



September 12, 2002

Mr. Henri Bisson
State Director
Bureau of Land Management
Alaska State Office
222 W. 7th Avenue, #13
Anchorage, AK 99513-7599

RE: *Programmatic Agreement Regarding Congressionally-Authorized Land Transfers to the State of Alaska*

Dear Mr. Bisson:

The enclosed agreement regarding the above referenced project has been executed by the Council. This action constitutes the comments of the Council required by Section 106 of the National Historic Preservation Act and the Council's regulations. Please provide a copy of the fully-executed agreement to the other signatories and your Federal Preservation Officer.

The Council appreciates your cooperation in reaching a satisfactory resolution of this matter. Should you have any questions, please contact me at 303/969-5110 or via e-mail at astanfill@achp.gov.

Sincerely,

Alan Stanfill
Senior Program Analyst
Western Office of Federal Agency Programs

Enclosure

ADVISORY COUNCIL ON HISTORIC PRESERVATION

12136 West Bayaud Avenue, Suite 330 • Lakewood, Colorado 80228
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PROGRAMMATIC AGREEMENT

AMONG

THE BUREAU OF LAND MANAGEMENT, ALASKA STATE OFFICE; ALASKA DEPARTMENT OF NATURAL RESOURCES; ALASKA STATE HISTORIC PRESERVATION OFFICER; AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION REGARDING CONGRESSIONALLY-AUTHORIZED LAND TRANSFERS TO THE STATE OF ALASKA

WHEREAS, the Congress of the United States has enacted various laws providing for land grants to the State of Alaska (State), including, among others, the Act of January 21, 1929, the Alaska Mental Health Enabling Act of July 28, 1956, and the Alaska Statehood Act of July 7, 1958; and

WHEREAS, the aforementioned laws authorize the State to file land selection applications and authorize the Secretary of the Interior, through the Bureau of Land Management in Alaska (BLM), to adjudicate and approve State land selection applications which meet the qualifying criteria and to transfer title to the State based on priorities determined by the State; and

WHEREAS, the BLM has determined that the conveyance of federal lands to the State constitutes an undertaking on the part of the BLM that requires compliance with Section 106 and Section 110 of the National Historic Preservation Act; and

WHEREAS, the Alaska Historic Preservation Act (Alaska Statute 41.35), regulations and policies of the State provide procedures for the treatment of significant cultural remains; and

WHEREAS, the definitions given in 36 CFR Part 800.16 are applicable throughout this Programmatic Agreement; and

WHEREAS, the regulations at 43 CFR 2627.4(c) require the State to publish notice of its selection applications once a week for five consecutive weeks in a designated newspaper and provide to BLM proof of publication; and

WHEREAS, the State in 1992 conducted a statewide public notification process to publish all its final land selections under the Alaska Statehood Act and then solicited public comments from state residents about their views on potential state ownership and management of all resources on these lands; and

WHEREAS, the State in 2002 finalized a process for further public notification and comment during land planning that will follow conveyance of all selected lands by the BLM; and

WHEREAS, the purpose of the State's 2002 land planning process includes: 1) providing further awareness to local residents of the State's ownership of the lands; 2) soliciting additional local information and concerns about historic properties on these lands; and 3) encouraging further local input about the management of these properties following State ownership; and

WHEREAS, the State of Alaska has a proactive policy to involve Alaska Natives and consider their views in land management issues under the terms of the Millennium Agreement between the Federally Recognized Sovereign Tribes of Alaska and the State of Alaska; and

WHEREAS, the BLM recognizes the importance of a rapid and timely transfer of lands to the State of Alaska under the various laws noted above, and that this agreement will provide the State with the best information BLM has concerning known historic properties on these lands thereby allowing for their management under State laws, regulations, and policies;

NOW, THEREFORE, the BLM, the Alaska State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (Council), and the Alaska Department of Natural Resources (DNR) agree that the conveyance of federal lands to the State shall be administered in accordance with the following stipulations to satisfy the BLM's Section 106 and 110 responsibilities for all individual aspects of this action.

STIPULATIONS

The BLM shall ensure that the following measures are carried out:

I. When the BLM is notified by the State of lands which the State wants conveyed in fulfillment of its land entitlements, the BLM will accomplish its Section 106 and 110 responsibilities by completing the following:

A. Within 30 days of receipt of the State's annual Conveyance Priority List or any amendments thereto, the BLM will evaluate each priority to determine if lands requested for conveyance contain: 1) any properties listed on the National Register of Historic Places, 2) any properties determined eligible for listing in the National Register of Historic Places by the Keeper of the National Register or the Alaska State Historic Preservation Officer, 3) any properties recorded in the Alaska Heritage Resources Survey, and 4) any properties presently known to the BLM (without doing additional on-the-ground survey or performing determinations of eligibility for the National Register) as very likely to meet eligibility criteria for the National Register of Historic Places.

B. If the BLM finds properties fitting any of these four characteristics on public lands managed by the BLM which have been prioritized for conveyance by the State, the BLM shall ensure that a complete packet of current information and records pertaining to the location, condition, and significance of such historic properties situated in the selected lands,

including comments from the public, if any, is assembled and transferred to the SHPO. Information packets should be delivered by BLM to the SHPO prior to the conveyance of selected lands. However, in no cases will the possible late delivery of information packets delay conveyances. Delivery of information packets to the SHPO shall occur no later than 30 days after conveyance.

II. If the BLM finds no properties fitting any of the four characteristics described in Stipulation I. A., or that all its information is already listed in the State's Alaska Heritage Resources Survey, it will notify the SHPO in writing prior to conveyance.

III. The SHPO and the BLM will jointly monitor activities carried out pursuant to this agreement. To evaluate its effectiveness, the BLM will prepare an annual report summarizing the actions taken under this agreement. This report will be provided to the SHPO to facilitate joint monitoring and to the Council.

IV. Should the SHPO or any other interested party object to actions taken under this agreement, the BLM and the SHPO shall consult with the objecting party. If the objection cannot be resolved to the satisfaction of all parties, the BLM shall request comments of the Council. Any Council comments provided will be taken into account by the BLM in accordance with 36 CFR Part 800.6(b)(2).

V. The BLM, the SHPO, and the Council shall consult whenever changes occur to either: 1) the Alaska Historic Preservation Act (Alaska Statute 41.35), regulations, and policies, or its implementation by the State; or 2) federal or BLM historic preservation laws, regulations, or policies or their implementation by the BLM. This is to ensure that the consideration and treatment of historic properties by the State or BLM remains comparable to those required under laws, regulations, or policies of the other party.

VI. This agreement will expire on December 31, 2020.

VII. The SHPO and the BLM will review this agreement at least every five years to determine its adequacy and effectiveness.

VIII. Any party to this agreement may request that it be amended, whereupon all parties will consult to consider such amendment. Amendments must be in writing and will become effective when signed by all parties to the original agreement.

IX. Any party to this agreement may terminate it by providing thirty (30) days written notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the BLM will comply with 36 CFR Part 800.4 through 800.6 with regard to individual undertakings covered under this agreement.

Execution and implementation of this Programmatic Agreement evidences that the BLM has satisfied its Section 106 and Section 110 responsibilities for land transfers to the State.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY: John M. Tule DATE: 9/20/02

BUREAU OF LAND MANAGEMENT

BY: James R. Bissin DATE: 9/6/02

STATE HISTORIC PRESERVATION OFFICER

BY: Judith E. Bittner DATE: 9/6/02

STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES

BY: Robert M. Joffe DATE: 9/6/02