural monitors are encouraged for several reasons, including those discussed in the Traditional Cultural Knowledge, Traditional Ecological Knowledge, Traditional Knowledge, and Indigenous Knowledge section of the Guidelines. In the event objects are encountered and a permit is needed, an Oregon Qualified Archaeologist named on the permit must be in the field at all times.

A monitoring plan should include evidence of due diligence demonstrating a good faith effort has occurred. Monitoring plans may also include pauses to check walls, soil, etc. along with screening in some cases. Monitors should be empowered to stop work if they see something of concern. As stated in the State and Federal Laws section, for non-federal public and private lands in Oregon, an archaeological object or site may not be excavated, injured, altered, or destroyed without first obtaining a permit. Permits are issued for excavation and collection of archaeological objects.

Field and Post-Field Analyses (Examples):

Data from analyses conducted on objects, features, and other remains provides added context to assist archaeologists understand activities from the past. A few considerations are provided below as examples. Archaeologists should consider the likelihood of encountering different material types prior to any investigation. From the few examples below, some allow for non-destructive analysis in the field for surface assemblages. Others, require later lab analysis for certain archaeological objects, or byproducts of human activity (e.g., charcoal from a hearth) that help with temporal context or even time of year. As stated throughout this document, it is important to work with Tribes, descendant, and underrepresented communities for all aspects of an archaeological investigation, including any proposed analyses. It is also important to convey to these groups the objective of any analysis, and how it adds context to assist with understanding people, places, and activities from the past.

Faunal:

Faunal analysis is a process to provide information about animal bones in an archaeological site. Some archaeologists have lab and field experience with the study of faunal elements that can help with field analyses. There are also archaeologists that specialize in faunal analysis, who can provide post-field data from a recovered collection. At the most basic level, faunal analysis assists with identifying animals at the Genus and at times Species level of the Linnean system of biological classification. For archaeologists, faunal analysis helps to understand what types of animals exist in an archaeological assemblage, such as deer (*Odocoileus*), horse (*Equus*), rabbit (*Lepus*), sheep (*Ovis*), Painted Turtle

(*Chrysemys picta*) or beaver (*Castor*) to name a few. Identifying the types of animals assists with understanding things like food acquisition, season, or how faunal elements functioned as utilitarian tools, decoration, or in ceremony.

Lithic:

There are many types of lithic analyses for archaeologists to consider. These range from in the field non-destructive analyses of flaking attributes that provide at a minimum the likelihood of relating to human activity, up to and including lab analyses to determine what was being made, how it was made, possibly the source of the stone or for some, the potential amount of time that has lapsed since flakes were removed. Lithic analyses can also identify expedient technological use, typically when there is an abundant source of toolstone nearby, versus more curated or long-term care for tools from sources that are distant or less abundant. Lithic analyses cover these and much more, and as with specialists in faunal analyses, there are archaeologists that have considerable knowledge of or specialize in lithic analyses.

The actual process of driving flakes off stone is extremely unlikely to occur naturally. Flake attributes, such as a striking platform, bulb of percussion, eorature scar, ventral and dorsal side, and termination all provide evidence that a cone of force (Hertzian Cone) was likely deliberate and human induced. Combined with the specific qualities necessary in certain types of stone that can be used in such a predictable manner, it allows archaeologists to identify past human activity. Activity types range from analyzing flaking debris deposited on the ground after someone made or sharpened a tool in the past, using a flake as a tool itself, or reducing a cobble to a more portable size (to name a few).

If knappable stone is encountered within an archaeological site, yet does not occur naturally at that location, archaeologists can deduce a connection to past human activity. With that said, chipped stone flaking debris at the source of a knappable material can suggest that people of the past used the place as (e.g.,) a quarry. Each of these activities provides important information about how people used broad areas, or the extent of complex trade networks evidencing patterns of events, which can be eligible to the NRHP under Criterion A (refer to the National Register of Historic Places Evaluations section of the Guidelines)

Obsidian Sourcing (X-Ray Florescence):

Information on indigenous mobility patterns and extensive complex trade networks are arguably more identifiable in Oregon and surrounding areas, due to the abundance of obsidian. Obsidian possesses unique parts per million (ppm) of Strontium and Zirconium for each source of that stone. As such, obsidian from archaeological sites can be sent to a lab for X-Ray Florescence, which provides the ppm of Strontium and Zirconium which are unique for each source of obsidian. The data can be used to determine the distance from the lithic source relative to where it was last deposited. That information allows for better understanding of distribution of obsidian types throughout the larger region and further sheds light on mobility of groups of people and much larger complex trade networks. Combined with chronometric or relative dating methods, archaeologists can begin to understand patterns relating to when a source of obsidian first began to be utilized by people, and the extent of its distribution through time (where chronometric dating means that the analysis produces a date, whereas relative dating is based more on association). Fine-tuning such a model requires considerable data from X-Ray Florescence (including from samples outside Oregon) along with other chronometric data, such as radiocarbon analysis, or relative dating based on temporally diagnostic tool types. Collecting such data

helps with compliance processes by assisting with identifying patterns of events, as well as important information about the past which can be eligible to the NRHP under Criterion A and D respectively.

Obsidian Hydration Analysis:

Obsidian Hydration Analysis (OHA) provides information on hydration rims to give a general chronometric date. For OHA, a section is removed from an obsidian object based on morphological characteristics perceived to yield specific information about the manufacture, use, or discard of the object. In the most basic terms, at the microscopic level, hydration rims are identified and measured in microns. Some archaeologists have developed models that take into consideration several environmental factors (e.g., the longer an object is exposed on the surface, the thicker the hydration rim) about where the obsidian objects were located. Based on these models, archaeologists attempt to equate the amount of time it takes for one micron of a hydration rim to develop. The approach attempts to provide a chronometric date to the time when human exposed surfaces from knapping the obsidian (or fractures from use) occurred. These models require fine tuning, and comparison with other archaeological chronometric or relative dating techniques can provide an indication of accuracy. The OHS method is currently not as accurate as radiocarbon dating but provides one method to possibly suggest a timeframe which when combined with context of place can assist with compliance objectives relating to NRHP eligibility.

Radiocarbon:

Radiocarbon analysis is a type of chronometric dating technique that uses carbon-based objects, such as charcoal, animal bone, and shell. When no longer living, the carbon-14 isotope of these objects decays at a known rate. Labs that specialize in radiocarbon analyses can provide data on the amount of carbon-14 that remains and deduce its age based on the known rate of decay. Other variables such as fluctuating carbon levels in the atmosphere and comparison with tree ring dating (dendrochronology) help to refine and calibrate results.

When conducting an excavation, archaeologists should collect datable objects, such as charcoal, with information on the level and depth it was encountered. If, for example, a spear point is located at the same level as collected charcoal, archaeologists can deduce its age based on the results of radiocarbon dating. If strata are intact and the spear point is at a lower level of the excavation, the radiocarbon date provides a marker indicating it is older than the level where the charcoal was collected. Over time, repeated radiocarbon analyses associated with diagnostic tools allow archaeologists to develop broad temporal periods of when they were in use. As with other analyses, radiocarbon dating, along with context of place can assist with compliance objectives relating to NRHP evaluations. While it can help, it is important to note that intact strata are not needed for eligibility under any of the four Criteria.

Residue:

Archaeological objects used to cut, grind, or pound food items at times retain residue from those activities. The residue provides information on specific plants and animals used for food or medicinal processing in the past. After analyses, information can help with understanding types of food and plant resources available at a given location, and at times, when based on seasonal availability. The information from residue analyses (and other data) can also be compared with ethnographic data, TEK, IK relating to traditions such as first foods and maintenance of plant and animal habitat. Collectively, each provides important compliance information relating to application of NRHP criteria.

Tephra:

As with obsidian, volcanic tephra (essentially material ejected from explosive volcanic eruptions) can be sourced not only to a specific mountain, but to specific eruptions. Tephra can therefore serve as a vertical temporal marker in an archaeological excavation. Essentially, when tephra is encountered in its original deposit (as opposed to a secondary deposit), knowing the exact source and when the eruption occurred provides a relative temporal marker. In other words, archaeological objects or features above the tephra are now known to have been deposited after the volcanic eruption, and consequently, any below were deposited before.

Fire Cracked Rock

Recent research regarding Fire Cracked Rock (FCR) suggests information on human behavior exists in their orientation. For several years, when FCR is encountered during excavation, archaeologists typically count and weigh them, and possibly indicate the type of stone (e.g., basalt, andesite). While that information can be useful, as discussed below, recent research suggests that much more can be learned about people of the past from the orientation of FCR within an archaeological site.

Archaeological investigations should be mindful of information potential from FCR, and how it relates to use in domestic activities associated with cooking food “(e.g., stone-boiling, earth oven baking, griddle roasting) and in noncooking facilities, for example, to provide heat in shelters (e.g., habitations, sweat lodges) and to melt snow for drinking” (Neubauer 2018:682). Based on these activities alone, FCR provides information directly relating to a variety of cultural themes. Archaeologists should be prepared to incorporate FCR studies into their research designs and include the capacity to collect field data and conduct analyses in their research designs, especially for a State of Oregon issued archaeological permit.

For example, recent archaeological studies have begun to refocus on the analysis of FCR. Previously, for surface FCR features or scatters, archaeologists might assign a unique identifier, plot their location on a map, give a general description, actual or estimated counts, photograph with scale (features), and if possible, identified material type. From more formal excavations, they are often counted, weighed, identified to material type, photographed in situ, documented on level forms and unit summary forms, or depicted in wall profiles and wall profile photos. As with many archaeological studies, the information potential from FCR has greatly increased based on new focused research and working with traditional communities around the world.

In Oregon, FCR is rather common in archaeological assemblages, generally recorded as evidence of past heating and cooking activities. As a common byproduct of human activity, it has arguably been somewhat understudied relative to other research focuses of the discipline. With that said, in 2024, the first primary publication dedicated to the study of FCR (*Fire-Cracked Rock Analysis: A Guide to Function, Cooking and Interpretation*) became available (Neubauer 2024). The publication had been anticipated by a few Oregon archaeologists that attended the FCR session at the 2023 Society for American Archaeologists (SAA) conference in Portland.

Among many of the more recent research objectives relating to FCR is understanding how different material types have different performative characteristics. That in and of itself can assist with understanding how they were used (along with context) which for compliance purposes can help with making NRHP eligibility assessments. Combined with research into cooking (e.g., *Ancient Indigenous Cuisines: Archaeological Explorations of the Midcontinent* [Kooiman et al. 2025]) and cultural identity

and traditions related to food, there are new avenues of research relating to the study of FCR and the context of places where it occurs in archaeological assemblages in Oregon. These studies are mentioned as recommended primary sources to assist with NRHP eligibility of archaeological sites, and to make archaeologists aware of current research into FCR and how it is applicable to understanding past people, place, and activities which can support compliance objectives relating to applying the four NRHP criteria.

Freshwater Mussel Shell Middens:

Similar to new information potential for FCR, studies of freshwater mussels have become more important in archaeological studies in Oregon, both when identified in an assemblage or feature, and associated living populations. They are indicators of clean water, and when identified in an archaeological setting, e.g., eroding from a riverbank, if no other populations are known in the vicinity, can suggest that conditions are different from the past. That in and of itself can assist with understanding if aquatic resources not available today may have been available and related to other activities in the past (aside from harvesting mussel shell). Since ages of mussel shell can be assessed from growth rings, it is possible to use such data to inform on harvesting strategies of the past. As with most resources available to people of the past, there would be a strategy for collection that would not include complete harvesting. As elsewhere in this document, information about freshwater mussel shells can improve our understanding of the context of place, which in turn can help with application of the NRHP criteria. For more information on freshwater mussel shell, please visit <https://www.trrp.net/trinity-river-animal-spotlight-february/>.

NATIONAL REGISTER OF HISTORIC PLACES EVALUATIONS

It is important to understand the NRHP criteria and National Register Bulletins prior to conducting fieldwork, especially if an objective is to evaluate places that may or may not contain archaeological properties. It is further important to provide adequate documentation for reviewers to clearly understand why a place is or is not eligible. Understanding this prior to fieldwork can help shape pre-field research objectives and focus field methods. Supporting documentation must clearly justify the eligibility recommendation or determination. For that to occur, it is critical to avoid falsehoods and have a strong understanding of context.

As stated several times in the Guidelines, archaeological properties do not occur in a vacuum. As such, understanding the context beyond the material assemblage at a particular location in terms of (e.g.,) strata, “disturbance”, or loci is necessary for NRHP evaluations beyond Criterion D. Evaluations must, for example, additionally look at events and patterns of events. Such events and patterns can be identified by conducting background research for an area. The same holds true for understanding place names, stories, legendary figures, etc. that may be associated with a place. Archaeologists must have a strong understanding of places and should be prepared to evaluate such places aside from or in addition to the existence of archaeological sites, objects, or features.

Important places, or patterns of archaeological sites can also extend beyond a project area or APE. These are all part of the context of an APE or project area. While some archaeologists may feel looking at patterns outside a project area is beyond the scope of their investigation, that view fails to fully consider context and to understand the effects of their decisions on Tribes, descendant, and underrepresented communities. If an archaeologist is making eligibility recommendations or determinations with the potential to remove protections and allow properties to be directly or indirectly affected, then they need to do their due diligence and investigate all potential NRHP qualifying criteria and perspectives, including any patterns beyond their project area or APE.

Using the National Register Bulletins:

The National Register (NR) Bulletins (15, 16A, 36, December 2024 revised 38, etc.) and Best Practices Review Guidelines provide guidance for developing context statements and understanding how archaeological sites can be eligible under each of the four NRHP criteria. It is also important to understand that eligibility under the NRHP can be at the National, State, or Local level. While the archaeologist is the professional that will need to make recommendations or determinations of eligibility for archaeological properties, they also must be aware of the importance of place (regardless of archaeological properties), and the views of any Tribes, descendant, or underrepresented community.

With that said, it is important to understand some distinctions in the National Register Bulletins. For example, at times a bulletin may recommend only using the best criterion for which the strongest case can be made, or the one that is typically used the most for a property type (e.g., Criterion D for archaeological sites). While that is true for nominations that are not following other processes, identifying a “significant” archaeological site under ORS 358.905 or evaluating any historic property under 36CFR800.4(c) (Apply National Register Criteria) requires a broader understanding to assist with identifying adverse effects. The application of all four criteria (with support and justification) is therefore expected by SHPO as it is meant to provide important information for a project or federal undertaking. It

is also clear from the bulletins that archaeological sites, as well as places without archaeological sites, may be eligible to the NRHP under any of the four criteria.

A Note on National Register Bulletin 36: Guidelines for Evaluating and Registering Archaeological Properties

On occasion, archaeologists refer to NR Bulletin 36 (United States Department of the Interior, National Park Service [USDI NPS 2000]), which offers guidance on evaluating and nominating archaeological properties. An important issue to address with NR Bulletin 36, is that its focus is on NRHP Criterion D. As such, it is appropriate for evaluating and nominating archaeological sites under that criterion, but other bulletins must be used for compliance projects/undertakings for guidance on all criteria.

As stated in various sections of the Guidelines, compliance requires applying all four NRHP criteria to places, with or without archaeological objects or sites. That information is then used to assess effects, based on the qualifying characteristics of any of the four NRHP criteria that are applicable. The legal responsibilities of this process are evident in 36CFR800.4(c) and 36CFR800.5. As stated below, since ORS 358.905 cites NRHP eligibility, the same process defined in the Section 106 implementing regulations is equally important, regardless of whether there is a federal nexus or not. In addition, NR Bulletins 15, 16A, and 38 provide examples of eligible archaeological sites under each criterion, including places that may or may not have archaeological objects or sites, that are eligible, nonetheless. Again, this is why establishing the context of place from research is critical to NRHP evaluations.

Applying the NRHP Criteria for Section 106 Undertakings or ORS 358.905 Significance:

Legal processes involve assessing effects from projects or undertakings to historic properties based on the qualities and characteristics that make them eligible to the NRHP. As such, assessments under each of the criteria provide the necessary range of any qualifying characteristics to assist with ways to avoid, minimize, or mitigate adverse effects.

For example, in the Section 106 implementing regulations at 36CFR800.4(c)(1), guidance is provided on applying each of the National Register criteria. The single most important reason directly relates to 36CFR800.5 where the criteria of adverse effects are applied.

...an adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association [36CFR800.5(a)(1)].

To apply the criteria for an adverse effect, all qualities that would qualify a property for inclusion in the NRHP must be fully understood. That includes an understanding of the context of place, and whether the subject property is eligible on its own, or as part of a larger district. Since state law (ORS 358.905) references the National Register, applying all four criteria and assessing adverse effects informs non-federal nexus projects in Oregon as well.

Whether a place is known, found during routine survey work, identified through consultation, or brought forward by the community, it must be evaluated according to the National Register criteria for evaluation in order to determine whether it is eligible for inclusion in the Register [USDI NPS 2024:41].

Building, Site, District, Structure, or Object:

The only historic property types eligible for inclusion in the NRHP are buildings, sites, districts, structures, or objects (USDI NPS 1997a). Archaeological sites, archaeological objects or “isolates”, Traditional Cultural Places (TCP), Historic Properties of Religious and Cultural Significance to an Indian Tribe (HPRCSIT), cultural landscapes, storied landscapes, etc. may be eligible to the NRHP, but they still need to fit into one of the five eligible property types.

For example, archaeological sites, archaeological objects or “isolates”, TCP, HPRCSIT, cultural landscapes, and storied landscapes most often fit in the “Site” or “District” property types. There are exceptions to these and how they may fit into the NRHP property types. In fact, TCP, HPRCSIT, cultural landscapes, and storied landscapes may be eligible and include related or contributing archaeological objects, or sites, or may be eligible and lack archaeological objects and sites. There also may be no known or documented TCP, HPRCSIT, cultural landscapes or storied landscapes, yet there may be eligible archaeological sites or places with archaeological objects. While this may be confusing, applying the NRHP criteria is the best way of sorting out how a place may or may not be eligible.

Sites and Districts:

The definitions from NR Bulletins for Sites and Districts makes it clear that these are common NRHP property types for archaeological sites, archaeological objects, TCP, HPRCSIT, cultural landscapes, storied landscapes, etc. Portions of the definitions of each from National Register Bulletin 15 and December 2024 revised National Register Bulletin 38 are provided below. Based on these definitions, archaeologists should be mindful that research, including working with Tribes, descendant, and underrepresented communities, can assist with identifying Sites and Districts prior to conducting field investigations.

A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure. A site can possess associative significance or information potential or both, and can be significant under any or all of the four criteria. A site need not be marked by physical remains if it is the location of a prehistoric or historic event or pattern of events and if no buildings, structures, or objects marked it at the time of the events [USDI NPS 1997a].

A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. A district derives its importance from being a unified entity, even though it is often composed of a wide variety of resources. The identity of a district results from the interrelationship of its

resources, which can convey a visual sense of the overall historic environment or be an arrangement of historically or functionally related properties [USDI NPS 1997a].

A place may be defined as a “site” as long as it was the location of a significant historic event or cultural activity, regardless of whether the event or activity left any evidence of its occurrence. Depending on its size, features, and associations, a culturally significant natural landscape may be classified as a site, as may any location where significant traditional events, activities, or observances have taken place [USDI NPS 2024:41].

For archaeological sites, it is important to both look at the context of place and assess whether there is any inter-site connectivity warranting consideration as a district. A district may also include resources associated with archaeological sites and objects relating to specific activities (e.g., quarries/lithic procurement, trade, camas harvesting/processing, fishing, obsidian distribution, archaeological site patterning along retreating Pluvial Lakes over hundreds or thousands of years, historical mining or logging, resource procurement in the vicinity of a village, places with or without archaeological objects or sites associated with a significant “person”, and natural or cultural significant features etc.).

As one archaeological example, consider a small discrete lithic scatter on or in proximity to a significant natural or cultural feature. When doing an evaluation, the archaeologist should not just evaluate the lithic scatter but also address its context (as discussed in the Research section of this document). Research and consultation must occur to fully understand importance of place, and any contextual connection between the lithic scatter and natural or cultural feature will assist with applying the NRHP criteria. In this example, the small lithic scatter may be one of several such property types associated with the natural or cultural feature which should collectively be considered as part of district. The same would hold true for any archaeological object (isolate) that may be part of a broader significant activity or event, or pattern of events (Criterion A example) related to the cultural feature. As with any property type, districts require an understanding of context.

Some of these same examples are offered in National Register Bulletin 16A (USDI NPS 1997b) as types of archaeological districts:

- An Indian village with outlying sites
- A group of quarry sites
- Historic manufacturing complex

The important thing to consider about districts is that identifying them requires targeted research to understand historic context. Another point of consideration important for compliance archaeology is that an archaeological object or site may not be individually eligible to the NRHP under any of the four criteria but may still be eligible as part of a district. Considerations of districts are important for reviewers, in part, because they are an eligible property type and requirement for compliance investigations.

Not eligible recommendations or determinations based entirely on field observations (e.g., number of objects, lack of intact strata, tools or features) fail to support the archaeologist had any broader

understanding of the context of their investigation. Put another way, failure to recognize a district in this situation has the potential to lead to a “death by a thousand cuts” approach where an eligible district is not recognized for failing to “see the forest for the trees”. It is for the reasons above that documenting districts or providing support and justification for why they are lacking is critical in compliance archaeological reports.

Criterion A:

According to NR Bulletin 15, historic properties are eligible under Criterion A if they “are associated with events that have made a significant contribution to the broad patterns of our history” (NPS 1997a:12). It is important to note that NR Bulletin 15 also states that to be eligible under Criterion A, “a property must be associated with one or more events important in the defined historic context”. Please refer to the Research section regarding developing historic contexts for more information. Three key words to consider in Criterion A are: **events**, **our**, and **history**. National Register bulletins provide specific archaeological examples under Criterion A, based on **events**, or patterns of **events**, the perspective of the community (**our**) that considers a place significant, and both recorded **history** and traditional oral **history**.

Events:

Examples of events specific to archaeology are included in NR Bulletin 15. There is also the caveat that the property being evaluated “must be documented, through accepted means of historical or archaeological research (including oral history)” (USDI NPS 1997a:12). An event can be a specific “moment in prehistory or history”, such as a somewhat dated example from NR Bulletin 15, “an archaeological site at which a major new aspect of prehistory was discovered, such as the first evidence of man and extinct Pleistocene animals being contemporaneous” (USDI NPS 1997a:12). Events can also consist of a pattern of events or a trend that made a significant contribution to a community. For this, NR Bulletin 15 provides archaeological examples, such as, “a site where prehistoric Native Americans annually gathered for seasonally available resources and for social interaction” (USDI NPS 1997a:12). Patterns of events are also addressed in the December 2024 revised National Register Bulletin 38 (USDI NPS 2024:47), which states: “places may have significance under Criterion A if they are associated with events or a pattern of events significant to the cultural traditions of a community. “” Events” can include specific moments in history or a pattern of events reflecting a broad pattern or theme” (USDI NPS 2024:47).

Consider the patterning of archaeological sites and associated context of traditional plants in Figure 1. In that example, a case for a Criterion A district comprising the archaeological sites and broader landform would be appropriate. In that example, the archaeological sites and association with plant communities at that location demonstrate a pattern of events relating to food acquisition and processing. Tribes, descendant, and underrepresented communities may support district eligibility as well, at the local level. That type of connection to a community directly relates to the perspective of “our”.

Our:

According to the December 2024 revised National Register Bulletin 38 (USDI NPS 2024:47), “in the context of evaluating a traditional cultural place, the word “our” in this criterion refers to the community for which the place has traditional cultural significance”. The definition should serve as a reminder that there is a great responsibility for the archaeologist to make sure their opinions also include the views of Tribes, descendant or underrepresented communities. If the archaeologist is hired

to fulfill the Section 106 responsibilities of a federal agency, then their recommendations need to reflect the views of these communities. Even where the agency official must consult with (e.g.,) Tribes that attach religious and cultural significance to properties within the APE, the archaeologist needs to include their views as well in their assessments on NRHP eligibility, to the degree that it is known from available publications, grey literature, tribal information, or communication with Tribes. As has been stated, targeted research assists with understanding the context of people, place, and activities.

At SHPO, recommendations and determinations of eligibility are difficult to concur with if they do not address the “our” perspective from the appropriate tribe or community. Again, while the opinion of the professional archaeologist is important, it must also have a basis from research reflecting the views of appropriate Tribes, descendant, and underrepresented communities.

History:

According to the December 2024 revised National Register Bulletin 38 (USDI NPS 2024:47), “the word “history” includes oral history as well as recorded history.” With that definition in mind, consider places in Oregon that are prominent in tribal creation stories. Some of these places may have archaeological objects or sites, while some have no physical manifestation of past human activity. Through research, if such places exist within an APE or project area, if archaeological objects or sites exist at such a location, they should not be evaluated against the NRHP criteria individually or collectively without consideration of the importance of place, from the concept of “history”. Similarly, if such places exist within an APE or project area where an isolate is found, or that completely lack any archaeological objects or sites, that should not equate to the place itself as not being eligible, or a finding of No Effect without consider “history” from targeted research about people, place, and activities. As discussed in the Research section of this document, understanding place is important prior to any archaeological investigation. The simple reason being, as stated throughout this document, is that archaeological objects or sites do not occur in a vacuum. It is due to that understanding why context, including an understanding of “history” is critical to research and applying the NRHP criteria.

Reminders on Context from Research:

As discussed in the Research section, context is critical for understanding places and associated archaeological objects, sites or districts. National Register Bulletins stress that importance as an integral part of the process for assessing eligibility under all criteria, including Criterion A. Archaeologists must address context to address these objectives. Consider whether a Criterion A site is (e.g.,) part of a larger pattern of events, or possesses cohesion of characteristics with other known archaeological objects or sites in the vicinity suggesting connectivity to a district. Such patterns and cohesion should be addressed even if they extend beyond a project area or APE. The reason being, is that if an archaeological site is eligible as part of a district, but possibly not on its own, it still needs to be afforded application of the criteria of adverse effect (36CFR800.5).

Criterion A Context:

According to National Register Bulletin 15, Criterion A is based on determining the nature and origin of the property, identifying the historic context within which it is associated, and evaluating the property’s history to determine whether it is associated with the historic context in any important way. Again, importance is based on perspective. Whether at the National, State, or Local/Community level.

Under Guidelines for Developing Historic Context in National Register Bulletin 16A (USDI NPS 1997b) it discusses the importance of explaining how an event or pattern of events made an important contribution to the history of the community, State, or Nation, and how related types of properties reflect these events. For compliance objectives, this is both important to support an eligible determination, as well as a not eligible determination.

Applying Criterion A with Support and Justification:

Applying Criterion A requires pulling contextual information from research (including consultation/coordination), field methods, and any analyses. Whether making a determination or recommendation of eligibility consider the examples and questions from or based on National Register Bulletins below to aid with support and justification for both eligible and not eligible assessments. It is important to note that these are just examples, with some overlap. Other considerations should be included to inform assessments based on research and results of fieldwork and analyses. The bullet points below are intended to help archaeologists identify, prioritize, and organize the types of information they should gather and consider when applying Criterion A.

- Based on research or results of fieldwork, name any group(s) that qualify as an “our”
 - If, for example, a connection to a community exists (e.g., tribe, Oregon Chinese Consolidated Benevolent Society of Oregon, Oregon Black Pioneers, Oregon California Trail Association, Historical Society, Veterans, ...), what efforts were used to involve them in whether a place is important to them or not?
- Based on research or results of fieldwork, is an event or patterns of events associated with the property or place, and are they important or not to a community, the State, or the Nation.
 - If there is an event or pattern of events that is not part of an important contribution to the history of a community, State, or nation, provide support from research citing sources consulted.
- Examples of Events and Patterns of Events:
 - Resource procurement or processing (fishing, hunting, lithic procurement, collecting, etc.)
 - Whether repetitive at the property itself, or throughout the area.
 - Ancillary activities in proximity to a camp, village, or other somewhat sedentary habitation.
 - Trade networks
 - Legendary story
 - Civilian Conservation Corps (CCC) camp
 - Trails
 - For example, Oregon Trail, trails used as part of seasonal rounds, trails used for trade, etc.
- Do place names exist that suggest an event or pattern of events (e.g., Wapato Creek, Champoege, Camas Valley, Battle Creek)?
 - Explain how the subject property, or related property types reflect (or not) these events.
- In general, based on research, what recorded history, traditional oral history or archaeological data is known or documented about the property or region that identifies, suggests, or refutes connections to an event or patterns of events?

- Based on examples in NR Bulletin 15, explain if the property is associated with any of the following, or not, as applicable:
 - An archaeological site at which a major new aspect of prehistory was discovered, such as evidence of people in Oregon earlier than previously thought?
 - “a site where prehistoric Native Americans annually gathered for seasonally available resources and for social interaction”?
 - Are there well-reasoned inferences that can be drawn from data recovered at the site to establish the association between the site and any events?
 - For example, evidence of a correlation between a shift in diagnostic tool types and a major change in subsistence strategy.
- If a property is eligible/not eligible on its own, could it also be part of a larger eligible district?
- Is there a cultural context in which the property is considered significant?
 - Does the property relate to what is currently known of the region’s history and similar known archaeological objects and sites?
 - What information exists based on knowledge of similar archaeological objects or sites?
 - How does the property contribute important information regarding traditional ecological knowledge, cultural history, or cultural processes?
 - Are there traditional plants or other important resources in or adjacent to the property?
 - Is the site within or adjacent to a tribal allotment?
- State whether any eligible or not eligible assessments were provided to any community (e.g., tribe, Oregon Chinese Consolidated Benevolent Society of Oregon, Oregon Black Pioneers, Oregon California Trail Association, Historical Society, Veterans, ...) that attaches any importance to the area.
 - State whether they concur with the assessment or not.

Things to Consider:

Criterion A is applicable to all NRHP property types (Buildings, Sites, Districts, Structures, and Objects). As an example, for a site or district, it is important to understand events, and patterns of events with awareness to the “event”, “our”, and “history” as discussed above. An example below addresses the importance of understanding place, people, and activities, as opposed to number of archaeological objects.

My area of investigation is within a 100-acre place called “Camas Meadow”. After excavating five presence absence shovel probes within a .1-acre project area, one piece of fire cracked rock (FCR) was recovered. What should I consider?

Under Criterion A, a *place* may be eligible to the NRHP if it is associated with an event, or pattern of events. If a place name relating to how an area was used in the past (possibly even continuing to the present) exists, it should be assessed in terms of the pattern of events. Such an assessment would also require consultation/coordination with Tribes. In this compliance example, the fact that only one FCR was encountered would not support the place is not eligible to the NRHP. One could argue that there appears to be an associated pattern of events (camas harvesting and processing) based on the place name, research, consultation/coordination with Tribes, etc. The FCR may be part of that pattern, but difficult to determine due to the relatively small project area. In that regard, the place may be eligible under Criterion A whether or not the FCR is associated with camas processing or not.

In this scenario, the archaeologist can recommend the meadow as eligible to the NRHP under Criterion A for example, if supported by research. What would not be supported is a not eligible recommendation based entirely on the single piece of FCR and overall lack of contextual information. With that said, for compliance, depending on the nature of the small project in such a large area, a case for a no adverse effect could *potentially* be made (please refer to findings of effect in the Documentation Standards section).

Looking at this scenario another way, consider a small project at Gettysburg Battlefield. If an archaeologist excavated five shovel probes and only found one shell casing, that would not make the battlefield not eligible. Since the “Camas Meadow” may be significant to a community different than the archaeologist, it is important that they understand their perspective, as opposed to randomly basing eligibility on the number of objects identified, or lack thereof. The point of the comparison to Gettysburg is that an archaeologist would never base eligibility on the number of objects at the battlefield. That begs the question of why that would be any different for places important to other communities in Oregon.

Archaeologists need to understand that not eligible statements must be avoided if they fail to consider the larger area, views of a community, or context. That practice could result in a “death by a thousand cuts” for what could be a Criterion A pattern of events and district. As stated in the research section, if there is already evidence to support, for example, the meadow is eligible, the fact that only one piece of FCR was recovered in a small sample of the larger property would not detract from the importance of the place itself. This, in part, is another reason why the notion that an archaeological object (isolate) is not eligible to the NRHP is false.

Criterion B:

Historic Properties are eligible under Criterion B if they “are associated with the lives of persons significant in our past” (USDI NPS 1997a:14). Similar to Criterion A above, two key words to consider in the statement are: **persons**, and **our** (defined above). National Register bulletins provide specific archaeological examples and definitions under Criterion B for “persons” and how the connection to a community directly ties into the perspective of “our” as defined above.

Persons:

According to National Register Bulletin 38, “the word “persons” can refer to a physical human being whose existence in the past can be documented from historical, ethnographic, or other research, as well as an ancestor, mythical figure, or spirit who features in the traditions of a group” (USDI NPS 2024:48). A good example of a “mythical figure” may be any of the legendary figures in tribal stories (e.g., Coyote, Salmon, Fox, etc.). In fact, some Tribes have published some of these stories, while other accounts may come from ethnographies where people offered stories while being interviewed.

In one example offered in National Register Bulletin 15, it states: “the known major villages of individual Native Americans who were important during the contact period or later can qualify under Criterion B...” (USDI NPS 1997a:16). Places such as this exist in Oregon. As one example discussed a little later, a village associated with a prominent woman is used as a case for Criterion B in Oregon.

Criterion B Context:

Under Guidelines for Developing Historic Context in National Register Bulletin 16A (USDI NPS 1997b) it discusses the importance of explaining why the “person” associated with a place is important to the

community, State, or nation. Information from, e.g., tribal coordination or consultation can help with making such connections. At times, the connection is evident from tribal resources, ethnographic accounts, historic accounts, and the context of an archaeological site or district. For example, a Coyote story may involve a specific place where an event occurred in the time before people. If the place is known, a connection can be made to the place itself, archaeological site or not. If an archaeological site or district is located at the place where some connection to the story is evident, a case for Criterion B could be made to the place and incorporate any related archaeological properties.

Applying Criterion B with Support and Justification:

As with all NRHP criteria, applying Criterion B involves research. Research on Criterion B historic context involves more than just historic figures, but also, as stated, any “person” important to a community, including “an ancestor, mythical figure, or spirit who features in the traditions of a group” (USDI NPS 2024 48). For some groups, such as some Tribes, persons that were forced to (e.g.), stop teaching their language or to farm (e.g. because of The Dawes Act), may have importance for having maintained cultural traditions, nonetheless. A name associated with an allotment may not have meaning at the State or National level but could be very important to a tribal community. The same holds true for places associated with any group of people. The perspective of “our” is rarely the archaeologist, which is why assessments on important “persons” must be based on research and understanding the historic context of place.

Examples from or based on NRHP Bulletins are provided below to aid with support and justification for both eligible and not eligible assessments under Criterion B. As with Criterion A above, it is important to note that these are just a few examples, with some overlap. Other considerations should be addressed in any recommendations or determinations as applicable.

- Based on research:
 - Name any group(s) that represents “our”
 - Using (e.g.,) oral histories, ethnographic or historical accounts, names of places, consultation/coordination etc. name of any significant “persons”.
- Using the information above, provide support and justification regarding whether the place of the investigation is associated with any “person” significant to “our” past.
 - Are there any archaeological objects or sites associated with any “person”.
 - For both eligible and not eligible assessments:
 - Include all accounts and sources consulted that either provide or detract support and justification regarding associations with any “persons” significant to “our” past.
 - State whether any eligible or not eligible assessments were provided to any community (e.g., Tribes, Oregon Chinese Consolidated Benevolent Society of Oregon, Oregon Black Pioneers, Oregon California Trail Association, Historical Society, Veterans, ...) that attaches any importance to the area.
 - State whether they agree with the assessment or not.

Things to Consider:

Criterion B is applicable to all NRHP property types (Buildings, Sites, Districts, Structures, and Objects). For assessment as a site or district, it is important to understand “persons”, significant in “our” past, and how targeted research is important towards that objective.

My area of investigation is within a place associated with an important person (e.g., Quinaby, Yellow Bird, Louis Kenoyer, Annie Miner Peterson, Joseph, Captain Jack, Coquelle Thompson, Lung On (梁光榮), Ing Hay (伍予念), Beatrice Morrow Cannady, Coyote, Lewis and Clark...). What should I consider?

Under Criterion B, a place may be eligible to the NRHP if it is associated with a “person” important in “our” past. Making the connection between the “person” and a related place, or associated activity or happening offers support, regardless of the presence of any archaeological object or site. Consider places associated with Annie Miner Peterson.

It was Annie [Miner Peterson] who preserved for posterity a glimpse of the culture of her mother and her ancestors before the coming of the Moving People. Unlike many of her contemporaries, Annie did not filter her narratives through the inhibitions and taboos instilled by Christian white culture. As a linguistic informant to the anthropologist Melville Jacobs, she gave to science virtually all that is known of the Miluk language [Youst 1997:xii].

In the quote above, one aspect of the significance of Annie Miner Peterson is addressed in the short passage. Youst (1997) provides many other reasons for her significance at both the local and State level, if not the National as well. With that in mind, places associated with Annie Miner Peterson that lack archaeological objects or sites would be no less eligible to the NRHP than those of (e.g.,) Lewis and Clark. In fact, there are known places associated with Annie Miner Peterson, including those with associated archaeological sites. It is for these reasons that research is a critical part of understanding the context of people, place, and activities. For this example, it helps address how Criterion B could be applicable to any archaeological sites associated with the person, possibly even under criteria considerations such as place of birth.

My area of investigation is within a place associated with a mythical figure or legendary “person”. What should I consider if my archaeological investigation fails to identify any archaeological objects or sites?

Places can be eligible to the NRHP under (e.g.,) the category “site”, which need not be marked by physical remains. For compliance purposes, such as Section 106, all historic properties within an APE need to be identified, evaluated, and then as applicable assessed for effects. Familiarity with the associated story or account can in fact have direct connections to the types of archaeological sites within such a place and their eligibility to the NRHP. That, in part, is why targeted research and working with Tribes, underrepresented, and descendant communities is a critical part of any archaeological investigation.

How is it possible for archaeologists to make connections to legendary figures and archaeological objects or sites?

Consider a shell midden. If for example the location is along a water way named Coyote Creek or a place associated with a Coyote story about mussel shells, a case can be made under Criterion B. Coyote is a

legendary figure that features in the traditions of several northwest Tribes and meets the definition of a “person”. The midden itself could also be associated with a pattern of events, supporting Criterion A, and if it has or is likely to provide important information on “prehistory”, Criterion D would also be supported.

Criterion C:

Historic properties are eligible under Criterion C “if they embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction” (USDI NPS 1997a:17) In NR Bulletin 38, Criterion C is subdivided into four parts which are addressed below. As with all NRHP criteria, archaeologists need to be mindful of how archaeological objects and sites can be eligible under Criterion C, along with associations to HPRCSIT, TCP, or Cultural Landscapes.

Criterion C 1, Distinctive Characteristics of a Type, Period, or Method of Construction:

According to NR Bulletin 38, the Criterion C 1 subdivision applies to places that have been constructed or contain constructed things. In the NR Bulletin 15 definitions for Building and Site it states: “if a building has lost any of its basic structural elements, it is usually considered a “ruin” and is categorized as a site”, and a Site is defined in part as “...a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value...” (USDI NPS 1997a:4-5).

Village sites, wikiups, sweat lodges, housepit depressions, longhouses, foundations, former towns, etc. “whether ruined, or vanished” are places where archaeological buildings or structures should be evaluated as a Site under Criterion C (and A, B, or D as applicable). Along with other information, associated temporally diagnostic archaeological objects, radiocarbon dates, ethnographic accounts, oral traditions, etc. can help with placing such places into a defined “period”.

In NR Bulletin 15, ““a type, period, or method of construction, refers to the way certain properties are related to one another by cultural tradition or function, by dates of construction or style, or by choice or availability of materials and technology” (USDI NPS 1997a:18). According to NR Bulletin 38, the “subcriterion most often applies to places that have been constructed or contain constructed things – that is, buildings, structures, or built objects – in a place that has traditionally been occupied by a particular ethnic group” (USDI NPS 2024:49).

- Criterion C1 examples (non-exhaustive):
 - A housepit depression
 - Chinatown
 - Pithouse village
 - Plankhouse
 - Wikiup
 - Sweat lodge/structures
 - Foundations
 - Rail lines
 - Talus pits
 - Storage features
 - Rock alignments

- Stacked rock features
- Ovens (e.g., Camas)
- Irrigation systems
- Mounds (“both visible [above ground] and not visible [buried] structures – represent thousands of years of planned and intentional construction” NPS 2024:49).

Criterion C 2, Representative of the work of a master:

According to NR Bulletin 38, the Criterion C 2 subdivision represents the work of a master. An example in NR Bulletin 38 states: a place “identified in tradition or suggested by scholarship to be the work of a traditional master builder or artisan” may be regarded as the work of a master, whether or not the precise identity of the master may not be known (USDI NPS 2024:50). In NR Bulletin 15 and 38, it further states: “the work of an unidentified craftsman is eligible if it rises above the level of workmanship of the other properties encompassed by the historic context” (USDI NPS 1997a:20 and USDI NPS 2024:50). Any building, site, district, structure, or object can be the work of a master. As the quote from NR Bulletin 15 suggests, historic context is important.

- Criterion C2 Examples:
 - According to NR Bulletin 38, “As of this writing no TCP has yet been included in the National Register for its significance as the work of a master” (USDI NPS 2024:50).
 - Oregon SHPO offers this as a challenge to the Oregon compliance community.
 - Consider NR Bulletin 15, which states: “the work of an unidentified craftsman is eligible if it rises above the level of workmanship of the other properties encompassed by the historic context”.

Criterion C 3, Possession of high artistic values:

According to NR Bulletin 38, the Criterion C 3 subdivision applies to properties possessing high artistic values. It further states that “a place may be included in the National Register for its high artistic values if it “fully expresses an aesthetic ideal” valued by a group for traditional cultural reasons” (USDI NPS 2024:50). Petroglyphs and ground drawings by Native Americans are offered as eligible examples in NR Bulletin 15, which would also include pictographs as well. It is clear from these examples that Criterion C is applicable to more than just buildings or structures, which should be kept in mind when applying the NRHP criteria.

- Criterion C3 Examples (non-exhaustive):
 - “Properties that are important representatives of the aesthetic values of a cultural group, such as...”:
 - Petroglyphs (NR Bulletin 15)
 - Pictographs
 - Carved effigies
 - Basketry
 - Decorative mortars or pestles
 - Canoes

Criterion C 4, Significant and Distinguishable Entity Whose Components May Lack Individual Distinction:

According to NR Bulletin 38, “a place may be regarded as representing a significant and distinguishable entity, even if many of its parts lack individual distinction to the casual observer” (USDI NPS 2024:50). The parts collectively, however, may represent greater traditional cultural connectivity as a district. “A TCP may be a district if it possesses a significant collection of buildings, structures, sites, or objects united historically by intentional plan, physical development, or traditional beliefs, customs, and practices” (USDI NPS 2024:50).

Many TCPs are landscapes with many components—hills, springs, rock outcrops, plant communities, former habitation sites—and may be considered districts under Criterion C, although they are usually eligible under Criterion A as well, and they may be classified as sites rather than districts, particularly if they are comprised mostly of natural resources [USDI NPS 2024:52].

Based on the quote above, after understanding the historic context relating to a group of archaeological sites and their connectivity to plant communities and associated activities manifested in the cultural assemblage, (e.g., Figure 1), such TCP districts would seemingly be rather common in the archaeological record in Oregon. Recognizing that connectivity requires targeted research prior to field work to establish the historic context of a place, and the ability to recognize the association between that context and any cultural material assemblage of nearby archaeological sites. This example supports how context helps identify “patterns or trends in history by which a specific occurrence, property, or site is understood and its meaning (and ultimately its significance) within history or prehistory is made clear” (USDI NPS 1997a:7). It also supports how the core premise of understanding context “is that resources, properties, or happenings in history do not occur in a vacuum but rather are part of larger trends or patterns” (USDI NPS 1997a:7). Collectively, it demonstrates how the discipline of archaeology transcends merely focusing on archaeological objects themselves when applying the NRHP criteria and the importance of place-based research.

Criterion C4 Examples (non-exhaustive):

- Traditional plant harvesting/processing areas
 - Archaeological sites located in proximity to and associated with traditional plant harvesting areas.
 - Traditional plant harvesting areas without any documented associated archaeological objects or sites.
- Resource procurement areas
 - Quarries
 - Fishing locations
 - Shellfish procurement and processing locations
- Place Names (e.g.)

- Camas Valley
- Wapato Creek
- Badger Mountain
- Natural/Topographic Features
 - Places prominent in (e.g.,) Coyote stories
 - Places prominent in creation stories
- Places of power
- Hills (e.g., Table Rock, Spirit Mountain)
- Springs
- Rock outcrops
- Plant communities
- Former habitation sites

Criterion C Context:

Context for Criterion C is based on an understanding of the type of method of construction, work of a master, high artistic values and a significant and distinguishable entity whose components may lack individual distinction. Understanding the context for each and how they may be significant to the development of a community must be addressed through a combination of research and results of fieldwork. Combined, both help with addressing eligibility for examples above as well as any not included.

Applying Criterion C with Support and Justification:

As with all criteria, applying Criterion C involves research specific to place. Many of the eligible examples above, again, as with all criteria, can be identified *before* fieldwork. One of the examples in the Guidelines relates to identifying a place name (Camas Meadow) that offers insight into how the place may be eligible as a “plant community” important to people. If associated archaeological objects or sites are not identified during fieldwork, it would not alone mean the place is not eligible to the NRHP. Consequently, if a few isolated pieces of FCR were recorded, the archaeologist would not evaluate them based on a count but based on the context where they are located (another example of not evaluating archaeological objects or sites in a vacuum).

The examples above are intended to help archaeologists understand both the applicability of Criterion C, but also how archaeological objects and sites may contribute to that eligibility. As stated throughout the Guidelines, a lack of archaeological objects or sites, or a few isolated occurrences, do not equate to not eligible alone, unless eligibility is unsupported by the context of place as understood through targeted research.

Things to Consider:

Criterion C is not just for buildings. For archaeologists, it is not just for petroglyphs and pictographs. Archaeologists should familiarize themselves with Criterion C, and how to incorporate it into compliance investigations. Among other suggestions above, understanding place names is important for all criteria, including Criterion C. Place names can assist with understanding the importance of place, in addition to people and activities. It can assist with identifying districts as well. Remembering that many TCPs are landscapes, “hills, springs, rock outcrops, plant communities, former habitation sites” (USDI NPS

2024:52) provides a research objective, a subject for consultation/coordination, and context for any identified and related archaeological objects or sites.

Criterion D:

Historic properties are eligible under Criterion D if they “have, or have had, information to contribute to our understanding of human history or prehistory” (USDI NPS 1997a:21). In addition, “the information must be considered important” (NR Bulletin 15). For this, NR Bulletin 15 continues by stating that the information must be evaluated within an appropriate context to determine importance. Again, as stressed throughout the research and NRHP sections of the Guidelines, context is a critical part of any compliance archaeological investigation.

Criterion D Context:

According to NR Bulletin 16A, it is important to “explain why the information the site is likely to yield is important to the knowledge of the prehistory or history of the community, State, or nation” (USDI NPS 1997b:51). To address that importance, understanding the historic context is critical. That context requires research, including consultation/coordination with any community that may consider an archaeological site and any associated district important. Archaeologists can add their own support and justification against all four NRHP criteria, but it needs to be based on targeted research, and involve the views of the appropriate community, even if it is also significant at the State or national level. It is important to note that based on context, surface manifestations of archaeological sites alone can provide important information on history or prehistory, in addition to subsurface archaeological deposits. Surface and subsurface archaeological deposits also need not be “intact” to yield important knowledge about the past. Important knowledge is based on context and requires an understanding of both intra-and inter-site comparisons at individual places and at a district level.

Eligible Examples (not exhaustive):

- An archaeological site with intact strata where activities in the past are understood during all or part of the period of use by people.
- A site with an archaeological feature that has yielded or has the ability to yield important information on activities by people of the past.
- A refuse scatter associated with a specific community (e.g., Chinese, African, Japanese, European, Native American ancestry) indicative of maintaining cultural traditions.
- A district consisting of several lithic procurement sites indicative of an important source material and associated reduction strategies over a considerable period of time.
- A district consisting of archaeological sites comprised of mostly surface manifestations along the margins of a pluvial lake slowly and continually receding over several millennia. The archaeological sites provide evidence of continued use by people visiting its changing margins over time. Temporally diagnostic objects recorded at archaeological sites providing a record of technological change from the furthest remnant of the lake up to its current margin could be important information about the past from the first use of the lake prior to receding up to its current margin.
 - This example also addresses the need to look beyond project boundaries, to avoid the “death by a thousand cuts” process that can occur from only addressing relatively small areas without a broader understanding of overall context of place.

- Features, such as a hearth, storage pit, rockshelter, cache, foundation, privy, cupules, talus pits, post holes, portage road, mining related, logging related, camas ovens, fish wheel, etc.
- Deflated artifact concentrations along a reservoir marking the location of a village, fishing location, or activity area.
- A discrete refuse scatter providing important information on a specific moment in history.

Applying Criterion D with Support and Justification:

Criterion D is about having yielded or possessing the potential to yield important information on “prehistory” or history. Before making a supporting case justifying eligibility or not under Criterion D, it is important to understand that intact stratigraphy, number of archaeological objects, presence or absence of tools or features are not absolutes in terms of eligibility. If an archaeologist is applying Criterion D, they need to make a case for or against eligibility, based on justifying why a place has or has not yielded or lacks the potential to yield information important to “prehistory” or history.

- Evaluations must be within an appropriate context to determine importance.
- Evaluations must clearly demonstrate how the property has or has not yielded or has or has not the potential to yield information important to “prehistory” or history.

Things to Consider:

There are no automatic disqualifiers for Criterion D. Criterion D is about knowing whether an archaeological site or place with an archaeological object has yielded or has the potential to yield information important to “prehistory” or history, especially at the Site or District levels. Support and justification for Criterion D requires research and an understanding of regional archaeological context, and consultation or coordination with Tribes, underrepresented and descendant communities.

Combining the two bullet points above, support and justification under Criterion D needs to be explicit and based on context. If one reason addressed is intact strata, explain how that has yielded or has the potential to yield information important to “prehistory” or history. If strata are not intact, that alone would not exclude Criterion D eligibility. As such, consider if the assemblage or intra- and inter-site comparisons, patterning of archaeological sites, etc. have the potential to provide important information to “prehistory” or history. Similarly, for an archaeological object (isolate), eligibility under Criterion D is not about the number of objects, but whether there is a connection to the context of place, people, and past activities that would meet any of the four NRHP criteria. As discussed previously, a small project yielding a single piece of (FCR) may have more meaning if it is located within a much larger place called “Camas Meadow”.

Identifying Criterion D Archaeological Districts

As has been stated throughout the Guidelines, archaeological sites do not occur in a vacuum. Wherever there is an archaeological site, there are often other archaeological sites and objects in the vicinity that are either of the same type (e.g., mining related, logging, peeled trees, etc.), related to activities around (e.g.,) a village, or are part of broader resource procurement, trade, or mobility pattern. Consider obsidian sourcing, which can provide important information relating to mobility and complex trade networks. A case could be made for both Criterion A and D as there is both a demonstrable connection to a pattern of events, which is based on important information yielded from singular archaeological objects, and objects within archaeological sites.

Areas with similar archaeological sites should be considered in terms of eligibility as a district, especially if the archaeologist is making a case that a site on its own is not eligible. It is possible for an archaeological site to not be eligible on its own yet be eligible as part of a broader district. Individual archaeological objects (isolates) can also be pulled into such districts, if they are representative of the connectivity amongst the properties comprising the district.

Criterion D Examples for “Isolates” and Archaeological Sites Lacking Intact Strata:

Based on the above, assessing NRHP eligibility under Criterion D must include research and an understanding of context. There is no shortcut by claiming “isolates by definition are not eligible to the NRHP” or “deposits were not intact”. While these examples are false because applying the NRHP criteria requires an understanding of context, they still find their way into reports on archaeological investigations as quick and easy ways to suggest Criterion D does not apply. Consider two examples below.

Example 1: An archaeological survey for a wind farm planned for a large hill identifies 32 separate isolates. Each, consisting of either an intact or remnant of a projectile point. In addition to each, historical and modern to recent shell casings were observed on the hill. Based on research prior to the survey, the archaeologist learns from ethnographic accounts, and consultation/coordination with a tribe that the hill has been an important hunting area as long as anyone can remember. In fact, the hill even has a place name associated with that activity.

Is the hill and the individual archaeological objects (isolates) not eligible under Criterion D because of the incorrect notion that “isolates by definition are not eligible to the NRHP”? Is Criterion D not applicable because the archaeological objects are all surface finds, and there is no depth or strata to assist with understanding the post depositional environment or ability to obtain associated chronometric dates? Or do the temporally diagnostic projectile points provide relative dates to support the continued use of the hill as a hunting area over a considerable span of time, up to the present that also relates to the place name for the hill? In this example, the ability to yield information important to the past is evident and that information further supports the importance of the place to the community. In this single example, a case for Criterion D (and Criterion A) could be made.

Example 2: A stretch of reservoir along an inundated river contains several archaeological sites largely deflated and mixed after eroding from the cutbank. Is the quick and easy reaction to be a not eligible recommendation or determination under Criterion D because the cultural deposits are mixed and not within intact strata?

What if some of the archaeological sites are located at known fishing locations important to a tribe as long as anyone can remember? What if others are located nearby and contain artifacts associated with more sedentary use or are near important traditional plant communities? What if there were associated traditional stories about landforms and legendary figures in a time before people situated around the deflated archaeological sites? Based on research and consultation or coordination with Tribes, is it possible to understand during what part of the year people typically focus subsistence activities along the river? If so, could the patterning of the archaeological sites suggest multiple uses based on seasonally available resources?

In this example, information important to the past could also be understood through the context of place. The archaeological assemblages may still contribute important information based on diagnostic

objects relating to any number of activities. In this example, a case could be made for Criterion D (as well as Criteria A and B) based on research and understanding of the context of place.

Integrity:

There are seven aspects of integrity to consider relating to NRHP eligibility. These include Location, Setting, Design, Materials, Workmanship, Feeling, and Association. As discussed in the Preface to this document, all seven aspects of integrity are not required for NRHP eligibility. In fact, as discussed below, archaeological resources are specifically called out in National Register Bulletin 16A as not needing all seven aspects.

Integrity is the ability of a property to convey its significance. The seven aspects of integrity—location, setting, design, materials, workmanship, feeling, and association—are the lens through which historic properties are assessed. But remember, “integrity” is not “condition,” a distinction that has existed since the inception of the National Register program [USDI NPS 2024:1].

Consider that there are NRHP listed archaeological sites and districts that exist in plowed fields, beneath reservoirs, sidewalks, roads, baseball fields, etc. There is no documented level of disturbance that disqualifies an archaeological site or place from being eligible to the NRHP if any of the criteria are met. Regarding the seven aspects of integrity and archaeological sites, consider the following from National Register (NR) Bulletin 16A:

The integrity of archaeological resources is generally based on the degree to which remaining evidence can provide important information. All seven qualities do not need to be present for eligibility as long as the overall sense of past time and place is evident [USDI NPS 1997b:4].

For integrity, the issues that need to be addressed are not whether there is disturbance (most archaeological sites are disturbed). Instead, the focus needs to be on applying the NRHP criteria based on research (including consultation/ coordination). That alone may identify a place as eligible, or through a combination of research and fieldwork and analyses. The information collected provides justification on whether a place is associated with an event or pattern of events, an important person, a legendary or storied figure, represents a type, period, or method of construction, or has either yielded or has the potential to yield information important in the past. The archaeologist must further convey whether such properties are important at the local (community), State, or National level.

For a traditional cultural place, integrity should always be assessed from the point of view of the traditional community. This can be documented—as all National Register nominations are required by regulation to be “adequately documented”—by assessing its integrity within the context of the place’s specific significance to the community [USDI NPS 2024:7].

Common Things to Consider Regarding NRHP Evaluations:

Below, a few common NRHP application topics are addressed. More may be added as needed. The point of the issues addressed below is to shift the focus from what may be considered shortcuts to application of the NRHP criteria, to applications actually backed by support and justification.

Disturbance:

Whether deflated, in a plowed field, reservoir, beneath a street or sidewalk, in a previously trenched area, heavily looted, etc. whatever level of disturbance that has impacted an archaeological site does not alone disqualify it as not being eligible to the NRHP. As indicated above, archaeological sites can be eligible under Criterion A, B, and C, in addition to D. With that said, the notion of disturbance equating to not eligible is not consistent with the NRHP, without applying each criterion with support and justification. Refer to the Integrity heading above for more information regarding applicability to archaeological sites. In addition, refer to the Preface referencing Fort Clatsop in this document as an example of a NRHP listed heavily disturbed place lacking integrity and any associated archaeological objects despite monumental efforts to find them.

Lack of Access to Entire Property:

The Guidelines stress applying all four NRHP criteria to properties with support and justification. In addition, each must fall into any of the eligible property types (Building, Site, District, Structure, or Object). There are times when an archaeologist only has access to either a portion of an archaeological site, or important place. In these instances, it is still important to apply the NRHP criteria. However, under Criterion D, it is difficult to support a not eligible determination or recommendation if the entirety of an archaeological site is not known.

Typically, in the past, the archaeological site would be considered “unevaluated” and “treated as eligible”. That process has almost exclusively been applied by archaeologists using Criterion D, where “treated as eligible” meant that the site would either be avoided or possibly involve mitigation relating to Criterion D concerns. All four criteria must be applied, to the extent possible in these situations, especially as they address connections to important people, places, and activities. If, however, a not eligible case for Criterion D is made based on available information, it may still be difficult for SHPO to concur if the basis for the determination or recommendation is on an unknown percentage of the archaeological site.

For these instances, it is important to consider eligibility as a district under any applicable criteria based on research and an understanding of the context of the area around the archaeological site. That is one way to capture significance which could assist with applying the criteria of adverse effect under 36CFR800.5 for example. If a district is not supported, consider the context of the archaeological site when applying NRHP criteria. If it is difficult to make a case under any of the criteria, it may be possible to do some form of “treat as eligible” under Criterion D, especially if the site will be affected in a physical way. Leaving properties unevaluated is not something SHPO typically supports, because it is not consistent with Section 106 (see 36CFR800.4[c][1]) or ORS 358.905. It also makes it nearly impossible to assess adverse effects under 36CFR800.5 since that is based on knowing all NRHP qualifying characteristics.

A last consideration on this topic is that SHPO encourages through reporting and possibly from completing a site form, some mention that the site extends further at an unknown horizontal and vertical extent. Recommendations should also be included for a time when access is granted, for archaeologists to fully document the property, and apply any lacking information to NRHP evaluations.

Isolates and NRHP Eligibility:

Addressing the issue of NRHP eligibility for archaeological objects, which individually are often referred to as isolates, is worth mentioning here in a little more detail than in other sections up to this point. Since a place can be eligible to the NRHP whether archaeological objects exist or not, it is important to know that a single object or isolate can be part of the reason a place is eligible. In the Preface of this document, Fort Clatsop is provided as an example of how a place where archaeological investigations have failed to identify a single object, where three characteristics of integrity are completely lacking, all within a heavily disturbed place, can be eligible to the NRHP. As further addressed in the Preface, what happens if a Corps of Discovery object is identified from an archaeological survey or excavation? Does that not convey the importance of place relating to 1805-06 exploration? What if a place has been used for hunting for millennia and contains isolated projectile points, historical and later more modern shell casings. Are these all not eligible because they are isolates, or do they convey an association with hunting from time immemorial to the present? Would that not be a Criterion A pattern of events?

For statements that isolates are not eligible, the most common reason encountered by SHPO reviewers is because they do not provide information important in “prehistory” or history. That argument alone is typically based on evaluating the object instead of the place where it is located. It completely removes any responsibility for research on context of place, limiting evaluations to just looking at an object (in a vacuum). Is archaeology simply just looking at objects on the ground or in museum display cases?

Whether following 36CFR800 or ORS 358.905, neither suggests *only* Criterion D is applicable for archaeological sites. In fact, the former requires applying the National Register criteria (36CFR800.4[c][1]) for all properties within an APE. The latter makes it clear that an archaeological site must be eligible to the NRHP to be significant. The only way to know is to apply all four criteria.

Consider an isolate within and related to a Historic Property of Religious and Cultural Significance to an Indian Tribe (HPRCSIT), Cultural Landscape, TCP, Storied Landscape, or Historic Place associated with, for example, Lewis and Clark and the Corps of Discovery. Since the NRHP is place based, not archaeological object based, historic context is needed to assess eligibility. As a reminder, the NRHP identifies buildings, sites, districts, structures, and objects (objects have a different meaning in the NRHP than its use in archaeology) as the eligible property types (which all the places and more defined in the first sentence of this paragraph can fit into). For that reason, it is again important to look at the National Register definition of a Site when thinking about isolates.

*A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure. A site can possess associative significance or information potential or both, and can be significant under any or all of the four criteria. **A site need not be marked by physical remains if it is the location of a prehistoric or historic event or pattern of events [Criterion A] and if no buildings,***

structures, or objects marked it at the time of the events [Bold Text Added]. *However, when the location of a prehistoric or historic location of a prehistoric or historic event cannot be conclusively determined because no other cultural materials were present or survive, documentation must be carefully evaluated to determine whether the traditionally recognized or identified site is accurate* [USDI NPS 1997a: 5].

As stated above, the National Register does not require a specific number of artifacts, archaeological objects, or isolates etc. for a place to be eligible. It is further clear that an NRHP “Site” need not be marked by any physical remains. Given the Fort Clatsop example in the Preface and Camas Meadow example in the National Register of Historic Places Evaluations sections (as well as others), the focus on applying the NRHP criteria should be a mixture of support and justification for place-based, people-based, and activity-based significance. In other words, context. The same level of effort (which is correct) applied to Fort Clatsop based on the context of place needs to be afforded to Tribes and descendant and underrepresented communities as well.

DOCUMENTATION STANDARDS

Documentation Standards allow SHPO to understand the totality of an archaeological investigation. As stated in 36CFR800.11, sufficient documentation allows reviewing parties to understand the basis for findings and determinations. It is the responsibility of the agency official to ensure that any determination or finding of effect is supported by sufficient documentation to assist with that objective. Whether a report is submitted to satisfy Section 106, ORS, or a combination of both, without that basis of understanding, it is difficult for SHPO to offer concurrence. The following documentation guidance is meant to assist with SHPO concurrence, along with a firm understanding of the previous sections within the Guidelines.

Using a Style Guide:

Archaeological reports provide information for many different objectives. The Guidelines are largely based on many of them, such as complying with State and Federal Laws, demonstrating Research so readers know sources used, historic context, communities involved in consultation or coordination, Field Methods and Analyses so readers understand what was done, how it was done, where it was done along with any analytical processes used to collect information relating to the objectives of the investigation, and National Register of Historic Places Evaluations.

For each of the stated objectives, use of a Style Guide (e.g., Society of American Archeology or Chicago Manual of Style) offers a way to cite sources so readers can understand where information in the report initially comes from, while also providing a glimpse at the overall level of effort to develop an understanding of the context of people of the past, their places, and associated activities.

Oregon SHPO does not review reports for adherence to any particular Style Guide, but if commonly known and relevant sources are not cited, it can add to an existing inability to concur with a recommendation or determination of eligibility or a finding of effect. For example, if the only source for information is SHPO records, the level of effort becomes questionable since SHPO staff know our office does not contain all relevant information for any place in the state.

SHPO Report Cover Pages:

Reports submitted without using SHPO cover pages will not be accepted. The simple reason for this is that information included on the cover sheet is needed to add to our report database and to populate fields available for researchers through our remote access portal.

State and Federal Laws:

Reports submitted to SHPO must include a statement on all applicable state and federal laws. For SHPO, it is important, as it has implications on our role. The principal reason is that SHPO is partially funded to implement the NHPA at the state level. When there is a federal nexus, the Section 106 implementing regulations at 36CFR800, or a PA pursuant to 36CFR800.14, document the legal role of SHPO. If there is not a federal nexus, or the federal undertaking covers non-federal public and private lands in Oregon, SHPO has responsibilities under applicable ORS at the state level.

Programmatic Agreements and Memorandum of Agreements:

Any report of archaeological investigations that is backed by either a PA or a Memorandum of Agreement (MOA) should be reviewed and approved by the lead federal agency to ensure that it addresses all applicable stipulations. Archaeologists conducting an investigation in support of a PA or

MOA should ensure they are addressing all requirements. Both a PA and MOA are legally binding documents that contain specific requirements that signatories and concurring parties have agreed to as the best approach to either comply with Section 106 or ORS 358.905-961, or to avoid, minimize, or mitigate adverse effects.

Consequently, any permit application submitted must include a research design adhering to any and all methods to assist with fulfilling stipulations in the applicable PA or MOA. For example, if an MOA required excavation of two formal 1x1 m test units, any excavation more or less than that number, or different size and shape excavations would not be consistent with the agreed upon approach, whether the archaeologist agrees with that approach or not. Reviewers of archaeological reports submitted to satisfy a PA or MOA do not look at the contract for the work, but what is required in the applicable agreement document.

Research:

Reports submitted to SHPO need to include research sufficient for reviewers to understand the context of the investigation. Research needs to be place-based, in addition to addressing the broader context. Consultation and coordination with Tribes, descendant, and underrepresented communities assist with both, in addition to targeted research, intra-and inter-site comparisons, and significance of people, place and past activities. Research connects to documentation standards when used to support and justify eligibility under all four NRHP criteria. For NRHP evaluations, if they are simply based on number of artifacts, lack of intact strata, a simple statement that “the site does not possess information important to the past” or “the site has exhausted all important information about the past” etc. it is difficult for SHPO to concur primarily for failing to demonstrate a connection to the context of place. The context of place is a critical part of applying the NRHP criteria and connecting evaluations to that context provides a measure of support and justification. Again, refer to the Preface where a place is correctly listed on the NRHP that lacks any evidence from that event. That level of effort must be applied to all Oregon communities.

Field Methods and Analyses:

Field methods must be replicable and adhere to both the professional standards of the discipline of archaeology, and the objectives of the compliance investigation. The author(s) needs to clearly convey to reviewers an understanding of what was done, how it was done, and what the results suggest. Any analyses that can assist with both should be considered, and as applicable, used as support and justification for eligibility under all four NRHP criteria.

Compliance with ORS 390.235 Issued Permits:

Reviewers of archaeological reports that are associated with a State issued archaeological permit, among other tasks should check that the actual field methods match those stated in the permit research design. While flexibility can be built into a permit research design to address uncertainty (e.g., stating that 1x1 m test units will be excavated), and amendments are possible, failure to adhere to the stated methods may result in a permit violation. In the 1x1 m test unit example, if during field work, consider if only 30-cm shovel probes were used, or a trench was excavated. Failure to excavate 1x1 m test units as stated in the permit would be a violation. For any archaeological report submitted to comply with a State issued permit, it is important to clearly state in the Field Methods section exactly what was done, to demonstrate compliance with the permit. Please refer to OAR 736-051-0020 (1) for more information on failure to comply with terms and conditions of an issued archaeological permit.

National Register of Historic Places Evaluations:

If there are properties within an APE or project area, whether including archaeological objects and sites or not, they need to be evaluated (36CFR800.4[c][1]) under all four NRHP criteria. As emphasized within this document, to assist with SHPO concurrence on NRHP eligibility, the archaeologist must ensure that any determination or recommendation is backed with justification and support. Documentation standards must include sufficient information from research, field methods and analyses to enable any reviewing party the ability to fully understand statements on eligibility. Please be sure to refer to the guidance in the National Register of Historic Places Evaluations section, in addition to the recommendations below. Application of the NRHP criteria takes effort and should not be reduced to a few simple sentences.

Both NR Bulletin 16A and Best Practices Review (Preparing a Concise Significance Statement) (USDI NPS 2023:1) provide detailed descriptions of exactly what information is needed in a Statement of Significance. For compliance projects/undertakings, both can also provide useful information for counter arguments if a property is recommended or determined not eligible. Two excerpts below from the Best Practices Review discuss two important parts of a nomination, the Summary Paragraph, and Narrative Statement of Significance.

[i]n the summary paragraph, simply and clearly state the reasons why the property meets the National Register criteria...by providing brief facts that explain how the property meets the criteria, how it contributed to the areas of significance listed, and the ways it was important to the history of its locality, state, or the nation during the period of significance. Mention the important themes or historic contexts to which the property relates [USDI NPS 2023:1].

[u]sing the summary paragraph as an outline, make the case for significance in subsequent paragraphs. Begin by providing a brief chronological history of the property. Then for each area of significance, beginning with the ones of primary importance, discuss the facts and circumstances in the property's history that led to its importance. Make clear the connection between each area of significance, its corresponding criterion, and period of significance [USDI NPS 2023:1].

If these statements offer a guide to writing how a property is eligible, consequently, for not eligible recommendations or determinations, there also needs to be support and justification. Any reviewer of not eligible statements for each of the criteria in a report, for example, should not question whether the property is or is not (e.g.), “a site where prehistoric Native Americans annually gathered for seasonally available resources and for social interaction” (USDI NPS 1997a:12). Since that is an actual Criterion A NR Bulletin 15 archaeological example, it should be clear why that is not the case if the author believes the location of an archaeological object or site is not eligible. The same effort is necessary to make it clear for each criterion if it is believed they are not applicable, with considerations at the National, State, and Local (community) level.

Continuing with the not eligible Criterion A discussion above, to assist with SHPO concurrence, the supporting statement should specifically address how it is not associated with an event or pattern of events. It should reference examples in NR Bulletins 15, 16A, 38, etc. as applicable, such as the above quoted “a site where prehistoric Native Americans annually gathered for seasonally available resources

and for social interaction” (USDI NPS 1997a:12). For this example, reviewers will want to know how it is understood the property is not associated with available resources, or that such social interactions are not represented in the information collected on place from research and field methods. For assistance with this and other examples refer to the section on National Register of Historic Places Evaluations.

Things to avoid:

- Simply stating a property is not eligible or eligible followed by restating the NRHP and criteria.
 - Example: *The property is not eligible because it is not associated with an event or pattern of events...*
- Using brief, unsupported statements lacking justification.
 - Example:
 - The site is not eligible because it is disturbed.
 - Disturbance would also not disqualify archaeological sites from eligibility, if any of the criteria are applicable.
 - The site is not eligible because it lacks integrity.
 - All seven aspects of integrity are not required for eligibility.
 - Also, remember that integrity is not condition (USDI NPS 2024).
 - The site is not eligible because the information potential has been exhausted.
 - The site is not eligible because it does not possess the ability to provide important information on the past.
 - Or, basing eligibility simply on artifact counts.
- Using falsehoods, such as isolates are “by definition” not eligible to the NRHP.
- Failing to consider the significance of place.
- Making any recommendations or determinations without communicating the intent to Tribes, descendant or underrepresented communities, as applicable.
 - In other words, saying an archaeological site associated with (e.g.,) a tribe is not eligible without consultation or coordination through research.
 - Archaeologists must involve representative communities before they claim a place is not eligible. Eligibility to the NRHP is at the National, State, and Local (community) level. As such, the archaeologist should not overlook the Local level of significance from the perspective of the “our” as in “important in *our* history” (NR Bulletin 15).
- Boilerplate reports
 - Better to adhere to professional standards.
 - Archaeologists should be accountable and take responsibility for their work.
 - They often demonstrate a lack of original or targeted research.
- Making a recommendation/determination of not eligible, when the entirety of the property is unknown, or not accessible.
- Suggesting avoidance as support for No Effect without applying the NRHP criteria and consulting with Tribes, descendant or underrepresented communities.
 - Direct effects, for example, can include impacts to line-of-sight. For this example, there could be direct effects to at least three aspects of integrity (Setting, Feeling, and Association) even when an archaeological object or site is “avoided”.
- Leaving properties unevaluated.

- This also relates to the previous bullet, in addition to broader implications. Please refer to the National Register of Historic Places Evaluations, ORS 358.905, 36CFR800.4(c)(1) and 36CFR800.5. sections in the Guidelines for more information.

Things that help reviewers:

- Applying all four NRHP criteria with support and justification based on targeted research and an understanding of the context of past people, place and activities, followed by applying the criteria of adverse effects.
- Making informed statements with support and justification, by connecting the results of consultation, research, and fieldwork to the application of each NRHP criterion.
- Considering eligibility individually and as a district for properties under each of the four NRHP criteria, with support and justification.
 - An archaeological site that may not be eligible on its own could still be eligible as part of a district.
- If acceptable by a tribe, descendant or any underrepresented community, whether they agree with the eligibility recommendation or determination.
 - Such information can assist with eligibility at the Local (community) level.
- Considering and implementing the perspective of Tribes, descendant, and underrepresented communities and National Register Bulletin 38 definitions of “our”, “people”, and “history”.
- The archaeologist demonstrates that NRHP eligibility is based on the National, State, or Local (Community) level, and not just their own opinion.
- Archaeologists are aware of the important responsibility they have when making statements on eligibility for communities often other than the ones they themselves are a part of.
- That the archaeologist is representing and promoting the holistic discipline of archaeology by understanding applicable laws, conducting place-based research, utilizing replicable field methods, and making NRHP eligibility statements with support and justification.

Who makes determinations of eligibility?

Only federal agencies can make determinations of eligibility (DOE) for Section 106 purposes. The role of SHPO is to concur or not with such determinations. If a federal undertaking involves the use of contract archaeologists, they may only make recommendations of eligibility for the federal agency to review. For such recommendations, it is up to the lead federal agency to ultimately decide if they agree or not. If they agree, then they need to make it their formal determination when an archaeological report of investigations is submitted to SHPO. It is important to note that any submission for a federal undertaking by a contractor will not be reviewed by SHPO unless it includes some type of documentation from the agency that their final determinations are either the same as the recommendations in the report or if different, what the differences involve.

Results of Identification and Evaluation (Findings of Effect):

Three types of results of identification (Findings of Effect or [FOE]) exist. These include No Historic Properties Affected (No Effect), Historic Properties Affected (can be either No Adverse Effect or Adverse Effect), and if Adverse, is it possible to avoid, minimize, or mitigate such effects. Assessing effects can only happen after all four NRHP criteria have been applied individually and with an assessment(s) at the district level. The reason being is that effects are based on any NRHP qualifying characteristics to a historic property. This is also why claiming an archaeological site will be avoided does not necessarily

equate to No Effect. When assessing effects, it is also important to understand the difference between direct and indirect effects.

Direct and Indirect Effects:

According to 36CFR800.4(a) “in consultation with the SHPO/THPO, the agency official shall: (1) determine and document the area of potential effects, as defined in § 800.16(d)”. In 36CFR800.16(d) the APE is further defined as meaning the “geographic area or areas within which an undertaking may **directly or indirectly** cause alterations in the character or use of historic properties” [bold text added for emphasis]. Under 36CFR800.16(i), effects are defined as meaning any “alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register”.

March 2019 D. C. Circuit Court Clarification on Direct and Indirect Effects:

Direct and Indirect effects are the subject of a United States Court of Appeals (USCA) for the District of Columbia Circuit (Case #18-5179, D.C. Cir. Mar. 1, 2019) finding. The finding defines “direct” in terms of causality, and not physicality. In other words, a “direct” effect comes from the undertaking at the same time and place as the undertaking, regardless of whether it is visual, physical, auditory, etc. To the contrary, “Indirect” effects to historic properties are those caused by the undertaking at a later time but still reasonably foreseeable. The D. C. Circuit Court finding has also been addressed by the ACHP in a June 7, 2019, Memorandum from their Office of General Counsel (ACHP 2019).

In March 2019, the D.C. circuit court issued an opinion in National Parks Conservation Association v. Semonite, concluding that the meaning of the term “directly” in Section 110(f) refers to the causality, and not the physicality, of the effect. This means that if the effect comes from the undertaking at the same time and place with no intervening cause, it is considered “direct” regardless of its specific type (e.g., whether it is visual, physical, auditory, etc.). “Indirect” effects are those caused by the undertaking that are later in time or farther removed in distance but are still reasonably foreseeable [ACHP 2019].

Direct and Indirect Examples:

- Consider a place that has an important view or line of sight to a significant landmark or topographic feature. If an undertaking partially or fully obstructs that view or line of sight, it would be a “direct” effect, even if archaeological objects or sites are not physically altered.
- Consider an undertaking for a transmission line, where an access road is needed to be able to conduct maintenance on a tower structure. If the access road avoids nearby archaeological sites, there would likely be no “direct” effects to them. However, if people on All Terrain Vehicles (ATV) later use the road for recreation and can now access and drive over the archaeological sites near the access road, if that leads to damage/looting/vandalizing, it would be an “indirect” effect.

No Historic Properties Affected (No Effect):

If after consultation with Tribes, descendant and any underrepresented communities, research, and fieldwork, it is determined that there are either no known historic properties, or any known property has been determined not eligible with SHPO concurrence, a no effect recommendation or determination

is warranted. It is important to note for Section 106 undertakings, that “the passage of time, changing perceptions of significance, or incomplete prior evaluations may require...” reevaluation (36CFR800.4[c][1]). Oregon SHPO recommends reevaluation for any determinations that were made over five years ago. Oregon SHPO has 30 days from receipt of an adequate documented No Historic Properties Affected finding to concur or not.

Historic Properties Affected (No Adverse Effect and Adverse Effect):

The 36CFR800 regulations do not address minimal, moderate, or high potential for effects. They address *any* potential effects. As such, if there are any eligible properties within the APE or project area, the criteria of adverse effects must be applied (36CFR800.5). Adverse effects occur when the NRHP qualifying characteristics of a property will be adversely affected. It is for this reason that applying the four NRHP criteria (as required in 36CFR800.4) is a critical component from which to assess adverse effects. Leaving properties within an APE “unevaluated” is therefore not consistent with the 36CFR800 regulations.

Based on the above, if there are eligible or listed historic properties that will be directly or indirectly affected by a project or undertaking, the next step is to assess if the effects will be adverse or not. It is important to consider that visual impacts can be direct effects. It is further important to consider any foreseeable indirect effects. Both can be adverse after applying the criteria of adverse effects in 36CFR800.5.

Consider situations as discussed earlier, such as a project/undertaking that will not directly impact an archaeological site (creating an access road for transmission line maintenance), that may occur in an area where it is likely that all-terrain vehicles could use the road to access and potentially damage a nearby archaeological site, which could be an adverse effect (depending on application of 36CFR800.5). In this example, the building of the road may not be affecting the historic property directly, but indirectly a potential exists. This would be a reasonably foreseeable effect, meeting the threshold of indirect effects. A combination of monitoring the archaeological site, possibly installing a gate, or some other treatment could reduce the foreseeable indirect effect.

No Adverse Effect:

A determination of no adverse effect is supported after the criteria of adverse effects (36CFR800.5) are applied and not met. A principal requirement for supporting a no adverse effect as stated throughout this document is to fully understand which of the four NRHP criteria are applicable to the subject property. To support a No Adverse Effect FOE, documentation standards must show how any of the qualifying characteristics of the property that make it eligible to the NRHP will not be adversely affected. Oregon SHPO has 30 days from receipt of an adequately documented No Adverse Effect finding to concur or not. It is worth mentioning, that this process along with zero mention of “unevaluated” in regulations exemplifies why the process of applying the NRHP criteria, and criteria of adverse effect are critical to achieving compliance.

Referring to the Camas Meadow scenario in the National Register of Historic Places Evaluation section of this document, the context of place must be part of the application of the criteria of adverse effects. A small project where a single piece of FCR is identified within a larger area named “Camas Meadow”, as used in that example, does not mean the FOE is looking at what will happen to the piece of FCR, but what will happen to the larger place where camas harvesting and processing occurred. That means that

the FOE should not be No Effect, because the FCR is what was (incorrectly) evaluated as not eligible. It should be No Adverse Effect, because it is not affecting any of the character defining features of a larger Criterion A eligible place.

Agreement and Objections to Findings of No Adverse Effect:

If after 30 days, the SHPO has concurred with the finding, or failed to respond, and no consulting parties have objected, the No Adverse Effect finding stands. If after 30 days, the SHPO has objected to the finding, or any other consulting party notifies the lead agency that they disagree with it, the lead federal agency will either consult with the objecting party to resolve the issue or request the ACHP to review the finding.

Adverse Effect:

According to the criteria of adverse effects, “an adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register...”. Based on the application of all four NRHP criteria, if any of the qualifying characteristics will be adversely affected, then an adverse effect FOE is applicable.

Examples of Adverse Effects (36CFR800.5[a][2]):

- Physical destruction of or damage to all or part of the property.
- Introduction of visual, atmospheric or audible elements that diminish the integrity of the property’s significant qualifying characteristics.
- Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian tribe.
- Transfer, lease, or sale of a property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property’s historic significance.

Avoid, Minimize, or Mitigate:

When there is a finding of Adverse Effect, the agency official (for Section 106) or project proponent (for projects without a federal nexus) shall consult with the SHPO and other consulting parties to develop and evaluate alternatives or modifications to the undertaking or project that could avoid, minimize or mitigate adverse effects. If modifications make it possible to avoid or minimize adverse effects, supporting documentation should be sent to SHPO for concurrence. If the only option is mitigation, SHPO encourages capturing the agreed upon tasks from consultation in a Memorandum of Agreement (MOA). An MOA is a legally binding document, that includes stipulations that address Mitigation Measures, Duration, Post-Review Discoveries, Monitoring and Reporting, Dispute Resolution, Amendments, Termination, and Signatories. For the latter, the SHPO, Federal Agency, and ACHP (for Section 106) are required signatories.

Things to avoid:

- Findings of “Properties Avoided”
- Findings of “no further archaeological work”
- A lack of understanding of direct and indirect effects
- Federal agencies not reviewing or not providing documentation regarding whether the recommendations by their contractor are considered the agency’s determinations or not.

- Trying to meet a “requirement” for a No Effect as opposed to a No Adverse Effect
 - Whether No Effect, No Adverse Effect, or Adverse Effect, these findings are based on the scope and nature of an undertaking or project and any potential effects to the NRHP qualifying characteristics of any property.
- Failure to consult with consulting parties on “findings and determinations made during the section 106 process” as required under 36CFR800.2(a)(4).

Things that help reviewers:

- Understanding the difference between “direct” and “indirect” effects.
- Using the support and justification for NRHP eligibility and nature of an undertaking or project to inform on any potential direct or indirect effects to the NRHP qualifying characteristics of any property.
- Understanding the difference between a recommendation and a determination on the finding of effect.
- Understanding that federal determinations of eligibility (eligible or not eligible) and findings of effect involved meaningful consultation with Tribes, descendant, and underrepresented communities.
 - In other words, do Tribes, descendant or underrepresented know whether the agency is (e.g.,) making a not eligible determination or finding of No Effect or No Adverse Effect to a property they may find important or significant.
 - For Government-to-Government consultation with Tribes, unless agreed by both parties, SHPO does not need any details on consultation, but it does help reviewers to know the agency did meaningfully consultation on their eligibility and findings of effect determinations.

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