

**Consultation Plan for Resolution of Adverse Effects to
Historic Properties and Development of a Section 106
Memorandum of Agreement for the
Proposed Growler Airfield Operations Increase at
Naval Air Station Whidbey Island**

I. PURPOSE

1. To facilitate a common understanding of the Navy mission and effects to historic properties with a direct nexus to the Proposed Growler Airfield Operations Increase at NAS Whidbey Island among government and non-government stakeholders;
2. To define options to resolve the adverse effects by exploring the advantages and disadvantages of each option,
3. To arrive, if possible, at a consensus on the mitigation option(s) to be memorialized in the Memorandum of Agreement (MOA).

II. THE MOA PROCESS

1. Understanding the Adverse Effect

Adverse Effect is defined at *36 CFR 800.5(a)(1)*:

“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.”

For the current consultation the type of adverse effect identified is an indirect adverse effect to contributing landscapes components of the Central Whidbey Island Historic District from a substantive increase in noise exposure, specifically to the perceptual qualities of views from documented points on the landscape.

Understanding the adverse effect is critical to achieving mutual decisions that support long-term resolution.

The consultation will focus on the following:

What is/are the significant features affected?

How does the undertaking diminish the integrity of those features?

What resolutions would mitigate the identified effects to the integrity of those features?

2. Resolving Adverse Effects

When adverse effects are identified in a section 106 consultation, the Navy must consult with the Advisory Council on Historic Preservation (ACHP), the State Historic Preservation Officer

(SHPO), and other consulting parties to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects to historic properties. See *36 CFR 800.6(b)(2)*. Appendix A.

Consultation to resolve the adverse effect does not mean the Navy must resolve the adverse effect to the satisfaction of the consulting parties. The ultimate responsibility for deciding what actions, if any, should be taken to avoid, minimize, or mitigate the adverse effect is with the Navy.

In seeking resolution of adverse effects, the goal of consultation is to:

- improve understanding of technical and legal issues necessary to make informed decisions
- explore a wide range of options
- develop and achieve mutual decisions
- promote integrity and longevity of decisions
- formulate and memorialize an agreement document

3. Memorandum of Agreement

If the Navy, the Council, and the SHPO agree on a means to resolve the adverse effects, they shall execute a memorandum of agreement (MOA). See *36 CFR 800.6(b)(2)*.

An agreement document addresses the resolution of adverse effects to historic properties arrived at through consultation. The types of resolution depend on why the historic property is eligible and is commensurate with the scale and scope of the undertaking.

An MOA is an agreement that commits a Federal agency to carry out clearly specified measures to mitigate the adverse effect on historic properties. The MOA is evidence that the Federal agency has complied with section 106 and that the agency shall carry out the undertaking in accordance with the MOA. See *36 CFR 800.6(2)(c)*.

4. MOA signatures

- a. Required Signatories: The Section 106 regulations require two signatories for any MOA: the Federal agency and the SHPO. The ACHP must be a signatory if the ACHP has elected to participate in the consultation process.

Signatory parties must sign the MOA for the agreement to take effect and their approval is needed to amend or terminate the agreement.

- b. Invited Signatories: A Federal agency may invite additional parties to be signatories who assume a responsibility under the stipulations of the MOA.

An invited signatory does not have to sign the MOA for the MOA to take effect. If the invited signatory does elect to sign the MOA that party's approval is needed to amend or terminate the MOA.

- c. **Concurring Parties:** A Federal agency may invite other consulting parties in the Section 106 process to sign the document as concurring parties.

Concurring parties do not have the rights of signatories and their approval is not necessary to execute, amend, or terminate the MOA. Signing as a concurring party provides a means for all consulting parties to express agreement with the contents of the MOA and acceptance of the outcome of the process.

III. CONSULTATION PROCESS

1. **Consulting Party Roles and Responsibilities**

If the full group of participating consultation members cannot reach consensus, the representatives of the Navy, ACHP, and SHPO are expected to participate in the final consensus-building effort.

Should any consulting party wish to withdraw from the process, they will provide a written explanation to the group.

Should any consulting party wish to request another party be removed from the consultation process they will provide a written statement explaining their request. The representatives of the Navy, ACHP, and SHPO will review and respond to the request with a consensus decision on whether the requested party should be removed from the consultation.

Consulting Party Member Objectives

The group members will:

- engage in a thoughtful, thorough deliberation
- share relevant information with the other group members
- keep the group informed about constituent perspectives
- work to identify a wide range of viable options
- openly discuss and evaluate those options
- refrain from undermining group recommendations and reports

3. **Public Input**

The Navy will make a Final Draft MOA available for public review and comment to provide members of the public an opportunity to express their views on resolving the adverse effects. See 36 CFR 800.6(a)(4).

4. **Decision Making and Deliberation**

The group's highest goal is consensus. A consensus agreement is one that all group members can support, built by identifying and exploring all parties' interests and by developing an outcome that satisfies these interests to the greatest extent possible. To enhance creativity

during meetings, individuals are not expected to restrict themselves to the prior positions held by their organizations, agencies or constituencies. The goal of the consultation effort is to have frank and open discussion of the topics in question and the options to address the topics. Therefore, ideas raised in the process of the dialogue, prior to agreement by the whole group, are for discussion purposes only and should not be construed to reflect the position of a member or to prematurely commit the group.

If consensus is not possible, the Navy, ACHP, and SHPO will work to build a consensus of their own, using the whole group's deliberation as the basis for their work. Finally, if full agency consensus is not possible, the lead agency may use the group's work to make decisions in line with their regulatory authority and in keeping with the limitations of that authority.

5. Communication with Other Groups, Individuals, and the Media

As a consultation group, the goal is to maintain an environment that promotes open, frank and constructive discussion. Such an environment must be built on mutual respect and trust, and avoidance of actions that would damage that trust. Therefore, consultation meeting sessions and discussion are closed working sessions unless the consulting parties as a group decide otherwise.

In communicating about the group's work, including communicating with the media, we request each consulting party should agree to speak only for herself or himself; to avoid characterizing the personal position or comments of other participants; and to always be thoughtful of the impact that specific public statements may have on the group and its ability to complete its work. No one will speak for any group as a whole without the consensus of that group. Should anyone wish the group to release information to the media, the group will do so only through a mutually agreeable statement, drafted by consensus of all of that group's members.

6. Discussion Guidelines

The following guidelines encourage productive deliberation. All parties will commit to best efforts at following them:

OPENNESS

- To other points of view
- To outcome
- To all representatives

LISTENING

- Focus on each speaker rather than prepare your response
- No interruptions

FAIRNESS

- Speak briefly
- Everyone participates

RESPECT

Disagree without being disagreeable
No personal attacks

COMMITMENT

Prepare for each meeting or discussion
Attend each session
Honor the agenda and make agenda changes with the whole group
Begin and end on time
Get up to speed if didn't attend previous meeting

All parties agree to act in good faith in all aspects of the group deliberations, to conduct themselves in a manner that promotes joint problem solving and collaboration, and to consider the input and viewpoint of other participants. Members agree not to use specific offers, positions, or statements made by another member during non- public discussions for any other purpose not previously agreed to in writing by the Members involved. Personal attacks will not be tolerated. Negative generalizations are not productive and have the potential to impede the ability of the group to reach consensus. All members will be given an equal opportunity to be heard with the intention of encouraging the free and open exchange of ideas, views, and information prior to achieving consensus. Members and other participants are requested not to bring cellular telephones into the consultations.

As part of this process, all participating organizations recognize that they are part of a decision-making process and not a study or data collection effort.

IV. DRAFT SCHEDULE AND MILESTONES

Activity	Date
Opening Meeting Affirm purpose, process, participation, etc. Meeting schedule Range of Options Evaluating Options Alternatives Evaluation Building on the Most Viable Options	August 2, 2018
Review of Draft MOA Informal Discussion Consensus Building –	Anticipated: August 8, 2018
Meeting #2	Anticipated: August 16, 2018
Final Revisions Review	Anticipated: August 30, 2018
Public Review Period	Anticipated: September 4, 2018

Final Agreement

Anticipated: October 1, 2018

Circulation for Signature

Anticipated: October 9, 2018

Prepared By:

Kendall Campbell
NASWI Archaeologist and
Cultural Resource Program Manager