

7.0

**NATIVE AMERICAN
CONSULTATION**



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Section 106 of the National Historic Preservation Act (as amended) and the Advisory Council on Historic Preservation regulations (36 CFR 800.2(c)(2)(ii), mandate that federal agencies must involve interested Native American tribes in the planning process for federal undertakings. Consultation with a Native American tribe recognizes the government of sovereign tribal groups. Federal agencies must be sensitive to the fact that historic properties of religious and cultural significance to one or more tribes may be located on ancestral, aboriginal, or ceded lands beyond modern reservation boundaries. The consulting tribes are offered the opportunity to identify concerns about cultural resources, and comment on how the project might affect them.

If it is found that the project will impact cultural resources that are eligible for inclusion on the NHRP, and are of religious or cultural significance to one or more consulting tribes, their role in the consultation process may also include participation in resolving how best to avoid, minimize, or mitigate those impacts. By describing the proposed undertaking and the nature of known cultural sites, and consulting with the interested Native American tribes, the Federal Highway Administration, and Colorado Department of Transportation strive to effectively protect areas important to Native American people.

Two tribes expressed in writing the desire to be consulting parties for the project: the Northern Cheyenne Tribe and Pawnee Nation of Oklahoma. A third, the Comanche Nation of Oklahoma, responded by telephone, also with a request to be considered a consulting tribe (Chapter 9, *Agency Correspondence*). None of the three tribes raised specific issues of concern regarding the project, but they requested notification if materials attributable to Native Americans are discovered during construction.

Tribes Consulted

In September 2003, 11 federally recognized tribes with an established interest in El Paso County, Colorado, were invited via letter to participate as consulting parties:

- Pawnee Nation of Oklahoma
- Northern Cheyenne Tribe (Montana)
- Ute Mountain Ute Tribe (Colorado)
- Southern Ute Indian Tribe (Colorado)
- Ute Tribe of the Uintah and Ouray Agency (“Northern” Ute) (Utah)
- White Mesa Ute Tribe (Utah)
- Apache Tribe of Oklahoma
- Cheyenne and Arapaho Tribes of Oklahoma (two tribes administered by a unified tribal government)
- Comanche Nation of Oklahoma
- Kiowa Tribe of Oklahoma
- Northern Arapaho Tribe (Wyoming)



All three consulting tribes will continue to receive information about the project as it becomes available, and every opportunity will be taken to involve them in the planning and project development process. In so doing, the FWHA and CDOT have fulfilled their legal obligations for tribal consultation under federal law.

