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To: Field Managers and Cultural Resource Specialists, NM/OK/TX

From: Deputy State Director, Resource Planning, Use and Protection

Subject: Fieldwork Authorization Status of Individuals Named on Cultural Resource Use Permits Denied for Cause

This Instruction Memorandum outlines the New Mexico Bureau of Land Management (NM BLM) procedures with regard to the immediate and long-term status of supervisory personnel named on Cultural Resource Use Permits that have been suspended, revoked, or denied renewal for cause. Four areas of concern are addressed in detail: 1) The fieldwork authorization status of individuals named as supervisory personnel on a single permit that has been revoked, suspended, or denied renewal; 2) The fieldwork authorization status of individuals named on multiple permits, where one of the permits has been suspended, revoked, or denied renewal; 3) The fieldwork authorization status of individuals formerly associated as supervisory personnel on a suspended, revoked, or denied permit; and 4) The effect of permit loss on individuals named as permit administrators. The NM BLM responses to requests to add personnel named on a permit denied for cause to a permit held by a firm in good standing are addressed for each of the four areas of concern.

Nearly all decisions regarding the qualifications of firms and proposed supervisory personnel will continue to be made by Field Office reviewers in accordance with Chapter 4, Section F, Application Review and Evaluation, New Mexico Handbook H-81001. However, given the responsibility that the State Office has in preparing answers to "statements of reason" and in defending State Director decisions subject to formal appeal, determinations of what additional actions will be taken regarding supervisory personnel currently or formerly associated with a firm that has been suspended, revoked, or denied renewal for cause will be made by the Associate State Archeologist in consultation with affected Field Office reviewers.

Cultural Resource Use Permits:

Cultural Resource Use Permits are issued to firms that qualify to conduct one or more kinds of work on public lands: 1) non-collection cultural resource inventory survey; 2) survey and limited

testing; or 3) excavation. The Permit Administrator named on the Cultural Resource Use Permit is responsible for carrying out the terms and conditions of the permit; individuals named in supervisory capacities (Project Directors and/or Field Supervisors) are responsible for planning, supervising, overseeing, and/or conducting field projects in accordance with BLM Manual 8151.12B2(a, b, and c, respectively).

Suspending, Revoking, or Denying Renewal of Permits:

State Directors may suspend or revoke Cultural Resource Use Permits, either for cause or following changes in essential management considerations, or they may deny an application to renew a permit. State Director decisions to suspend, revoke, or deny a Cultural Resource Use Permit for cause will follow the development of a documented pattern of performance problems arising from permittee fieldwork and/or reporting practices. When Cultural Resource Use Permits are revoked or suspended, or applications for renewal are denied for cause, the permittee, or firm, may no longer conduct fieldwork on public lands administered by the BLM.

Denying Permits for Cause:

Ordinarily, the New Mexico Bureau of Land Management monitors permittee performance closely. Each Field Office is charged with monitoring fieldwork on either five percent of all project surveys (Carlsbad Field Office), or ten percent of all project surveys (all other Field Offices). This monitoring allows Field Offices to report on permittee performance throughout the year, and builds a record of permittee performance that assists in decisions regarding permit renewal. Field checks are documented through memos to permittee files noting date of review and findings.

Field performance problems that merit additional documentation, such as the issuance of warning letters to permittees and responsible supervisory archaeologists, include sites missed on field survey, site recording that has seriously underestimated or misidentified site content, type, or complexity, significant differences between survey coverage in the field and that which was documented in the field report, inaccurate descriptions of project impact areas in relation to sites, use of unauthorized personnel to perform fieldwork, or providing falsified information in a permit application, modification, or site record. Reporting problems of a more minor nature, including mistakes in legal descriptions, land ownership status, captions on maps, or minor errors in site mapping or plotting, ordinarily will be brought to the permittee's attention through telephone conferences; requests for correction of these and other reporting errors are made in writing through the use of a report correction checklist, by telephone contact, through e mail correspondence, or through letters detailing point by point those corrections required in the reports.

Firms that are at risk of losing a permit for cause will have received a number of warning letters outlining serious fieldwork deficiencies, and will have experienced previous administrative actions aimed at both alerting the firm to performance failures as well as providing greater monitoring and oversight opportunities to BLM staff. Such actions may include telephone conferences on field and reporting errors, face-to-face meetings between BLM staff and the firm to discuss performance deficiencies, and frequent requests for report corrections. In addition, the firm may be issued short-term Cultural Resource Use Permits valid for periods of less than the standard 12-month permit.

State Director decisions to revoke, suspend, or deny an application to renew a Cultural Resource Use Permit affect the permittee and the supervisory archaeologists named as Project Directors and Field Supervisors on the permit. The effects of these decisions on permittees and supervisory personnel are addressed in general in New Mexico Handbook Manual H-8100-1, Procedures for Performing Cultural Resource Fieldwork on Public Lands in the Area of NM State BLM Responsibilities, and BLM Manual 8130, Interim Guidance, Utilizing Cultural Resources for Public Benefit. The impact on permittees, or archaeological firms, that suffer the loss of a Cultural Resource Use Permit is immediate and unequivocal: Firms with suspended, revoked, or lapsed Cultural Resource Use Permits cannot conduct archaeological fieldwork of the nature specified on the permit on public lands administered by the Bureau of Land Management.

1. Fieldwork Authorization Status of Individuals Named as Supervisory Personnel Exclusively on Permit Denied for Cause:

Supervisory personnel whose fieldwork led to or contributed significantly to a firm's deficient performance evaluation and subsequent loss of permit will forfeit their authorization to work in a supervisory capacity on public lands in the area of NM State BLM responsibilities. Such personnel may work in a non-supervisory capacity for firms that hold a valid Cultural Resource Use Permit in the area of NM State BLM responsibilities. The BLM staff may apprise firms considering hiring such individuals, of the circumstances of previous permit denial, if requested to do so.

Firms requesting a permit modification that includes the addition of such former supervisory personnel must demonstrate that performance deficiencies involving inadequate site or cultural property recognition and/or recordation have been remedied through additional training or experience. Firms wishing to add personnel whose field performance has been judged deficient should expect to provide a minimum of three months (60 field days) of direct supervision in archaeological survey and site recordation to the affected individual before an application for permit modification and addition of personnel is submitted. Some performance deficiencies cannot be remedied through additional training or experience, however, and individuals whose conduct has included deliberate falsification of field records or site records or violations of 16 U.S.C. 470ee or 36 CFR 7.4, shall not be eligible to serve as supervisory personnel on public lands in the area of NM State BLM responsibilities, nor shall they become eligible in the future.

Supervisory personnel whose work was not deficient and did not contribute to the performance evaluation that led to the suspension, revocation, or renewal denial of a firm's permit shall be eligible to hold supervisory positions with other firms. Firms requesting the addition of these personnel must do so through the permit modification application process.

2. Fieldwork Authorization Status of Individuals Named on Multiple Permits, One of Which Has Been Suspended, Revoked, or Denied Renewal:

Supervisory personnel whose fieldwork led to or contributed significantly to a firm's deficient performance evaluation and subsequent loss of permit will forfeit their authorization to work in a supervisory capacity on public lands in the area of NM State BLM responsibilities. Upon making the decision to suspend, revoke, or deny renewal of a Cultural Resource Use Permit, the BLM

shall notify all other firms employing such culpable supervisory personnel that these individuals are no longer authorized to act in a supervisory position on public lands in the area of NM State BLM responsibilities. Such personnel may continue to work in a non-supervisory capacity.

Firms may request that personnel be reinstated in supervisory positions on Cultural Resource Use Permits through the permit modification request process. Firms submitting such a request must demonstrate that performance deficiencies involving inadequate site or cultural property recognition and/or recordation have been remedied through additional training or experience. Firms wishing to reinstate personnel whose field performance has been judged deficient should expect to provide a minimum of three months (60 field days) of direct supervision in archaeological survey and site recordation to the affected individual before an application for permit modification and addition of personnel is submitted. Some performance deficiencies cannot be remedied through additional training or experience, however, and individuals whose conduct has included deliberate falsification of field records or site records or violations of 16 U.S.C. 470ee or 36 CFR 7.4, shall not be eligible to serve as supervisory personnel on public lands in the area of NM State BLM responsibilities, nor shall they become eligible in the future.

Supervisory personnel whose work did not contribute to the denial decision may continue to hold supervisory positions with other firms.

3. Fieldwork Authorization Status of Individuals Formerly Associated as Supervisory Personnel With a Firm Denied a Permit:

Supervisory personnel formerly associated with a firm that has been denied a permit for cause will forfeit their authorization to work in a supervisory capacity on public lands in the area of NM State BLM responsibilities if their role and performance while at the firm were significant contributing factors to those performance problems cited by the BLM in denying the permit. Upon making the decision to suspend, revoke, or deny renewal of a Cultural Resource Use Permit, the BLM shall notify all other firms employing such culpable supervisory personnel that these individuals are no longer authorized to act in a supervisory position on public lands in the area of NM State BLM responsibilities. Such personnel may continue to work in a non-supervisory capacity.

Firms may request that personnel be reinstated in supervisory positions on Cultural Resource Use Permits through the permit modification request process. Firms submitting such a request must demonstrate that performance deficiencies involving inadequate site or cultural property recognition and/or recordation have been remedied through additional training or experience. Firms wishing to reinstate personnel whose field performance has been judged deficient should expect to provide a minimum of three months (60 days) of direct supervision in archaeological survey and site recordation to the affected individual before an application for permit modification and addition of personnel is submitted. Some performance deficiencies cannot be remedied through additional training or experience, however, and individuals whose conduct has included deliberate falsification of field records or site records or violations of 16 U.S.C. 470ee or 36 CFR 7.4, shall not be eligible to serve as supervisory personnel on public lands in the area of NM State BLM responsibilities, nor shall they become eligible in the future.

4. Status of Individuals Named as Permit Administrators on Permits Denied for Cause:

The Permit Administrator holds the primary responsibility for ensuring that a given firm's work meets BLM fieldwork and reporting standards. Loss of a permit for cause will result in forfeiture of eligibility for any individuals named on the permit to serve as a Permit Administrator on permits issued in the area of NM State BLM responsibilities. In addition, individuals named as Permit Administrators on permits denied for cause will not be eligible to serve in this capacity in the future and applications requesting the addition of these individuals as Permit Administrators on permits will be denied.



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