DRINKING WATER STATE REVOLVING FUND

Washington State Department of Health
Office of Drinking Water

DWSRF Cultural/Historical and Environmental Reviews

September 2021

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Types of Reviews

- Environmental review
  - Complete State Environmental Review Process (SERP) for DWSRF Program (NEPA-like process)
  - Comply with State Environmental Policy Act (SEPA)
- Cultural/historical review
  - Comply with National Historic Preservation Act, Section 106

Projects that Require Review

- All projects with a federal nexus
  - Permit, license, and approval
  - Federal lands
  - Funding (in whole or part)
- All DWSRF projects

Environmental Review

- Complete State Environmental Review Process (SERP)
  - Complete SEPA
  - Publish for public comment
  - Start Immediately

Complete SEPA

- Complete SEPA at local level
  - Permits, funds and activities
  - Local entity is the lead agency
- Send SEPA determination and supporting documents to DWSRF Coordinator
  - ecology.wa.gov/regulations-permits/SEPA-environmental-review

Publish

- Applicant publishes determination according to SEPA standards
  - Publish at least once
  - SEPA Register is mandatory
- Send proof of publication
  - Affidavit of publication
  - Any comments received

SEPA-Exempt Projects

- Still need documentation on how the project is exempt
  - Letter stating determination and what exemption being claimed
  - If any aspect of project is not exempt whole project not exempt
- Consider the entire project, not just the pipe size
- Make sure it's truly exempt
- SEPA exemption must still be published
  - Template available
  - May be combined with Section 106 publication

When Project Already Completed SEPA

- SEPA determinations do not expire
  - Environment does change
  - May be asked to amend, if needed
  - If older than 5 years will need to be reaffirmed
- Previous SEPA and/or NEPA determinations may be adopted by DWSRF program
- Send determinations and supporting documents to DOH

Cultural/Historical Review

"…Congress established a comprehensive program to preserve the historical and cultural foundations. Section 106 of NHPA … requires Federal agencies to consider the effects of their actions on historic properties and … ensure preservation values are factored into planning and decisions."

- Section 106 National Historic Preservation Act (federal)
- It's a process, not an outcome

In Other Words

- Federal nexus: Required to go through process
- Take into account the undertaking on cultural/historical properties
- Consult Department of Archeology and Historic Preservation, Tribes, and interested parties
- Provide the public an opportunity for input/comment

What Are the Steps?

1. Initiate the process
2. Identify historic properties
3. Assess adverse effects
4. Resolve adverse effects
5. Proceed

Section 106 Review Process

36 CFR § 800.3-7

INITIATE the process

- Determine undertaking
- Coordinate with other reviews
- Identify SHPO/THPO, Indian tribes/NHOs, and other parties
- Plan to involve the public

No undertaking with potential to affect historic properties?

NO

IDENTIFY historic properties

- Determine APE and scope of effort
- Make reasonable and good faith effort to identify
- Determine National Register eligibility
- Consult SHPO/THPO, Indian tribes/NHOs, and other parties
- Involve the public

No historic properties present or affected?

NO

ASSESS adverse effects

- Apply Criteria of Adverse Effects
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No historic properties adversely affected?

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RESOLVE adverse effects

- Develop and consider alternatives or modifications to avoid, minimize, or mitigate adverse effects
- Notify the ACHP
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AGREEMENT or Council Comment

PROCEED

CONSULTATION

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PROCEED

CONSULTATION

Step 1: Initiate

- Coordinate with Cultural and Environmental Program Specialist
  - EZ1 form
  - Maps
  - Drawings
  - Scope of work

What is an "Undertaking?"

- 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.
- Those requiring a federal permit, license, or approval

36 CFR 800.16(y)

Already Completed Reviews?

- Other reviews done through other agencies may be considered (send to DOH).
- May be able to adopt previous federal determinations.
- May not adopt GEO 21-02 determinations.
- Previous work may be considered to make a new DOH determination.
- Does previous work expire?
  - Depends on scope, APE, location and type of work.

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CONSULTATION

Step 2: Identify

- What is the area of potential effect (APE)? It is the area where an undertaking:
  - May cause direct or indirect changes in the character or use of a historic property
- The APE is determined through the consideration of the effect on:
  - Visual and audible intrusions (Viewshed)
  - Changes in traffic patterns and alterations in land use or public access

Historic Properties

- Identify:
  - Initial assessment
  - Consultation
- Evaluate significance:
  - Determine significance of the property
  - Determine affect of undertaking on the significance of the property
- Historic properties as defined by the National Register of Historic Places (in NHPA)

Examples of Historic Properties

Source: National Park

Benewah Milk Bottle

Historic property listed in the National Register of Historic Places Spokane, c.1935

Source: National Park Service

Examples of Historic Properties

Quonset Hut
Commercial Building
Prosser, C.1950

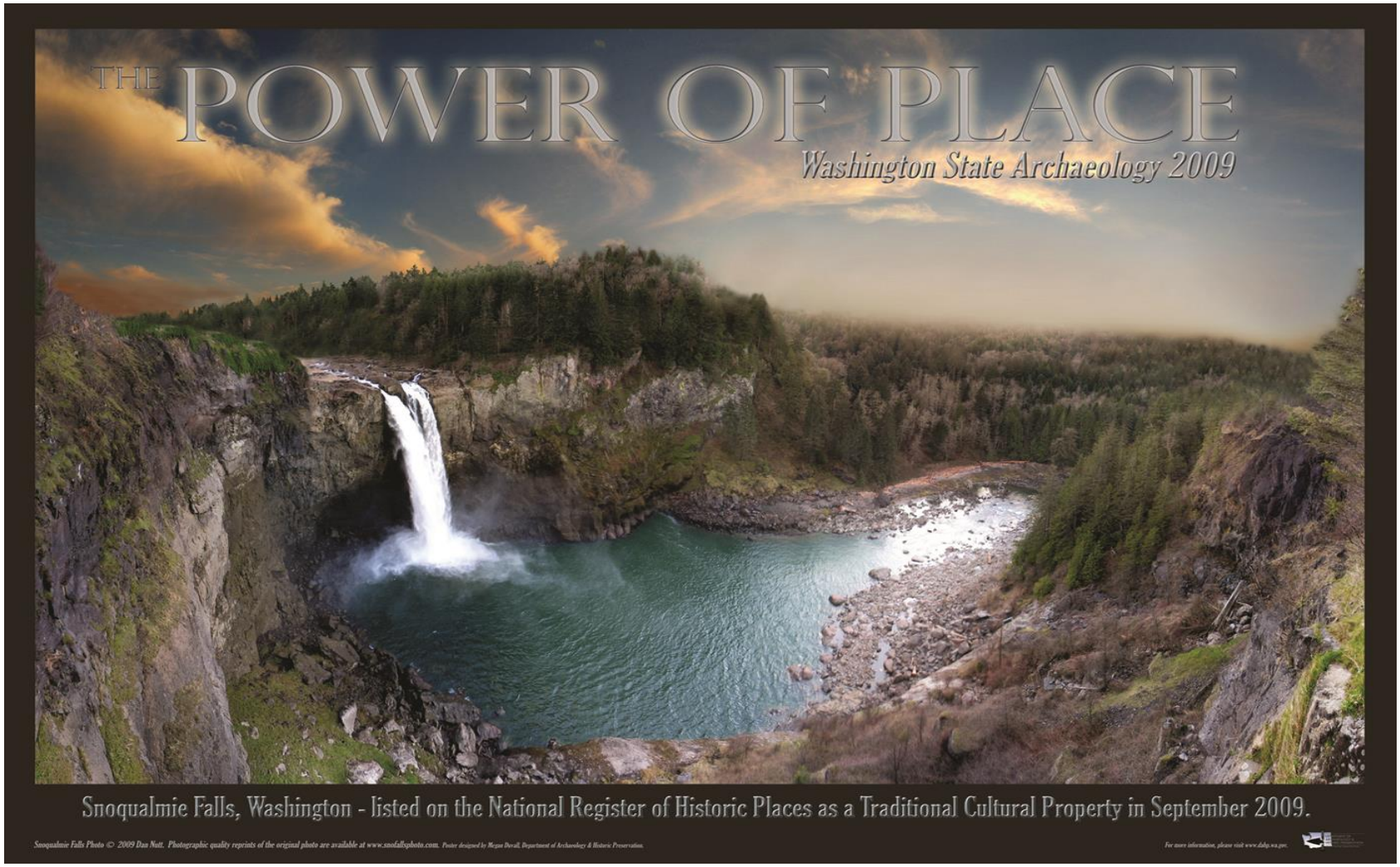
Source: National Park Service

Examples of Historic Properties

WWII Era Cottage House
Spokane, C.1953

Source: National Park Service

Traditional Cultural Properties (TCP)



Quileute Petroglyph

Found by fishermen several years ago.

Source: Washington State Department of Natural Resources

Archaeology

North Cascades

Carbon about 9,600+ years old

Photo courtesy of wsm.wsu.edu

Artifacts

Artifacts from Hudson's Bay Company fort

Source: wsm.wsu.edu

Colville Tools 2005

Source: Association for Washington Archaeology

Junk or Artifact?

Nails, glass, shells, and splintered wood

from a shipwreck

=ARTIFACTS

Source: www.coastal.edu

Survey May Be Required

- DWSRF Cultural and Environmental Program Specialist will determine through consultation if a project is required to have a survey to identify resources
- Borrower must
  - Hire a professional who meets the qualification standards (36 CFR, Part 61)
  - Follow DAHP procedures and guidelines
  - Submit materials to DOH for distribution and approval by consulting parties

Consultation

- State Historic Preservation Officer (SHPO)
- Indian tribes/Native Hawaiian groups
  - Tribal Historic Preservation Officer (THPO)
  - Twenty-nine federally recognized Tribes in Washington State
  - Five federally recognized Tribes from bordering states
- Other interested parties
  - Local historic groups (boards, commissions, societies, museums)
  - Divers, bird watching, walking groups
  - Other tribal groups (non-federally recognized tribes)

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Step 3: Assess

- What's an "adverse effect?"
  - Adverse effects can be direct, indirect, or cumulative effects and may include the following:
    - Physical destruction or damage (demolition)
    - Major disturbance of an archaeological site
    - Alteration inconsistent with interior's standards for the treatment of historic properties
    - Relocation of the property
    - Change in character of the property's use or setting

"Adverse Effect" (continued)

- Introduction of incompatible visual, atmospheric, or audible elements
- Viewshed issues
- Neglect and deterioration (demolition by neglect)
- Transfer, lease, or sale of a historic property out of federal control without adequate preservation restrictions

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Step 4: Resolve

- Inadvertent discovery plan (IDP)
  - IDP required for all projects
  - Must be approved by DWSRF Program
  - Template available
  - Identifies who will make on-site decisions and contact the right people
  - Established a buffer zones until consultation occurs and an agreement is made by consulting parties
  - Must be on site for all construction activities

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CONSULTATION

Step 5: Proceed

- The DOH issues the following to the borrower, contract manager, and regional office
  - A final completion notification
  - APE map
  - IDP reminder
  - Any other agreed upon conditions

When You're Done

- Project reaches compliance once DOH issues a written final completion notification letter
- If unsure, ask
- May lose funding if activities are not approved

When to Start

- Pre-construction activities
  - Planning and design work are allowed before completing these reviews
  - No construction, ground disturbance or effects to property are allowed
  - No geo-tech work
- May lose funding if activities are not approved

When to Start *(Continued)*

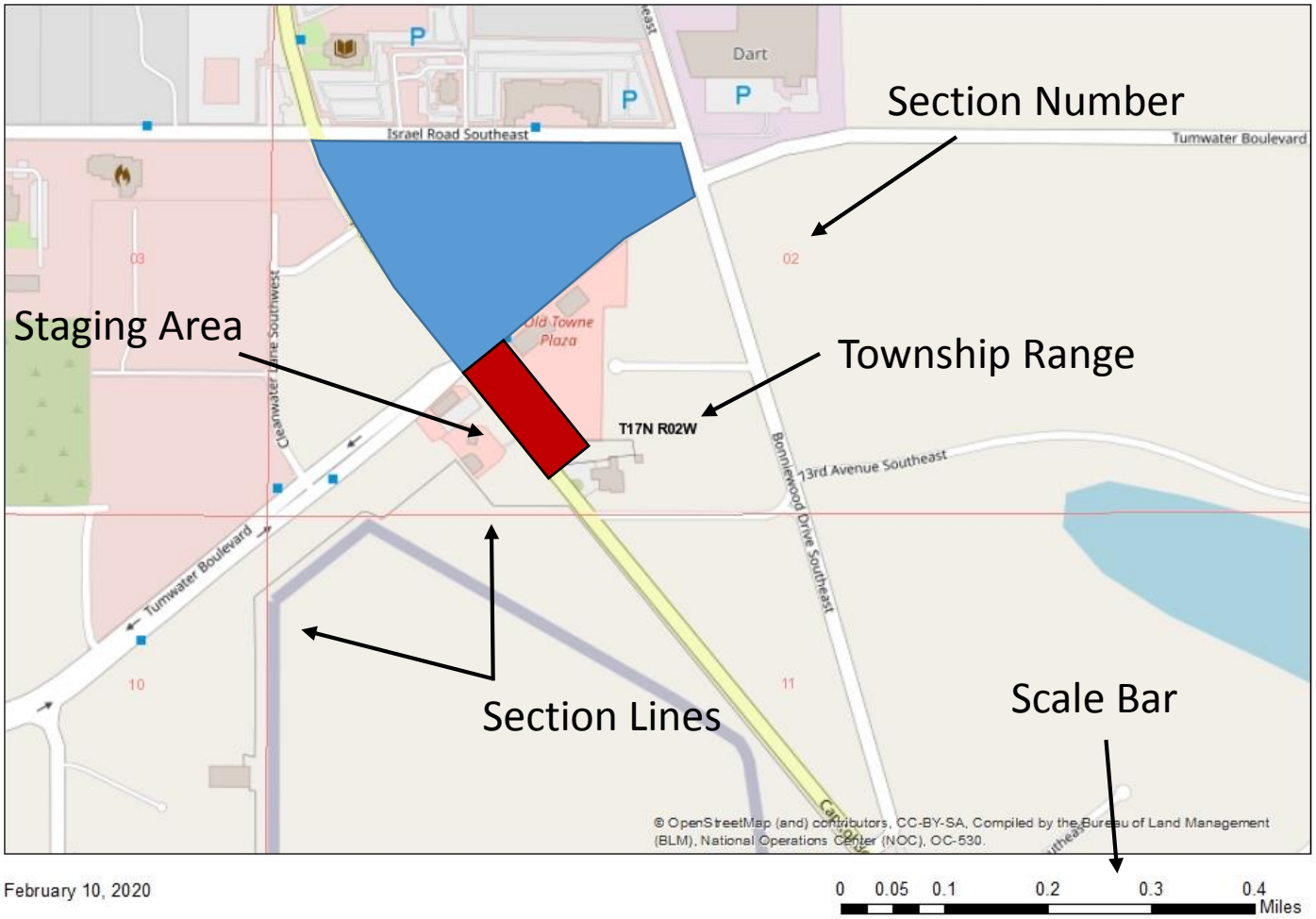
- Construction activities
  - No construction may begin until letter is received from DOH, stating project has completed reviews
    - Or DOH approves construction following an MOA or other mitigation plan
- This includes
  - Ground disturbing activities
  - Geo-tech work
  - Work affecting properties (such as structures or sites)
- May lose funding if activities are not approved

When a Project Changes

- Revising the scope of work and location requires additional review and (possibly) additional steps
  - Examples
    - Increase pipe size
    - Excavate at a deeper depth
    - Add new elements to project activities
    - Modify APE (area of potential effect)
    - Excavate at a different location than previously identified
- Must contact our office with any changes

Approved APE Example

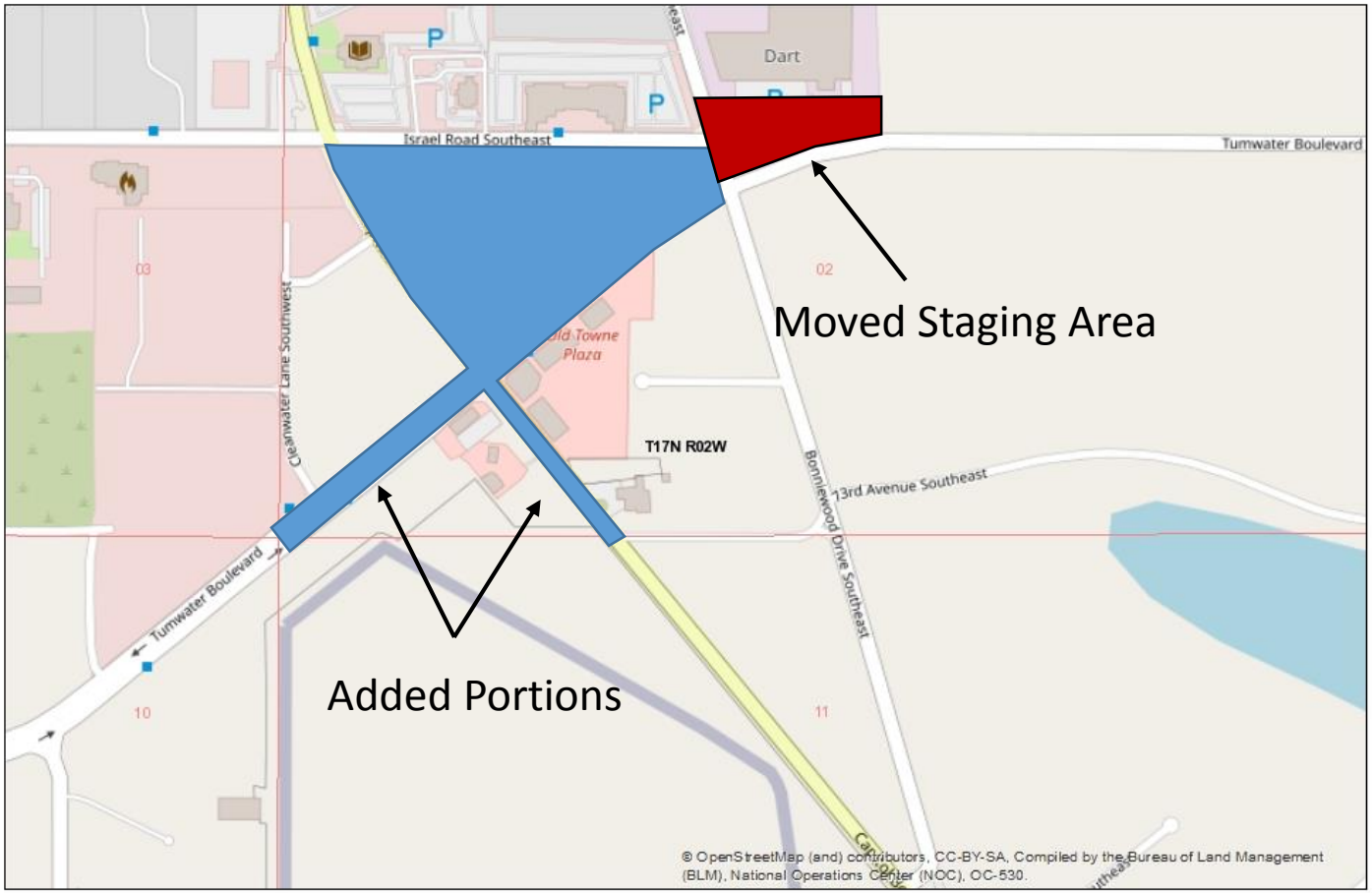
Original APE – Approved via review



February 10, 2020

Amended APE Example

Needs Review Again



February 10, 2020

0 0.05 0.1 0.2 0.3 0.4 Miles

Things to Consider

- The earlier, the better
- Include IDP considerations in bidding process and documents
- Artifact ownership and curation costs
- Creative solutions for avoiding, minimizing, and mitigating adverse effects (available tools)
- Think about the "what if's" and alternatives

Pitfalls and Challenges

- Accurate project scope of work
- Defining the APE
- Potential effects
- Project location
  - Township, range, and section
- Mapping project scope
- Changes not covered in initial review

Scott's #1 Tips

- Check in with funders early
- Get started on requirements early
- Communicate often

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Questions?