



TRIBES, TRIBES AND MORE TRIBES

WHERE DO TRIBES
FALL UNDER THE
NEPA UMBRELLA



WHERE WE CAME FROM
REMOVED TRIBES
TRI-CITIZENS



SOVEREIGN NATIONS

FEDERAL INDIAN LAWS

PRESERVATION

ANTIQUITIES ACT (1906)

**INDIAN MINERAL LEASING ACT
(1938)**

INDIAN CLAIMS COMMISSION (1946)

PUBLIC LAW 280 (1968)

INDIAN CIVIL RIGHTS (1968)

**INDIAN SELF DETERMINATION ACT
(1975)**

CLEAN AIR ACT

CLEAN WATER ACT

**NATIONAL ENVIRONMENTAL POLICY
ACT**

**NATIONAL HISTORIC PRESERVATION
ACT**

**AMERICAN INDIAN RELIGIOUS
FREEDOM ACT**

**ARCHAEOLOGICAL RESOURCE
PROTECTION ACT**

**NATIVE AMERICAN GRAVES
PROTECTION AND REPATRIATION
ACT**

COHEN'S HANDBOOK OF

**FEDERAL
INDIAN
LAW**



2012 EDITION


LexisNexis

OCTOBER 15TH, 1966

- LYDON B JOHNSON WOULD SIGN IN THE NEW LAW THE NATIONAL HISTORIC PRESERVATION ACT (NHPA).
- DIRECTS THE SECRETARY OF THE INTERIOR
 - NATIONAL REGISTER OF HISTORIC PLACES
 - NATIONAL HISTORIC LANDMARKS
 - STATE HISTORIC PRESERVATION OFFICE
 - ADVISORY COUNCIL ON HISTORIC PRESERVATION



NHPA 1992 AMENDMENT



- TWO AMENDMENTS TO THE NHPA WOULD NOW INCLUDE THE TRIBES
- SECTION 101 (D)(6)(A) “PROPERTIES OF TRADITIONAL RELIGIOUS AND CULTURAL IMPORTANCE TO AN INDIAN TRIBE OR NATIVE HAWAIIAN ORGANIZATION MAY BE DETERMINED TO BE INCLUSION ON THE NATIONAL REGISTER.
- SECTION 101(D)(6)(B) REQUIRES THAT FEDERAL AGENCIES MEET THEIR SECTION 106 RESPONSIBILITIES BY CONSULTING WITH ANY INDIAN TRIBE THAT ATTACHES RELIGIOUS AND CULTURAL SIGNIFICANCE TO HISTORIC PROPERTIES THAT MAY BE AFFECTED BY AN UNDERTAKING.



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- ACHP - TASKED TO ENSURE FEDERAL AGENCIES MEET THEIR COMMITMENT TO THE NHPA BY PROVIDING GUIDELINES AND REGULATIONS FOUND IN 36 CFR 800.
- IN 2015. THE ACT WAS CODIFIED INTO THE U.S.C. UNDER TITLE 54, SECTION 30010 ET. SEQ.

NEPA

- Clean Air Act
- Clean Water Act
- Environmental Justice Executive Order
- Noise ordinances
- U.S. Department of Transportation Act of 1966; Section 4(f)
- Section 106 of the National Historic Preservation Act
- Contaminated materials and substances
- Endangered Species Act
- Coastal Zone
- Migratory Bird Treaty Act
- Protection of Wetlands Executive Order
- Patuxent Research Refuge Executive Order
- Floodplain Management Executive Order
- Federal Flood Risk Management Executive Order
- Limited English Proficiency Executive Order
- Military Construction and Appropriations Act
- State Environmental Laws

THE NEPA UMBRELLA AND HOW IT COVERS THE TRIBAL INTEREST

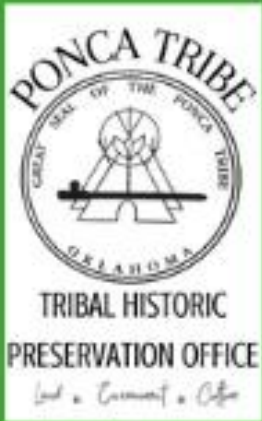
HOW DOES SECTION 106 WORK UNDER NEPA

- REGULATIONS UNDER SECTION 106 PROMULGATED IN 1999 REQUIRE COORDINATION WITH THE NATIONAL ENVIRONMENTAL POLICY ACT.
- WHILE BOTH STATUTORY REQUIREMENTS ARE MET WITH “FEDERAL UNDERTAKING” AND “MAJOR FEDERAL ACTIONS” BOTH HAVE A SIMILAR PURPOSE.

TWO AGENCIES ONE PURPOSE

- BOTH THE CEQ AND THE ACHP HAVE SIMILAR RESPONSIBILITIES
- CEQ (COUNCIL OF ENVIRONMENTAL QUALITIES) OVERSEES THE REGULATIONS THAT IMPLEMENT NEPA
- ACHP (ADVISORY COUNCIL ON HISTORIC PRESERVATION) OVERSEES THE REGULATIONS THAT IMPLEMENT SECTION 106
- BOTH INDEPENDENT COUNCILS HAVE PROVIDED A NEPA AND NHPA HANDBOOK FOR INTEGRATING NEPA AND SECTION 106.





WHAT IS THE ROLE OF THE THPO TRIBAL HISTORIC PRESERVATION OFFICER

- LIKE THE SHPO, THE TRIBES HAVE THE SAME VOICE.
- THE THPO OFFICE IS SEPARATE FROM TRIBAL ENVIRONMENT
- TRIBES HAVE ASSUMED DUTIES IN BOTH THEIR ANCESTRAL LANDS AND THE OUR CURRENT JURISDICTIONS

WHO, HOW AND WHEN

- ONLY FEDERAL AGENCIES AND THEIR LEAD AUTHORITY CAN INITIATE THE GOVERNMENT-TO-GOVERNMENT CONSULTATION, THE TRIBES ARE VERY FAMILIAR WITH THE PROCESS.
- COMPANIES CAN REACH OUT EARLY
- BUILD PARTNERSHIPS EARLY
- THPO OFFICERS HAVE THEIR OWN CHALLENGES
- CULTURAL AND NATURAL RESOURCE NEXUS
- MEET EARLY AND STAY LATE



SHEILA BIRD NIGHTHAWK CONSULTING

- NIGHTHAWK.C@YAHOO.COM
- SPECIALIZING IN TRIBAL PERSPECTIVES, CULTURAL SENSITIVITY TRAINING, NHPA, NAGPRA AND TRIBAL CONSULTATION.
- SERVED AS SENIOR CONSULTANT, CO PRINCIPAL INVESTIGATOR AND POLICY ADVISOR
- HOST OF THPO TALK-AN INDIGENOUS PODCAST
- WEBSITE: THPOTALK.COM

WADO GALI-ELI-GISI

