



*Preserving America's Heritage*

# CASE DIGEST: SECTION 106 IN ACTION



ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Cover: Tom Smeltzer, District Ranger, provided this image of what he described as a "Dempster 12A windmill in Unit 76 of the Black Kettle National Grassland, located adjacent to a homestead structure. The wind driven water pump was the lifeblood of the plains and settlement in general." The grassland is part of efforts by the USDA Forest Service in eight states to create new Programmatic Agreements.

## ABOUT THIS REPORT

Section 106 of the National Historic Preservation Act requires federal agencies to consider historic preservation values when planning their activities. In the Section 106 process, a federal agency must identify affected historic properties, evaluate the proposed action's effects, and then explore ways to avoid or mitigate those effects.

The federal agency often conducts this process with the Advisory Council on Historic Preservation (ACHP), State Historic Preservation Officers, representatives of Indian tribes and Native Hawaiian organizations, and other parties with an interest in the issues.

Sometimes a Programmatic Agreement (PA) or a Memorandum of Agreement (MOA) is reached and signed by the project's consulting parties. A PA clarifies roles, responsibilities, and expectations of all parties engaged in large and complex federal projects that may have an effect on a historic property. An MOA specifies the mitigation measure that the lead federal agency must take to ensure the protection of a property's historic values.

Each year thousands of federal actions undergo Section 106 review. The vast majority of cases are routine and are resolved at the state or tribal level, without the ACHP's involvement. However some cases present issues or challenges that warrant the ACHP's involvement.

This report presents a representative cross-section of undertakings that illustrate the variety and complexity of federal activities that the ACHP is currently engaged in. In addition, the ACHP's Web site [www.achp.gov](http://www.achp.gov) contains a useful library of information about the ACHP, Section 106 review, and the national historic preservation program.

# ARIZONA

*Project:* New Case: Pima County Wireless Integrated Network

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A widespread system of communications towers is part of the Pima County Wireless Integrated Network, an important upgrade to meet the needs of public safety agencies and emergency responders in Pima County. One of the 30 proposed tower sites is located on Tumamoc Hill and involves a National Historic Landmark with two millennia of human association.

In 2004, Pima County voters approved a \$92 million bond issue for the design and implementation of a regional telecommunications network to meet the needs of 32 public safety agencies and emergency responders in the county. The project, entitled Pima County Wireless Integrated Network (PCWIN), consists of 30 communications towers placed strategically throughout approximately 9,200 square miles, a geographic area about the size of Maryland.

Of the 30 tower sites, only one site has thus far been determined to have the potential to adversely affect historic properties. This facility is PCWIN's proposed replacement tower at Tumamoc Hill, site of the Tumamoc Hill Archaeological District and the Desert Botanical Laboratory. It is a designated National Historic Landmark owned by the University of Arizona.

The Tumamoc Hill Tower proposal calls for removal of two power poles, six towers, and three buildings and the consolidation of these facilities into one remaining building plus one 125 foot replacement tower. This consolidation will reduce current physical and visual impacts to the property. Nevertheless, the project consolidation activities still constitute an adverse effect to the National Historic Landmark property.

Licensing of the facility by the Federal Communications Commission (FCC) is a federal action that makes the project an undertaking subject to the provisions of



Tumamoc Hill, facing east. The photograph is taken from the land on the west side of the hill that the county acquired for conservation, located within the Tumamoc Hill Archaeological District and Desert Laboratory National Historic Landmark boundary. (Photo courtesy Pima County)

Section 106 under the terms of the National Historic Preservation Act and the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the FCC. The ACHP was notified of the adverse effect and invited to participate in the Section 106 review process. The ACHP determined that the case did not require active agency participation as the process was properly being carried out.

The Tohono O'odham, Akimel O'odham, and Hopi tribes have indicated that Tumamoc Hill is an ancestral site of cultural significance to them. Anthropological and archaeological research at the site has documented more than 2,000 years of habitation. Archaeological evidence of the use of Tumamoc Hill by indigenous peoples includes cemeteries, rock art petroglyphs, trincheras architecture, habitation structures, farming, and resource processing features.

Pima County asked for, and received, support for the tower consolidation plan from several Indian tribes and representatives including the Four Southern Tribes Cultural Resource Working Group which includes representatives from the Salt River Pima-Maricopa Indian Community, the Gila River Indian Community, the Ak-Chin Indian Community, and the Tohono O'odham Nation. In addition,

the Tohono O'odham Nation Legislative Council passed a Resolution (No.10-271) of support for the consolidation plan, recommending a finding of No Adverse Effect. The Ak-Chin Indian Community and the Hopi Tribe provided written concurrence with the Tohono O'odham Nation Legislative Council resolution, too.

The concrete pillars and slabs currently supporting the towers and buildings are slated for removal. The cleared sites will be chiseled down to the ground surface, and the landscape where these towers and buildings once stood is to be restored.

To mitigate adverse effects to potential archaeological features that contribute to the archaeological district, the county is developing a Historic Properties Treatment Plan that outlines research questions, review protocols, and permits necessary to complete the cultural resources compliance process, including archaeological data recovery.

Consulting parties include the FCC, Arizona State Historic Preservation Officer, the University of Arizona, the National Park Service, and Pima County. Pima County has invited the Tohono O'odham Nation, the Ak-Chin Indian Community, the Salt River Pima-Maricopa Indian Community, the Gila River Indian Community, the Hopi Tribe, the Pascua Yaqui Tribe, and the Arizona State Museum to endorse the Memorandum of Agreement as concurring parties. While the ACHP was not involved as a consulting party or a signatory, this case is provided as an instructive example of significant cases that are handled well under program alternatives established by the ACHP.