

**PRC 5024 MOU  
INTERIM ANNUAL REPORT  
IMPLEMENTATION OF THE  
PUBLIC RESOURCES CODE 5024  
MEMORANDUM OF UNDERSTANDING  
JANUARY 1, 2015 – JUNE 30, 2015**

**CULTURAL STUDIES OFFICE  
DIVISION OF ENVIRONMENTAL ANALYSIS  
CALIFORNIA DEPARTMENT OF TRANSPORTATION  
SACRAMENTO, CALIFORNIA**

**OCTOBER 2015**



## EXECUTIVE SUMMARY

This report documents the effectiveness of and summarizes actions carried out under the January 1, 2015 *Memorandum of Understanding Between the California Department of Transportation and the California State Historic Preservation Officer Regarding Compliance with Public Resources Code Section 5024 and Governor’s Executive Order W-26-92* (MOU) during the period from January 1, 2015 through June 30, 2015, in accordance with the MOU stipulation XIX.E.

The results of this report reveal that Caltrans handled a total of 454 project and activities that involved state-owned cultural resources, 156 state-only projects and 298 Federal-Aid Highway projects. Pursuant to MOU Stipulation III, the Federal-Aid Highway projects involving state-owned cultural resources were processed under the January 1, 2014 First Amended Section 106 PA.<sup>1</sup> Of these, four projects required external review by the State Historic Preservation Officer (SHPO). No project resulted in a finding of adverse effect that included measures to minimize or mitigate the adverse effects. A summary of results of the actions completed in accordance with the MOU begins on page 3.

During the current reporting period, Caltrans District 3 PQS reported one post-review discovery related to a project on the state highway system which also included an unanticipated effect to one state-owned historical resource.<sup>2</sup> Regarding the post review discovery, Caltrans PQS took the appropriate actions to halt construction, assess the situation, consult with interested parties to consider effects to the resource and mitigate any effects. A discussion of this incidents begins on page 11. There were no ESA violations that included state owned resources.

Quality assurance measures for this reporting period included ongoing Professionally Qualified Staff (PQS) review of Caltrans District reports by CSO staff, and delivery of MOU training for statewide PQS on January 15, 2015 and February 4, 2015. These and other quality assurance measures are presented on page 12

In accordance with the MOU, the annual report is required after the first full fiscal year of the execution of the MOU. This first report reflects a summary of the mid-fiscal year

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<sup>1</sup> First Amended Programmatic Agreement Among The Federal Highway Administration, The Advisory Council On Historic Preservation, The California State Historic Preservation Officer, And The California Department Of Transportation Regarding Compliance With Section 106 Of The National Historic Preservation Act, As It Pertains To The Administration Of The Federal-Aid Highway Program In California

<sup>2</sup> For purposes of this report the term “state-owned historical resource” and “historical resource” refers only to state-owned buildings, structures, objects, sites, areas or districts that has been listed in or determined eligible for listing in the National Register of Historic Places (National Register), or registered in or determined eligible for registration as a California Historical Landmark (CHL), per PRC 5024(a).

implementation of the 2015 MOU and covers the period from January-June 2015.

It is Caltrans' judgment that the use of the MOU as an alternative means to comply with Public Resources Code (PRC) 5024 and Governor's Executive Order W-26-92 will provide an effective program alternative to the standard PRC 5024 process by streamlining project and activity review procedures, while maintaining state standards for state-owned cultural resources and ensuring that effects to these resources are taken into account during project planning.

# PRC 5024 MOU ANNUAL REPORT

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## PRC 5024 MOU ANNUAL REPORT

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### INTRODUCTION

The *Memorandum of Understanding Between the California Department of Transportation and the California State Historic Preservation Officer Regarding Compliance with Public Resources Code Section 5024 and Governor's Executive Order W-26-92* (MOU) went into effect on January 1, 2015. It streamlines Public Resources Code Section 5024 (PRC 5024) and Governor's Executive Order W-26-92 (W-26-92) by delegating much of the California State Historic Preservation Officer (SHPO) responsibility for carrying out the routine aspects of the PRC 5024/W-26-92 process to the California Department of Transportation (Caltrans). The MOU applies to all state-owned cultural resources within Caltrans ownership and jurisdiction and MOU Stipulation III, Caltrans uses the 2014 Section 106 PA<sup>3</sup> procedures when Federal-Aid Highway projects have state-owned cultural resources within their Areas of Potential Effect. All cultural resources studies completed under the auspices of the MOU are carried out by or under the direct supervision of individuals who meet the Secretary of the Interior's (SOI) Professional Qualifications Standards for the relevant field of study. Use of the SOI standards ensure program quality and satisfy state mandates associated with compliance with PRC 5024/W-26-92. Caltrans meets these standards by certifying its cultural resources staff as Professionally Qualified Staff (PQS). The Chief of the Cultural Studies Office (CSO) in the Division of Environmental Analysis (DEA) is responsible for certifying the qualifications of all PQS. Caltrans PQS are responsible for ensuring that effects to state-owned cultural resources are accounted for and that there is no loss in quality of work or consideration for these resources.

In addition to streamlining the PRC 5024 process for Caltrans, the MOU reduces the workload for the SHPO in that Caltrans PQS internally review routine projects and activities, or those projects that do not involve any state-owned cultural resources. Caltrans ensures that all documentation for projects and activities that are not subject to SHPO review under the MOU remain on file at each Caltrans District. In addition, Caltrans PQS provide documentation to consulting parties and the public in accordance with the MOU and consistent with applicable confidentiality requirements. Delegation to PQS of the authority to perform many of the functions of the SHPO has enabled SHPO staff to concentrate efforts on the small number of projects that actually involve state-owned historical resources or have potential for adverse effects.

In accordance with MOU Stipulations XIX.G, this report documents the effectiveness of, and summarizes activities carried out under, the MOU. It covers actions for which PRC 5024

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<sup>3</sup> First Amended Programmatic Agreement Among The Federal Highway Administration, The Advisory Council On Historic Preservation, The California State Historic Preservation Officer, And The California Department Of Transportation Regarding Compliance With Section 106 Of The National Historic Preservation Act, As It Pertains To The Administration Of The Federal-Aid Highway Program In California

consultation concluded between January 1, 2015 and June 30, 2015.

In accordance with MOU Stipulation, XIX.E.3, Caltrans is providing notice to the public that this report is available for inspection and will ensure that potentially interested members of the public are made aware of its availability. Additionally, the public may provide comment to the MOU signatory parties on the report. This report is being submitted to the State Historic Preservation Officer (SHPO) and the Caltrans Director and District Directors and is available upon request.

## **2015 PRC 5024 MOU**

The 2015 MOU was executed on January 1, 2015. For consistency and parallel structure, when feasible, the bulk of the alternative procedures for compliance with the traditional PRC 5024 process is modeled on the 2014 Section 106 PA, but with adaptations for compliance that is specific to PRC 5024 and W-26-92.

## **SUMMARY OF MOU ACTIONS**

According to data provided by the Districts, enumerated in Table 1, during the first six months since the MOU took effect, i.e. January 1 to June 30, 2015 (last six months of state Fiscal Year 2014-15), Caltrans processed 454 state-only and Federal-Aid Highway projects with state-owned resources within their respective Project Area Limits (PAL) and Area of Potential Effect (APE). The majority of these projects, 382 (84 percent), were exempted from further review after appropriate review, or “screening,” by PQS.<sup>4</sup> An additional 57 projects (12 percent) that did not qualify as screened projects or activities were kept on file at Caltrans, as no consultation with the SHPO was required under the terms of the MOU.<sup>5</sup> The remaining projects required additional consultation to resolve effects or additional consultation to answer questions regarding identification or evaluation efforts. Fiscal year activities are depicted in Table 1.

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<sup>4</sup> Under Stipulation VII of both the MOU and the 2014 Section 106 PA the specific classes of activities identified in Attachment 2 of MOU and Section 106 PA as “screened” require no further review under the MOU or Section 106 PA when the steps set forth in Attachment 2 are satisfactorily completed. Caltrans PQS are responsible for “screening” individual actions that are included within the classes of screened classes to determine whether the project or activity requires further consideration or may be exempt from further review. PQS cannot screen projects, activities or federal undertakings with potential to affect state-owned cultural resources if conditions are included to ensure that state-owned historical resources will not be affected. Stipulation III of the MOU allows Caltrans to use the 2014 Section 106 PA for federal undertakings that have the potential to affect state-owned historical resources.

<sup>5</sup> These are projects for which the proposed activities do not fall under any of the classes of screened projects or activities listed in MOU Attachment 2, but for which no state-owned cultural resources were identified, or state-owned cultural resources previously determined eligible but will not be affected are located within the project area limits.

**Table 1: Total Activities Completed - Fiscal Year 2014-15**

<b>Projects Completed</b>	<b>Total</b>
Caltrans State-only Projects/Activities	156
Combined Sec.106/PRC 5024 Projects	298
<b>Number of Projects Screened – Total</b>	
Caltrans State-only Projects/Activities	126
Combined Sec.106/PRC 5024 Projects	256
<b>Number of Projects to File</b>	
Caltrans State-only Projects/Activities	22
Combined Sec.106/PRC 5024 Projects	35
<b>HRCRs / HPSRs to CSO</b>	
Caltrans State-only Projects/Activities	31
<b>Number of Projects to SHPO – Total</b>	
Caltrans State-only Projects/Activities	4

**Effect Findings - Fiscal Year 2014-15**

Of the 454 projects, 141 projects resulted in a Finding of No Historical Resources Affected. Under the MOU, this finding requires notification to the SHPO when Caltrans has been in consultation regarding determinations of National Register of Historic Places (NRHP) eligibility. Such documentation is kept in Caltrans District files when the HRCR or HPSR concluded that no cultural resources requiring evaluation were present. Another 21 projects met the criteria for a finding of “No Adverse Effect with Standard Conditions, (FNAE-SC).”<sup>6</sup>

Caltrans CSO reviews and approves projects and activities with FNAE-SC determinations (FNAE-SC findings, [MOU Stipulation X.B.1]). This finding requires only that District PQS provide adequate documentation for CSO review. If CSO does not object to the finding within 15 days, the District may proceed with the project or activity. The SHPO is not required to concur in the FNAE-SC and there is no review or “waiting” period involved. However, CSO “approval” of the FNAE-SC is contingent upon any comments received by SHPO in the event the District forwarded the HRCR or HPSR (for federal undertakings with state-owned cultural resources within their APEs) to SHPO for review in accordance with MOU Stipulation VIII.C.6. In the

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<sup>6</sup> The Standard Conditions, described in MOU stipulation X.B.1, are as follows: (i) Historic properties will be rehabilitated in accordance with the Secretary of the Interior’s Standards for Treatment of Historic Properties (36 CFR Part 68); or (ii) Properties will be protected by designation of ESAs, as described in Attachment 5 to this Agreement.

current reporting period, CSO approved 21 FNAE-SCs.

The remaining three projects and activities resulted in findings of “No Adverse Effect *without* Standard Conditions” or “Adverse Effect.” These projects required that the Districts consult with CSO for state-owned historical resources both on, and not on, the Master List of Historical Resources (Master List)<sup>7</sup> and, subsequently, for state-owned historical resources on the Master List, that CSO consult with the SHPO. Three projects resulted in a “No Adverse Effect” while no projects resulted in a finding of “Adverse Effect.” These above findings are represented in Table 2.

**Table 2: Effect Findings**

Total Effect Findings	FY TOTAL
No Historical Resources Affected*	141
No Adverse Effect with Standard Conditions	21
No Adverse Effect	3
Adverse Effect – Not on Master List	0
Adverse Effect – On Master List	0

## **EFFECTIVENESS OF THE MOU - ESTIMATED TIME SAVINGS**

Prior to the MOU, all state-only projects and activities and federal undertakings that involved state-owned cultural resources were subject to PRC 5024 consultation with SHPO. The MOU has delegated many of the steps involved in the PRC 5024 process to Caltrans PQS and to Caltrans CSO. Table 3, below, shows a comparison of time frames under the standard PRC 5024 process and those under the MOU.

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<sup>7</sup> Pursuant to MOU Stipulation IV.E, “This list is maintained by the SHPO pursuant to PRC 5024 and includes state-owned historical resources: that are listed in the NRHP; are registered as a CHL; and state-owned historical buildings, structures and objects that were officially determined eligible for inclusion in the NRHP pursuant to 36 CFR 800.4(c)(2), 36 CFR60 or 36 CFR 63; or for eligible for registration as a CHL pursuant to PRC 5024(d) or 5020.4(a)(1). The Master List does *not* include archaeological sites or non-structural resources and sites that were officially determined eligible for inclusion in the NRHP or for registration as a CHL, nor does the Master List include any state-owned resources that are assumed eligible for the NRHP or as a CHL only for purposes of a project or activity.”

**Table 3: PRC 5024 Review Timeframes**

Action	PRC 5024 Process	MOU Process
Potential to affect state-owned historical resources not on the Master List (if present)	SHPO review time not specified	No SHPO review; only annual reporting
Potential to affect state-owned historical resources on the Master List (if present)	30 day SHPO review	No SHPO review; only annual reporting
Evaluation of cultural resources (if present)	30 day SHPO review	30 day SHPO review

### **Projects and Activities Exempt from SHPO Review**

PQS archaeologists and historians determine whether projects and activities have potential to affect state-owned historical resources through the aforementioned “screened projects and activities” process, which is the primary time saving feature of the MOU. Projects and activities are exempted from further PRC 5024 review when PQS determine a project or activity has no potential to affect state-owned historical resources. Caltrans District PQS staff document the findings in a memo to the senior environmental staff person or office chief responsible for the environmental studies, along with any supporting documentation, such as project plans, records search results, or correspondence with interested parties.

CSO and District PQS measure the time saved by this MOU provision by estimating the amount of time that otherwise would have been spent conducting PRC 5024 studies and preparing consultation documents for SHPO. In addition, the amount of time saved by not having to wait for a determination saves, at a minimum, up to 90 days that it would otherwise take under the traditional process. CSO estimates time saved per project are based on an average of approximately 43 hours across the Caltrans Cultural Studies Program. This represents a considerable savings of labor hours between Caltrans and SHPO. In addition, the ability to screen projects and activities saves an unknown amount of valuable tax dollars.

For the reporting period, 382 projects (84 percent) qualified as “screened projects and activities” and were exempt from further review. Time saved is best viewed as a measure of more efficient project delivery, in that the screening process has allowed Caltrans to move projects to completion more quickly than could be accomplished without the MOU. The projects that were screened moved through the PRC 5024 compliance process promptly (in some cases with a one-day turnaround), whereas without the MOU a backlog of projects for review by CSO and SHPO develop negatively affecting project scheduling.

### **Projects Requiring SHPO Review**

Prior to the execution of the 2015 MOU and pursuant to PRC 5024, when Caltrans had a project that affected state-owned cultural resources, Caltrans had to inventory and evaluate the resources

using the NRHP and California Historical Landmark (CHL) criteria and consult with SHPO on eligibility per PRC 5024(b) and (d). Then, if the state-owned cultural resources were either NRHP listed or eligible or CHL registered or eligible, Caltrans would consult with SHPO on the effects to those on the Master List per PRC 5024.5, or notify the SHPO regarding effects to those historical state-owned resources not on the Master List and request SHPO's comment, per PRC 5024(f). While SHPO is required to comment on effects to state-owned historical resources on the Master List within 30 days under PRC 5024.5, PRC 5024 does not have other time frames for obtaining SHPO's comments on eligibility or for effects to state-owned historical resources that are not on the Master List. At times the process could take several months. It did not matter whether the project or activity was a major highway construction project or transferring a small parcel out of state ownership; all the projects at some point needed to go to SHPO for review.

The MOU set agreed upon time frames for all steps in the SHPO review process, in addition to delegating some of those reviews to CSO; those reviews also have time frames. Since January 1, 2015, Caltrans has used the alternate provisions of the MOU instead of the traditional PRC 5024 compliance process for its state-only projects and activities and for Federal-Aid Highway projects that have state-owned cultural resources within their APEs.<sup>8</sup> For projects that require formal evaluation of properties under the MOU, the review time has been reduced to 30 days, resulting in a time savings of up to 60 days per project. For the reporting period, Caltrans submitted four state-only and Federal-Aid Highway projects out of the 454 projects it processed to the SHPO.

### **Time Savings for Effect Findings**

PRC 5024 requires that a state agency notify SHPO and request comments for any project having the potential to affect state-owned NRHP/CHL listed/register or eligible historical resources [PRC 5024(f)], to consult with SHPO early in the planning process for projects and activities having the potential to affect state-owned historical resources on the Master List and shall adopt prudent and feasible measures that will eliminate or mitigate the adverse effects. Table 4 below compares the timeframes for review of effect findings under PRC 5024 to those under the MOU.

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<sup>8</sup> Stipulation III of the MOU states in part, "Caltrans shall use the Section 106 PA in its entirety and notify the SHPO that there are state-owned historical resources for which Caltrans is concurrently complying with PRC 5024. The SHPO shall use the information and documentation provided for the federal undertaking in its review and comments under PRC 5024."

**Table 4: Review Timeframes for Effect Findings**

<b>Action</b>	<b>PRC 5024 Process</b>	<b>MOU Process</b>
Finding of No State-Owned Historical Resources Affected (includes when State-owned Historical Resources Not on Master List are not affected)	No time frame specified; open-ended	No SHPO review; annual reporting
Finding of No State-Owned Historical Resources Affected (includes when State-owned Historical Resources On Master List are not affected)	30-day SHPO review	No SHPO review; annual reporting
Finding of No Adverse Effect with Standard Conditions – Not on Master List	No time frame specified; open-ended	15-day CSO review <sup>9</sup>
Finding of No Adverse Effect with Standard Conditions – On Master List	30-day SHPO review	15-day CSO review
Finding of No Adverse Effect without Standard Conditions – Not on Master List	No time frame specified; open-ended	15-day CSO review
Finding of No Adverse Effect without Standard Conditions – On Master List	30-day SHPO review	30-day SHPO review
Adverse Effect – Not on Master List	No time frame specified; open-ended	15-day CSO review
Adverse Effect – On Master List	30-day SHPO review	30-day SHPO review

Under the MOU, when Caltrans PQS determine that projects result in findings of “No State-Owned Historical Resources Affected,” these findings are documented in Caltrans files (if no state-owned historical resources requiring evaluation are present and no state-owned historical resources will be affected) and SHPO is notified in annual reports like this. Time saved using this procedure is 30 days per project.

Prior to the MOU taking effect in 2015, when Caltrans determined that projects resulted in FNAE-SC findings, using the guidance provided 2014 Section 106 PA, projects took two different pathways to compliance, depending on whether the projects or activities affected state-owned historical resources on, or not on, the Master List.<sup>10</sup> For FNAE-SCs affecting historical resources not on the Master List, Caltrans was required to provide SHPO notice and request comments under PRC 5024(f), but SHPO was not required to comment within a specific time frame, if at all; SHPO is not required to concur. The SHPO did, however, reserve the right to comment if it chose to do so. For FNAE-SCs affecting historical resources on the Master List, Caltrans was required to provide SHPO notice and request comments under PRC 5024.5, and SHPO had 30 days to comment.

The FNAE-SC provisions of the MOU changed the procedure in that all FNAE-SCs—whether or

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<sup>9</sup> CSO responsibility and review period per Stipulation X.B.1

<sup>10</sup> SHPO informally allowed Caltrans to use the 2014 Section 106 PA FNAE-SC procedure as guidance prior to execution of the MOU.

not the state-owned historical resources are on the Master List—are sent to CSO for 15-day review upon receipt of complete documentation. If CSO does not object within that time frame, the District can move forward and the project or activity is not subject to further review. Under the MOU, the SHPO does not review or comment on these findings, rather Caltrans notifies SHPO in quarterly reports. This first six-month report, however, is the exception in that SHPO agreed to FNAE-SC findings being reported in this report. This streamlining measure of MOU Stipulation X.B.1 results in review time savings of 15 to 30 days per project. During this reporting period, Caltrans Districts submitted 21 projects with FNAE-SC findings to CSO for review.

## **STATE-OWNED RESOURCES THAT DO NOT REQUIRE EVALUATION**

### **MOU Stipulation VIII.C.1 and Attachment 4: Resources Exempt from Evaluation.**

Stipulation VIII.C.1 and Attachment 4 of the MOU require a reasonable level of effort to identify and evaluate state-owned historical resources. However, the MOU recognizes that not all properties possess potential for historical significance. Caltrans PQS and qualified consultants are entrusted with the responsibility of determining whether cultural resources property types meet the terms of MOU Attachment 4 and may exempt them from PRC 5024 evaluation when they meet these conditions. It is difficult to measure the time saved under this MOU provision but by roughly estimating the amount of time PQS or qualified consultants would have had to spend evaluating the resources, Caltrans saves from 20 to 60 hours per resource. CSO review is not required for exemptions of resources under this stipulation. However, CSO does provide guidance and review when requested.

In order to plan for future inventories pursuant to PRC 5024(a) and (b) and to comply with W-26-92, Caltrans PQS and consultants are required to complete minimal information on the Office of Historic Preservation's DPR 523A Primary Record Form for MOU Attachment 4 built-environment resource types 3 through 7. Exhibit 4.4: Minimal Recordation for Certain Exempted State-owned Resources in volume 2 of the online Caltrans Standard Environmental Reference (SERv2) provides guidance on what to record. While it may take an hour or two to complete the Primary Record and upload it into the Caltrans Cultural Resources Database (CCRD), having information on the location and type of built environment resource will save time for future projects in that during background research Caltrans PQS will know the resource already has been exempted and does not need to repeat the information.<sup>11</sup> More importantly, in planning updates to its list of state-owned historical resources, Caltrans staff can save time by checking the CCRD to see whether the exempted resource either through physical alteration or age, continues to be exempted or will need to be evaluated (e.g., an exempted resource that

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<sup>11</sup> This is an electronic inventory of architectural and archeological cultural resources that provides a connection to cultural resources along right-of-ways. Because it stores crucial and confidential cultural resources information its use is restricted to use by Caltrans cultural resource staff.

becomes 45 to 50 years of age, or an older resource whose integrity has improved by removal of anachronistic and non-significant alterations).

**MOU Stipulation VIII.C.3: Special Consideration for Certain Archaeological Properties.**

Similar to 2014 Section 106 PA’s Stipulation VIII.C.3, the same stipulation in the MOU allows state-owned archaeological sites to be considered eligible for the NRHP or CHL without conducting subsurface test excavations to determine their historic significance when qualified PQS determine that the site can be protected from all project and activity effects by designating it an environmentally sensitive area (ESA). Prior to the MOU taking effect, Caltrans required evaluation of *all* sites within a PAL for historic significance through testing. The time saved is approximately 3-12 months per site by not having to conduct test excavations.

In addition to the time-saving benefit, this MOU provision advances Caltrans’ environmental stewardship of state-owned archaeological sites by providing incentives to avoid rather than excavate them whenever possible; reducing excavations and protecting sites from construction protects the full range of their potential values as scientific data and as cultural heritage. Foregoing archaeological excavations, where possible, has saved time, public funds, and the state’s heritage resources.

**MOU Stipulation VIII.C.4: Considering a State-Owned Cultural Resource Eligible.**

Stipulation VIII.C.4 of the MOU allows Caltrans PQS to consider state-owned cultural resources as eligible for inclusion in the NRHP or eligible for registration as a CHL when special circumstances preclude their complete evaluation. Such special circumstances include restricted access, large property size, or limited potential for effects. Caltrans PQS are required to receive written approval from CSO prior to completing a Historical Resources Compliance Report (or Historic Property Survey Report for federal undertakings with state-owned cultural resources in their APEs). Cultural resources treated under this stipulation may require consultation with SHPO at a later date.

**MOU Stipulation VIII.C.4 Examples**

- District 2, State Route 44, EA02-4F290 Big Springs Curve Improvement CA-SHA-4014/H and CA-SHA-3608/H Shasta County. The project Area of Potential Effects, (APE), included trailheads of several hiking trails listed or eligible for inclusion in the National Register. The trailheads had not been previously evaluated.
- District 4, State Route 29, EA 3G640 Napa River Bridge Replacement Project, CA-NAP-1128/H, Napa County. The project APE included an historic property adjacent to the Area of Direct Impact and the project would have a limited potential for effect.

## **POST REVIEW DISCOVERIES, UNANTICIPATED EFFECTS, AND ESA VIOLATIONS**

The following is a summary of events that occurred during the reporting period. From Caltrans' perspective, it is important to note that the outcome of the events would likely have been no different without the alternate procedures of the MOU. Caltrans has always emphasized thorough identification efforts be employed during the PRC 5024 process to avoid these kinds of post-review discoveries. Caltrans actively works to avoid such events through ongoing training of PQS and working with our partners in the PRC 5024 process.

### **District 1 – Seaside Storm Damage Repair Project**

On May 24, 2015, CSO and SHPO were notified of a post-review discovery and inadvertent effect to two archaeological sites that occurred during excavation of highway fill on the eastern side of the US Route 101 near the community of Seaside. A backhoe clipped the edge of a previously unknown midden deposit that was located within the highway prism below existing pavement. The contractor was excavating a vertical cut below the edge of pavement and there was no additional excavation planned after they clipped the edge of the midden. Nearby the same location as vegetation was removed from a culvert structure, archaeological monitors discovered historic-era bottles and other material at the north and south ends of the culvert opening.

The archaeological sites were assumed eligible for the National Register of Historic Places and recorded pursuant to a Data Recovery Plan previously agreed to by Caltrans and the SHPO as a stipulation of a project Memorandum of Agreement executed in 2011. District Staff consulted with the relevant Native Americans and the recording documentation and information about the discovery and effect was provided to SHPO. The contractor then laid down filter fabric over the midden and covered the fabric with a layer of rock. Therefore, the exposed midden was covered with and completely protected from further disturbance. The historic era material was reburied near the location in which it was found. SHPO responded that it had no comments but wanted to be kept apprised of additional events as necessary.

## **STATUS OF MITIGATION COMMITMENTS AND ONGOING CONSULTATION**

During the first six months since the MOU took effect on January 1, 2015 (the last six months of fiscal year 2014-15), Caltrans committed to the following mitigation for projects that adversely affect state-owned historical resources. Unless otherwise noted, consultation between Caltrans and SHPO regarding the development of mitigation for state-owned historical resources on the Master List was without issue.

- District 7 – Ongoing consultation on the effects of transferring state-owned historical resources on the Master List within the Route 710 corridor out of state ownership.

## **QUALITY ASSURANCE MEASURES**

Under the MOU, Caltrans PQS have taken on much of the responsibility for ensuring that effects to state-owned cultural resources are taken into account and that there is no loss in quality of work. CSO's commitment to ensure that PQS are trained to work within the terms of the MOU is embodied in MOU Stipulation XVIII. Caltrans and SHPO determine the type of training that is appropriate under this stipulation, which was developed to ensure that Caltrans makes training a priority. Additionally, Caltrans CSO and the District PQS work with SHPO to identify training needs accordingly. As the results of this report indicate, this responsibility is being handled competently but with recognition that ongoing communication and training are keys to continued success. To ensure that this level of quality continues, the following quality assurance measures occurred:

- Because the MOU parallels the 2014 Section 106 PA in many of its stipulations and requirements, Caltrans considers the training offered at the January 2014, multi-day Functional Meeting that CSO presented, recent enough to be training for Caltrans PQS on the topics covered in that meeting. While the primary focus of this training was to introduce the 2014 PA, plenary and breakout sessions included training also relevant to the MOU, such as targeted training for PQS and information sharing for various internal and external partners within cultural resource community. Topics included developing ESAs, identification and evaluation of Post-World War II Housing Tracts, current issues and trends in cultural resources management, and working with Tribes. Presenters included staff from FHWA, OHP, the Caltrans' Biology Program, and the Native American Tribes.
- On January 13, 2015 and February 4, 2015, CSO presented webinars for PQS that introduced the 2015 MOU and its similarities and differences to the 2014 Section 106 PA. Topics included the approach and philosophy Caltrans and SHPO used in developing the MOU, a stipulation by stipulation review of the MOU and how it relates to the Section 106 PA, the revised HRCR and HPSR to accommodate 5024 MOU findings, the minimal recordation requirement for built-environment resource types normally exempted from evaluation, and how to handle transfers of state-owned historical resources.
- Caltrans CSO is using an on-call contract to develop training for Caltrans PQS in assessing effects to historic bridges and expects to deliver two sessions of the two-day course during the first half of fiscal year 2015-16.
- The Caltrans Standard Environmental Reference Volume II: Cultural Resources (SERv2) and located on the World Wide Web at <http://www.dot.ca.gov/ser/vol2/vol2.htm>

underwent a major update to reflect the new 2015 MOU provisions. Caltrans CSO staff regularly maintain and update the contents of the SERv2, including its exhibits and templates.

- To plan for future projects subject to compliance with PRC 5024, the stewardship provisions of W-26-92, as well as compliance with Section 106 of the National Historic Preservation Act, Caltrans PQS have just completed the historic bridge inventory update and historic context for state- and local government-owned bridges built between 1965 and 1974. CSO expects to send the documentation to SHPO for concurrence in July 2015.
- CSO, Districts, and OHP Project Review staff hold a quarterly statewide video teleconference to discuss policy, procedures, and workload issues.
- CSO staff peer reviews cultural resource studies as requested by the Districts.
- CSO staff routinely reviews evaluation documents submitted directly to SHPO in accordance with MOU Stipulation VIII.C.6. CSO works with OHP, District PQS and managers as needed to correct deficiencies when encountered.
- CSO reviews and approves all No Adverse Effects and Adverse Effect reports for state-owned historical resources both on, and not on the Master List and prior to transmittal to SHPO (for those state-owned historical resources on the Master List).

### **MOU Stipulation XIX.B**

Pursuant to the Exclusionary Provision (Stipulation XIX.B) of the MOU on the advice of and in consultation with CSO Chief and the OHP Review and Compliance Unit Supervisor, the Caltrans Division of Environmental Analysis Chief can place individual Caltrans Districts, Divisions, Offices, or Branches on Probation, Suspension, or Removal. Each level of Exclusion includes a process to return to full status under the terms of the PA.

There were no instances of the application of this provision during the reporting period.

## **CONCLUSION**

The information contained in this report demonstrates a steady and consistent program of compliance with the terms of the MOU. It is apparent that transportation projects and Caltrans maintenance, transfer and other activities have become more and more complex. The consultation process has become more rigorous and concerns about identification of, and impacts to, diminishing state-owned cultural resources have heightened.

During fiscal year 2014-15, Caltrans District and CSO PQS processed 454 state-only and Federal-Aid Highway projects that include state-owned cultural resources within their respective project limits. 382 projects qualified as Screened Projects and Activities and were exempted from further PRC 5024 review. Fifty-seven projects that did not qualify as screened projects and activities were kept on file at Caltrans, as no consultation with the SHPO was required under the terms of the MOU. Caltrans submitted four projects to SHPO for review.

By paralleling the 2014 Section 106 PA structure for state-only projects involving state-owned cultural resources, adding transfer and relinquishment procedures to the MOU, and by being able to use the Section 106 process for state-owned cultural resources potentially affected by federal undertakings, the streamlining features, the 5024 MOU continue to save Caltrans and SHPO limited valuable taxpayers resources. Caltrans is of the opinion that the MOU keeps pace with the changing perceptions of the state's heritage resource values and maintains consultation standards, while streamlining bureaucratic processes for projects and activities with little or no potential for affecting historical resources under state stewardship. Caltrans is committed to maintaining its high standards of compliance, resource consideration, and stewardship through retention and continued training of highly qualified staff, clear communication with our partners and the public, quality documentation of compliance with the terms of the MOU, PRC 5024 and W-26-92, and the best practices in the field of historic preservation.