

Mitigation & Alternatives

HISTORICAL RESOURCES & MITIGATION

A lead agency **must** identify any potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource

Any adopted mitigation measures **must** be made fully enforceable through permits, conditions, agreements, or other measures (CEQA Guidelines § 15064.5 (b) (3-5))

AUTHORITY TO MITIGATE

- PUBLIC AGENCY HAS AUTHORITY TO REQUIRE FEASIBLE CHANGES IN ANY OR ALL ACTIVITIES TO LESSEN OR AVOID SIGNIFICANT EFFECTS ON THE ENVIRONMENT (CEQA GUIDELINES §15041)

Feasibility Definition

- Public Resources Code section 21061.1:

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

In General:

For **each** significant impact identified in the EIR, feasible measures to **avoid or substantially reduce** the project's environmental effect **must be discussed** (CEQA Guidelines §15126.4(a))

What is Adequate Mitigation??

- Adequate means

specific, feasible **actions** that will actually **improve** adverse environmental conditions, by avoidance, by minimizing, by rectifying, or reducing/eliminating effects

QUESTIONABLE MITIGATION MEASURES in CEQA documents will use language such as :

- PROVIDE FUNDING FOR. . . Or
- HIRE STAFF or
- MONITOR OR REPORT or
- COMPLY WITH EXISTING REGULATIONS OR ORDINANCES

Inadequate Mitigation measures

- Improper identification of resources
- Further studies/survey of area
- Partial salvation of building elements & donating these to a group/organization
- Relocation of building(s) to form an artificial district
- HABS/HAER recordation or other level of recordation for a demolition if intended to be below level of significance

Further inadequate mitigation:

- Installation of plaque for a demolition
- Creation of a panel or other mini exhibit as compensatory mitigation for a demolition

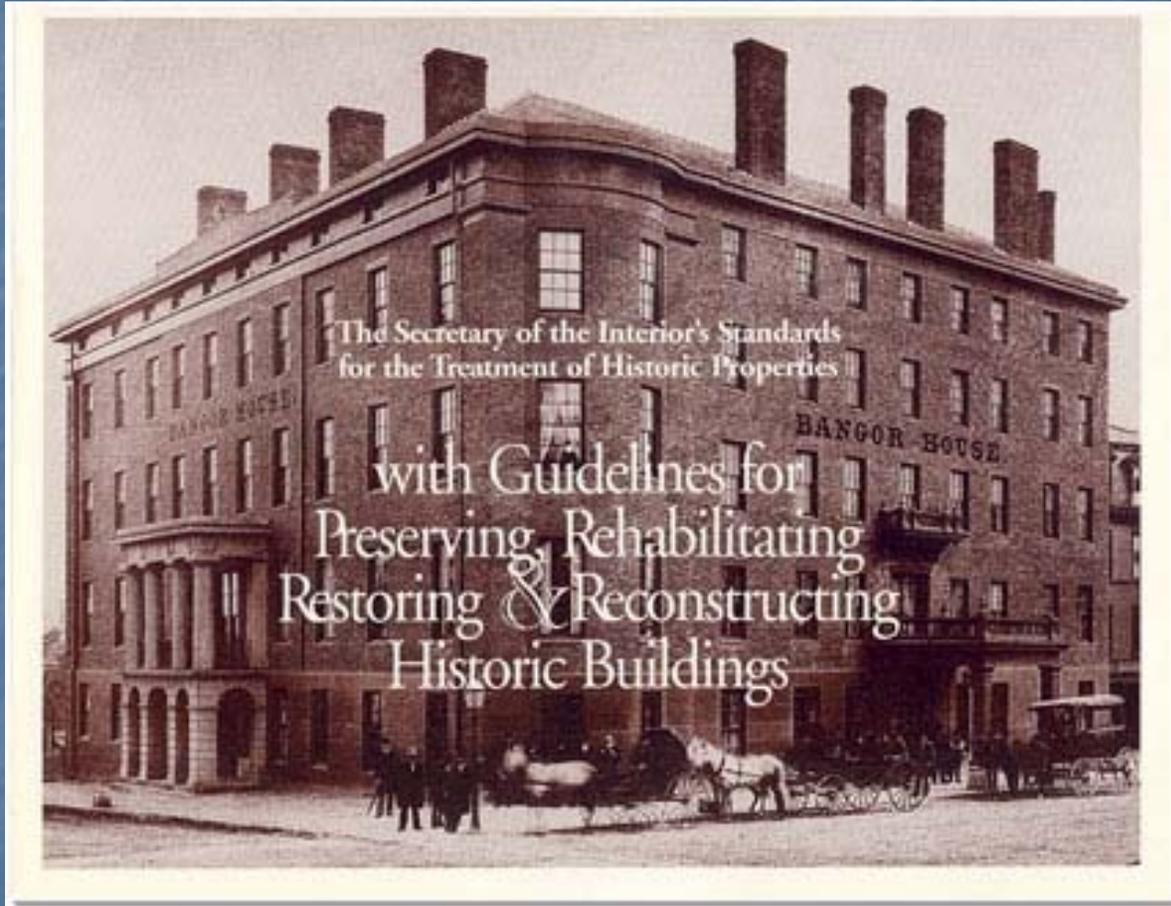
Mitigation May Not Be Deferred !!

Mitigation MAY NOT BE
DEFERRED TO SOME FUTURE
TIME....

So, how can adverse effects be mitigated and avoided??



Secretary of Interior Standards



§15064.5 (3)

& Categorical Exemption § 15331

- (3) Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer, shall be considered as mitigated to a level of less than a significant impact on the historical resource.

Rehabilitation Treatment



Relocation

- The confusion:
 - It can be an Impact
 - Or
 - It can be Mitigation

Mitigation measures that fulfill CEQA's condition of "improvement"

Resource avoidance through project or site change

- Adaptive re-use of a building or site
- Can be a relocation (adequate photo and other documentation should occur)
- Incorporation of resource into project

Mitigation that can work... depending on each specific case

- Compensatory mitigation; monies paid into a fund or used for specific purpose, survey or NR nomination
- Photo and other documentation including oral histories
- Partial avoidance
- Partial incorporation of site/resource

What is the appropriate mitigation for a potential adverse effect to an archeological resource?

- **Preservation**
- Preservation in place is the preferred treatment of an archeological resource in CEQA

Examples of preservation techniques in CEQA:

1. Planning construction to avoid archeological site
2. Deeding archeological site into permanent conservation easement
3. Capping the archeological site with chemically stable soil
4. Incorporation of archeological site within an open space

Data recovery

- When preservation in place of an archeological resource is not feasible, data recovery is the appropriate mitigation
- “a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resources, shall be prepared and adopted prior to any excavation being undertaken” (CEQA 15126.4 (b)(3)(C))

What is data recovery?

- Data recovery is the documentation, recordation, and removal of the archeological deposit from its discovery site in a manner consistent with professional standards
- And the subsequent cataloguing, analysis, identification, dating, interpretation & production of a report of findings



Data Recovery: Comparison between CEQA & Section 106

CEQA

- Data recovery is an appropriate preservation method
- Data recovery can permit avoidance of adverse effect

Section 106

- Data recovery is an appropriate preservation method
- Data recovery is inherently destructive, thus, is an adverse effect

Final Archeology Reports

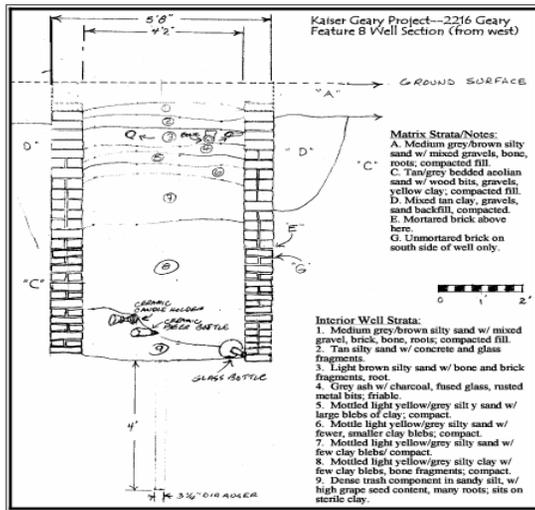


Figure 14: 2216 Geary Street, Feature 8, portion of field drawing, 15 August 1997.

- Copies of final archeology reports should be filed at the appropriate California Historical Resources Regional Information Center

Curation

- Curation is an appropriate mitigation
- The curation facility should meet OHP standards
- What should be curated?
 - Artifacts, ecofacts
 - Associated documentation (field notes, catalogues, drawings, photographs, videography, final reports)



Limitations to Mitigation

- Limitations apply to mitigation of a **unique** resource
 - Limitations on **cost** of mitigation to unique archeological resource
 - Cost is lesser of ½ cost of mitigation or
 - Commercial/industrial project: 0.5% of mitigation cost
- Single family residence: 0.75% of mitigation cost
 - Multiple unit project: 0.75% of mitigation cost for 1st unit
 - \$200 of mitigation cost for next 99 units
 - \$150 of mitigation cost for next 400 units
 - \$100 of mitigation cost for > 500 units

Limitations to Mitigation

Limitations apply to mitigation of a **unique** resource

- Limitations on **time period** for mitigation to a unique archeological resource
 - Mitigation must occur within 90 days of project approval

- Limitations on **project approval time** for mitigation to a unique archeological resource
 - Project approval cannot occur less than 60 days after completion of EIR

Limitations to Mitigation

Limitations apply to mitigation of a **unique** resource

- **Cost of evaluation** of unique archeological resource

The time and cost limitations of mitigation to a unique resource do **not** apply to:

surveys, studies, and other investigations needed to determine if the project may impact a unique resource

What is adequate mitigation?

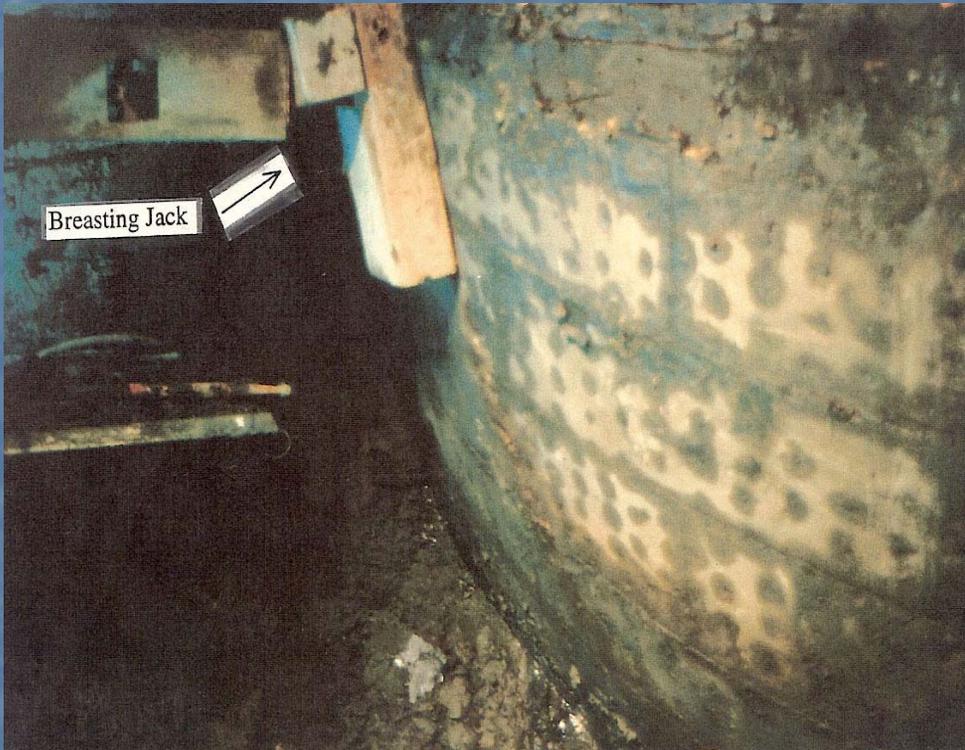
- Expected resource ≠ accidental discovery mitigation
- Expected resource ≠ archeological monitoring mitigation
 - If location of resource can be identified before construction
 - If construction can damage resource and soils context of resource
- Expected resource = archeological monitoring mitigation
 - If testing is not feasible or sufficiently predictive/informative
- Expected resource = archeological testing mitigation

Human Remains

- If **Native American** human remains are probable
 - Contact **Native American Heritage Commission**

- If human remains accidentally discovered
 - Contact **county coroner**
 - If coroner determines remains Native American, coroner contacts NAHC within 24 hrs
 - NAHC contacts **most likely descendant (MLD)**
 - If MLD does not respond in 24 hrs, Native American human remains must be reburied **on project site** in location not subject to future disturbance

San Francisco Archeological Mitigation Measures

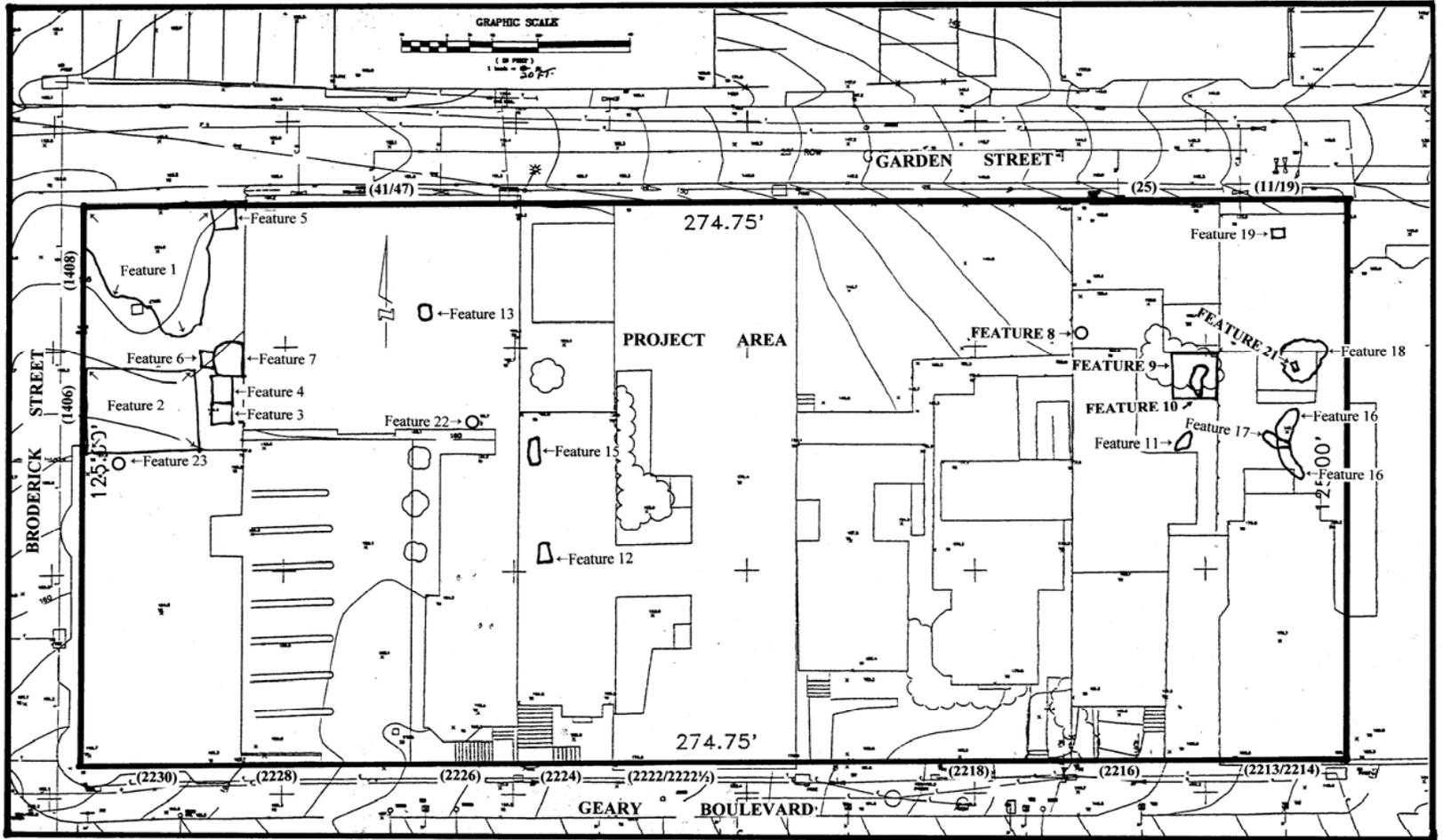


- Accidental Discovery
- Monitoring
- Testing

San Francisco Archeological Testing Mitigation Measure

- Professional qualifications
- Archeological Testing Plan
 - Expected property types
 - Testing methodology
 - Testing locations
- Data Recovery Plan
 - Research questions
 - Data needs
 - Curation
- Final Archeology Report
 - Distribution
 - Interpretive value of resource

(Historic Address [ca. 1880])



Map 2: Kaiser 2290 Geary Project Area: Approximate Historic Feature Locations.
(Source: Brian Kangas Foulk 1997)

Hypothetical

PROBLEM: How would you develop a mitigation for an adverse effect to an archeological resource in the following situation?

SCENARIO: A shopping center is proposed on a developed site. Documentation states a 19th century “paupers” cemetery is on the site, that also included Chinese burials.

Questions:

- What would be the appropriate mitigation?
- What steps could be taken to “preserve” the cemetery?
- What agencies, persons, organizations should be involved in developing or implementing the mitigation?
Why?
- Would accidental discovery, monitoring, or testing be an appropriate mitigation?
- If data recovery is only available mitigation, what issues should be addressed in the data recovery plan?
- Humans remains have importance under State law & to descendant groups but what scientific values need to be considered?

Alternative

- A draft EIR must describe a **reasonable range of feasible alternatives** to the project or project location that could **feasibly attain** most of the basic project objectives and would **avoid or substantially lessen any** of the significant environmental impacts of the proposed project.