

**NEW MEXICO STATE PROTOCOL
APPENDIX A
EXISTING PROGRAMMATIC AGREEMENTS
AND MEMORANDA OF AGREEMENT
TIERED TO THE PROTOCOL**

Pursuant to Section I.D of the State Protocol, the following special purpose Programmatic Agreements (PA) and Memoranda of Agreement (MOA) continue to be in effect. Implementation of procedures and reporting requirements under these agreements are independent of the State Protocol. Other PAs (see Protocol Stipulation I.D.iii) and MOAs may be developed when deemed necessary to define special purposes or procedures not covered in the national Programmatic Agreement or the State Protocol. This appendix will be reviewed and updated annually at the Protocol meeting.

National/Multi-State Agreements

1. Federal Coal Management Program PA (executed 5/20/1980; no expiration date)
2. Interagency Agreement-Interstate Natural Gas Pipeline (with FERC as lead agency for 106) (see WO IM 2003-197)(executed 5/2002; no expiration date)
3. Memorandum of Understanding between BLM and Nuclear Regulatory Commission (NRC) (executed 2/14/2013; no expiration date)
4. Western Area Power Administration regarding routine maintenance of transmission lines, substations, and other facilities PA (executed 2/2002; expires 2014; BLM NM will not resign)
5. Four Corners Power Plant PA (OSM, BLM, Navajo Nation and others; in preparation/draft)

Statewide/Multiple Field Office Agreements

1. NM BLM-SHPO Private Land Exchanges or Sales MOA
2. NM BLM-SLO-SHPO MOU on Land Exchanges
3. Navajo-Gallup Water Supply Project PA (Bureau of Reclamation (BOR), BLM, Navajo Nation and others) (Farmington, Rio Puerco)

Carlsbad Field Office

1. Permian Basin PA

Farmington Field Office

1. Navajo Mine PA (OSM, BLM, Navajo Nation and others)

Roswell Field Office

1. Permian Basin PA

**NEW MEXICO STATE PROTOCOL
APPENDIX B
STANDARD APEs FOR DIRECT EFFECTS**

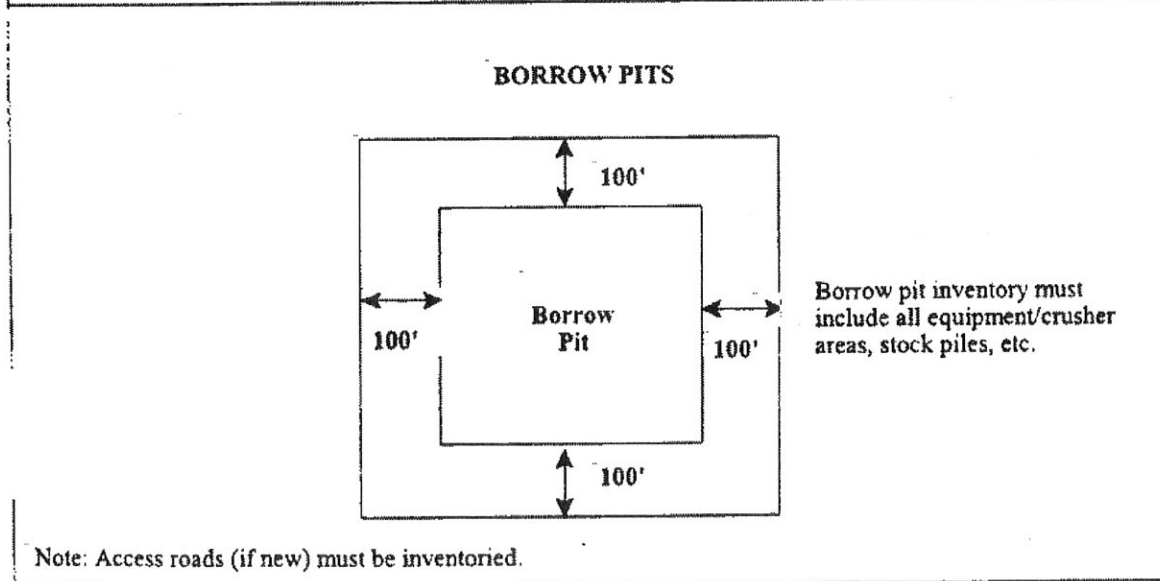
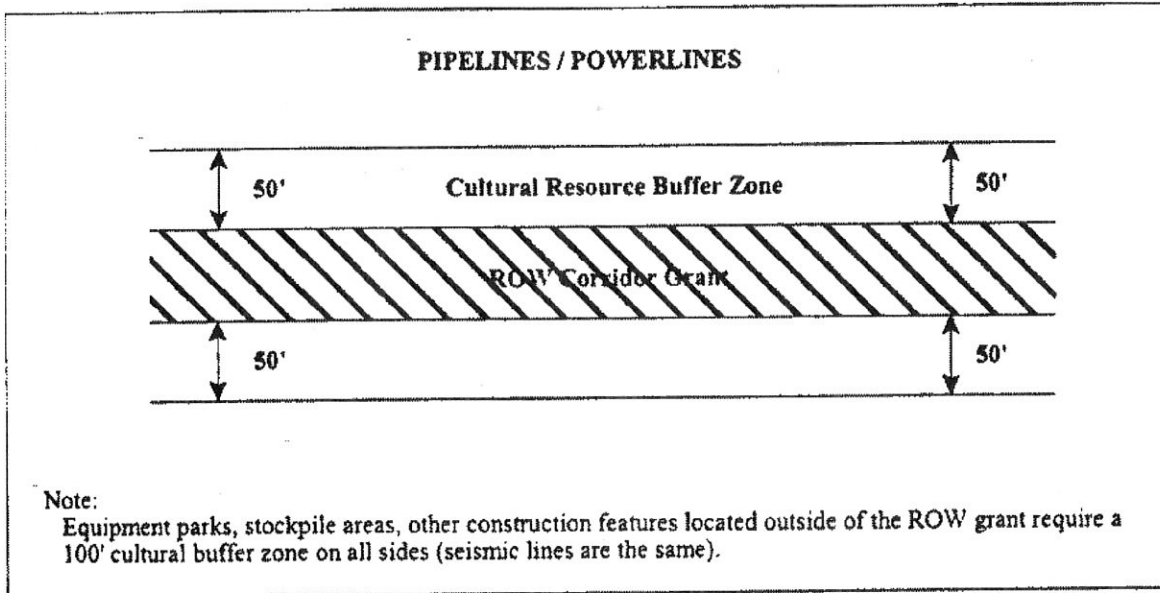
Pursuant to Section IV.B of the State Protocol, BLM and SHPO have consulted on the following standard Areas of Potential Effect (APEs) for common types of undertakings. The standard APEs listed below and shown on the attached diagrams are **minimum** APE sizes for evaluating direct effects. In certain circumstances, even though an undertaking may have a standard APE listed below, the Field Manager, at the recommendation of the cultural resource specialist, may have justification to require a larger APE. If an APE larger than the minimums below is being recommended, SHPO consultation is not required. For actions where a field office is suggesting a smaller APE for an undertaking listed below, SHPO consultation will be required pursuant to Section IV.B. For any other APEs (i.e. undertakings not listed here, visual effects APE, etc.), the BLM cultural resource specialist will consult with SHPO pursuant to Section IV.B. The inventory area is the entire direct APE, unless there is previous adequate inventory, previously disturbed areas, etc. as discussed in the Protocol, Section IV.D. All cultural resources within the APE must be evaluated for NRHP eligibility.

Diagrams of the standard APEs for the following undertakings are included in this appendix:

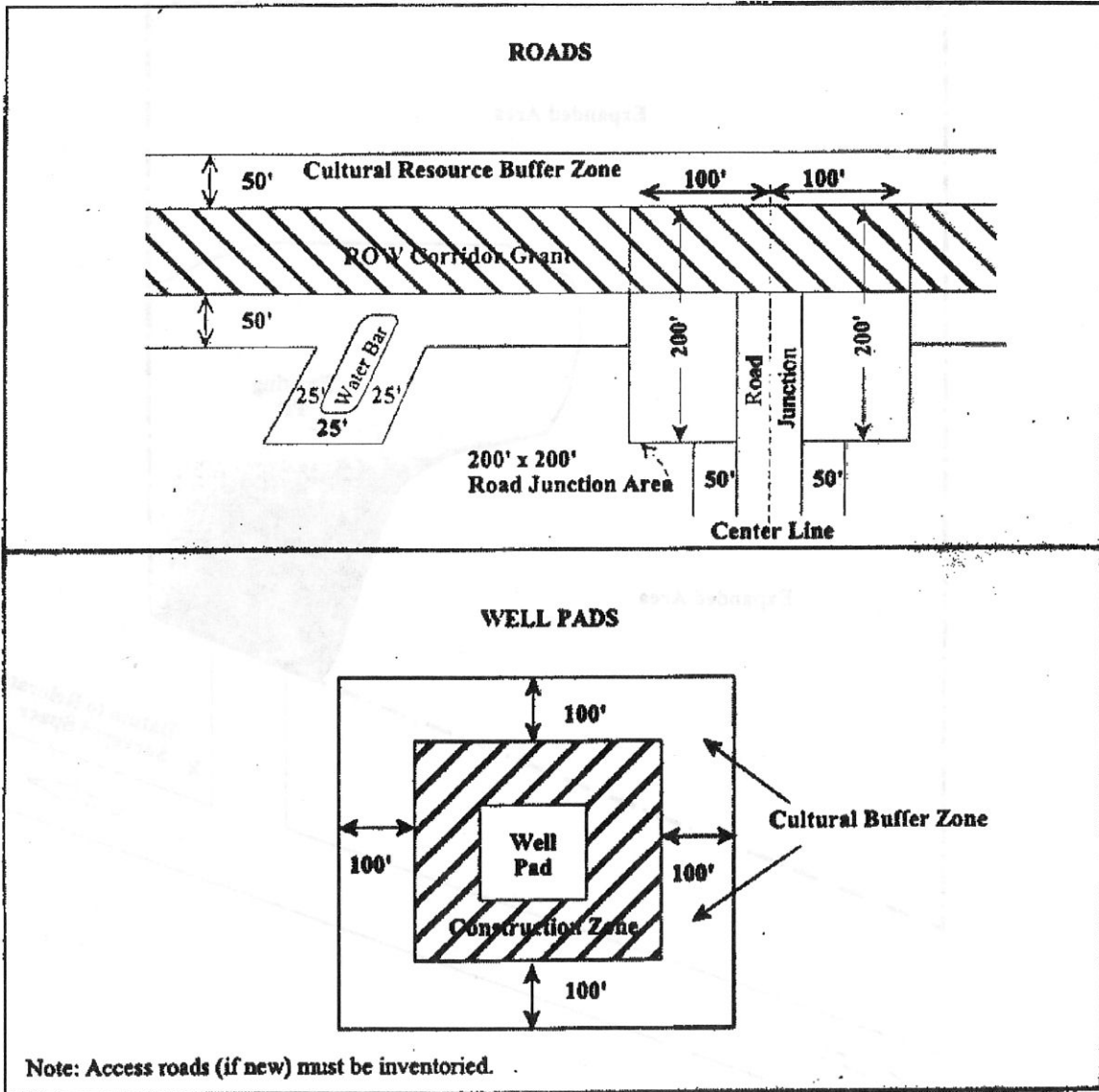
- Pipelines/Power lines-the width of the right of way corridor plus 50' from the edge of the right of way
- Borrow Pits-the borrow pit plus 100' on each side from the edge of the pit
- Roads-the right of way corridor plus 50' on each side from the edge of the right of way, 200' on each side of any road junctions and 25' on every side of proposed water bars.
- Well Pads-the well pad and construction zone plus 100' on each side from the edge of the construction zone
- Temporary Use Area-50' from the edge of the cultural buffer for a linear right of way or 100' for an area isolated from the right of way.
- For low to moderate ground disturbing vegetation and fuels treatments (including lop and scatter, prescribed fire, fuel wood areas not covered under Appendix C, and mastication), the standard APE for direct effects is the exterior perimeter of the project area plus a minimum 50' buffer.

A field office may, in consultation with SHPO, modify the standard APEs that follow, or create new standard APEs suitable to common types of undertakings in their specific areas. These modified or additional standard APEs will then be appended to Appendix B.

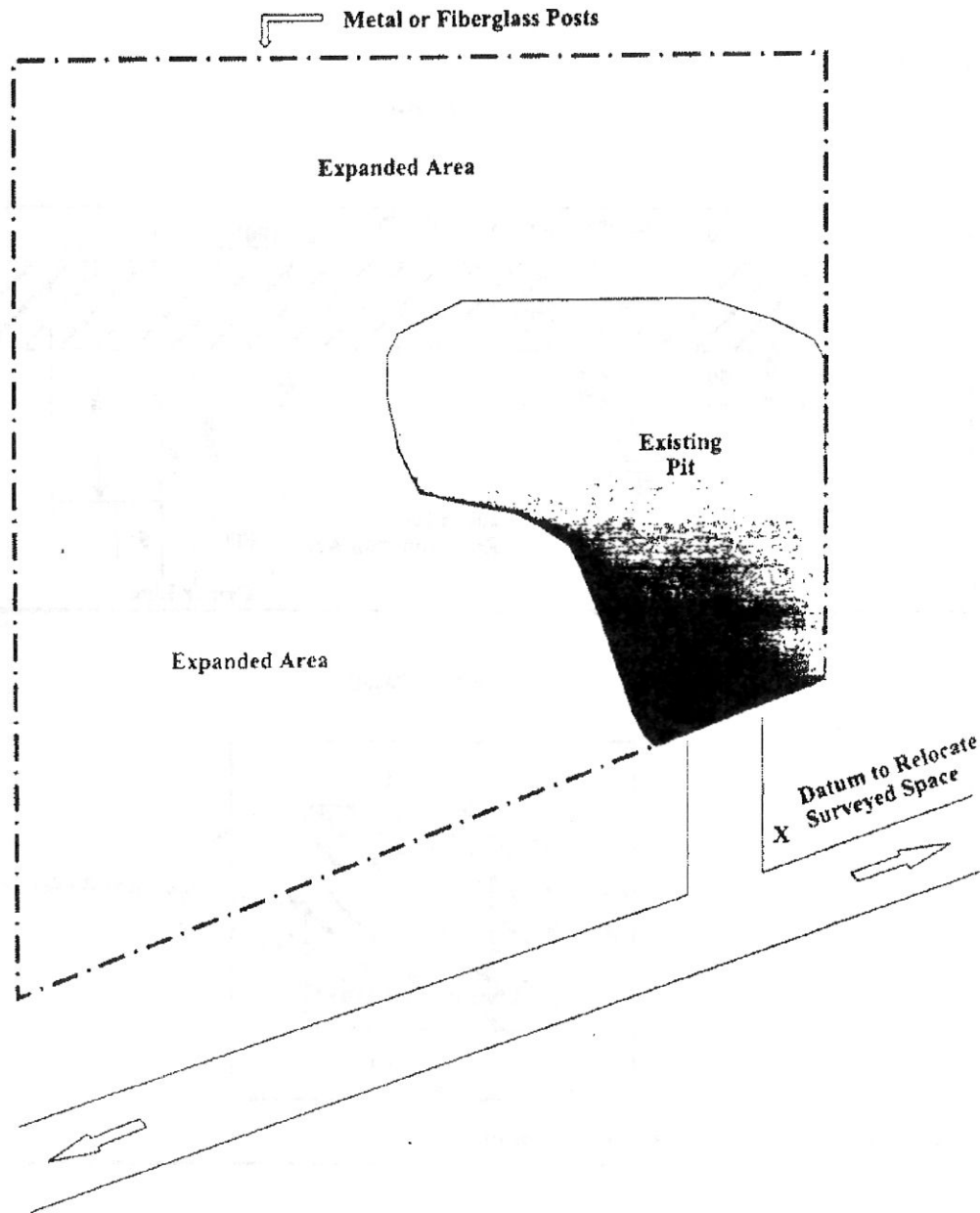
H-8100-1 - PROCEDURES FOR PERFORMING CULTURAL RESOURCE FIELDWORK
ON PUBLIC LANDS IN THE AREA OF NEW MEXICO BLM RESPONSIBILITIES



H-8100-1 - PROCEDURES FOR PERFORMING CULTURAL RESOURCE FIELDWORK
ON PUBLIC LANDS IN THE AREA OF NEW MEXICO BLM RESPONSIBILITIES

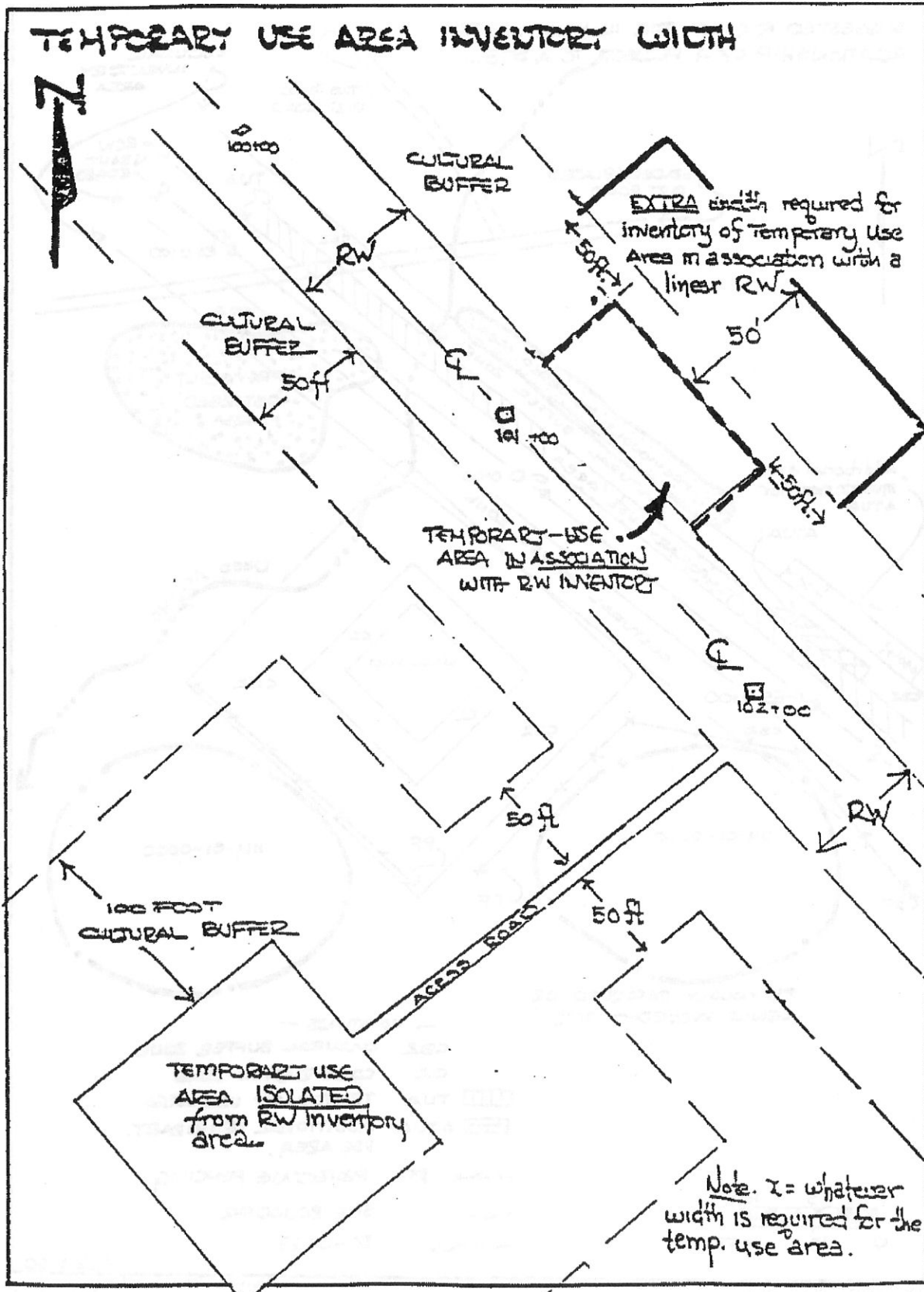


Pit Diagram for New Survey Standards

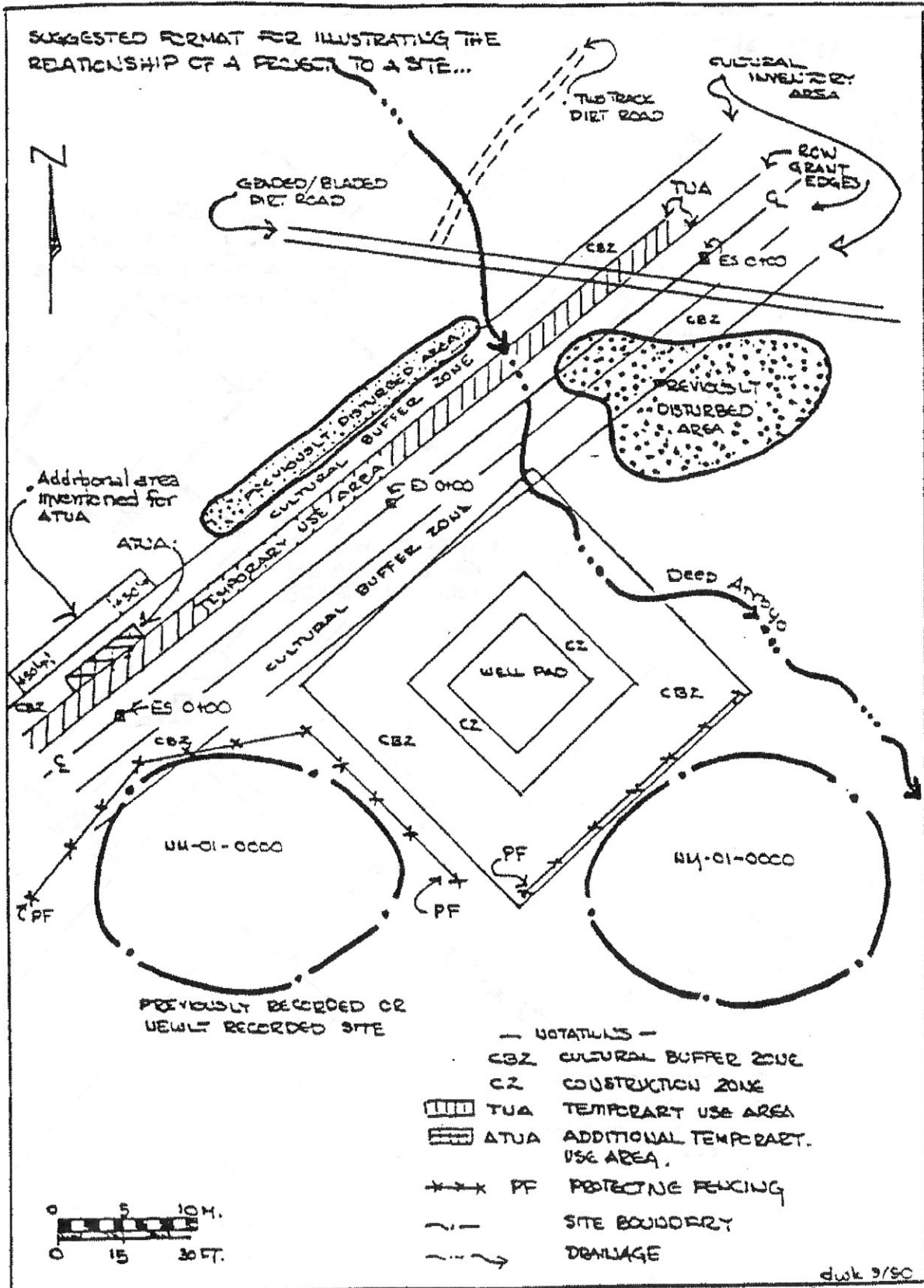


(No buffer considered here.)

H-8100-1 - PROCEDURES FOR PERFORMING CULTURAL RESOURCE FIELDWORK
ON PUBLIC LANDS IN THE AREA OF NEW MEXICO BLM RESPONSIBILITIES



H-8100-1 - PROCEDURES FOR PERFORMING CULTURAL RESOURCE FIELDWORK ON PUBLIC LANDS IN THE AREA OF NEW MEXICO BLM RESPONSIBILITIES



NEW MEXICO STATE PROTOCOL
APPENDIX C
UNDERTAKINGS NOT REQUIRING SHPO CONSULTATION

Pursuant to Section IV.C. of the State Protocol, the BLM cultural resource specialist will, after determining information needed to identify and evaluate cultural resources, determine if specific projects or activities do not require SHPO consultation. **In certain circumstances, the cultural resource specialist may recommend that the Field Manager require an inventory and evaluation of cultural resources, even though the action is listed below.** In most circumstances the following actions do not require SHPO consultation:

I. General

- a. Issuing leases, easements, rights-of-way, permits (excluding grazing permit, see IV), or other authorizations or approvals that do not authorize surface disturbance or are consistent with I.d below.
- b. Legislation which specifically excludes consideration of cultural resources.
- c. Land allocations which do not authorize surface disturbing projects, such as environmental education areas, Wilderness Areas, Wilderness Study Areas, or Areas of Critical Environmental Concern.
- d. Activities that involve less than two (2) square meters of cumulative ground disturbance and no more than one (1) square meter of contiguous disturbance in any given location (such as paleontological surface collecting), unless within known National Register listed, eligible or unevaluated properties.

II. Realty

- a. Acquiring lands and easements.
- b. Issuing or renewing mineral withdrawals.
- c. Revoking withdrawals, unless the withdrawal was specifically for the protection of cultural resources.
- d. Transferring lands or interest in lands to other Federal agencies where future management will be subject to the Section 106 process.
- e. Authorizing new or upgraded lines or antennae on existing overhead structures when there is no change in pole or tower configuration and no new surface disturbance, including access routes, or is consistent with I.d above.
- f. Issuing rights-of-way for existing authorized developments or renewal, assignment, or conversion of existing rights-of-way except where operations, maintenance or

State Protocol Between the New Mexico Bureau of Land Management and the New Mexico State Historic

Preservation Officer: Appendix C

abandonment activities might result in new surface disturbance, or is consistent with I.d above.

III. Recreation and Transportation

- a. Designating areas closed to vehicles (including Off Road Vehicles) or areas limited to travel only on existing roads and trails.
- b. Temporary road closures.
- c. Maintenance of crowned or ditched road(s) that does not widen or otherwise extend surface disturbance, unless archaeological deposits are exposed.
- d. Installing signs and markers adjacent to existing roads, or placing recreational, special designation or information signs, visitor registers, kiosks, or portable sanitation devices unless within known NRHP listed, eligible or unevaluated properties. Disturbance cannot exceed the exemption allowed in I.d above.
- e. Installation or repair of routine signs, markers, or cattle guards on or adjacent to existing roads if within existing disturbed ground and which is not within the boundaries of a known historic property.
- f. Dispersed noncommercial recreation activities such as rock collection, Christmas tree cutting, and pine nut or other plant gathering.
- g. Issuance of special recreation permits along rivers, trails, and other specified areas where use is similar to previous permits for which environmental documents have been prepared and when there will be no new surface disturbance, or the action is consistent with I.d above.

IV. Other

- a. Renewal of grazing leases/permits. The cultural resource specialist must document in the case file why any potential increase in numbers or types of livestock or changed seasons of use will not adversely affect historic properties.
- b. Repair and/or minor modifications to existing fence lines that do not require disturbance beyond placement of posts and hand removal of vegetation, and the action will not result in concentrations of animals or creation of two track trails from vehicles.
- c. Maintenance of existing facilities (i.e. pipelines, reservoirs, cattle guards, gates, fences, stock tanks, etc.) that does not involve new ground disturbance, or which is consistent with I.d above, and the facilities themselves are not historic properties and when no historic properties are within the APE.

- d. Animal traps and corrals in use for three days or less. Case-by-case review by the field office cultural resource specialist may be needed to assess potential effects prior to the undertaking.
- e. Herbicide application, including application by off-road all terrain vehicle (ATV), where it would be unlikely to affect cultural resources.
- f. Modification or structural repairs to structures less than 40 years old, unless the structure is of exceptional significance, and the action does not entail new ground disturbance, or is consistent with I.d above.
- g. Minor, routine, or preventive operations and maintenance activities on BLM facilities, lands, and resource developments requiring no new surface disturbance and where facilities being maintained are less than 40 years old and, if older, are not historic properties.
- h. Activities limited within active stream channels, not including terraces or cut banks.
- i. Personal use fuel wood permits that do not concentrate use.
- j. Removing modern materials and trash scatters less than 50 years old and not associated with a larger cultural resource or historic property. Abandoned vehicles and equipment, and modern trash dumps are included in this class.
- k. Continued development of borrow sources which have previously removed all Holocene and Pleistocene sediments and will not extend into any area which contains Holocene and Pleistocene sediments.
- l. Geophysical activities limited to existing disturbance and/or pedestrian traffic only.
- m. Routine law enforcement activities that do not involve surface disturbance or which is consistent with I.d above.
- n. Cadastral survey.
- o. The removal of unexploded ordnance (UXO) when done by UXO specialists and for safety concerns.

**NEW MEXICO STATE PROTOCOL
APPENDIX D
AGREEMENT DOCUMENT PROCEDURES AND CHECKLIST**

Project Name: _____

NOTE: Please use the appropriate Agreement Document Template found in Appendix E. Preparation of a MOA or PA follows consultation among the Signatories, Invited Signatories and the Concurring Parties. Generally the MOA/PA will be drafted by the responsible Field Office, who will also keep all parties apprised of the document's progress, and will schedule any necessary meetings and calls.

Before starting the Agreement Document process:

Action	YES	NO	Dates/Comments
Work with SHPO to obtain an initial list of consulting parties and Indian tribes	<input type="checkbox"/>	<input type="checkbox"/>	
Identify potential consulting parties no later than SHPO concurrence on adverse effect determination	<input type="checkbox"/>	<input type="checkbox"/>	
Do Indian Tribes or other consulting parties wish to participate in the resolution of adverse effects?	<input type="checkbox"/>	<input type="checkbox"/>	
Has SHPO concurred with BLM's determination of eligibility and adverse effect?	<input type="checkbox"/>	<input type="checkbox"/>	
Has SHPO concurred that a formal agreement document is required?	<input type="checkbox"/>	<input type="checkbox"/>	
Review the thresholds for ACHP participation-are they met? If thresholds are met, invite ACHP via formal letter, including the information required at 800.11(e)	<input type="checkbox"/>	<input type="checkbox"/>	
Is ACHP participating?	<input type="checkbox"/>	<input type="checkbox"/>	

MOA or PA

	Comments
Does this agreement need to be a Memorandum of Agreement (MOA) or a Programmatic Agreement (PA)? [see 36 CFR Part 800.6(c) and 800.14(b)].	
MOA	
Records the terms and conditions agreed upon to resolve the adverse effects of an undertaking on historic properties; and lays out how the undertaking will avoid, minimize, and/or mitigate those known effects.	
An MOA is appropriate when:	
1. There is a discrete undertaking;	
2. An inventory is complete and all historic properties have been evaluated for eligibility and effect, and BLM has SHPO concurrence on both.	
3. A treatment plan is necessary.	

PA	
Records the terms and conditions agreed upon to resolve the potential adverse effects of an agency program, complex undertakings or other situations in accordance with 800.14(b); and lays out processes to determine eligibility, effects and ways to avoid, minimize and mitigate effects.	
A PA is appropriate when:	
1. It is a complex undertaking;	
2. It is a phased undertaking;	
3. Effects cannot be determined in advance	
4. Effects on historic properties are similar or repetitive, or are multi-state or regional in scope	
5. Nonfederal parties are delegated major decision making responsibilities	
6. Routine management activities are undertaken at Federal installations, facilities, or other land management units	
7. Other circumstances warrant a departure from the normal section 106 process	
8. May incorporate provisions from the State Protocol	
9. Will likely require a Historic Properties Treatment Plan	

Setting up the Agreement Document:

Action	YES	NO	Dates/Comments
Send letters inviting potential consulting parties/Tribes to participate in the resolution of adverse effects (give them a deadline by which to respond)	<input type="checkbox"/>	<input type="checkbox"/>	
Compile lists of consulting parties who have and have not agreed to participate	<input type="checkbox"/>	<input type="checkbox"/>	
Has the appropriate SHPO/THPO been consulted?	<input type="checkbox"/>	<input type="checkbox"/>	
Send invitations out for first meeting/conference call	<input type="checkbox"/>	<input type="checkbox"/>	
At first meeting: try to set a standard day/time and conference line/passcode numbers for each subsequent meeting /call	<input type="checkbox"/>	<input type="checkbox"/>	
Provide frequent drafts to all participants, and continue to do so throughout the consultation process to reach consensus to the extent possible and until all signatories approve document	<input type="checkbox"/>	<input type="checkbox"/>	
All parties will consult to reach consensus to the extent possible and until the signatories approve the document. Accept comments/edits during the meetings and in writing on drafts of the document	<input type="checkbox"/>	<input type="checkbox"/>	

The Agreement Document:

Topic/Section	YES	NO	Dates/Comments
Title, Preamble:			
Are all Signatories named in the title? (e.g. Federal Agencies, SHPO/THPO, Applicant/s, ACHP, if participating, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	
Is the entire undertaking and the nature of the Federal involvement described?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the responsible Federal agency identified?	<input type="checkbox"/>	<input type="checkbox"/>	
If a multi-agency undertaking, has BLM been identified as the lead Federal agency? Identify the roles of other delegating agencies (see 36 CFR Part 800.2(a)(1)).	<input type="checkbox"/>	<input type="checkbox"/>	
Is an applicant for Federal permits, licenses, grants, or other assistance identified? Make sure to describe their roles and responsibilities clearly.	<input type="checkbox"/>	<input type="checkbox"/>	
Has the appropriate SHPO/THPO been identified?	<input type="checkbox"/>	<input type="checkbox"/>	
Are all other consulting parties identified? (see 36 CFR Part 800.2)	<input type="checkbox"/>	<input type="checkbox"/>	
Have the historic properties affected by the undertaking been identified?			
If doing a PA with phased identification, is the need for such an approach described?	<input type="checkbox"/>	<input type="checkbox"/>	
Does the preamble acknowledge historic properties will or may be adversely affected?	<input type="checkbox"/>	<input type="checkbox"/>	
Is a reference included to the agency's public involvement efforts?	<input type="checkbox"/>	<input type="checkbox"/>	
Stipulations:			
Are the stipulations preceded by a clear statement that the Federal agencies shall ensure that these terms are carried out?	<input type="checkbox"/>	<input type="checkbox"/>	
Are all of the provisions agreed upon during consultation included? Make sure they are grouped logically.	<input type="checkbox"/>	<input type="checkbox"/>	
Does each stipulation clearly identify who is responsible to carry it out?	<input type="checkbox"/>	<input type="checkbox"/>	
Do all tasks have clear time frames for initiation and completion?	<input type="checkbox"/>	<input type="checkbox"/>	
Are all stipulations written in the active voice?	<input type="checkbox"/>	<input type="checkbox"/>	
Are tasks assigned only to those parties that will sign the agreement (Signatories and Invited Signatories)?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the use of qualified professionals been stipulated where appropriate?	<input type="checkbox"/>	<input type="checkbox"/>	
If archaeological data recovery is stipulated, is the data recovery plan attached to or referenced in the document?	<input type="checkbox"/>	<input type="checkbox"/>	

Is the process for a post-execution decision making described in a complete, logical and organized way? (Who makes what decisions? Who is consulted with? When do decisions need to be made? What information is needed?)	<input type="checkbox"/>	<input type="checkbox"/>	
Are procedures for consulting party involvement included for any ongoing reviews carried out according to the agreement's terms?	<input type="checkbox"/>	<input type="checkbox"/>	
Are procedures for responding to the unanticipated discovery of historic properties or adverse effects to identified historic properties included?	<input type="checkbox"/>	<input type="checkbox"/>	
Is a dispute resolution procedure included?	<input type="checkbox"/>	<input type="checkbox"/>	
Are procedures for monitoring and reporting on agreement implementation included as appropriate to the project?	<input type="checkbox"/>	<input type="checkbox"/>	
Are provisions for the amendment or termination of the agreement included?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the duration specified, and does it allow adequate time for the terms to be completed?	<input type="checkbox"/>	<input type="checkbox"/>	
Is there an agreement execution statement?	<input type="checkbox"/>	<input type="checkbox"/>	
Do the stipulations conclude with an affirmation statement consistent with the template agreement document?	<input type="checkbox"/>	<input type="checkbox"/>	

Completing the Agreement Document (housekeeping, approval, signatures):

Action	YES	NO	Dates/Comments
Housekeeping:			
Are all parties that have assigned responsibilities in the agreement document either a Signatory or Invited Signatory?	<input type="checkbox"/>	<input type="checkbox"/>	
Does each signature line include the printed name, title, agency/organization and date of signature?	<input type="checkbox"/>	<input type="checkbox"/>	
Are Signatories, Invited Signatories and Concurring Parties clearly separated from each other?	<input type="checkbox"/>	<input type="checkbox"/>	
Have all terms and references been used correctly and accurately?	<input type="checkbox"/>	<input type="checkbox"/>	
Are all acronyms and abbreviations identified and used consistently?	<input type="checkbox"/>	<input type="checkbox"/>	
Double check spelling, grammar, formatting, pagination, section numbers, etc. including Appendices; remove all "draft" notations	<input type="checkbox"/>	<input type="checkbox"/>	
Are all attachments and appendices cited correctly, and are they attached?	<input type="checkbox"/>	<input type="checkbox"/>	
Could a "cold reader" understand the agreement and	<input type="checkbox"/>	<input type="checkbox"/>	

what it requires?			
Email to SHPO for review and approval	<input type="checkbox"/>	<input type="checkbox"/>	
Approvals/Signatures:			
All Signatories have reviewed the document and approved it	<input type="checkbox"/>	<input type="checkbox"/>	
As applicable, email to DOI solicitors (SOL) for review and approval (through FM or DM) (if they make changes, send it back out to all parties for review and approval)	<input type="checkbox"/>	<input type="checkbox"/>	
Email to SHPO for approval (if they make changes, send it back out to all parties for review and approval)	<input type="checkbox"/>	<input type="checkbox"/>	
Send "Draft Final" document back out to all parties for one more look, request they respond via email/in writing of their approval (specify timeframe)	<input type="checkbox"/>	<input type="checkbox"/>	
Make enough originals to send around for signature for primary parties to keep (SHPO, company/ies, Field Office and ACHP, if participating), all others will receive a copy including the signatures	<input type="checkbox"/>	<input type="checkbox"/>	
Order of Signatures:			
BLM Field Manager	<input type="checkbox"/>	<input type="checkbox"/>	
BLM District Manager, as appropriate	<input type="checkbox"/>	<input type="checkbox"/>	
Applicant/s	<input type="checkbox"/>	<input type="checkbox"/>	
All other Invited Signatories	<input type="checkbox"/>	<input type="checkbox"/>	
Any Concurring Party that wants to sign (they do not <i>have</i> to sign)	<input type="checkbox"/>	<input type="checkbox"/>	
Send to State Office to obtain the following signatures:	<input type="checkbox"/>	<input type="checkbox"/>	
DSD for Resources Policy and Management	<input type="checkbox"/>	<input type="checkbox"/>	
Other federal agencies, if appropriate	<input type="checkbox"/>	<input type="checkbox"/>	
SHPO	<input type="checkbox"/>	<input type="checkbox"/>	
ACHP (if participating)	<input type="checkbox"/>	<input type="checkbox"/>	
Once all signatures are obtained, NMSO or ACHP (if participating) will scan the document and send originals back to Field Office for distribution.	<input type="checkbox"/>	<input type="checkbox"/>	
Once the document is fully signed/executed, then Section 106 has been completed. Any decision document (e.g. ROD/DR, FONSI, CX, etc.) can then be signed and shall reference the agreement document.	<input type="checkbox"/>	<input type="checkbox"/>	
Even if the ACHP did not participate, the Field Office shall send a copy of the fully executed document to them	<input type="checkbox"/>	<input type="checkbox"/>	

Tips:

Do not include information that is not relevant to Section 106

Do reference other laws as needed, but don't go into detail about how they will be carried out

Bind sidebar agreements (e.g. HPTPs) to ROD/DR

**NEW MEXICO STATE PROTOCOL
APPENDIX E.1
MEMORANDUM OF AGREEMENT DOCUMENT TEMPLATE**

MEMORANDUM OF AGREEMENT
AMONG
BUREAU OF LAND MANAGEMENT, OTHER FEDERAL AGENCIES, NEW MEXICO STATE HISTORIC
PRESERVATION OFFICER, ADVISORY COUNCIL ON HISTORIC PRESERVATION (if involved), OTHER
SIGNATORIES,
REGARDING [insert project name and location]

WHEREAS, the Bureau of Land Management (BLM) plans to ["carry out" or "fund" or "approve"/"license"/"permit" or other appropriate verb] the [insert project name] (the Undertaking) pursuant to the [insert name of the substantive statute authorizing the Federal BLM involvement in the undertaking], [insert legal cite for that statute]; and

WHEREAS, the BLM, the Advisory Council on Historic Preservation (ACHP) and the National Conference of SHPOs entered into a national Programmatic Agreement that details the manner in which the BLM will meet its responsibilities under Sections 106, 110 (f) and 111 (a) of the National Historic Preservation Act (NHPA); and

WHEREAS, this Memorandum of Agreement (MOA) is consistent with the national Programmatic Agreement; and

WHEREAS, the undertaking consists of [insert a brief explanation of the undertaking]; and

WHEREAS, BLM has defined the undertaking's area of potential effect (APE) as [insert written description and/or "described in Attachment XXX"]; and

WHEREAS BLM has determined that the undertaking has/may have an adverse effect on [insert name of historic property(ies)], which ["is" or "are"] ["listed in" or "eligible for listing in"] the NRHP, and has consulted with the [insert name of State or Tribe] ["State" or "Tribal"] Historic Preservation Officer (["SHPO" or "THPO"]) pursuant to 36 C.F.R. Part 800, of the regulations implementing Section 106 of the NHPA (16 U.S.C. § 470f); and

[WHEREAS, any other whereas clauses as needed (determinations of effect, etc.); and]

WHEREAS, the BLM has consulted with SHPO pursuant to 36 CFR Part 800.2(c)(1); and

WHEREAS, in accordance with 36 C.F.R. Part 800.6(a)(1), BLM has notified the ACHP of its adverse effect determination with specified documentation and the ACHP has chosen to participate/not to participate in the consultation pursuant to 36 CFR Part 800 Appendix A; and

WHEREAS, the regulations at 36 CFR Part 800.6(c)(1-3) recognizes three types of signatories to this agreement: Signatories, Invited Signatories and Concurring Parties, which are referred to collectively as the Parties. Signatories and Invited Signatories may include any party who assumes responsibilities under this agreement. Concurring Parties have a demonstrated interest in the undertaking or its effects on historic properties, but do not assume responsibilities under the agreement. Concurring Parties may participate in development of the document and may concur with this agreement. The refusal of any Invited Signatory or Concurring Party to sign does not invalidate the PA. Concurring Parties cannot amend or terminate this agreement; and

WHEREAS BLM has consulted with the [insert name of Tribe(s) and has invited the Tribe[s] to sign this MOA as a an Invited Signatory [Insert this whereas clause if appropriate]; and the [insert name of Tribe(s)] have agreed/declined to sign the MOA; and

WHEREAS, BLM has consulted with [insert names of other consulting parties, if any] regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as a ["Invited Signatory(ies)" or "Concurring Party(ies)"].

NOW, THEREFORE, BLM [add other federal agencies, if any], and the SHPO/THPO [add ACHP, if participating, and invited signatory(ies), if any] agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

BLM shall ensure that the following measures are carried out:

[I.-III. (Or whatever number of stipulations is necessary) Insert negotiated measures to avoid, minimize, or mitigate the adverse effects on historic properties.]

IV. CONFIDENTIALITY OF CULTURAL RESOURCE DATA

Consistent with the NHPA, Section 304, and the Archaeological Resources Protection Act, Section 9(a), and all other applicable laws, regulations and executive orders, cultural resources data from BLM lands will be treated as confidential by all Parties. The Signatories to this agreement will determine what information may be released to the other Parties. Duplication or distribution of cultural resource data from BLM lands by any Signatory requires written authorization from the BLM.

V. POST-REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found, or, if human remains, suspected human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered, the BLM shall implement the discovery plan included as the attachment [insert number of attachment] of this MOA.

[Insert this stipulation if there is an indication that historic properties are likely to be discovered during

implementation of the undertaking.]

[Insert this stipulation or a separate stipulation if there is an indication that human remains are likely to be discovered during implementation of the undertaking.]

VI. MONITORING AND REPORTING

Each [insert a specific time period] following the execution of this MOA until it expires or is terminated, BLM shall provide all parties to this MOA ["and the ACHP," if participating] a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in BLM's efforts to carry out the terms of this MOA.

VII. DISPUTE RESOLUTION

Should any Signatory * to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, BLM shall consult with such party to resolve the objection. If BLM determines that such objection cannot be resolved, BLM will:

A. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide BLM with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, Signatories and Concurring Parties, and provide them with a copy of this written response. BLM will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories and Concurring Parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. BLM's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. AMENDMENT

This MOA may be amended when such an amendment is agreed to in writing by all Signatories. The amendment will be effective on the date a copy signed by all of the Signatories is filed with the ACHP.

IX. TERMINATION

If any Signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all

Signatories) an amendment cannot be reached, any Signatory or Invited Signatory may terminate the MOA upon written notification to the other Signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, BLM must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. BLM shall notify the Signatories as to the course of action it will pursue.

V. DURATION

This MOA will expire if its terms are not carried out within five (5) years [or specify other appropriate time period] from the date of its execution. Prior to such time, BLM may consult with the other Signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

In witness whereof, the Parties to this MOA through their duly authorized representatives have executed this MOA on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this PA as set forth herein.

The effective date of this MOA is the date of the last Signatory signature affixed to these pages.

SIGNATORIES:

[insert BLM name]

_____ Date
[insert BLM official name and title]

[insert name of State or Tribe] ["State" or "Tribal"] Historic Preservation Officer

_____ Date
[insert name and title]

[insert name of ACHP Executive Director, if ACHP participating]

_____ Date
[insert name and title]

INVITED SIGNATORIES:

[insert invited signatory name]

_____ Date
[insert name and title]

CONCURRING PARTIES:

[insert name of concurring party]

_____ Date
[insert name and title]

Notes:

** This document assumes that the term "Signatory" has been defined in the agreement to include both Signatories and Invited Signatories.*

*** Remember that the BLM must submit a copy of the executed MOA, along with the documentation specified in Sec. 800.11(f), to the ACHP prior to approving the undertaking in order to meet the requirements of section 106. 36 CFR Part 800.6(b)(1)(iv).*

**NEW MEXICO STATE PROTOCOL
APPENDIX E.2
PROGRAMMATIC AGREEMENT DOCUMENT TEMPLATE**

PROGRAMMATIC AGREEMENT
AMONG

BUREAU OF LAND MANAGEMENT, OTHER FEDERAL AGENCIES, NEW MEXICO STATE HISTORIC PRESERVATION OFFICER, ADVISORY COUNCIL ON HISTORIC PRESERVATION (if involved), OTHER SIGNATORIES, REGARDING _____(insert NAME AND LOCATION OF PROJECT)

WHEREAS, the Bureau of Land Management (BLM) plans to ["carry out" or "fund" or "approve"/"license"/"permit" or other appropriate verb] the [insert project name] (undertaking) pursuant to the [insert name of the substantive statute authorizing the BLM involvement in the undertaking], [insert legal cite for that statute]; and

WHEREAS, the Bureau of Land Management (BLM), the Advisory Council on Historic Preservation (ACHP) and the National Conference of SHPOs entered into a national Programmatic Agreement that details the manner in which the BLM will meet its responsibilities under Sections 106, 110 (f) and 111 (a) of the National Historic Preservation Act (NHPA).

WHEREAS, this programmatic Agreement (PA) is consistent with the national Programmatic Agreement; and

WHEREAS, the undertaking consists of [insert a brief explanation of the undertaking]; and

WHEREAS, the BLM has defined the undertaking's area of potential effect (APE) as [insert written description and/or "described in Attachment XXX"]; and

WHEREAS, 1) BLM has determined that the undertaking has/may have an adverse effect on [insert name of historic property(ies)], which ["is" or "are"] ["listed in" or "eligible for listing in"] the NRHP, and has consulted with the [insert name of State or Tribe] ["State" or "Tribal"] Historic Preservation Officer ("SHPO" or "THPO") pursuant to 36 C.F.R. Part 800, of the regulations implementing Section 106 of the NHPA (16 U.S.C. § 470f); and

OR 2) WHEREAS, Other reason for PA; and

[WHEREAS, add any other whereas clauses as needed (determinations of effect, etc.); and]

WHEREAS, the BLM has consulted with SHPO pursuant to 36 CFR Part 800.2(c)(1); and

WHEREAS 1) the BLM has notified the ACHP according to 36 CFR Part 800.14(a)(1) and the ACHP has elected to participate/not participate OR 2) WHEREAS, the BLM has determined that this undertaking does not meet the thresholds for ACHP participation as found at 36 CFR 800 Appendix A OR Part 5.b. in the national PA; and

WHEREAS, the regulations at 36 CFR Part 800.6(c)(1-3) recognizes three types of signatories to this agreement: Signatories, Invited Signatories and Concurring Parties, which are referred to collectively as

State Protocol Between the New Mexico Bureau of Land Management and the New Mexico State Historic Preservation Officer: Appendix E.2

the Parties. Signatories and Invited Signatories may include any party who assumes responsibilities under this agreement. Concurring Parties have a demonstrated interest in the undertaking or its effects on historic properties, but do not assume responsibilities under the agreement. Concurring Parties may participate in development of the document and may concur with this agreement. The refusal of any Invited Signatory or Concurring Party to sign does not invalidate the PA. Concurring Parties cannot amend or terminate this agreement; and

WHEREAS BLM has consulted with the [insert name of Tribe(s)] and has invited the Tribe[s] to sign this PA as a an Invited Signatory [Insert this whereas clause if appropriate]; and the [insert name of Tribe(s)] have agreed/declined to sign the PA;

WHEREAS BLM has consulted with [insert names of other consulting parties, if any] regarding the effects of the undertaking on historic properties and has invited them to sign this PA as a ["Invited Signatory(ies)" or "Concurring Party(ies)"].

NOW, THEREFORE, BLM [add other federal agencies, if any], and the SHPO/THPO [add ACHP, if participating, and invited signatory(ies), if any] agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

BLM shall ensure that the following measures are carried out:

[I.-III. (Or whatever number of stipulations is necessary) Insert negotiated measures to avoid, minimize, or mitigate the adverse effects on historic properties.]

IV. CONFIDENTIALITY OF CULTURAL RESOURCE DATA

Consistent with the NHPA, Section 304, and the Archaeological Resources Protection Act, Section 9(a), and all other applicable laws, regulations and executive orders, cultural resources data from BLM lands will be treated as confidential by all Parties. The Signatories to this agreement will determine what information may be released to the other Parties. Duplication or distribution of cultural resource data from BLM lands by any Signatory requires written authorization from the BLM.

V. POST-REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found, or, if human remains, suspected human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered, the BLM shall implement the discovery plan included as the attachment [insert number of attachment] of this PA.

[Insert this stipulation if there is an indication that historic properties are likely to be discovered during implementation of the undertaking.]

[Insert this stipulation or a separate stipulation if there is an indication that human remains are likely to be discovered during implementation of the undertaking.]

VI. MONITORING AND REPORTING

Each [insert a specific time period] following the execution of this PA until it expires or is terminated, BLM shall provide all parties to this PA ["and the ACHP" if desired] a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in BLM's efforts to carry out the terms of this PA.

VII. DISPUTE RESOLUTION

- A. Should any Signatory to this PA provide notice to the BLM of its objection to an action under this PA, or implementation of the measures stipulated in this PA, within 30 days of becoming aware of an action, the BLM shall consult with the Parties to this PA to resolve the objection, unless otherwise specified in this document. If the BLM determines that the objection cannot be resolved, the BLM shall forward all documentation relevant to the dispute to the ACHP. The objecting party must provide reasons for, and a justification of, its objection at the time it initially submits its objection to the BLM. Within 30 days after receipt of all pertinent documentation, the ACHP shall either:
1. Provide the BLM with recommendations, which the BLM shall take into account in reaching a final decision regarding the dispute; or
 2. Notify the BLM that it will comment within an additional 30 days. Any ACHP comment provided in response to such a request will be taken into account, and responded to by BLM with reference to the subject of the dispute.
- B. The BLM responsibility to carry out all other actions under this PA that are not the subject of the dispute will remain unchanged.

VIII. AMENDMENT

Any Signatory or Invited Signatory to this agreement may request that the other Signatories consider amending the agreement if circumstances change over time and warrant revision of the stipulations of the agreement. Except in the case of amendments addressing resolution of disputes pursuant to Section V of this PA, amendments shall be executed in writing and shall be signed by all Signatories in the same manner as the original PA.

IX. TERMINATION

Any Signatory or Invited Signatory to this PA may initiate termination by providing written notice to the other Signatories of their intent. After notification by the initiating party, the remaining Signatories and Invited Signatories shall have 90 business days to consult to seek agreement on amendments or any other actions that would address the issues and avoid termination. In the event of termination, the BLM shall refer to 36 CFR Part 800 to address any remaining adverse effects.

X. DURATION

This PA shall remain in effect for XX years after the date of execution hereof. The BLM and NMSHPO shall re-evaluate the PA every XX years. The BLM shall ensure the PA will be re-evaluated and amended, to accommodate any changes to the terms. All Signatories will be consulted during the amendment process (See Section Vi).

In witness whereof, the Parties to this PA through their duly authorized representatives have executed this PA on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this PA as set forth herein.

The effective date of this PA is the date of the last Signatory signature affixed to these pages.

SIGNATORIES:

Bureau of Land Management, ___ Field Office

____ Field Manager Date

Bureau of Land Management, New Mexico State Office

____ Deputy State Director Date
Resource Policy and Management

Any other federal agencies

____ Other Federal Agency Officials Date

New Mexico State Historic Preservation Officer

____, SHPO Date

Advisory Council on Historic Preservation

____, Executive Director Date

(Other signature lines as needed (applicant, consulting parties, etc.))

Invited Signatories:

Name and title	Date
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Concurring Parties:

Name and title	Date
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List of Appendices as needed.

**NEW MEXICO STATE PROTOCOL
APPENDIX F
STANDARD DISCOVERY PLAN**

INTRODUCTION

This appendix serves as a basic Discovery Plan for federal undertakings authorized by the BLM, and may be used if there are unanticipated discoveries or as guidance if developing an undertaking specific discovery plan. This standard Discovery Plan is optional and may not be applicable in all circumstances or for all BLM undertakings. The Plan is intended for federal undertakings authorized by the BLM, and may be used if there is no undertaking-specific Discovery Plan.

Surface disturbing activities have the potential to affect historic properties though unanticipated discoveries. Unanticipated discoveries typically occur when previously undetected cultural resources are exposed during construction or other permitted surface disturbing activities, but after the federal agency has completed the Section 106 process. Cultural resources may be discovered by construction personnel, an archaeological monitor, a BLM inspector, or others who may be present during construction activities.

This Discovery Plan is intended to address typical cultural resources such as archaeological sites, historic buildings and structures, artifacts, as well as the discovery of a previously unknown portion of a historic property or other cultural materials that are most likely to be discovered during surface disturbing activities. Discoveries can also take other forms including activities that go beyond permitted boundaries and encroach upon a historic property or an unevaluated site, and/or activities that cause unexpected additional effects (physical, visual, audible, or atmospheric effects) to a historic property.

A. Undertaking Specific Discovery Plan

- i. The BLM encourages development of undertaking-specific discovery plans for large and complex undertakings and those involving land disturbance in areas suspected to contain buried cultural resources. Undertaking-specific discovery plans will be forwarded to the SHPO for a 30-day review along with BLM's determination of effect for the undertaking as specified in Section VI of this Protocol. These plans will typically be developed by the archeological consultant.
- ii. Undertaking-specific discovery plans must include at a minimum the following components:
 - A. Discussion of the methods that will be used during monitoring;
 - B. Process the consultant will follow in the event of a discovery to notify BLM;
 - C. Testing and evaluation strategy;
 - D. Human remains discovery strategy; and
 - E. Reporting methods.
- iii. When an undertaking-specific discovery plan has been accepted by the BLM and SHPO, the BLM will reference the plan in the project stipulations (conditions of approval, terms and conditions, etc.) The BLM will follow the plan when cultural resources are discovered during implementation of the undertaking. The BLM shall take prudent and feasible steps to ensure

State Protocol Between the New Mexico Bureau of Land Management and the New Mexico State Historic
Preservation Officer: Appendix F

that the undertaking does not further harm the cultural resource until treatment is completed in accordance with the Discovery Plan.

B. Discoveries

i. If cultural remains, or possible cultural remains, are discovered during surface disturbing activities, all construction activities will be halted immediately within a minimum of 100 feet of the discovery and the BLM Authorized Officer will be notified within 24 hours. The BLM will notify the SHPO of the discovery by telephone and/or email as soon as possible, but no later than 48 hours after receiving the initial notification. The discovery will be secured until it can be evaluated by the BLM Cultural Resource Specialist or a BLM-permitted archaeological consultant. The project applicant is responsible for informing all persons employed directly or indirectly by the applicant that they must not knowingly disturb historic or archaeological sites, or collect artifacts. Construction activities may continue in other areas of the project beyond a minimum of 100 feet from the discovery, but may be subject to an archaeological monitor at the BLM authorized officer's discretion.

ii. The BLM Cultural Resource Specialist or a BLM-permitted archaeological consultant will determine if the discovery is cultural and, if so, record and evaluate the discovery and make a recommendation of NRHP eligibility and effect. BLM will consult with appropriate Indian tribes and consulting parties at this time. The discovery will be evaluated under all four criteria eligibility and all seven aspects of integrity. Evaluative testing may be necessary to determine the nature and extent of the cultural materials. Consultation with the applicable field office will occur to determine the level of permit necessary for the evaluative testing. Evaluative testing will follow the *Procedures for Performing Cultural Resource Fieldwork on Public Lands in the Area of New Mexico BLM Responsibilities, BLM Manual Supplement H-8100-1*. The results will be reported following the *BLM Manual Supplement H-8100-1 and NMCRIS Guidelines*. The BLM will make the determination of eligibility and effect and will consult with the SHPO as specified in below.

a. Discovered Property is Not Eligible with a No Historic Properties Affected Determination

If the BLM determines that the discovery is not eligible for inclusion in the NRHP, a "No Historic Properties Affected" determination will be made. The BLM will submit the documentation to SHPO as specified in Section VII of this Protocol. The BLM Authorized Officer will issue a written notice to proceed to the project applicant and construction will be allowed to resume in the area of the discovery. Additional construction activities may be subject to an archaeological monitor at the BLM Authorized Officer's discretion.

b. Discovered Property is Eligible with a No Adverse Effect Determination

If the BLM determines that the overall cultural resource is eligible for inclusion in the NRHP and that the discovery and continued implementation of the undertaking will not adversely affect the historic property, a "No Adverse Effect" determination will be made. The BLM will submit the documentation to SHPO as specified in Section VII of this Protocol. The BLM Authorized Officer will issue a written notice to proceed to the project applicant and construction will be allowed to resume in the area of the

discovery. Additional construction activities may be subject to an archaeological monitor at the BLM Authorized Officer's discretion.

c. Discovered Property is Eligible with an Adverse Effect Determination

1. If the BLM determines that the discovery is eligible for inclusion in the NRHP or that it contributes to the eligibility of a known historic property, and was adversely affected by the undertaking, a determination of "Adverse Effect" will be made. The BLM will submit the documentation to the SHPO as specified in Section VII of this Protocol. If the SHPO does not respond within 48 hours, the BLM may assume concurrence with the determinations of eligibility and effect. The BLM will notify affected tribes and Consulting Parties of the discovery.
2. The project applicant will develop a mitigation plan and/or a data recovery plan (see the procedures specified in Section VIII.A of this Protocol). Mitigation and data recovery plans should contain provisions for stabilizing and/or protecting the resource until the appropriate plan can be implemented. The BLM will consult with the SHPO on the data recovery plan. If the data recovery plan is submitted together with the determinations of eligibility and effect the SHPO will have 3 days to review and comment but may request a longer time frame if needed. The BLM will notify affected tribes and Consulting parties of the mitigation plan and/or a data recovery plan.
3. Upon SHPO concurrence with the treatment plan, the BLM will notify the project applicant that the plan is acceptable. The archaeological consultant working for the project applicant will notify the BLM, using the fieldwork notification procedures of the mitigation or data recovery plan. The applicant will be responsible for the cost of any mitigation required by the Authorized Officer. When the terms of the treatment plan have been completed, the BLM Authorized Officer will issue a written notice to proceed to the applicant and construction will be allowed to resume in the area of the discovery. Additional construction activities may be subject to an archaeological monitor at the BLM Authorized Officer's discretion.

C. Human Remains

i. Inadvertent Discovery of Human Remains on Federal or Tribal Lands

- a. If human remains, funerary objects, sacred objects, or objects of cultural patrimony, or suspected human remains, funerary objects, sacred objects, or objects of cultural patrimony, are discovered on federal or tribal lands, the BLM Authorized Officer will be contacted immediately by telephone and notified of the discovery with written confirmation. All activity will be halted within a minimum of 300 feet of the discovery and a reasonable effort will be made to protect the discovery. The BLM will contact and coordinate with the appropriate Law Enforcement Agency and the Office of the Medical

Investigator. The BLM will notify the DPO and SHPO of the discovery by telephone and/or email within 48 hours.

- b. If the appropriate Law Enforcement Agency determines the human remains are not part of a crime scene and the Office of the Medical Investigator releases the human remains, the BLM will determine if the human remains are Native American. If it is determined that the human remains are not Native American, the BLM will proceed in a similar manner to the Discovery procedures listed in Section A above. If it is determined that the human remains are Native American, or if the discovery includes funerary objects, sacred objects, or objects of cultural patrimony, the BLM will follow the provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) (43 CFR Part 10). Construction activities will not be allowed to resume within 300 feet of the discovery until written authorization is provided by the BLM Authorized Officer.
- ii. Inadvertent Discovery of Human Remains on State or Private Lands
 - a. If human remains, or suspected human remains, are discovered during surface disturbing activities on state or private lands, the provisions of the Cultural Properties Act (NMSA 1978 Section 18-6-11.2) will be followed. If the discovery is part of a BLM undertaking, the BLM Authorized Officer will be contacted immediately by telephone and notified of the discovery with written confirmation. All activity will be halted within a minimum of 300 feet of the discovery and all reasonable efforts will be made to protect the discovery. The BLM will contact and coordinate with the Law Enforcement Agency with jurisdiction, the Office of the Medical Investigator, the appropriate land owner and the SHPO within 48 hours.
 - b. If the Law Enforcement Agency determines the human remains are not part of a crime scene and the Office of the Medical Investigator releases the human remains, the parties will follow the process detailed in 4.10.11 NMAC for both Native American remains and non-Native American remains including final treatment and disposition of the remains and any associated funerary objects. Construction activities will not be allowed to resume within 300 feet of the discovery until written authorization is provided by the BLM Authorized Officer.

**NEW MEXICO STATE PROTOCOL
APPENDIX G
GLOSSARY**

Advisory Council on Historic Preservation (ACHP)

Established by the National Historic Preservation Act (1966), the ACHP is an independent executive agency that has an advisory role in a Federal agency's decision-making process when a proposed undertaking might affect a cultural property which meets National Register criteria. The ACHP promulgates regulations which implement section 106 of the National Historic Preservation Act.

Archaeological Records Management Section (ARMS)

The mission of the Archaeological Records Management Section (ARMS) within the New Mexico Historic Preservation Division is to house, maintain, and protect all records of cultural resource investigations in the State of New Mexico. ARMS is also responsible for protecting the security of that collective information while providing access to historic preservation professionals and other qualified users.

Area of Potential Effect (APE)

"The area of potential effects means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking" 36 CFR 800.16(d). In defining the APE, the BLM will consider potential direct, indirect, and cumulative effects to historic properties and all aspects of integrity, including their associated settings as applicable.

Backlog

Reports and site forms that are not currently associated with an active project and are older than 1 year.

Best Management Practices (BMPs)

Practices, methods or techniques found to be the most effective and practical means of preventing, avoiding or minimizing effects of undertakings. A BMP can be something structural that is implemented on the ground, or can be part of a process that is used to plan, conduct or close out an operation. BMPs should be matched and adapted to meet the site-specific requirements of the project and local environment, relative to the historic property(ies) within the APE. No one BMP is best suited to every site or situation, or will remain the most optimal practice over time. BMPs must be adaptive and monitored regularly to evaluate effectiveness.

Bureau of Land Management Deputy Preservation Officer (DPO)

The BLM Deputy Preservation Officer is a senior cultural resource specialist on each BLM State Director's staff who is responsible for advising the State Director, district and field managers on professional and technical matters relating to cultural resource management. The DPO serves as an ex-officio member on the BLM Preservation Board.

Bureau of Land Management (BLM) Preservation Board

The Preservation Board which was established by the BLM Director pursuant to the national Programmatic Agreement of March 26, 1997 and continued in the 2012 national Programmatic Agreement. The Preservation Board oversees historic preservation activities bureau wide, coordinates

with the Advisory Council on Historic Preservation and the State Historic Preservation Officers, and advises the State Directors and the Headquarters Directorate in Washington, D.C. on historic preservation matters.

Certified Field Office

A certified field office is one that operates under the State Protocol instead of the Section 106 regulations at 36 CFR Part 800. Certification occurs by having qualified cultural resources staff at or above the GS-9 level who has received orientation on the NHPA, the nPA and the Protocol by the DPO and the SHPO.

Concurring Party

The agency official may invite all consulting parties to concur on an agreement to resolve adverse effects. A consulting party invited to concur has no responsibility under the agreement, but may be invited to sign the agreement as a Concurring Party. The refusal of any party invited to sign a MOA or PA does not invalidate that MOA or PA.

Consulting Party

Consulting parties include all groups who have a consultative role in the Section 106 process. These may include SHPO, THPO, Indian Tribes, representatives of local governments, the public, certain individuals and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties, individuals and organizations with a demonstrated interest in historic preservation and applicants for Federal assistance, permits, licenses and other approvals. In consultation with the SHPO/THPO, the BLM shall identify consulting parties and invite them to participate in consultation and shall consider all written requests of individuals and organizations to participate as consulting parties.

Cultural Resources

Cultural resources are all eligible, unevaluated, and not eligible resources including buildings, structures, sites, objects, districts and landscapes.

Cultural Resource Specialist/Historic Preservation Specialist

A cultural resource/historic preservation specialist is a Federal agency or SHPO employee meeting qualifications for an archaeologist, historian or architect. For BLM, this is a person responsible for advising BLM managers about cultural resource issues associated with various land use activities; developing a full range of reasonable and justifiable alternatives for inventory, evaluation and treatment of cultural resources potentially affected by land use activities; conducting cultural resource inventory, making professional recommendations of eligibility and effect; and preparing (or reviewing) reports, records, etc., needed for documenting the Section 106 process. For SHPO, this is the person responsible for reviewing BLM Section 106 determinations and the appropriateness of the BLM's documentation supporting those determinations.

Cultural Resource Use Allocations

Within the framework of the BLM manuals, this term refers to six BLM categories (scientific use, conservation for future use, traditional use, public use, experimental use, discharged from management) employed by field office managers to connect identified cultural resources with decisions

about their protection and utilization (see BLM Manual Section 8110.42). All cultural resources have uses, to which they can often be assigned even before they have been individually identified. Use allocations allow field office managers to know in advance how to respond to potential conflicts between cultural resources and proposed land uses. A cultural resource may be allocated to more than one use category. Although some scientific and experimental uses result in physical alteration of resources, use does not imply consumptive use. Managed use of cultural resources can be fully compatible with long-range preservation, and also the means by which preservation is achieved.

Demonstrated Interest

Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties in the Section 106 process due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties. A "demonstrated interest" as found at 36 CFR Part 800.2(c)(5) may be indicated by an organization that focuses on historic preservation, as exhibited in their mission statement, charter or bylaws; or an organization or individual with a legal or economic relation to the undertaking or affected properties; or a Certified Local Government (CLG) as defined at 36 CFR Part 61.6. Private landowners have a demonstrated interest when an undertaking involves their property.

Eligible Properties (see Historic Properties)

Federal Land Policy and Management Act 1976 (FLPMA)

The Federal Land Policy and Management Act established public land policy, guidelines for its administration, and provisions for the management, protection, development, and enhancement of the public lands. Public lands retained in Federal ownership are to be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values. Public land resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts.

Geographic Information System (GIS)

A geographic information system (GIS) is a system for managing spatial data and associated attributes. In the strictest sense, it is a computer system capable of integrating, storing, editing, analyzing, and displaying geographically-referenced information.

Historic American Buildings Survey/Engineering Record/Historic American Landscapes Survey (HABS/HAER/HALS)

The Historic American Buildings Survey/Historic American Engineering Record/Historic American Landscapes Survey (HABS/HAER/HALS) is an integral component of the federal government's commitment to historic preservation. The program documents important architectural, engineering and industrial sites and landscapes throughout the United States and its territories. A complete set of formal documentation, consisting of measured drawings, large-format photographs, and written history plays a key role in accomplishing the mission of creating an archive of American architecture and engineering and in better understanding what historic resources tell us about America's diverse ethnic and cultural heritage. To insure that such evidence is not lost to future generations, the HABS/HAER/HALS Collections are archived at the Library of Congress, where they are made available to the public.

Historic Properties

Historic properties are any prehistoric or historic district, site, building, structure, or object that after evaluation through the NRHP process of assessing their significance and integrity are determined as eligible for listing or have been listed in the NRHP. A property may be determined to be eligible under any, or several, of the following four Criteria, as defined at 36 CFR.60.4:

Criterion A

The property is associated with events that have made a significant contribution to the broad patterns of our history.

Criterion B

The property is associated with lives of persons significant in our past.

Criterion C

The property embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.

Criterion D

The property has yielded, or may be likely to yield, information important in history or prehistory.

Invited Signatory

The BLM authorized officer may invite additional parties to participate in an agreement to resolve adverse effects as Invited Signatories and will invite any consulting parties with responsibilities under the agreement, such as the applicant, to participate as Invited Signatories. Any such party that signs the MOA or PA shall have the same rights as other Signatories with regard to seeking amendment or termination of the MOA/PA. The refusal of any Invited Signatory to sign a MOA or PA does not invalidate the MOA or PA.

Mitigation

Mitigation is resolving an adverse effect by compensating for said effect as formalized in an agreement document or data recovery plan. (Note on usage: One mitigates adverse effects to historic properties; one does not mitigate historic properties.)

National Environmental Policy Act of 1969 (NEPA)

The National Environmental Policy Act is the Federal law which guides the decision-making process for public lands in the United States. NEPA requires that all federal agencies involve the interested public in their decision-making, consider reasonable alternatives to proposed actions, and prepare environmental documents which disclose the impacts of proposed actions and alternatives.

National Historic Landmarks (NHL)

A National Historic Landmark is a historic property evaluated and found to have significance at the national level and designated as such by the Secretary of the Interior.

National Historic Preservation Act (NHPA)

The National Historic Preservation Act (NHPA; Public Law 89-665; 16 U.S.C. 470 *et seq.*) is legislation intended to preserve historical and archaeological sites in the United States of America. The act created the National Register of Historic Places, the list of National Historic Landmarks, and the State Historic Preservation Offices.

National Register of Historic Places (NRHP)

The National Register of Historic Places, expanded and maintained by the Secretary of the Interior, as authorized by section 2(b) of the Historic Sites Act and section 101(a)(1)(A) of the National Historic Preservation Act (16 U.S.C. 470). The National Register lists cultural properties found to qualify for inclusion because of their local, state, or national significance. Eligibility criteria and nomination procedures are found in 36 CFR Parts 60.4 - 60.15. The NRHP lists the districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and or culture. The Secretary's administrative responsibility for the National Register is delegated to the National Park Service, and is maintained by the Keeper of the National Register.

Native American Graves Protection and Repatriation Act of 1990 (NAGPRA)

The Native American Graves Protection and Repatriation Act establishes that lineal descendants, tribes, and Native Hawaiian organizations have rights of ownership to "cultural items" (i.e., human remains, funerary objects, sacred objects, and objects of cultural patrimony, as defined in the Act), taken from federal lands and Indian lands after the date of enactment. It requires identification of "cultural items" that were in federal agencies' and federally funded museums' possession or control before enactment; establishes a requirement and process for agencies and museums to repatriate "cultural items" on request; directs the Secretary to form a review committee to oversee implementation; provides for imposing civil penalties on museums that fail to comply; authorizes grants of funds for tribes, Native Hawaiian organizations, and museums to carry out the Act; requires the Secretary to promulgate regulations; and assigns to U.S. District Courts jurisdiction to adjudicate violations of the Act and to enforce the Act's provisions.

New Mexico Historic Preservation Division (HPD)

The Historic Preservation Division (HPD), a division within the Department of Cultural Affairs (DCA), State of New Mexico, is responsible for coordinating historic preservation efforts statewide. The mission of the Historic Preservation Division (HPD) is to protect, preserve and interpret the unique character of New Mexico. The mission is based on a philosophy of preservation, conservation, and beneficial use of archaeological sites, historic structures and districts, and other cultural resources. The director of HPD serves as the NM State Historic Preservation Officer (SHPO) and is appointed by the DCA Cabinet Secretary with the consent of the Governor. Under state statute, the SHPO must hold a graduate degree in American history, anthropology, architecture or historic preservation (or any combination), have at least five years of professional experience and have made substantial contribution through research and publication.

New Mexico Cultural Resource Information System (NMCRIS)

The New Mexico Cultural Resource Information System (NMCRIS) is an integrated online computer information system designed to support historic preservation, cultural resource management, and academic research in New Mexico. NMCRIS integrates geographic, management, and research-related data pertaining to four major classes of cultural resource information: cultural resource investigations,

archeological sites, historic architectural structures, and registered properties. NMCRIIS supports cultural resource management and research by serving as the primary index for cultural resource investigation reports and archeological records housed at the Laboratory of Anthropology as well as historical architectural records and the State Register of Cultural Properties files housed at HPD.

Non Eligible Cultural Resources

Non eligible cultural resources are those resources that, after evaluation through the process of assessing significance, integrity, and criteria considerations, are determined not to meet the National Register criteria and are excluded from the NRHP.

Signatory

Signatories to an agreement to resolve adverse effects are the BLM, the SHPO and the ACHP (if participating). The Signatories have sole authority to execute, amend or terminate the agreement in accordance with subpart 36 C.F.R. 800.6(c).

State Historic Preservation Office or Officer (SHPO)

State Historic Preservation Offices and Officers were established by the National Historic Preservation Act of 1966 as an agency within each State government charged with carrying out the provisions of the Act. The SHPO reflects the interest of the State and its citizens in the preservation of their cultural heritage. In accordance with section 101(b)(3) of the NHPA (16 USC 470), the SHPO advises and assists the Federal agencies in carrying out their Section 106 responsibilities and cooperates with such agencies, local governments and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development. A SHPO receives Federal funds from the National Park Service and allocates matching funds and grants to Certified Local Governments (CLGs) for the protection of sites eligible for listing in the National Register of Historic Places.

Standard Treatment Measures

See Best Management Practices

Temporary

Activities or elements that will be in place less than one year, i.e. temporary construction elements.

Traditional Cultural Property (TCP)

A traditional cultural property can be defined generally as a property that is eligible for inclusion in the NRHP because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community.

Undertaking

A project, activity or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; and those requiring a federal permit, license, or approval.

Acronyms

ACHP – Advisory Council on Historic Preservation
AIRFA – American Indian Religious Freedom Act
APE – Area of Potential Effect
ARPA – Archaeological Resources Protection Act
BLM – Bureau of Land Management
BMP – Best Management Practices
CLG – Certified Local Government
CRM – Cultural Resource Management
DPO – BLM Deputy Preservation Officer
EA – Environmental Assessment
EIS – Environmental Impact Statement
FLPMA – Federal Land Policy and Management Act
GIS - Geographic Information System
GLO – General Land Office
HABS – Historic American Buildings Survey
HAER – Historic American Engineering Record
HALS – Historic American Landscapes Survey
IM – Instruction Memorandum
MOA – Memorandum of Agreement
MOU – Memorandum of Understanding
NAGPRA – Native American Graves Protection and Repatriation Act
NCSHPO – National Conference of State Historic Preservation Officers
NEPA – National Environmental Policy Act
NHPA – National Historic Preservation Act
NHT – National Historic Trail
nPA - National Programmatic Agreement
NPS – National Park Service
NRHP – National Register of Historic Places
PA – Programmatic Agreement
ROW – Right-of-Way
RMP – Resource Management Plan
SHPO – State Historic Preservation Office or Officer
TCP – Traditional Cultural Property
THPO - Tribal Historic Preservation Officers