

**STATE PROTOCOL AGREEMENT**

**AMONG**

**THE CALIFORNIA STATE DIRECTOR OF THE BUREAU OF LAND  
MANAGEMENT**

**AND**

**THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER**

**AND**

**THE NEVADA STATE HISTORIC PRESERVATION OFFICER**

**REGARDING**

**THE MANNER IN WHICH THE BUREAU OF LAND MANAGEMENT WILL  
MEET ITS RESPONSIBILITIES UNDER**

**THE NATIONAL HISTORIC PRESERVATION ACT**

**AND**

**THE NATIONAL PROGRAMMATIC AGREEMENT**

**AMONG THE BLM, THE ADVISORY COUNCIL ON HISTORIC  
PRESERVATION, AND THE NATIONAL CONFERENCE OF STATE HISTORIC  
PRESERVATION OFFICERS**

**PREAMBLE**

The Bureau of Land Management (BLM) has developed a National Programmatic Agreement that governs the manner in which the BLM shall meet its responsibilities under the National Historic Preservation Act (NHPA).

This State Protocol Agreement has been developed pursuant to provisions of the National Programmatic Agreement (National PA) and revises the provisions of State Protocol Agreement between the California State Director of the Bureau of Land Management and the California State Historic Preservation Officer, executed on October 25, 2004. This revised State Protocol Agreement (Protocol) will have full force and effect upon its execution by signature of all parties.

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**Authorities and Responsibilities**

**Bureau of Land Management.** The California State BLM, consistent with its authorities and responsibilities under the Federal Land Policy and Management Act of 1976 (FLPMA), is charged with managing public lands located in the States of California and Nevada, in a manner that will "protect the quality of scientific, scenic, historical, ecological,

1 environmental, air and atmospheric, water resource, and archaeological values," and "that  
2 will provide for outdoor recreation and human occupancy and use."  
3

4 Authorities for managing cultural resources and programs of historic preservation exist under  
5 the National Environmental Policy Act (NEPA, Pub. L. 91-190), the Federal Lands Policy  
6 and Management Act (FLPMA, Pub. L. 91-579), the Archaeological Resources Protection  
7 Act (ARPA, 16 USC 470), the Native American Graves Protection and Repatriation Act  
8 (NAGPRA, 25 USC 3001), the Historic Sites Act of 1935 (Pub. L. 73-292), the Antiquities  
9 Act of 1906 (16 USC 431-433), the American Indian Religious Freedom Act (AIRFA, Pub.  
10 L. 95-341), Executive Order 13007 ("Sacred Sites", 61 FR 105), and the National Historic  
11 Preservation Act of 1966 as amended (NHPA, Pub. L. 89-665).  
12

13 A National Programmatic Agreement among the BLM, the Advisory Council on Historic  
14 Preservation (Council), and the National Conference of State Historic Preservation Officers  
15 (NCSHPO) sets forth the manner in which responsibilities deriving from the NHPA shall be  
16 met. In the event that the National PA is terminated, this Protocol shall continue in full force  
17 and effect until such time as a successor national or statewide Programmatic Agreement is  
18 executed. In the event of termination of the National PA, the parties to this Protocol shall  
19 promptly enter consultations to convert this Protocol into a statewide Programmatic  
20 Agreement pursuant to 36 CFR 800.6 and 800.14(b) (August 5, 2004).  
21

22 In carrying out its responsibilities both under the National PA and statutory authorities, the  
23 BLM has developed policies and procedures through its directives system (BLM Manual  
24 Series 8100-8170) (Appendix B) to guide the BLM's planning and decision making as it  
25 pertains to historic properties and historic preservation. BLM employs a professional staff of  
26 Cultural Resource specialists to advise the BLM's managers, to represent the Offices of  
27 Historic Preservation for California and Nevada solely for the purposes of Protocol  
28 implementation, and to implement cultural resource policies consistent with these authorities  
29 throughout its lands in California and those it manages in Nevada.  
30

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31 **State Historic Preservation Officers.** The State Historic Preservation Officers (SHPO) for  
32 California and Nevada have responsibilities under Section 101(b)(3) of the NHPA including  
33 to "advise and assist as appropriate, Federal and State agencies and local governments in  
34 carrying out their historic preservation responsibilities," and to "consult with the appropriate  
35 Federal agencies in accordance with the NHPA on Federal undertakings that may affect  
36 historic properties, and the content and sufficiency of any plans developed to protect,  
37 manage, or to reduce or mitigate harm to such properties." The acronymic term "SHPO" as  
38 used in this Protocol refers to both the California and Nevada State Historic Preservation  
39 Officers unless specified otherwise.  
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41 In certain cases others may be authorized to act in place of the SHPO; this Protocol  
42 authorizes, within certain limits, BLM professional Cultural Resource staff to act in the place  
43 of the SHPO for California and Nevada solely within the scope of this Protocol. Where the  
44 Secretary of the Interior (Secretary) has approved an Indian tribe's preservation program  
45 pursuant to Section 101(d)(2) of the NHPA, a Tribal Historic Preservation Officer (THPO)

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1 may perform SHPO functions with respect to tribal lands. This Protocol does not apply to  
2 tribal lands.

### 3 4 **Purpose of this Protocol**

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6 This Protocol prescribes the manner in which the BLM and the SHPO shall cooperatively  
7 implement the National PA in California and in portions of Nevada managed by California  
8 BLM. It is intended to ensure that the BLM organizes its programs to operate efficiently and  
9 effectively in accordance with the intent and requirements of the NHPA and that the BLM  
10 integrates its historic preservation planning and management decisions with other policy and  
11 program requirements. The Protocol streamlines the NHPA Section 106 (Section 106)  
12 process by eliminating case-by-case consultation with the SHPO on undertakings that  
13 culminate in “no historic properties affected” (36 CFR 800.4(d)(1)) and “no adverse effect”  
14 findings (36 CFR 800.5(b)). The Protocol also requires development and management of a  
15 Historic Preservation Program (Section 110 of the NHPA) and implementation of the  
16 Program by each Field Office in partial exchange for relief from the case-by-case procedural  
17 requirements of 36 CFR 800. The Historic Preservation Program is attached to this Protocol  
18 and will have immediate force and effect upon execution of this Protocol.

19  
20 Supplemental procedures attached to this Protocol by approved amendments provide  
21 procedures that are specific to individual programs or functions (refer to Stipulation IX.C).  
22 Such supplemental procedures may not necessarily have the same geographic scope as this  
23 Protocol. Such limits, if any, are defined within the Amendments or in an ancillary  
24 implementing agreement pertaining to a particular Amendment.

### 25 26 **Applicability of this Protocol**

27  
28 This Protocol, subject to threshold limitations specified in Stipulation IV, applies to all  
29 programs, funding initiatives, actions or decisions under the statutory or regulatory authority  
30 of the BLM that, regardless of land ownership, may affect historic properties. Public lands  
31 administered by California BLM within California and Nevada and other public lands within  
32 California administered by the Arizona offices of BLM are included within the scope of  
33 applicability of this Protocol unless alternative agreements are reached subsequent to  
34 adoption of this Protocol and which are attached to this Protocol by approved amendments.  
35 However, this Protocol shall not apply to tribal lands, but rather, a proposed BLM  
36 undertaking on tribal lands will require consultation among the BLM, the THPO, tribal  
37 officials, the SHPO (where no Tribal Preservation Program exists), and the Council; and such  
38 consultation shall be outside the compass of this Protocol and shall follow 36 CFR Part 800  
39 or the Indian tribe's program alternative to 36 CFR Part 800.

### 40 41 **Effect of this Protocol**

42  
43 This Protocol establishes the procedures that govern the interaction between BLM and the  
44 SHPO under the National PA. The goals of this Protocol and the National PA are to enhance  
45 management of historic properties under the BLM’s jurisdiction or control and to ensure  
46 appropriate consideration of historic properties beyond the BLM’s jurisdiction, but which

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1 may be affected by its actions. Undertakings involving non-federal lands for which BLM is  
2 the lead agency or for which the BLM has provided funding shall be considered federal  
3 actions and shall be subject to requirements outlined in this Protocol.  
4

5 The BLM and the SHPO mutually agree that execution of this Protocol and implementation  
6 of its terms will evidence satisfactory compliance by the BLM with the requirements of the  
7 National PA and 36 CFR 800, the implementing regulations for Section 106 of the National  
8 Historic Preservation Act.  
9

### 10 **Roles of Agency Personnel with Responsibilities under this Protocol**

11  
12 **State Director:** Meets annually with State Historic Preservation Officer and may meet more  
13 frequently upon request of either the BLM or the SHPO. Enters into Programmatic  
14 Agreements of statewide, multiple state, or multiple Field Office scope with the SHPO, the  
15 Council, and other Agencies for implementing Section 106 in specific circumstances not  
16 covered by this Protocol. May delegate to District Managers and their cultural resources  
17 staff the authority to operate under this Protocol as necessary.  
18

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19 **Field Office Managers:** Concur in recommendations and determinations developed by  
20 professional Cultural Resource staff, including but not limited to, Area of Potential  
21 Effect (APE), eligibility, no historic properties affected, and no adverse effect. Consult  
22 formally with SHPO as appropriate (Stipulation VI) and when there is unresolved  
23 disagreement with Cultural Resource staff determinations. Ensure necessary training for  
24 cultural staff, availability of cultural resources funding for preservation projects and  
25 implementation of the Historic Preservation Program and American Indian consultation for  
26 Section 106 projects consistent with Manual direction and 36 CFR 800. Execute Memoranda  
27 of Agreement for adverse effects and Programmatic Agreements which are limited to specific  
28 Field Offices. The Field Office Manager is responsible for ensuring that all cultural  
29 resources documentation for an undertaking is completed within 30 calendar days of the  
30 execution of its decision document. The Field Office manager may delegate the authority  
31 under this Protocol to others to act in the manager's place to individuals who have received  
32 the required training in its use and application.  
33

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34 **Deputy Historic Preservation Officer:** Oversees implementation of the Protocol; conducts  
35 reviews and Protocol training; recommends certification, provisional certification,  
36 decertification, and recertification of Field Offices; reviews or develops Programmatic  
37 Agreements and Memoranda of Agreement; may lead consultation with the SHPO in specific  
38 cases; and submits reports and information to the SHPO concerning implementation of the  
39 Protocol.  
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41 **Field Office Cultural Resource Staff:** Make, without formal SHPO consultation,  
42 determinations of Areas of Potential Effect (APE) and NHRP eligibility and make findings of  
43 no historic properties affected and no adverse effect. Develop sample-based inventories and  
44 seek informal opinion of SHPO staff when appropriate. Maintain cultural resource records  
45 and transmit reports and inventory records to electronic and physical repositories appropriate  
46 for each state party to this Protocol and maintain professional knowledge and ability.

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1 Develop and implement Section 110 programs and projects according to the guidance  
2 provided in the Historic Preservation Program.  
3

4 **Definitions of Terms Used in this Protocol**  
5

6 The terms used in this Protocol are defined within the body of the Protocol itself or in  
7 appended documents. Definitions may be found in BLM Manual Series 8100 at “Glossary of  
8 Terms” and in 36 CFR 800.16 (a-z).  
9

10 **I. RELATIONSHIP OF PROTOCOL TO OTHER AGREEMENTS**  
11

12 Existing California statewide programmatic agreement documents were terminated in the  
13 Statewide Protocol executed on October 25, 2004. No programmatic agreements in Nevada  
14 were affected by that termination or are terminated by this Protocol.  
15  
16

17 Future development of programmatic agreement documents pertaining to specific aspects of  
18 the Cultural Resource Program is not precluded by this Protocol. Undertaking-specific  
19 programmatic agreements in force at the time of the execution of this Protocol shall continue  
20 to function normally according to their terms.  
21

22 **II. PROCEDURES**  
23

24 The following procedures shall be implemented by the BLM under this Protocol:  
25

26 **A. MEETINGS**  
27

28 The SHPO, and the State Director, with their respective staffs shall meet annually, to review  
29 BLM’s implementation of the Protocol, annual reports of activities, and other pertinent  
30 issues. The Advisory Council may be invited to participate in order to facilitate the  
31 Council’s general oversight of the Section 106 process. At the annual meeting, the SHPO  
32 and BLM shall exchange information relevant to achieving the goals and objectives set forth  
33 in this Protocol. At any time the SHPO or the State Director may convene a meeting to  
34 discuss issues. This Protocol encourages its parties, including staff and cultural resource  
35 specialists, to meet and to consult informally and frequently in order to maintain appropriate  
36 communication, to seek informal opinion and advice, and share information and knowledge.  
37  
38

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39 **B. COMMUNICATING BY REPORTING**  
40

41 The BLM shall inform the SHPO of activities carried out under this Protocol by developing  
42 and submitting reports annually to the SHPO as specified below.  
43

44 1. Field Offices.

- 45 • Information by Field Office detailing use of the Protocol, including exemptions and  
46 determinations of eligibility, for Section 106 actions no later than December 1

1 following the prior fiscal year, or by an alternative date negotiated with SHPO by the  
2 Deputy Historic Preservation Officer. Information may be provided by approved  
3 electronic means.  
4

- 5 • Information by Field Office detailing Historic Preservation Program (Section 110)  
6 accomplishments for each Field Office no later than December 1 following the prior  
7 fiscal year, or by an alternative date negotiated with SHPO by the Deputy Historic  
8 Preservation Officer. Information may be provided by approved electronic means.  
9

10 2. State Office. The Deputy Historic Preservation Officer shall review the annual reports on  
11 Section 106 actions and Section 110 activities submitted by the Field Offices. Based on that  
12 review, the Deputy Historic Preservation Officer shall develop a summary report for  
13 submission to SHPO by the State Director. The report may identify need for further review  
14 of specific Field Office programs if necessary. Information may be provided by approved  
15 electronic means.  
16

### 17 **C. PROFESSIONAL DETERMINATIONS AND RECOMMENDATIONS**

18  
19 This Protocol authorizes BLM’s professional cultural resource staff to act on the SHPO’s  
20 behalf under limited circumstances. ~~Within those limits, BLM’s cultural resource staff may~~  
21 ~~define APEs, define scope of inventory, conduct and oversee inventory, develop~~  
22 ~~determinations of eligibility, no historic properties affected, and no adverse effect, and apply~~  
23 ~~exemptions (Appendix D of this Protocol), without involvement of the SHPO. The Field~~  
24 ~~Office Manager may elect to concur with the recommendations and determinations prepared~~  
25 ~~by the Cultural Resource staff. When professional findings, determinations and~~  
26 ~~recommendations are accepted by the Field Office Manager, no SHPO consultation is~~  
27 ~~required. However, when professional determinations or recommendations including, but~~  
28 ~~not limited to, APE, scope of inventory, determinations of National Register eligibility,~~  
29 ~~findings of no historic properties affected and no adverse effect, and application of~~  
30 ~~exemptions are not accepted by the Field Office Manager, the Field Office Manager shall in~~  
31 ~~each such case initiate consultation with the SHPO under 36 CFR 800 and BLM Manual~~  
32 ~~Series 8110.~~  
33

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### 34 **D. SHPO INVOLVEMENT IN THE BLM CULTURAL RESOURCE PROGRAM**

35  
36 To encourage broad participation by the SHPO in the BLM Cultural Resource Program, the  
37 following involvement opportunities are extended to the SHPO;  
38

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39 1. Planning Efforts. At the earliest stage of the planning process, each Field Office  
40 responsible for preparing a land use plan or significant amendments or revisions at the  
41 regional or local level shall ensure invitation of the SHPO to participate in the planning effort  
42 (Manual 8130), including seeking SHPO comment on proposed resource use allocations. In  
43 writing, the SHPO may elect not to participate in specific planning efforts. The BLM shall  
44 consider the views of the SHPO on specific planning efforts when those views are expressed  
45 in writing. An agreement document specific to the planning effort may be requested by  
46 either party. All draft and final land use plans shall be submitted to the SHPO for review and

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1 comment. Completion of the consultation process for planning will be indicated by BLM's  
2 written response to the SHPO's comments on the draft land use or cultural resource project  
3 plans. No decision documents for planning shall be issued prior to completion of the  
4 consultation.

5  
6 2. Use Allocations. The BLM may invite the SHPO to comment on proposed use  
7 allocations for evaluated cultural resources (Manual 8110.4); the SHPO may elect to review  
8 resource use allocations at any time.

9  
10 3. Field Tours. BLM Field Offices may invite the SHPO to participate in field tours relating  
11 to land use planning efforts or specific undertakings whenever cultural resources may be  
12 affected.

13  
14 4. Contact. Formal consultation outside the scope of this Protocol will be conducted between  
15 the SHPO and the BLM Field Office Managers in consultation with the Deputy Historic  
16 Preservation Officer. BLM Field Office Managers, in coordination with Field Office  
17 Cultural Resource staff, may also contact SHPO staff informally regarding specific project  
18 review status. The SHPO staff and BLM Cultural Resource staff are encouraged to  
19 communicate at their discretion on general concerns or issues related to specific  
20 undertakings. Informal consultation shall be documented by BLM Field Office staff;  
21 documentation shall be retained in appropriate files under the control of the BLM Field  
22 Office Cultural Resources staff.

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23  
24 5. Internal BLM Program Review. BLM shall invite SHPO participation in internal Field  
25 Office program reviews and shall provide reports of reviews, exclusive of findings and  
26 recommendations specific to personnel matters. The scope of review opportunities is  
27 detailed in Stipulation III.E of this Protocol.

28  
29 In keeping with the Protocol's stated goal of encouraging participation by SHPO in BLM's  
30 Cultural Resource Program, additional opportunities may be identified by BLM or may be  
31 requested by the SHPO.

### 32 33 34 **III. PROGRAM DEVELOPMENT AND ACTIVITIES**

35  
36 **A. Preservation Planning.** In return for the procedural flexibility that this Protocol provides  
37 in meeting 36 CFR 800 responsibilities, BLM commits to fulfill the responsibilities  
38 enumerated in Section 110 of NHPA. The State Director shall implement a Heritage  
39 Preservation Program (HPP). The HPP (Appendix F) shall guide BLM in achieving  
40 measurable progress toward compliance with Section 110 of NHPA.

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41  
42 **B. Curation.** BLM will ensure to the greatest extent possible that curation and disposition of  
43 all archaeological materials and data from Federal lands conform to Manual Sections 8110  
44 and 8160 and other Sections as appropriate. Management of non-Federal archaeological  
45 materials and data will be consistent with applicable law and professional curation  
46 requirements as negotiated with non-Federal landowners or managers. Non-museum

1 collections may be maintained at Field Offices, but only under appropriate curatorial  
2 conditions and with appropriate documentation.

3  
4 **C. Data Sharing and Information Management.**

**Comment [s1]:** Ken and Alice. I believe that this entire Stipulation should be rewritten so that it is crystal clear. As I read it I become confused. The Council of Electronic Elders needs to convene and produce a written modification. sph

5  
6 1. Documentation of Findings. All cultural resources investigations associated with  
7 implementing this Protocol regardless of findings shall be documented to the standards  
8 stipulated in Manual 8110.5 and written guidance of the SHPO. In California, BLM shall  
9 submit to the appropriate Information Center of the California Historical Resources  
10 Information System (CHRIS) reports for property inventories and Archaeological Site  
11 Records (Department of Parks and Recreation form 523 or equivalent) completed to the  
12 standards of the Office of Historic Preservation. In California, documentation will also be  
13 incorporated into BLM's electronic geodatabase. In Nevada, BLM shall submit reports of  
14 inventory and archaeological site records (IMACS) to the SHPO for incorporation into  
15 NVCRIS.

16  
17 BLM cultural staff shall document all determinations, findings, and recommendations made  
18 under this Protocol and all such actions shall be reviewed and considered by Field Office  
19 Managers. Such actions include, but are not limited to, delineating areas of potential effect,  
20 National Register eligibility determinations, applying exemptions, effect findings and other  
21 findings and determinations. Documented determinations, findings, and recommendations  
22 shall be retained as described in Stipulation III.C.3 of this Protocol.

23  
24 2. Exchange of Data. BLM has developed and maintains a geodatabase for cultural  
25 resources and cultural resource investigations in a Geographic Information System (GIS) in  
26 accordance with Section 112(2) of the NHPA and Manual 8110.5.52(B). The geodatabase  
27 shall be updated with newly recorded and re-recorded resource and investigation data.  
28 Initiatives shall be undertaken to input legacy data. BLM and SHPO shall jointly work to  
29 implement the electronic submission of records for tracking agency actions through the use of  
30 CRMtracker. BLM and SHPO will work to insure the program meets BLM and SHPO needs.

31  
32 3. Records Management. BLM shall maintain complete, current, and permanent records for  
33 cultural resources activities, including but not limited to survey areas, findings,  
34 determinations, reports, historic property records, archaeological site records, and  
35 correspondence, to fully document fulfillment of its responsibilities under this Protocol, and  
36 other laws, regulations, and policies. Records management shall conform to the standards  
37 and policies at Manual 8110.5 and standards and procedures developed subsequent to  
38 execution of this Protocol. Records pertaining to undertakings shall be retained in files,  
39 under the control of Field Office professional Cultural Resource staff, which document  
40 inventory efforts, research designs, peer reviews, assessment of effects and impacts, and use  
41 of exemptions (Appendix D). Records shall include, but shall not be limited to, site records,  
42 monitoring and condition reports, effect findings, determinations of eligibility, images, use  
43 allocations, and cross references to other files or archived documents which contain  
44 information pertaining to the individual property.

1 Non-sensitive cultural resource compliance documents, including findings, determinations,  
2 and recommendations may be disclosed to the public. However, the State Director has  
3 determined, under the authority of Section 304 of NHPA and consistent with Section 9 of  
4 ARPA, that public disclosure of the location and character of cultural resources may risk  
5 harm to those resources. Sensitive cultural resource information under the control of BLM,  
6 regardless of ownership of the resource, shall not be disclosed to the general public and such  
7 information shall not be stored in documents open to the general public. This determination  
8 notwithstanding, the BLM may characterize cultural resources in writing sufficiently for the  
9 purposes of required analyses under NEPA and cultural resource information may be  
10 disclosed when such disclosure is deemed to advance management purposes.

#### 11 **D. Professional Development and Training**

12 Training and development are key elements in maintaining the effectiveness of the Protocol.  
13 Field Managers and others who may act in the role of Field Office managers within the scope  
14 of this Protocol shall receive training at the beginning of their tenure and annually thereafter.  
15 The SHPO shall be offered the opportunity to assist the BLM in Protocol training.

16  
17  
18  
19 Annually, Cultural Resource staff shall receive training in the use and implementation of the  
20 Protocol including the procedural requirements of 36 CFR 800 which are to be implemented  
21 in instances where the Protocol does not apply. The Deputy Historic Preservation Officer  
22 shall identify and arrange annual opportunities for specialized cultural resource training.  
23 BLM Cultural Resource staff shall meet yearly, usually in conjunction with the Society for  
24 California Archaeology meetings, to participate in workshops, training, exchange  
25 information, and to discuss issues concerning the Cultural Resource program. The SHPO  
26 shall be offered the opportunity to assist the BLM in on-going training of supervisors and  
27 Cultural Resources staff in the implementation of the Protocol.

28  
29 Field Offices, in consultation with State Office Cultural Resources staff, shall devise  
30 professional development plans for their Cultural Resource staff to ensure that current  
31 professional standards in the discipline can be met and maintained, and training needs  
32 identified. Training received shall be reported as a component of annual reporting  
33 (Stipulation II.B).

34  
35 BLM recognizes that staying current in relevant professional literature and participation of  
36 Cultural Resource staff in professional societies and annual meetings (e.g., Society for  
37 California Archaeology, Society for American Archaeology, Society for Historical  
38 Archaeology, California Council for the Promotion of History, Society of Architectural  
39 Historians) is integral to staying abreast of developments and advances in the discipline, for  
40 enhancing professional knowledge and skills, and for providing opportunities for leadership  
41 and service to the profession.

42  
43 Annual participation by Field Offices in Protocol training and implementation of professional  
44 development in appropriate individual development plans (IDP) for Cultural Resource staff  
45 shall be key considerations for continuing certification of individual Field Offices.  
46

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1 **E. Reviews of Field Office Performance under this Protocol**

2  
3 Professional review of Field Office program operations is an essential and mandatory  
4 component of the BLM's Cultural Resource program and this Protocol, especially as it  
5 pertains to certification (Stipulation VIII of this Protocol). Ensuring that such review takes  
6 place is a primary function of the Deputy Historic Preservation Officer. Reviews may  
7 involve any aspect of a program's function including, but not limited to, documentation,  
8 findings and recommendations, record keeping and curation, security, and professional  
9 contributions. The intent of such reviews is to improve operations at individual Field Offices  
10 and to improve the Cultural Resource Program.

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11  
12 Three levels of internal review are available to the Deputy Historic Preservation Officer:  
13 Annual Review; Technical Review; and Program Review. Findings of reviews shall be  
14 relevant for purposes of assessing certification status of Field Offices.

15  
16 Annual Review. Consistent with provisions of the National PA, the Deputy Historic  
17 Preservation Officer shall assess annually each Field Office's ability to implement the  
18 provisions of the Protocol. The Annual Review will be based primarily on information and  
19 data submitted for the Annual Report required in Stipulation II.B of this Protocol, however,  
20 other data may be considered. The Deputy Historic Preservation Officer shall document the  
21 findings of the annual review and the State Director shall submit that report to the SHPO.  
22 When recommendations to correct deficiencies receive SHPO concurrence and are accepted  
23 by the State Director, implementation of such recommendations shall become the  
24 responsibility of each Field Office manager who shall be required to initiate corrective  
25 actions within sixty (60) days from the date the recommendations are accepted by the State  
26 Director. Depending on the nature of the identified deficiencies, the State Director may elect  
27 to place a Field Office in provisional status according to the procedures described at  
28 Stipulation VIII.B of this Protocol.

29  
30 Technical Review. Consistent with provisions of the National PA, the Deputy Historic  
31 Preservation Officer shall determine whether Field Offices are maintaining an appropriate  
32 level of technical capability and performance in particular program elements. Such elements  
33 may include, but are not limited to, record-keeping, documentation of Protocol actions,  
34 Section 110 actions, curation, inventory documentation, determinations, budget issues, and  
35 findings from Annual Reviews. The Deputy Historic Preservation Officer shall document  
36 the findings of the Technical Review and the State Director shall submit that report to the  
37 SHPO. When recommendations to correct deficiencies receive SHPO concurrence and are  
38 accepted by the State Director, implementation of such recommendations shall become the  
39 responsibility of each Field Office Manager, who shall be required to initiate corrective  
40 actions within sixty (60) days from the date the recommendations are accepted by the State  
41 Director. Failure to initiate corrective actions within the specified time or failure to correct  
42 the deficiencies shall require the State Director to consider, in consultation with the Deputy  
43 Historic Preservation Officer and SHPO, actions under Stipulation VIII of this Protocol.

44  
45 Program Review. Consistent with provisions of the National PA, the Deputy Historic  
46 Preservation Officer shall determine whether Field Office Cultural Resource programs are

1 fully functional in their ability to implement the Protocol. Program reviews are broad-based  
2 reviews of the entire Cultural Resource program at a Field Office, although such a review  
3 may focus on particular areas of interest. The Deputy Historic Preservation Officer shall  
4 invite the participation of the SHPO, document the findings of the Program Review and the  
5 State Director shall submit that report to the SHPO. Should deficiencies be identified, the  
6 Deputy Historic Preservation Officer shall develop corrective recommendations. When such  
7 recommendations receive SHPO concurrence and are accepted by the State Director,  
8 implementation of such recommendations shall become the responsibility of each Field  
9 Office manager, who shall be required to initiate corrective actions within sixty (60) days  
10 from the date the recommendations are accepted by the State Director. Failure to initiate  
11 corrective actions within the specified time or failure to correct the deficiencies shall require  
12 the State Director to consider, in consultation with the Deputy Historic Preservation Officer  
13 and SHPO, actions under Stipulation VIII of this Protocol.  
14

15 From time to time, in order to ensure that actions of BLM professional staff retain a high  
16 level of professionalism, the SHPO may request that particular documents be subjected to  
17 external professional peer review. ~~BLM may prepare peer review guidelines in consultation~~  
18 ~~with the SHPO or may elect to accept existing peer review guidelines proffered by the~~  
19 ~~SHPO. The SHPO and the BLM agree that peer review shall not delay the implementation~~  
20 ~~of undertakings.~~

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#### 21 22 23 **IV. AMERICAN INDIAN PARTICIPATION**

24  
25 BLM recognizes the importance of the continuing government-to-government relationship  
26 with tribal entities and the importance of consultation on specific undertakings. BLM shall  
27 follow 36 CFR 800.2(c)(2) and the procedures and guidelines established in BLM Manual  
28 8120 and BLM Handbook 8120-1 in order to conduct consultation with the American Indian  
29 community for undertakings under this Protocol or any of its Amendments. BLM supports  
30 and encourages the reciprocal sharing of sensitive cultural information with Federally  
31 recognized tribes during consultation for specific undertakings.  
32

33 Non-Federally recognized tribes, Indian communities and individual members shall be  
34 encouraged to raise issues, express concerns during public scoping for specific undertakings.  
35 BLM supports and encourages the reciprocal sharing of sensitive cultural information with  
36 non-Federally recognized tribes, Indian communities and individual members during  
37 planning for specific undertakings. The BLM shall solicit such input through the public  
38 participation opportunities afforded by BLM's land use planning and environmental review  
39 processes, government-to-government consultation and the development of Agency/Tribe  
40 protocol agreements. BLM shall take into account any confidentiality concerns raised by  
41 Indian tribes and American Indian traditional practitioners during the identification process.  
42  
43

#### 44 **V. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES**

##### 45 **A. Consultation with Tribes and Traditional Practitioners**

46

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1  
2 Consultation with tribes and traditional practitioners underlies all subsequent identification  
3 and evaluation activities conducted under this Protocol. The Field Office Manager shall  
4 ensure that consultation with tribes and traditional practitioners takes place at the earliest  
5 stages of planning for projects. The Field Office Manager shall be prepared to continue  
6 consultation throughout the planning and implementation stages of an undertaking.  
7 Guidance for consultation is provided in BLM Manual 8120 and BLM Handbook 8120-1.  
8

9 **B. Public Involvement**

10 BLM shall provide adequate opportunity for the public to express views by seeking and  
11 considering those views when carrying out actions under this Protocol. BLM shall  
12 coordinate this public participation requirement with those of NEPA, FLPMA, other  
13 pertinent statutes, and the BLM Planning System. Interested parties shall be invited to  
14 consult early in the review process if they have expressed an interest in a BLM undertaking  
15 or action subject to the Protocol. Such interested parties may include, but are not limited to,  
16 local governments; grantees, permittees, or owners of affected lands or land surfaces; Indian  
17 Tribes, organizations, families and individuals; and those seeking to participate as consulting  
18 parties in a particular undertaking.  
19

20 **C. Area of Potential Effect**

21 Field Office Cultural Resources Staff shall apply the definition of APE (36 CFR 800.16[d])  
22 and shall document the determination and the rationale used in reaching that determination.  
23 In defining the APE, the BLM shall consider potential direct, indirect, and cumulative effects  
24 to historic properties and their associated settings as applicable, regardless of land ownership.  
25 In cases where the APE is subject to question or in which there are multiple jurisdictions, the  
26 Field Office may seek the opinion of the SHPO.  
27  
28  
29

30 **D. Identification**

31 Unless otherwise agreed in consultation with the SHPO, BLM shall ensure that project-  
32 specific surveys and other efforts to identify historic properties are conducted in accordance  
33 with the appropriate professional standards as defined in the BLM 8100 Manual series, and  
34 to the extent prudent and feasible with the California Office of Historic Preservation  
35 guidelines, and the Secretary's Standards and Guidelines. All surveys and other efforts to  
36 identify historic properties shall be documented according to standards set forth by the  
37 Secretary, the BLM 8100 Manual, and the SHPO. Prior surveys may be accepted as  
38 adequate inventory for all or part of a project area based on review by the Field Office  
39 cultural staff and completion of documentation of such review.  
40

- 41  
42 1. BLM will generally conduct BLM Class III inventory, as defined in BLM Manual 8110,  
43 to identify historic properties and traditional cultural properties on BLM-administered lands  
44 or other lands where a BLM undertaking will occur.  
45  
46 2. In all cases where BLM's Cultural Resource staff determines that less than a Class III

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American Indian participation shall be  
guided by the provisions of Stipulation  
IV of this Protocol, by BLM Manual  
8120, and by 36 CFR 800.2(c) (2).¶

1 inventory is appropriate for an undertaking, a written justification and research design or  
2 strategy shall be prepared and retained in appropriate files. When Class II inventories  
3 (Probabilistic Field Survey) are deemed appropriate, Field Office Cultural Resource staff  
4 shall seek informally the views of the SHPO staff concerning the justification and research  
5 design/strategy for the reduced level of inventory. The SHPO may concur with the proposed  
6 approach or may determine that formal consultation shall be initiated (Stipulation VI.C).  
7 Class I inventories are limited to landscape level planning and are never sufficient for the  
8 purposes of Section 106 compliance for specific undertakings.

9  
10 3. Where Amendments to this Protocol apply to a particular undertaking and also address  
11 alternative inventory procedures, those alternative inventory procedures will be followed.

## 12 **E. Evaluation**

13  
14  
15 1. Unless otherwise agreed to in consultation with SHPO, BLM will ensure that historic  
16 properties that cannot be protected are evaluated in accordance with BLM's 8110 Manual  
17 (Appendix B), the National Register criteria (36 CFR 60.4), and, to the extent prudent and  
18 feasible, with the Secretary's Standards and Guidelines for Archaeology and Historic  
19 Preservation (Vol. 48, Federal Register, No. 190, Part IV). This Protocol suspends the  
20 allocation of unevaluated cultural resources to "use categories" (BLM Manual 8110.4);  
21 however, this Protocol does not constrain allocation of evaluated cultural resources to use  
22 categories.

23  
24 2. BLM shall document all evaluations, including applicable National Register criteria, and  
25 disclose those evaluations in "[CRMTracker](#)", a project tracking system [implemented by the](#)  
26 [Nevada SHPO and the California BLM](#). The SHPO may elect to review any evaluation as an  
27 element of its oversight role in this Protocol (Stipulation V.(b)).

28  
29 3. Where the Protocol requires BLM to consult with the SHPO regarding the National  
30 Register eligibility of a property, any unresolved disagreement resulting from such  
31 consultation shall be submitted to the Keeper of the National Register in accordance with 36  
32 CFR 63.3(d).

33  
34 4. Where avoidance will be implemented as the management strategy for managing effects.,  
35 BLM may treat cultural resources as potentially eligible for inclusion in the National Register  
36 of Historic Places without consultation with the SHPO. Such treatment for a particular  
37 property neither precludes nor prejudices evaluation in the future.

## 38 39 **F. Human Remains**

40  
41 In the event that any human remains are encountered or in the event that unassociated  
42 funerary objects, or grave goods are discovered, work in the immediate vicinity of the  
43 discovery shall cease other than non-disturbing documentation and BLM shall comply with  
44 applicable State laws, NAGPRA as outlined at 43 CFR 10, and ARPA at 43 CFR 7.  
45  
46

1 **G. Discoveries**

2  
3 In the event that properties are discovered during implementation of an undertaking which  
4 has been duly considered under the terms of this Protocol and in which the property cannot  
5 be protected, BLM shall address the discovery in accordance with the provisions of 36 CFR  
6 800.13. In consultation with the SHPO, BLM shall select the appropriate mitigation option.  
7 In the event that properties are discovered during implementation of an undertaking which  
8 has been exempted under Stipulation V.I., the discovery procedures set forth in Appendix D  
9 shall be followed.

10 **H. Emergency Undertakings**

11  
12 BLM shall amend this Protocol with procedures for protecting historic properties during  
13 emergency undertakings, including wildfire. Until such an amendment is developed and  
14 approved, the following shall apply: should BLM find it necessary to implement an  
15 emergency undertaking as an immediate response to a declared emergency, undeclared  
16 emergency, or another immediate threat to life or property, in a manner that would preclude  
17 the use of this Protocol, BLM and its mutual aid partners, will implement to the extent  
18 prudent and feasible any measures that could avoid or minimize harm to historic properties  
19 and shall implement rehabilitation measures and evaluations for properties which may have  
20 been adversely affected. BLM shall comply with the provisions of 36 CFR Part 800.12 and  
21 36 CFR Part 78 for such emergency undertakings. BLM shall document properties  
22 discovered or affected by the emergency undertaking or post-fire rehabilitation and shall  
23 submit a report to the SHPO.  
24

25 **I. Exempt Undertakings**

26  
27 The definitions and procedures for application of Exemptions are developed in Appendix D.  
28 Class A undertakings are generally exempt from further review or consultation. In addition,  
29 Field Office Cultural Resource staff may determine that any specific undertaking subsumed  
30 under the list of Class B undertakings qualifies as an exempt undertaking. Documentation  
31 regarding an undertaking’s exemption from review under this Protocol shall be retained and  
32 entered into CRMTracker. The list of exemptions may be revised to add, delete, or modify  
33 specific exemptions.  
34

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35 However, the following exceptions apply:

- 36  
37  
38 1. Any Field Office may elect to review a normally exempted, specific undertaking under  
39 the terms of this Protocol or 36 CFR Part 800.  
40  
41 2. Should an objection by the public arise to a Class B exempt undertaking prior to  
42 implementation, the Field Office shall consult with the objecting party and the SHPO for not  
43 more than 30 calendar days following receipt to resolve the objection. If the objection is  
44 resolved within this timeframe, the parties shall proceed in accordance with the terms of that  
45 resolution. If the objection cannot be resolved within this time frame, and the Field Office  
46 and the SHPO have not agreed to extend the consultation period, the Field Office shall

1 | submit the disputed exemption for review [by the SHPO](#) either under this Protocol or under 36  
2 | CFR 800.

3 |  
4 | 3. Any party to this Protocol may propose that Appendix D be modified by removal or  
5 | revision of exempted undertakings or by addition of a previously non-exempted class of  
6 | undertakings. Such proposals for modification of Appendix D shall be considered pursuant  
7 | to the provisions for revisions of this Protocol at Stipulation IX.B. Appendix D may be  
8 | revised as a component of Protocol revision or may be revised at any time upon written  
9 | agreement of the parties to this Protocol.

## 10 | 11 | 12 | **VI. THRESHOLDS FOR SHPO REVIEW**

13 |  
14 | BLM shall initiate formal consultation with the SHPO [in](#) the following [situations](#) and shall  
15 | follow the procedures set forth in 36 CFR 800. Notwithstanding, BLM and SHPO may agree  
16 | to proceed under the Protocol in consideration of specific conditions or characteristics of a  
17 | specific undertaking which would normally require continuation of formal consultation.

Deleted: undertakings

18 |  
19 | A. Where undertakings may have an adverse effect as defined by 36 CFR 800.5(a)(1),  
20 | including adverse effects to National Historic Landmarks (NHL) or properties either  
21 | considered eligible for, or which are listed in, the National Register of Historic Places.

22 |  
23 | B. Where BLM acts either as lead agency on behalf of other Federal agencies or in  
24 | cooperation with other Federal agencies for undertakings that may have effects beyond the  
25 | boundaries of the State and which involve other State Historic Preservation Officers. In such  
26 | cases, BLM will either consult with the respective SHPOs and agencies regarding an  
27 | appropriate compliance process and proceed accordingly, or comply with 36 CFR 800.

28 |  
29 | C. Where BLM proposes to complete less than a BLM Class III survey of the affected  
30 | (selected) lands and when informal consultation with SHPO staff yields consensus agreement  
31 | to proceed with formal consultation (Stipulation V.D.2).

32 |  
33 | D. Where an undertaking involves [a transfer or](#) allocation of public lands exceeding 10,000  
34 | acres regardless of the survey class.

35 |  
36 | E. Where BLM proposes to transfer lands to the State of California absent an agreement  
37 | document governing the undertaking.

38 |  
39 | F. Where traditional cultural properties or sacred sites may be affected.

40 |  
41 | G. Where professional cultural resources expertise necessary to implement this Protocol is  
42 | unavailable to a Field Office,

43 |  
44 | H. Where land use plans and amendments are initiated.  
45 |

1 I. Where unresolved disagreements or disputes concerning professional findings exist  
2 between Cultural Resource staff and Field Office Managers.

3  
4 J. Where unresolved disagreements or disputes, internal to BLM, arise concerning an exempt  
5 undertaking.

6  
7 K. Where a Field Office declines to participate in any supplemental procedures  
8 (Amendments) which would normally govern the undertaking or class of undertaking.

9  
10 L. Where protocols and procedures in the BLM 8100 Manual procedures may conflict with  
11 the procedures established in 36 CFR 800.

12  
13 M. Where data recovery [or other treatment to mitigate adverse effect is](#) proposed.

14  
15 N. Where supplemental procedures appended to this Protocol require such consultation.

16  
17 O. Where unanticipated, potentially adverse effects are discovered after completing the  
18 procedural steps at Stipulation V of this Protocol.

19  
20 P. Where an objection by the public arises to a Class B exempt undertaking, stipulated at  
21 V.I.2 of this Protocol.

22  
23 Q. Where a member of the public or a Federally recognized Indian tribe or other American  
24 Indian group, family or individual objects at any time to the manner in which this Protocol is  
25 being implemented for a specific undertaking, as stipulated in this Protocol at IX.

26  
27 R. Where BLM proposes to vacate a prior determination of eligibility or to remove a historic  
28 property from the National Register of Historic Places (36 CFR 60.15).

29  
30 In instances where the involvement of the SHPO occurs after steps have been taken under the  
31 Protocol, the Field Office Manager or other Agency Official shall not be required to  
32 reconsider previous findings or determinations unless those findings or determinations are  
33 the subject of unresolved disputes or disagreements.

## 34 35 36 **VII. STAFFING**

### 37 38 **A. Professional Staff**

39  
40 Under this Protocol Agreement, BLM operates with limited external oversight. In order to  
41 successfully act on behalf of the SHPO and to maintain the trust of the SHPO, BLM shall  
42 continually strive for a high level of professional capability. BLM is committed to  
43 employing a professional staff. In hiring new full time professional staff, BLM will follow  
44 Section 112(a)(1)(B) of the NHPA and select candidates that meet the Secretary's  
45 Professional Qualifications Standards or the education and experience standards set forth in  
46 the BLM Manual Series 8150.12.B.2. Field Offices shall ensure the availability of cultural

resources expertise at the Field Office level. Field Offices which do not have the services of a BLM Cultural Resource professional, either on staff or through arrangement with another BLM administrative unit, shall consult with the SHPO on all undertakings.

Student training programs, including the Student Career Employment Program (SCEP) and the Student Training Employment Program (STEP), may be used to recruit new staff that may assist the full time Cultural Resource Specialist in the Field Office. The student trainees shall not perform professional duties without appropriate oversight by qualified professional Cultural Resource staff and cannot act on behalf of the SHPO.

### B. Professional Capability

When the BLM is involved in an undertaking requiring expertise not possessed by available BLM staff, the BLM may request the assistance of the SHPO in such cases or may obtain the necessary expertise through contracts, BLM personnel from other units, or arrangement with other agencies.

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- Deleted: Field Offices
- Deleted: cooperative

### C. Non-Professional Cultural Resource Personnel

The BLM may employ Cultural Resource specialists and trained paraprofessionals (Heritage Resources Assistants) who do not meet Secretary's for professional Cultural Resources personnel. In such instances, individuals who do not meet these Standards shall work under the direct technical supervision of BLM professional Cultural Resource staff and may not substitute for professional Cultural Resource staff in making findings, determinations, or recommendations regarding the identification and evaluation procedures set out in this Protocol or in Section 36 CFR 800. In addition, trained paraprofessionals may be used only when BLM has developed and implemented a paraprofessional program agreed to by the parties to this Protocol.

- Deleted: archaeologists
- Deleted: of the Interior Standards
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## VIII. CERTIFICATION

### A. Certification

The Preservation Board, in consultation with the SHPO and the Council, has certified each BLM Office to operate under this Protocol based upon the following: (1) managers and specialists have completed required training, (2) professional capability to carry out these policies and procedures is available through each Field Office's immediate staff or through other means, (3) and, each supervising line manager within the State has assigned and delimited Cultural Resource specialists' duties.

- Comment [s2]: Definition of delimit is to establish limits or boundaries
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The Deputy Historic Preservation Officer shall periodically consider the certification status of each Field Office during the review process delineated in Stipulation III.E.of this Protocol.

### B. Provisional Certification

1 The Deputy Historic Preservation Officer or the SHPO may recommend that the State  
2 Director place a Field Office on a provisional status based on findings from any of the  
3 reviews specified at Stipulation III.E. of this Protocol. Provisional status may extend from  
4 one to two years, although the term of the provisional status shall be a matter of agreement  
5 between the parties to this Protocol and shall reflect the complexity of the deficiencies  
6 identified. While on provisional status, a Field Office will have the opportunity to correct  
7 deficiencies that have been identified and documented during review of Field Office  
8 practices under the Protocol. Upon expiration of the provisional status term, the parties to  
9 this Protocol shall convene to determine whether identified deficiencies have been  
10 satisfactorily corrected. Should the parties determine that such deficiencies remain  
11 uncorrected, or should new deficiencies that the parties deem significant be identified, the  
12 decertification process shall be initiated as described at Stipulation IX.C. of this Protocol.  
13

### 14 **C. Decertification**

15  
16 The Preservation Board may choose to review a Field Office's certification status. The Field  
17 Office manager, the Deputy Historic Preservation Officer, or the SHPO may request that the  
18 Preservation Board initiate such a review, in which case the Preservation Board will respond  
19 under the terms of the National PA at Component Eight. If a Field Office is found not to  
20 have maintained the basis for its certification (e.g. the professional capability needed to carry  
21 out these policies and procedures is no longer available, or the office is not in conformance  
22 with this Protocol) and the Office Manager has not voluntarily suspended participation under  
23 this Protocol, the Preservation Board will recommend that the State Director decertify the  
24 Field Office.  
25

- 26 1. A Field Office may ask the State Director to review the Preservation Board's  
27 decertification recommendation, in which case the Director will request the Advisory  
28 Council's participation in the review.  
29
- 30 2. The Preservation Board will notify the SHPO and the Advisory Council if the status of a  
31 certified office changes. In consultation with the SHPO, the Deputy Preservation Officer  
32 will prepare a Plan of Action to address the identified deficiencies.  
33
- 34 3. When a Field Office is decertified, the responsible manager shall follow the procedures of  
35 36 CFR Part 800 to comply with Section 106.  
36

### 37 **D. Recertification**

38  
39 If a decertified Field Office is found to have restored the basis for certification, the  
40 Preservation Board will recommend that the State Director recertify the office.  
41  
42

## 43 **IX. RESOLVING OBJECTIONS, REVISION, AMENDMENT, AND** 44 **TERMINATION**

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### 45 **A. Procedure for Resolving Objections**

46

1  
2 1. The BLM or the SHPO may object to an action proposed or taken by the other  
3 pursuant to this Protocol. The objecting party shall notify the other party in writing of the  
4 objection. Within seven (7) calendar days following receipt of notification, the parties shall  
5 consult for 30 calendar days to resolve the objection. If the objection is resolved within this  
6 time frame, the parties shall proceed in accordance with the terms of that resolution. If the  
7 objection is not resolved within this time frame, and the parties have not agreed to extend the  
8 consultation period, the Deputy Historic Preservation Officer shall refer the objection to the  
9 National Preservation Board, which will provide the State Director with its  
10 recommendations. If the State Director accepts the Board's recommendations, the State  
11 Director shall promptly notify the SHPO of such acceptance, provide a copy of the Board's  
12 recommendations, and afford the SHPO 30 calendar days following receipt of the  
13 notification to comment on the recommendations. If the SHPO concurs in the Board's  
14 recommendations within this time frame, the State Director and the SHPO shall proceed in  
15 accordance with the Board's recommendations and the objection shall thereby be resolved.  
16 If either the State Director or the SHPO rejects the Board's recommendations after  
17 consideration not to exceed 30 days, the State Director shall promptly notify the Board in  
18 writing of the rejection, and immediately thereafter submit the objection, including copies of  
19 all pertinent documentation, to the Advisory Council on Historic Preservation for comment  
20 in accordance with Component Four of the National PA. Within 30 calendar days following  
21 receipt of any Council comments, the State Director shall make a final decision regarding  
22 resolution of the objection and in writing notify the Board, the SHPO and the Council of that  
23 decision. The objection shall thereupon be resolved. In reaching a final decision regarding  
24 the objection, the State Director shall take into account any comments received from the  
25 Board, the SHPO, and the Council pursuant to this stipulation.  
26

27 2. If a member of the public or a Federally recognized Indian tribe or other American  
28 Indian group, family or individual objects at any time to the manner in which this Protocol is  
29 being implemented in a specific case, the BLM shall consult with the objecting party for a  
30 period not to exceed 45 days and, if the objecting party requests, with the SHPO, to resolve  
31 the objection. If the objecting party and the BLM resolve the objection within 45 days, the  
32 BLM shall proceed in accordance with the terms of that resolution. If the objection cannot  
33 be resolved, the Deputy Historic Preservation Officer shall refer the objection to the National  
34 Preservation Board, which will provide the State Director and the objecting party with its  
35 recommendations for resolving the objection. If the State Director and the objecting party  
36 accept the National Preservation Board's recommendations, the State Director shall proceed  
37 in accordance with these recommendations and the objection shall thereby be resolved. If  
38 either the State Director or the objecting party rejects the National Preservation Board's  
39 recommendations for resolving the objection, the State Director shall refer the objection to  
40 the Council in accordance with Component Four of the National PA. Within 30 calendar  
41 days following receipt of any Council comments, the State Director shall make a final  
42 decision regarding resolution of the objection and shall, in writing, notify the Board, the  
43 objecting party, the SHPO and the Council of that decision. The objection shall thereupon be  
44 resolved. In reaching a final decision regarding the objection, the State Director shall take  
45 into account any comments received from the Board, the objecting party, the SHPO, and the  
46 Council pursuant to this paragraph. Any objection filed pursuant to this paragraph shall not

1 prevent the BLM from proceeding with project planning; however, project implementation  
2 shall be deferred until the objection is resolved pursuant to the terms of this paragraph.  
3

#### 4 **B. Revision of this Protocol**

5  
6 This Protocol is intended to be responsive to changing circumstances. Therefore, the BLM  
7 or the SHPO may propose revision of this Protocol, whereupon the parties shall consult to  
8 consider the proposed Revision. "Revision" as used herein refers to the process of review  
9 and rewriting of all or portions of the Protocol, including the addition, deletion, or  
10 modification of exempt undertakings. Revisions shall only become effective upon written  
11 concurrence of the parties.  
12

#### 13 **C. Amendment of this Protocol**

14  
15 1. In keeping with the intended responsive nature of this Protocol, the BLM or the SHPO  
16 may propose amendment of this Protocol at any time, whereupon the parties shall consult to  
17 consider such amendment. "Amendment" refers to the process of adding supplemental  
18 procedures for specific BLM programs or projects when parties to the Protocol wish those  
19 procedures to be made explicit. The amendment process culminates in the issuance of  
20 Protocol Amendments, which are administratively appended to the Protocol on their effective  
21 date. Amendments to the Protocol will only become effective upon signature of all parties.  
22 Protocol Amendments shall be housed in Appendix E of this Protocol.  
23

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24 2. The parties to this Protocol agree that upon termination or expiration of this Protocol, any  
25 and all Protocol Amendments may continue in full force and effect until a successor Protocol  
26 or Programmatic Agreement is executed, whereupon any and all such Protocol Amendments  
27 may be appended to the successor document with or without revision as the parties may  
28 agree.  
29

#### 30 **D. Termination, Automatic Termination, and Review of this Protocol**

31  
32 1. The BLM or SHPO may terminate this Protocol or any Protocol Amendment. The party  
33 proposing termination shall in writing notify the other party of intent to terminate and explain  
34 the reasons for proposing termination. Within seven calendar days following receipt of such  
35 notification, the parties shall consult for up to 90 days to seek alternatives to termination.  
36 Should such consultation result in agreement on an alternative to termination, the parties  
37 shall proceed in accordance with the terms of that agreement. Should such consultation fail,  
38 the party proposing termination may terminate this Protocol or any Protocol Amendment by  
39 providing the other party with written notice of such termination. Termination hereunder  
40 shall render this Protocol or any terminated Protocol Amendment without further force or  
41 effect  
42

43 2. In the event of termination of this Protocol, the BLM shall comply with the provisions of  
44 36 CFR Part 800 for all undertakings covered by this Protocol, with the exception of those  
45 Supplemental Procedures described in Protocol Amendments which, by written agreement of  
46 the parties, may remain in full force and effect. In the event a Protocol Amendment is

1 terminated, BLM shall comply with 36 CFR 800 for the program or practices subsumed  
2 under the Protocol Amendment except insofar as SHPO and the BLM in writing agree to  
3 subsume such program or practices under this Protocol.  
4

5 3. At midnight of the fifth anniversary of the date of its execution, this Protocol shall  
6 automatically terminate and have no further force or effect, unless it is extended by written  
7 agreement of the parties. Should the Protocol not be extended and should no successor  
8 agreement document be in place at the time of automatic termination, BLM shall comply  
9 with 36 CFR 800, except with regard to those activities addressed in Protocol Amendments  
10 which the parties in writing agree shall remain in full force and effect.

11  
12 **X. OTHER PROCEDURES**  
13

14 BLM shall follow procedures and adhere to policies detailed in the BLM 8100 Manual Series  
15 along with standards and guidelines promulgated by the Office of Historic Preservation.  
16 BLM, in consultation with SHPO, may develop other guidance as necessary and shall  
17 consider incorporating such guidance as supplemental procedures to this Protocol  
18 (Stipulation IX.C.).  
19  
20

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4. This Protocol and BLM's activities under this Protocol shall be terminated unless the parties can agree to extend this Protocol in accordance with Stipulation IX.D. ¶  
¶  
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STATE DIRECTOR, BUREAU OF LAND MANAGEMENT, CALIFORNIA

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By Mike Pool Date: \_\_\_\_\_

STATE HISTORIC PRESERVATION OFFICER, STATE OF CALIFORNIA

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By Milford Wayne Donaldson Date: \_\_\_\_\_

STATE HISTORIC PRESERVATION OFFICER, STATE OF NEVADA

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By Ronald M. James Date: \_\_\_\_\_