



## Define the Area of Potential Effect

Spring 2008

### Greetings!

Welcome to the summer edition of the Dutton + Associates e-newsletter. With clear changes in the economy and marketplace, understanding your role and responsibilities in historic resource regulatory processes and having reliable data for decision-making are more important now than ever before. Included in this issue is important guidance on defining the Area of Potential Effect (APE) and services provided by Dutton + Associates to help you meet your regulatory requirements.

We hope you will take a moment to review this information, and find it helpful. Let us know if we can be of assistance, and have a safe and happy summer!

Dutton + Associates, LLC

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## What is the Area of Potential Effect and What Does it Mean to Me?

If you are a federal agency official or applicant for federal permits or assistance, chances are you've had at least one project where the question was asked: "*What is the Area of Potential Effect?*" Understanding the APE is important because it is the area of federal responsibility for the purposes of compliance with the provisions of Section 106 of the National Historic Preservation Act of 1966. Most importantly it's the area where you may have to conduct surveys for, or consider potential impacts to, cultural resources. When defining the APE, it is important to remember the following:

- The APE is the geographic area where a project may cause either direct or indirect changes to the character or use of historic properties, should such properties exist [36 CFR 800.169(d)].
- The APE is defined based on potential effects, not on the presence of known resources.
- The APE is defined by the responsible federal agency in consultation with the State Historic Preservation Officer (SHPO). For example, if you are an applicant for a wetland permit from the U.S. Army Corps of Engineers (Corps), the Corps will define the APE for your project in consultation with the SHPO.
- The size of the APE can depend on the scope of the federal action, as well as the

nature of the proposed activity.

- It is not uncommon for there to be two defined APEs: one for archaeological resources and one for architecture, standing structures, landscape, and other above ground resources.
- The level of effort appropriate for survey within any given APE may differ, even within the APE itself, depending on the nature of the proposed project, existing conditions, and prior disturbance.

Whether you are a federal agency official or an applicant for federal permits or assistance, knowing where you are responsible for identifying and considering effects to cultural resources is critical. Successful and efficient compliance with the provisions of Section 106 start with a well-defined APE. Contact us for more information on or assistance with defining an APE.

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## Regulatory Services Spotlight

Dutton + Associates provides public, private, and institutional clients with the full range of regulatory compliance services for cultural resources. Regardless of whether you are an agency official or an individual developer, it is important to understand how federal, state, and local historic preservation regulatory requirements may apply to your project. Knowing your role and responsibilities enables you to better plan your time and resources. To define, expedite, and navigate regulatory processes as they relate to cultural resources, Dutton + Associates offers clients the following services:

- Client representation for local, state, and federal reviews.
- Regulatory compliance strategy development
- Definition of APE
- Effect determination documentation.
- Programmatic Agreement (PA) and Memoranda of Agreement (MOA) negotiation and preparation.
- Specialized training on cultural resource management laws and regulations.

Our regulatory services are directed by David H. Dutton, a Managing Partner at Dutton + Associates. He brings over 18 years of experience managing regulatory matters at the federal, state, and local levels. As a former Historic Preservation Specialist with the Advisory Council Historic Preservation (ACHP), and Director of the Division of Project Review at the Virginia Department of Historic Resources (VDHR/SHPO), Mr. Dutton brings both perspective and experience to the consultation process.

For more information about our regulatory services, visit us at [www.dutton-associates.com](http://www.dutton-associates.com)

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Dutton + Associates, LLC. is a small woman-owned business creating and delivering successful cultural resource management strategies at the federal, state, and local levels. With established professional relationships at all levels of government and a record of delivering successful project outcomes, Dutton + Associates is a recognized and proven leader in the field of cultural resource management. For more information visit us on the web at [www.dutton-associates.com](http://www.dutton-associates.com).

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