

3.13 Historic Properties and Native American Consultation

3.13.1 What are historic properties and why are they important?

Historic properties are defined as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places. A property is eligible for the National Register of Historic Places if it possesses historic integrity (such as maintaining original materials and design) and meets one or more of the following four criteria:

- Criterion A—Associated with important historical events or patterns
- Criterion B—Associated with lives of persons significant in our past
- Criterion C—Embodies distinctive characteristics of an architectural type, period, or method of construction
- Criterion D—Has yielded or is likely to yield information important in prehistory or history

The Corridor is rich in historic resources. Preserving historic properties and districts is important to the communities along the Corridor—as a physical reminder and link to the past, a source of revenue from heritage tourism, and a way to promote sustainable development.

The Federal Highway Administration (FHWA) has a special government-to-government relationship with federally recognized Native American tribes that requires the former to work with tribes that may have a cultural or religious association to historic properties affected by FHWA actions. Consulting tribes are offered an opportunity to identify concerns about cultural resources and comment on how projects may affect them.

3.13.2 What study area and process was used to analyze historic properties?

The Area of Potential Effect (APE) follows the I-70 Mountain Corridor for 144 miles, from Glenwood Springs in western Colorado to C-470/Jeffco Government Center light rail station on the western edge of the Denver metropolitan area. The width of the APE is defined based on a viewshed from the mountain ridgelines; in some locations, the APE is as wide as 3 miles on either side of the I-70 highway.

Section 106 of the National Historic Preservation Act of 1966, as amended, requires projects proposed or funded by federal agencies to identify and assess effects to historic properties listed on or eligible for inclusion in the National Register of Historic Places. Agencies must consult with the State Historic Preservation Office (SHPO). Other interested parties can become consulting parties to the Section 106 process. The historic resources in the Corridor are important to Corridor communities. Currently, 28 agencies, historical organizations, and municipalities are participating as consulting parties. In addition, 11 Native American tribes are participating as consulting parties based on their interests in properties of religious or cultural significance to tribes (see **Section 3.13.4** for a discussion of Native American consultation).

Section 106 of the National Historic Preservation Act Compliance Steps

The Section 106 process is a series of sequential steps requiring agencies to:

1. Determine the Area of Potential Effect for historic properties.
2. Identify historic properties within the Area of Potential Effect.
3. Determine effects on historic properties from the Proposed Action (and alternatives).
4. Resolve adverse effects (agree upon mitigation measures) with consulting parties.

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The purpose of the Tier 1 study is to identify broad environmental effects of potential alternatives for the Corridor. The lead agencies used a phased process for the identification and evaluation of historic properties in the Corridor. This approach is consistent with 36 Code of Federal Regulations 800.4(b)(2) and 36 Code of Federal Regulations 800.5(a)(3), which allow agencies to defer final identification and evaluation of historic properties for large corridors like the I-70 Mountain Corridor. Following this approach for the Tier 1 study, historic properties were identified from file searches and broad field review of properties, but intensive surveys were not conducted. Effects to historic properties were determined broadly to assess potential differences among Action Alternatives. The lead agencies initiated a Programmatic Agreement with the Section 106 consulting parties to define how each of the steps of the Section 106 process will be completed during Tier 2 processes.

The Colorado Department of Transportation (CDOT) conducted file searches of the APE in 2003 and 2009 through the Colorado Office of Archaeology and Historic Preservation (OAHP), the official repository of all recorded historic properties in the state. The file searches identified more than 2,000 sites within the APE. Many of these properties do not have an official determination of National Register of Historic Places eligibility, and most require reevaluation. The file searches are considered a starting point for identifying historic properties. However, for Section 106 compliance, the data in the OAHP files are not considered to be complete (not all areas have been surveyed) or correct (discrepancies in the National Register of Historic Places status is common).

Reconnaissance or windshield surveys supplemented the OAHP file data. As part of the windshield surveys, local officials and historians identified additional historic properties and areas or districts throughout the Corridor that may or may not have been included in the OAHP records. In addition to identifying specific sites of interest, the reconnaissance survey provides an overview of the Corridor history and types of resources likely to be found. This information is contained in the *I-70 Mountain Corridor PEIS Historic Properties and Native American Consultation Technical Report* (CDOT, March 2011).

Section 106 Consulting Parties

Federal

National Park Service, Intermountain Region
Bureau of Land Management, Glenwood Springs Field Office
United States Forest Service, Arapaho & Roosevelt National Forest / Pawnee National Grassland

State

State Historic Preservation Officer
Colorado Historical Society

County

Clear Creek County
Eagle County
Summit County Historic Preservation Commission
Jefferson County Historical Commission
Eagle County Historical Society
Clear Creek County Archives

Municipal

City of Glenwood Springs
City of Idaho Springs
Town of Georgetown
Town of Silver Plume
Town of Breckenridge
Denver Landmark Preservation Commission
Frisco Historic Preservation Board
Glenwood Springs Design and Review Commission

Other

Colorado Preservation Incorporated
Georgetown-Silver Plume Historic District Public Lands Commission
National Trust for Historic Preservation/Plains Office
Historic Georgetown, Inc.
Historical Society of Idaho Springs
Mill Creek Valley Historical Society
People for Silver Plume
Anne Callison
Alan Golin Gass

3.13.3 What agencies have CDOT and FHWA coordinated with and what are their relevant issues?

Agency coordination on historic properties at Tier 1 has been ongoing since 2001. Between 2001 and 2002, CDOT contacted all local and county governments with historic preservation ordinances and boards, including Certified Local Governments, to solicit information on sites of local interest. Twenty-eight organizations are participating as Section 106 consulting parties. Additional historic property coordination occurred as part of the Section 4(f) process described in **Section 3.14, Section 4(f)**

Discussion.

Topics of interest to the consulting parties include how the Section 106 process is applied in Tier 1, how historic properties are identified, how effects (particularly indirect noise, vibration, and visual effects) and cumulative effects are determined, how effects on heritage tourism are considered, and how information is gathered from and distributed to the public. Minimizing adverse effects to historic properties is a key concern for consulting parties. Through the development of Programmatic Agreements with the consulting parties and Native American tribes, a process is established to address these concerns and outline specifically how Section 106 requirements will be addressed during Tier 2 processes.

Appendix B, I-70 Mountain Corridor Section 106 Programmatic Agreement includes the Section 106 Programmatic Agreement.

A series of meetings were held from 2004 to 2008 to develop a Section 106 Programmatic Agreement involving the FHWA, Advisory Council on Historic Preservation, Department of Interior, National Park Service, Bureau of Land Management, United States Forest Service, the SHPO, CDOT, and other agencies and consulting parties. The *I-70 Mountain Corridor Section 106 Programmatic Agreement* was executed in 2008 and outlines the implementation of Section 106 for Tier 2 undertakings. The Programmatic Agreement also proposes possible mitigation and measures to minimize harm for historic properties. The consulting parties are involved in developing some of the mitigation measures identified in the Section 106 process.

3.13.4 How did FHWA and CDOT consult with Native American tribes?

Consultation with a Native American tribe recognizes the government-to-government relationship between the federal government and sovereign tribal nations. 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. In addition to Section 106 and its implementing regulations (36 Code of Federal Regulations 800), other federal statutes mandate consultation with Indian Tribes, including the American Indian Religious Freedom Act of 1978 and the Archaeological Resources Protection Act of 1979.

The lead agencies consulted with tribal representatives of the following 11 Native American tribes in the identification of properties of religious or cultural significance to the tribes and potential effects to those properties:

- Kiowa
- Northern Arapaho
- Northern Cheyenne
- Ute Tribe of the Uintah and Ouray Agency
- Rosebud Sioux
- Standing Rock Sioux
- Southern Cheyenne and Southern Arapaho (known as the Cheyenne and Arapaho Tribes of Oklahoma)
- Southern Ute
- Ute Mountain Ute
- White Mesa Ute

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Two meetings and a field trip were held with interested tribes. The trip provided the tribal representatives an opportunity to visit the Corridor and simultaneously receive information about the proposed improvements and their possible effects on the natural and cultural environment. Although no specific properties of significance were identified by tribal members, the lead agencies and tribes signed a Programmatic Agreement (which is incorporated in the *I-70 Mountain Corridor Section 106 Programmatic Agreement* included as **Appendix B, I-70 Mountain Corridor Section 106 Programmatic Agreement** to this document) to formalize the consultation process, specify consultation procedures for Tier 2 processes, and address issues pertinent to both the agencies and tribes. The *I-70 Mountain Corridor Historic Properties and Native American Consultation Technical Report* (CDOT, March 2011) provides additional information about the consultation with Native American tribes.

3.13.5 What are the areas of historic properties interest identified in the Corridor?

Historic properties are found throughout the Corridor. **Figure 3.13-1** provides an overview of historic properties in the Corridor listed in or officially eligible for listing in the National Register of Historic Places. **Figure 3.13-1** shows trends and areas of potential historic interest; however, it is not a complete representation of historic properties in the Corridor because comprehensive historic property inventories have not been conducted. Several nationally significant properties, including the Georgetown-Silver Plume National Historic Landmark District and the nationally significant portions of the interstate itself, are present in the Corridor, along with many sites of statewide and local importance. Developed towns throughout the Corridor, from Glenwood Springs to Frisco to Idaho Springs, contain historical buildings and associations. Historical mining sites are abundant in the Corridor, and other historical sites related to transportation, mining, and recreation also are represented. Although the entire Corridor has not been surveyed, file search and reconnaissance information suggest that hundreds of properties are officially eligible for listing or listed in the National Register of Historic Places within the APE, and many more are likely to be identified once intensive surveys are completed and the National Register of Historic Places criteria are applied systematically. The *I-70 Mountain Corridor PEIS Historic Properties and Native American Consultation Technical Report* (CDOT, March 2011) provides a complete mapping of properties in the OAHF database, as well as additional information about the history and properties in the APE.

Historic Properties in the Corridor

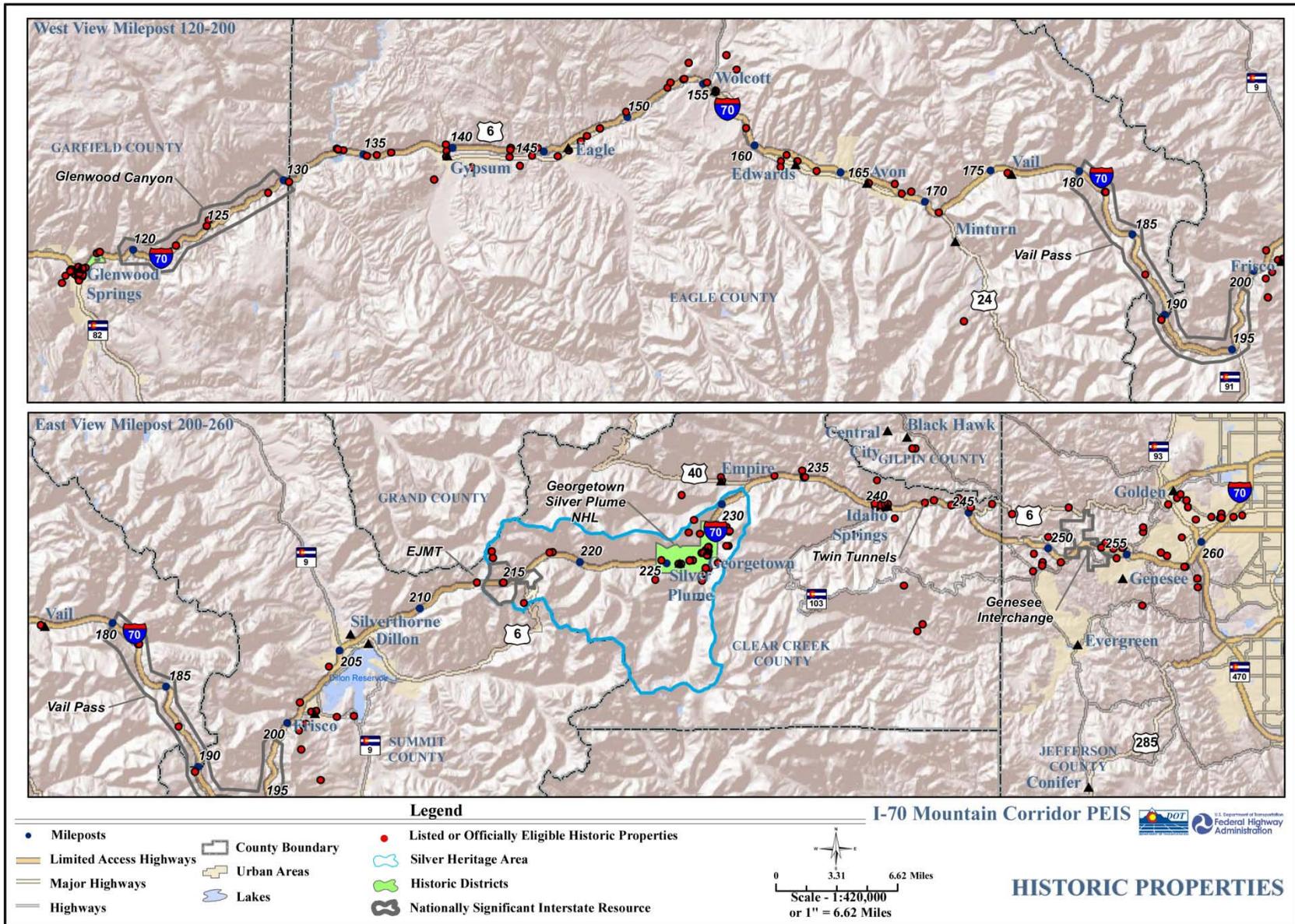
The importance of historic properties and districts in the Corridor is widely recognized. The Georgetown-Silver Plume National Historic Landmark District, located along I-70 Corridor between Georgetown and Silver Plume, is one of just 21 National Historic Landmarks (sites of exceptional national importance) in Colorado. The Town of Georgetown also is recognized by the White House and Advisory Council on Historic Preservation as a “Preserve America” community for the town’s initiatives to protect and celebrate its cultural heritage.

The Federal Highway Administration considers five transportation resources in the Corridor—Glenwood Canyon, Twin Tunnels, the Eisenhower-Johnson Memorial Tunnels, Vail Pass, and the Genesee Park Interchange Bridge—to be nationally significant interstate resources.

Multiple communities in Clear Creek County along the Corridor are included in the Colorado Preservation, Inc. 2005 List of Most Endangered Places. Colorado Preservation, Inc. is a Colorado nonprofit organization that promotes historic preservation in the state; while inclusion on the organization’s endangered list does not afford any protection, inclusion on the list recognizes the historic importance of and threats to those resources.

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Figure 3.13-1. Historic Properties in the Corridor



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3.13.6 How do the alternatives potentially affect historic properties?

Historic properties could be directly or indirectly affected by the Action Alternatives. Direct effects include physical destruction, alteration, or removal of historic properties, including archaeological and historic archaeological sites. Indirect effects generally include changes to a property's setting or use, or the introduction of visual, atmospheric, or audible elements that diminish a property's historic integrity. The analysis presented below provides context to differences among the Action Alternatives and is consistent with the phased approach to identify and evaluate historic properties at first tier studies. It does not represent a full impact analysis or determination of effects to historic properties because intensive surveys have not been conducted and, therefore, the identification of historic properties is incomplete. All properties identified in the OAHF database or identified through windshield surveys are included in the analysis, with the majority being treated as eligible for the National Register of Historic Places for the purpose of analysis. This approach is accepted for Tier 1 studies and is considered conservative because many of the properties being treated as eligible may not meet National Register of Historic Places criteria for significance once surveys are completed. However, other properties that meet National Register of Historic Places criteria but have not yet been recorded could be identified.

How do the alternatives directly affect historic properties?

Based on the historic properties identified to date, as many as 76 different properties could be directly affected by one or more of the Action Alternatives. These properties include individual historic and archaeological sites as well as historic districts. Of the 76 properties, 7 are listed in the National Register of Historic Places; 1 is listed in the State Register of Historic Places (State Register); 5 are nationally significant interstate resources; and 10 are officially eligible for listing in the National Register of Historic Places. The other 53 properties are included in the OAHF database or were identified through windshield surveys but do not have an official National Register status. None of the Action Alternatives affect all 76 properties but the Action Alternatives affect different properties and each of the 76 properties is affected by one or more of the Action Alternatives. Of the identified properties, only the No Action Alternative does not directly affect any historic properties. The Action Alternatives potentially affect between 48 and 70 historic properties. The Minimal Action Alternative affects the fewest, and the Combination alternatives affect the most. The impacts for the Preferred Alternative fall within the range of the other Action Alternatives. The actual number of historic properties affected could be higher or lower depending on the final eligibility determinations of these properties, additional properties that may be identified through intensive survey, and application of mitigation measures or design modifications to avoid impacts to properties.

Table 3.13-1 outlines the impacts by alternative. Direct impacts include areas where the conceptual footprints of alternatives, including estimated construction zones, intersect with identified historic properties. Impacts are unknown at this time, but may range from minor effects, such as acquisition of an easement along part of the property, to acquisition and destruction of the property. The alternatives presented in **Table 3.13-1** vary slightly from the grouping described in **Chapter 2, Summary and Comparison of Alternatives**. They include both variations of the Highway Alternatives at 55 miles per hour (mph) and 65 mph because the number of historic properties affected is different under these scenarios.

How do the alternatives indirectly affect historic properties?

Additional properties are affected indirectly by visual, noise, and access changes to the historic setting of the Corridor. All of the Action Alternatives may include noise walls that could block views of historic towns and change the character of the mountain setting. The Highway alternatives increase the modern highway intrusions by increasing the amount and width of pavement in the Corridor. Except for the Bus in Guideway Alternatives, the Transit alternatives introduce a new mode of transportation through most of the Corridor, which creates a substantial visual change to the environment. The Combination

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alternatives, including the Preferred Alternative, may result in more direct effects because they combine the setting changes of the Highway and Transit alternatives. Generally, the alternatives with smaller footprints (No Action and Minimal Action Alternatives) create fewer intrusions and thus have less indirect impact to historic properties.

How does construction of the alternatives affect historic properties?

Construction of any of the Action Alternatives could affect access to historic properties and could affect heritage tourism, particularly if lane closures and detours are not coordinated with local communities to avoid peak visitation periods. The Combination alternatives, which are the most complex and have the longest duration construction schedules, have the greatest impact.

Table 3.13-1. Comparison of Direct Impacts on Historic Properties

Alternative	National Register-Listed	State Register-Listed	Nationally Significant Interstate Features	Officially Eligible	Treated as National Register-Eligible ¹	Total
No Action	0	0	0	0	0	0
Minimal Action	2	1	3	9	33	48
Rail with IMC	4	1	3	8	37	53
AGS	2	1	3	9	41	56
Bus in Guideway	3	1	4	9	48	65
Six-Lane Highway (55 mph)	4	1	4	9	37	55
Six-Lane Highway (65 mph)	4	1	4	8	34	51
Reversible/HOV/HOT Lanes	4	1	4	9	38	56
Combination Six-Lane Highway with Rail and IMC	7	1	4	9	44	65
Combination Six-Lane Highway with AGS	5	1	4	10	47	66
Combination Six-Lane Highway with Bus in Guideway	6	1	4	10	49	70
Preferred Alternative ²	2 to 5	1	4	9 to 10	40 to 47	57 to 67

¹ Properties recorded in the OAHP database or identified through windshield surveys but require further evaluation to determine eligibility.

² The Preferred Alternative is presented as a range because the adaptive management component allows it to be implemented based on future needs and associated triggers for further action. Section 2.7.2 of this document describes the triggers for implementing components of the Preferred Alternative.

Key to Abbreviations/Acronyms

IMC = Intermountain Connection
HOV = high occupancy vehicle

AGS = Advanced Guideway System
mph = miles per hour

HOT = high occupancy toll

What are the project effects on historic properties in 2050?

The timing of the implementation of the Action Alternatives does not change the impacts on historic properties to any great extent. The direct loss of historic properties occurs when those properties are removed to construct transportation components. If implementation of the Action Alternatives occurs over a longer time frame, some historic properties and historic settings may remain intact for a longer period of time depending on the implementation schedule for the Action Alternatives. The indirect effects of changes to noise or visual conditions or other changes to historic setting occur at the time when those character-altering features, such as noise walls, are constructed. As with direct effects, the longer timeframe for implementation may avoid disruption of historic settings in the short term. The adaptive

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management approach of the Preferred Alternative allows phased implementation of mitigation that may reduce long-term changes to historic settings. By 2050, more properties will be older than 50 years and may become eligible for the National Register of Historic Places. **Chapter 4, Cumulative Impacts Analysis**, contains additional discussion about potential future cumulative effects to historic properties.

3.13.7 What will be addressed in Tier 2 processes?

For each Tier 2 process, CDOT will review existing information about historic properties within the project APE. The APE boundary will encompass the viewscape (the area within which a particular point is visible) and viewshed (the area visible from a particular point). The lead agencies will determine, in consultation with the SHPO and consulting parties, additional efforts needed during Tier 2 processes to identify historic properties and evaluate the effects of undertakings on historic properties.

Tier 2 processes will complete the Section 106 process, following the agreements in the *I-70 Mountain Corridor Section 106 Programmatic Agreement* and the tribal consultation Programmatic Agreement (the latter of which is included as Appendix B of the *I-70 Mountain Corridor Section 106 Programmatic Agreement*). The *I-70 Mountain Corridor Section 106 Programmatic Agreement* outlines specific requirements for each step of the Section 106 process, from identification of the APE through to identification of mitigation, and the tribal consultation Programmatic Agreement outlines consultation, treatment, monitoring, and recovery for sites of importance to tribes. In most cases, Tier 2 processes will include agreement on an APE for the individual project, an intensive survey of historic properties within the APE, determination of effects to include visual and noise effects of project designs, and agreement on mitigation measures with the SHPO and consulting parties.

3.13.8 What are the approaches to mitigation planning for historic properties?

Historic context is one of the core values of the I-70 Mountain Corridor Context Sensitive Solutions process, and CDOT, in cooperation with the SHPO, is developing documentation for seven dominant historical themes in the Corridor. The lead agencies commit to using this context on future projects to guide and inform evaluation of historic properties in the Corridor and will consider historic context in developing designs for future projects in the Corridor.

Mitigation for adverse effects to historic properties will not occur until Tier 2 processes when historic properties are identified through intensive survey and enough information is available to determine effects to those properties. Strategies for mitigation and Section 106 compliance for Tier 2 processes are well defined in two relevant Programmatic Agreements:

- Strategies for consultation, treatment, monitoring, and recovery for sites of importance to tribes are described in the *Section 106 Tribal Consultation Process for the I-70 Mountain Corridor Programmatic Agreement*.
- The *I-70 Mountain Corridor Section 106 Programmatic Agreement* (included in **Appendix B, I-70 Mountain Corridor Section 106 Programmatic Agreement**) stipulates how consultations will occur and how each phase of the Section 106 process will be carried out in Tier 2 processes. Mitigation strategies for historic properties are included in Section VI of the Programmatic Agreement (Resolution of Adverse Effects).

These mitigation strategies are presented in **Section 3.19, Mitigation Summary**. The lead agencies will develop specific and more detailed mitigation strategies and measures, and develop best management practices specific to each project, during Tier 2 process. The lead agencies will also adhere to any new laws and regulations that may be in place when Tier 2 processes are underway.