

## ARCHAEOLOGICAL REVIEW AT THE NEW MEXICO STATE HISTORIC PRESERVATION OFFICE

Under the National Historic Preservation Act of 1966 (NHPA), state historic preservation offices or SHPOs are established in each state. SHPOs carry out preservation related tasks including nominations for listing in the National Register of Historic Places, reviewing tax credit projects for the rehabilitation of historic properties and review of proposed undertakings under Section 106 of the NHPA. In New Mexico, the SHPO is the Historic Preservation Division (HPD), a division within the State of New Mexico's Department of Cultural Affairs. HPD employs a staff of 12 professional archaeologists who conduct reviews and manage data on surveys of archaeological sites.

Although federal and state preservation laws provide considerations for historic properties (historic buildings, structures, sites, objects, and districts), this article focuses on archaeological sites and HPD's involvement with archaeology through the Section 106 and state review process.

### **Section 106 Review**

Section 106 of NHPA requires federal agencies to take into consideration the effects of their projects (undertakings) on historic properties: <https://www.achp.gov/digital-library-section-106-landing/national-historic-preservation-act>. An undertaking is a project, activity or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency and includes those carried out by or on behalf of a federal agency, projects carried out with federal financial assistance, and those requiring a federal permit, license, or approval.

Examples of federal projects include cell towers, airport expansions, transmission lines traversing federal lands, oil and gas wells on federal land, prescribed fire, and removal of hazardous trees/shrubs on Forest or BLM lands, federal highway projects, and housing rehabilitation projects.



*Figure 1. Well pad and pump jack in the Permian Basin, Southeast New Mexico*

### **State Review**

There are three state laws that provide protections to historic properties. Under the Cultural Properties Protection Act, the SHPO shall establish a system of surveys on state land and state agencies shall cooperate with the SHPO and exercise due caution to ensure that cultural properties are not inadvertently damaged or destroyed.

The Cultural Properties Act requires state agencies and departments having direct or indirect jurisdiction over any land or structure modification which may affect a property listed on the State Register of Cultural Properties to afford the SHPO a reasonable and timely opportunity to participate in planning such undertaking.

Lastly, the Prehistoric or Historic Sites Preservation Act states that no public funds of the state or any of its agencies or political subdivisions shall be spent on a program or project that requires the use of or any land from a significant prehistoric or historic site unless there is no prudent or feasible alternative to such use, and unless the program or project includes all possible planning to preserve and protect and to minimize harm to the significant prehistoric and historic site.

Examples of state projects include road improvements funded by the New Mexico Department of Transportation, housing subdivisions, activities conducted by NM State Parks, and NM Game and Fish.



*Figure 2. A petroglyph that was moved as mitigation for construction of the extension of Paseo del Norte through Petroglyph National Monument*

### **Archaeological survey**

Once a project is identified, federal or state cultural resource staff will establish the project area (called an Area of Potential Effects or APE) and determine whether a cultural resources survey is necessary. The agency or consultant will review our New Mexico Cultural Resource Information System (NMCRIS) to see if a survey has already been conducted of the project area, if there are known archaeological sites, or to determine the potential for unidentified sites to exist based on surveys and sites located nearby. If an archaeological survey is necessary, a survey will be conducted and archaeological sites that are present within the project area will be recorded.



Record Status	NR Links	Performing Org.	Performing Agency Report Number	Activity Type	Lead Agency	Total Acres	Resource Count	Activity ID
1 Filed (completed)	No GIS Links	NH State University Cultural Resource Management Division	487	Survey	US Bureau of Land Management Roswell District	12.96	0	
2 Filed (completed)	No GIS Links	NH State University Cultural Resource Management Division	486	Survey	NH State Land Office	5.52	2	
3 Filed (completed)	No GIS Links	NH State Highway & Transportation Dept		Survey	NH State Highway & Transportation Dept	12.40	0	
4 Filed (completed)	No GIS Links	NH State Highway & Transportation Dept		Survey	NH State Highway & Transportation Dept	414.60	51	
5 Deleted	No GIS Links	DEAD		Non-Survey	DEAD	0.00	0	
6 Deleted	No GIS Links	DEAD		Non-Survey	DEAD	0.00	0	
7 Filed (completed)	No GIS Links	NH Office of Cultural Affairs NHK Laboratory of Anthropology	Lab of Anthropology Notes 258	Survey	US Bureau of Land Management Albuquerque District	2.07	0	NHNP Project 57.07
8 Filed (completed)	No GIS Links	NH Office of Cultural Affairs NHK Laboratory of Anthropology	278	Non-Survey	Ear L. Hayne Architecture Firm	0.00	0	2417008
9 Filed (completed)	No GIS Links	Lee County Archaeological Society	320.00	Survey	Municipal Government (See records for agency)	320.00	1	
10 Filed (completed)	No GIS Links	Juarez Archaeological Services	CR81-29	Survey	Juarez Apache Tribe	11.30	0	
11 Filed (completed)	No GIS Links	Juarez Archaeological Services	CR-81-26	Survey	US Bureau of Indian Affairs Albuquerque Area Office	7.77	0	
12 Filed (completed)	No GIS Links	Human Systems Research	8104	Survey	Federal Home Administration	143.98	0	HSR-8104
13 Deleted	No GIS Links	Adams State College		Non-Survey	Boy Scouts of America	0.00	0	
14 Filed (completed)	No GIS Links	NH Highlands University	HG-01-3	Survey	Kent Newlin Construction Company, Inc.	4.70	1	
15 Filed (completed)	No GIS Links	Los Alamos National Laboratories ENV-EAQ		Survey	Los Alamos National Laboratories ENV-EAQ		42	
16 Filed (completed)	No GIS Links	NH Highlands University	HG-00-3	Survey	Private Corporation (See records for company name)	55.90	2	

Figure 3. The New Mexico Cultural Resource Information System (NMCRIS) comprises a GIS layer showing locations of cultural resource surveys, archaeological sites, historic buildings/structures, and State/National Register properties and a tabular database which provides detailed information on the surveys and recorded properties.

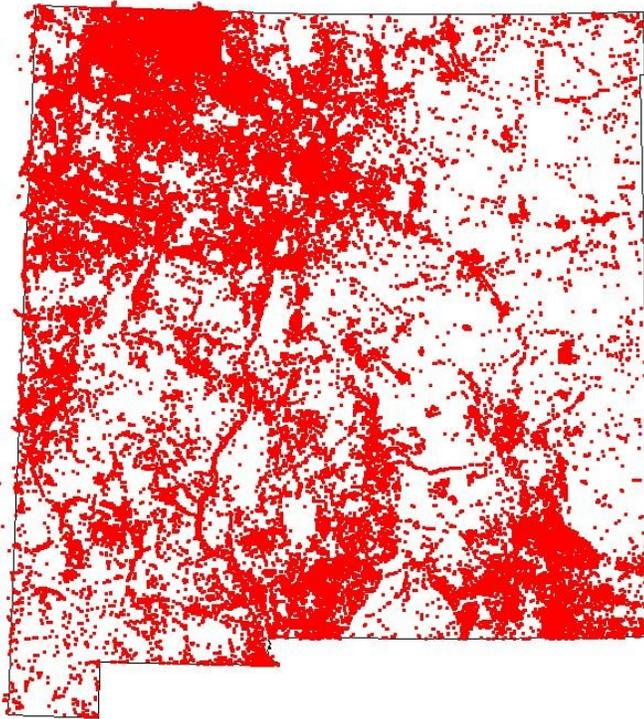


Figure 4. An archeological survey in progress. Pin flags mark the location of artifacts.

An archaeological site is typically 50 years old or older and it is defined as the location where there exists material evidence of the past life and culture of human beings and is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished. Examples of archaeological sites include artifact scatters, habitation sites, historic mining sites, historic trails, and old homesteads.

When an archaeological site is identified, it is documented on a Laboratory of Anthropology (LA) site form. Each site is given a unique number (LA number) and the information about its location and the

artifacts and features are documented on the form. To date, over 143,000 cultural resource investigations have been conducted in New Mexico and over 190,000 archaeological sites have been recorded.



*Figure 5. GIS layer from NMCRIS showing the location of recorded archaeological sites. The northwest and southeast parts of the states appear to have the most sites. This is because more surveys have been conducted in these areas prior to oil and gas development on federal lands.*

After the survey is complete, a report is prepared describing the project area, the methods of the survey, and the results. If archaeological sites were recorded, the significance of each site will be evaluated under criteria established by the National Register of Historic Places. The criteria may be found here: [https://www.nps.gov/subjects/nationalregister/upload/NRB-15\\_web508.pdf](https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf)

An eligible archaeological site will usually be considered significant under National Register Criterion D, information potential, because further research could answer significant questions about the activities people conducted at the site, the artifacts they made, the food they ate, etc. However, some sites can also be considered under Criterion A, broad patterns of event, because they are important to understanding historic events or settlement of an area.

# Laboratory of Anthropology (LA) form

The image shows two pages of a Laboratory of Anthropology (LA) site record form. The left page is the main form, titled 'LABORATORY OF ANTHROPOLOGY SITE RECORD'. It contains several sections: 1. IDENTIFICATION & OWNERSHIP, 2. RECORDING INFORMATION, and 3. CONDITION. The right page is a separate form titled 'LA 181467' and 'RECOMMENDATIONS (for Performer/Recorder use only)'. It contains sections for 4. RECOMMENDATIONS (for Performer/Recorder use only) and 5. SHPO CONSULTATIONS (for SHPO and Sponsor use only). The forms are filled out with handwritten and printed information, including site numbers, dates, and various checkboxes and radio buttons.

Figure 5. Example of a Laboratory of Anthropology (LA) site form. Archaeologists complete an LA form for each archaeological site that is encountered during an archaeological survey.

## Archaeological Review

If a project is large or complex, the state or federal agency may consult with HPD archaeologists on the APE and the level of survey prior to conducting the survey. Federal agencies are also required to consult with Native American tribes and other interested parties under the Section 106 process. Executive agencies of the state consult with tribes under the State-Tribal Collaboration Act.

A visit to the project area may be necessary by the federal and state agency archaeologists, HPD archaeologists, and Native American tribes to discuss the project and see the sites that have the potential to be affected. Otherwise, the state or federal agency will submit the survey report and the LA site forms to HPD and Native American tribes for review at the conclusion of the survey. HPD will review the report and the site forms and provide comments and concurrence with eligibility determinations for each site and potential project effects on the sites. Any disagreements between the agency and HPD on eligibility and effect are discussed until consensus is reached. To the extent possible, a federal or state agency will avoid and protect archaeological sites within the project area. In those instances, the project will have “No Effect on Historic Properties.” A “No Adverse Effect” determination is reached in situations where a site may be within the project area, but the project is not affecting the characteristics that make the site eligible. An example is a low intensity prescribed burn over an archaeological site that does not have wooden elements or rock art.

An “Adverse Effect” occurs when eligible archaeological sites cannot be avoided and protected from ground disturbing activities associated with the project and the project will affect the characteristics that make the site significant. An example could be a site that will be disturbed by highway construction through the entire site. When an adverse effect occurs, archaeological excavation or other archaeological studies are conducted to collect significant data from the site and answer research questions pertaining to the site, its occupants, and the region.



*Figure 6. Archaeological excavation of LA 457 near Alamogordo for a new waterline*

**Archaeological Records Management Section**

The Archaeological Records Management Section, or ARMS, is HPD's repository for all archaeological reports and site forms. All reports and site forms generated for state and federal review are archived at ARMS in paper form and in digital form in NMCRIS.



*Figure 7. File cabinets at ARMS. Site forms are filed in chronological order.*

### **Agreement Documents**

If the federal agency will adversely affect a site, a Memorandum of Agreement (MOA) is prepared that outlines the facts of the project and the stipulations that will be followed to resolve adverse effects. Native American tribes who have an interest in the project or the area in which the project will be undertaken are invited to participate in the MOA. Programmatic Agreements (PA) are developed between the federal agency, HPD, the Advisory Council on Historic Preservation, and other interested parties for a particular program, for complex undertakings, or when historic properties (including archaeological sites) cannot be fully identified or effects cannot be determined before the project commences. An example of a PA is the Permian Basin PA, which is an innovative approach to Section 106 consultation for oil and gas development in the Permian Basin of New Mexico. As a result of this PA, a research fund is established for projects that advance our understanding of archaeological sites and use of the area by Native American tribes. *“Rocks Telling Stories: Rock Art in New Mexico’s Guadalupe Mountains/Carlsbad Region”* is one publication that has been produced under the Permian Basin PA.