

STATE PROTOCOL AGREEMENT

BETWEEN

**THE IDAHO STATE DIRECTOR OF THE BUREAU OF LAND MANAGEMENT
AND
THE IDAHO 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**

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1 The nPA among the BLM, the Advisory Council of Historic Preservation (ACHP), and the National
2 Conference of State Historic Preservation Officers (NCSHPO) sets forth the manner in which
3 responsibilities deriving from the NHPA will be met. In carrying out its responsibilities both
4 under the nPA and statutory authorities, the BLM has developed policies and procedures
5 through its directives system (BLM Manual Series 8100-8170)(Appendix B) to guide the BLM's
6 planning and decision making as it pertains to historic properties and historic preservation.
7 BLM employs a professional staff of cultural resource specialists to advise BLM's managers and
8 to implement cultural resource policies consistent with these authorities throughout its lands in
9 Idaho.

10
11 **State Director:** Is BLM's signatory to this Protocol. The State Director meets annually with the
12 Idaho State Historic Preservation Officer and may meet more frequently upon request of either
13 the BLM or the SHPO. The Director may enter into Programmatic Agreements with the SHPO,
14 the ACHP, other agencies, tribes and other consulting parties for implementing Section 106 in
15 specific circumstances not covered by this Protocol, such as undertakings that are multi-state or
16 multi-jurisdictional or require a phased approach as described in 36 CFR § 800.4(b)(2).

17
18 **Field Manager:** Ensures implementation of provisions of the State Protocol within their Field
19 Office. The Field Manager seeks to ensure necessary training for cultural staff, availability of
20 cultural resources funding for preservation projects and implementation of a proactive historic
21 preservation program, and Native American consultation for Section 106 projects consistent
22 with BLM Manual direction and this Protocol. The Field Manager executes Memoranda of
23 Agreements (MOAs) for adverse effects and Programmatic Agreements that are limited to
24 specific Field Offices. The Field Manager is responsible for ensuring that all required cultural
25 resources documentation (see Stipulation V.G.) for an undertaking is completed within 60
26 calendar days of the execution of its National Environmental Policy Act (NEPA) decision
27 document unless otherwise agreed upon with SHPO or programmatically addressed. The Field
28 Manager may delegate the authority to operate under the Protocol to other managers who
29 have received the required training in its use and application.

30
31 **BLM Idaho State Deputy Historic Preservation Officer:** Oversees implementation of the
32 Protocol, conducts Field Office reviews and Protocol training; recommends Field Office
33 certification, provisional certification, decertification, and recertification. In consultation with
34 the SHPO, reviews or develops Programmatic Agreements and MOAs, may lead consultation
35 with the SHPO and/or the ACHP in specific cases, and submits reports and information to the
36 SHPO concerning implementation of the Protocol. At the request of a Field Office or SHPO,
37 reviews no adverse effect and adverse effect determinations rendered by Field Offices, prior to
38 Field Office consultation with the SHPO, to provide guidance for reducing, eliminating or
39 mitigating for effects.

40
41 **Field Office and District Cultural Resource Staff:** Determine Areas of Potential Effect (APE) and
42 make findings of no effect and no historic properties affected. Seek concurrence from the
43 SHPO on National Register of Historic Places (NRHP or National Register) eligibility, no adverse
44 effect, and adverse effect. For adverse effect determinations, follows the procedures outlined

1 in Stipulation V.E. and completes the Section 106 process to resolve effects pursuant to 36 CFR
2 800.6(b). Seek informal opinions of the SHPO staff when appropriate. Maintain cultural
3 resource records and transmit reports and records to the SHPO. Maintain professional
4 knowledge and ability. Develop and implement Section 110 programs and projects.
5

6 **Idaho State Historic Preservation Officer:** The Idaho SHPO has responsibilities under Section
7 101(b) (3) of the NHPA to:

- 8
- 9 ▪ “advise and assist, as appropriate, Federal and State agencies and local governments in
10 carrying out their historic preservation responsibilities;”
- 11 ▪ “maintain inventories” of historic properties in cooperation with Federal and state
12 agencies;
- 13 ▪ “consult with the appropriate Federal agencies in accordance with [the NHPA] on–
14 Federal undertakings that may affect historic properties; and the content and
15 sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to
16 such properties;” and
- 17 ▪ “prepare and implement a comprehensive statewide historic preservation plan,” which
18 in Idaho facilitates the creation of statewide historic contexts for use in planning,
19 research and as background for conducting determinations of eligibility.
20

21 In addition, under Section 110(a)(2)(E) of the NHPA, Federal agencies consult with the SHPO to
22 identify and evaluate historic properties for listing in the NRHP, and on the development and
23 implementation of agreements regarding the means by which adverse effects on such
24 properties will be considered.
25

26 In the review process under Section 106 of the NHPA (36 CFR § 800.2(c)(1)), the SHPO “reflects
27 the interests of the State and its citizens in the preservation of their cultural heritage.”
28

29 **Advisory Council on Historic Preservation:** The ACHP has the responsibility to:

- 30
- 31 ▪ administer the process implementing Sections 106, 110(f), and 111(a) of the NHPA;
- 32 ▪ comment with regard to Federal undertakings subject to review under Sections 106,
33 110(f), and 111(a) of the NHPA in accordance with its implementing regulations (36 CFR
34 part 800); and
- 35 ▪ “review the policies and programs of Federal agencies and recommend to such
36 agencies methods to improve the effectiveness, coordination, and consistency of those
37 policies and programs with the policies and programs carried out” under Section
38 202(a)(6) of the NHPA.
- 39 ▪ pursuant to the regulations implementing Section 106 of the NHPA (36 CFR §
40 800.3(c)(4)), the ACHP may at times act in lieu of the SHPO or Tribal Historic
41 Preservation Officer (THPO).
42

43 **BLM Preservation Board:** Pursuant to the nPA, the BLM Director maintains a Preservation
44 Board to advise the BLM Director, assistant directors, state directors, and district and field

1 office managers in the development and implementation of the BLM's policies and procedures
2 for NHPA implementation. The Preservation Board is chaired by the BLM's Federal Preservation
3 Officer (FPO) designated under Section 110(c) of the NHPA, and includes a professionally
4 qualified Deputy Preservation Officer (DPO) from each state office and the BLM national Tribal
5 Coordinator as ex officio members. Field management is represented by at least four line
6 managers (i.e., officials who are authorized by the Director's or state directors' delegation to
7 make land-use decisions). Field office cultural resource specialists are represented by two
8 members. Line manager and field office cultural resource specialist positions are 2 year term
9 positions.

10
11 The Preservation Board performs primary staff work and makes recommendations to the BLM
12 Director and state directors concerning policies and procedures, bureau-wide policy
13 implementation, training, certification and decertification of district or field offices (Stipulation
14 VIII), and monitoring of district and field offices' historic preservation programs.

15
16 **Indian Tribes:** This Protocol is executed under the provisions of the nPA which is entered into
17 pursuant to the NHPA, which specifically requires that agencies consult with federally
18 recognized tribes so that these Indian tribes may: (1) identify their concerns about historic
19 properties, including those of traditional religious and cultural significance to them; (2) advise
20 agencies on the identification and evaluation of historic properties; (3) articulate their views on
21 the potential effects of an undertaking; and (4) participate in resolving adverse effects. The
22 BLM consults with Indian tribes on a government-to-government basis consistent with the
23 DOI's Tribal Consultation Policy (2011) and Secretarial Order No. 3317 ("Policy on Consultation
24 with Indian Tribes"). While the BLM may initiate consultation under multiple authorities at one
25 time, this Protocol governs compliance with the NHPA and in no way supersedes the BLM's
26 other treaty, trust, and consultation responsibilities to Indian tribes under other authorities.
27 The parties recognize that the NHPA does not address all tribal concerns regarding cultural
28 resources and cultural values and that Indian tribes are composed of living people with a living
29 and dynamic culture with roots in past practices and past land occupancies who identify and
30 honor spiritual connections to certain places, landscapes, vistas, and objects within those
31 landscapes that may not fit National Register criteria. Where the Secretary of the Interior has
32 approved an Indian tribe's preservation program pursuant to Section 101(d)(2) of the NHPA, a
33 THPO may perform some or all SHPO functions with respect to tribal lands, defined as all lands
34 within the exterior boundaries of any Indian reservation and all dependent Indian communities,
35 consistent with 36 CFR § 800.16(x).

36
37 **Consulting Parties:** Consulting parties include representatives of local governments, applicants,
38 and certain individuals and organizations with a demonstrated interest in the effects of an
39 undertaking on historic properties due to the nature of their legal or economic relation to the
40 undertaking or affected properties, or their concern with the undertaking's effects on historic
41 properties (36 CFR § 800.2(c)(3)-(5)). In coordination with the SHPO, the BLM will identify

1 consulting parties, invite them to participate in consultation, and consider all written requests
2 of individuals and organizations to participate as consulting parties (36 CFR § 800.3(f)). Such
3 consulting parties will include, but are not limited to, local governments, grantees, permittees,
4 owners of affected lands or land surfaces, Indian tribes, and other parties determined jointly by
5 BLM and the SHPO.

6
7 **The Public:** The views of the public are essential to informed Federal decision-making, and the
8 BLM will seek and consider the views of the public in a manner that reflects the nature and
9 complexity of the undertaking and its effects on historic properties. The BLM must also provide
10 the public with information about an undertaking and seek public comment and input (36 CFR §
11 800.2(d)). Pursuant to 36 CFR § 800.2(d)(3), the BLM may use its NEPA procedures to involve
12 the public and will advise the public of undertakings in conjunction with NEPA outreach,
13 notification and scoping (see Stipulation IV.B.).

14 15 16 **I. APPLICABILITY**

17
18 This Protocol establishes the procedures that will govern the interaction between BLM and the
19 Idaho SHPO under the nPA. The BLM and the SHPO mutually agree that execution of this
20 Protocol and implementation of its terms will demonstrate satisfactory compliance by the BLM
21 with the requirements of the nPA, which describes how BLM will meet its responsibilities under
22 the NHPA pursuant to 36 CFR § 800.14(b), rather than by following the procedure set forth in
23 36 CFR §§ 800.3 - 800.7. The BLM will integrate the manner in which it meets its historic
24 preservation responsibilities as fully as possible with its other responsibilities for land use
25 planning and resource management. The BLM and the SHPO also mutually agree that in the
26 event of termination of the nPA, the parties to this Protocol will promptly enter consultations
27 to convert this Protocol into a statewide Programmatic Agreement pursuant to 36 CFR §§ 800.6
28 and 800.14(b).

29 30 **A. Relationship to Other Agreements**

31
32 This Protocol supersedes the 1998 Protocol. Other Programmatic Agreements and MOAs may
33 be developed when specific agreement documents are needed to define procedures that are
34 not covered under the nPA or this Protocol. Agreement documents negotiated under this
35 Protocol will be added as amendments in Appendix H when signed.

36 37 **B. When to Use Regulations 36 CFR part 800**

38
39 Regulations 36 CFR §§ 800.3 through 800.7, 36 CFR § 800.8(c), and 36 CFR § 800.14 will be
40 followed in lieu of this Protocol in the following situations:

- 41
42 1) Interagency undertakings or multi-state undertakings when BLM accepts lead
43 responsibility for Section 106;
- 44 2) Undertakings adversely affecting National Historic Landmarks;

- 1 3) Undertakings that the BLM or SHPO determines involve strongly opposing viewpoints
- 2 and are controversial;
- 3 4) Undertakings that will have an adverse effect where the BLM and SHPO cannot resolve
- 4 disputes through formal agreement, such as a MOA;
- 5 5) If the BLM or the SHPO terminates this Protocol; and
- 6 6) If the nPA is terminated or suspended for any reason, and this Protocol has not been
- 7 converted to a Programmatic Agreement.

8
9 Pursuant to the nPA, the BLM will request the ACHP's participation in the first four situations
10 described above. The development and approval of program alternatives, including
11 undertaking-specific PAs, will follow the process under 36 CFR § 800.14, also requires the
12 notification of the ACHP. Participation by the ACHP requires use of the regulations.
13
14

15 **II. ADMINISTRATIVE INTERACTIONS, ANNUAL MEETINGS, AND REPORTS**

16 **A. Annual State Director Meeting**

17
18
19 The SHPO and the Idaho BLM State Director, with their respective staffs, will meet annually in
20 February or March to review BLM's implementation of this Protocol, annual reports of
21 activities, and other pertinent issues. At the annual meeting, the SHPO and BLM will exchange
22 information relevant to achieving the goals and objectives set forth in this Protocol. At any
23 time the SHPO or the Idaho BLM State Director may convene a meeting to discuss issues.
24

25 **B. Annual Cultural Resource Staff Meeting**

26
27 A key factor in successful implementation of this Protocol is BLM professional staff maintaining
28 currency in program policy, initiatives, training, professional development and participation in
29 societies and professional organizations, conferences and meetings. BLM field office cultural
30 resource staff and the BLM Idaho DPO will meet annually to discuss program initiatives and
31 changes in policy and regulations that may affect this Protocol, to participate in workshops and
32 training, to exchange information, and to discuss emerging issues concerning the cultural
33 resource program. This meeting will include SHPO input and participation.
34

35 **C. Annual Report**

36
37 By December 15 (unless an alternate date is agreed upon), the BLM State Office will provide an
38 annual report to the SHPO containing summaries and statistical information from each Field
39 Office for activities conducted under this Protocol during the Fiscal Year. The substance and
40 format of the report are described in Appendix D of this Protocol. The report will include a
41 summary of both Section 106 and Section 110 activities completed during the fiscal year.
42
43
44

1 **III. BLM CONSULTATION WITH SHPO**

2
3 **A. Planning**

4
5 Pursuant to FLPMA, each Field Office is responsible for preparing planning documents such as
6 Resource Management Plans (RMP), RMP amendments, RMP revisions, NEPA documents,
7 and/or cultural resource activity plans at the regional or local level. Field Offices will, when
8 beginning a planning effort, invite the SHPO to participate in scoping for the purpose of
9 identifying issues that should be addressed during planning. The BLM will formally invite the
10 SHPO to comment on any historic properties use allocations, whether they are made in
11 regional, local, or project plans. Field Offices will send all draft and final land use plans and
12 historic properties project plans to the SHPO for review and comment. Completion of the
13 consultation process for planning will be indicated by BLM’s written response to the SHPO’s
14 comments on the draft land use or cultural resource project plans. No decision documents for
15 planning will be issued prior to completion of the consultation.

16
17 **B. General Consultation**

18
19 1. Staff-to-Staff: SHPO and BLM staff-to-staff informal communication is encouraged to build
20 and strengthen our abilities to work effectively and cooperatively to manage cultural resources,
21 which are the public’s, tribe’s, state’s and nation’s cultural heritage.

22
23 2. SHPO Notification: Field Managers have the responsibility to provide timely written
24 notification to the SHPO about upcoming projects or undertakings with the potential to
25 adversely affect historic properties. This notification may occur by phone to begin discussions
26 and consultation, but will be followed up with written notification for the project case file,
27 which may include email, to ensure consultation is appropriately documented.

28
29 3. Other Meetings and Informal Discussions: The SHPO is encouraged to meet with the Idaho
30 BLM State Office or a Field Manager and/or staff at any time to discuss annual work plans,
31 specific undertakings, outreach efforts, or other issues related to the BLM’s management of
32 cultural resources. The BLM will make every effort to arrange such meetings in a timely
33 manner and to provide information requested by the SHPO. SHPO staff and Field Office
34 personnel may informally discuss specific undertakings or any aspect of BLM’s cultural resource
35 management program.

36
37 4. Special Conditions: Under special conditions, such as staffing shortages, unforeseen events,
38 or non-discretionary actions, specified time frames, as described in Stipulation V, for SHPO
39 review may be revised through consultation between SHPO and a BLM Field Office or the BLM
40 State Office.

41
42 5. Field Tours: BLM Field Offices may invite, and are encouraged to seek, SHPO participation in
43 field tours relating to land use planning efforts, Section 110 activities or specific undertakings
44 whenever cultural resources may be affected.

1 **C. Formal Consultation**

2
3 Formal consultation will occur between the SHPO and the BLM as outlined in Stipulation III.D.
4 and in the procedures in Stipulations V and VI.

5
6 **D. Undertakings and Determinations Requiring SHPO Consultation**

7
8 As described in Stipulation I.B. certain types of undertakings require SHPO consultation. BLM
9 will also consult with SHPO on the undertakings listed here to receive concurrence on eligibility
10 and effect determinations, and when disagreements arise.

- 11 1) No Adverse and Adverse Effect determinations— see Stipulation V.D. and E;
- 12 2) Surveys less than Class III—see Stipulation V.A.3;
- 13 3) Land exchanges or land sales;
- 14 4) Transfers of lands to the State of Idaho, absent an agreement document governing the
15 undertaking;
- 16 5) Eligibility and adverse effects on traditional cultural properties or properties of religious
17 and cultural significance;
- 18 6) Land use plans and amendments;
- 19 7) Disagreements between cultural resource staff and Field Manager regarding eligibility
20 and/or effect that cannot be resolved at the State Office level;
- 21 8) Unresolved disputes or disagreements internal to BLM concerning an exempt
22 undertaking that cannot be resolved at the State Office level;
- 23 9) As required by any supplemental procedures and amendments appended to this
24 Protocol to address specific undertakings such as livestock permitting (Appendix H),
25 Fire/ESR treatments and OHV Routes of Travel (in preparation);
- 26 10) At Field Manager discretion, rather than following a supplemental procedure appended
27 to this Protocol;
- 28 11) Inadvertent discovery of Cultural Resources—see Stipulation VI.A.

29
30
31 **IV. BLM CONSULTATION WITH OTHERS UNDER THIS PROTOCOL**

32
33 **A. Tribal Consultation**

34
35 BLM emphasizes the government-to-government relationship with Indian tribes and the
36 obligation and importance of consultation on specific undertakings. BLM will follow the
37 procedures and guidelines established in the nPA, BLM Manual 8120 and BLM Handbook 8120-
38 1 (or replacement Manuals), EO 13175, and DOI's Policy on Consultation with Indian Tribes
39 (Secretarial Order 3317), and other applicable authorities, executive orders and policies as
40 outlined previously (Authorities and Responsibilities), in conducting consultation with the
41 American Indian community for undertakings under this Protocol or any of its amendments.
42 BLM supports and encourages the sharing of cultural information with Federally-recognized
43 tribes above and beyond that required for undertaking review under NEPA, NHPA, ARPA and
44 other authorities, when formal agreements or understandings governing such information are

1 executed and implemented.

2

3 Non-Federally recognized Indian communities and individual members will be encouraged to
4 raise issues, express concerns, provide information and identify resources and places they
5 would like the BLM to consider in decision-making. The BLM will solicit such input through
6 opportunities afforded by BLM’s land use planning and environmental review processes,
7 government-to-government consultation and the development of Agency/Tribe protocol
8 agreements. BLM will take into account any confidentiality concerns raised by Indian tribes
9 during this process.

10

11 Consultation with Indian tribes underlies all subsequent identification and evaluation activities
12 conducted under this Protocol. The Field Manager will ensure that consultation with tribes
13 takes place at the earliest stages of planning for an undertaking. The Field Manager will be
14 prepared to continue consultation throughout the planning and implementation stages of an
15 undertaking. Guidance for consultation is provided in BLM Manual 8120, BLM Handbook 8120-
16 1, and 36 CFR § 800.2(c)(2). Tribes are encouraged to enter into separate government-to-
17 government consultation protocols, MOUs or MOAs with BLM to insure tribal concerns and
18 input are being effectively considered and addressed.

19

20 **B. Public Participation and Consulting Parties**

21

22 During project planning, BLM will provide adequate opportunity for the public to express views
23 by seeking and considering those views when carrying out actions under this Protocol. BLM will
24 coordinate this public participation requirement with those under NEPA, FLPMA and other
25 pertinent statutes. As part of this coordination, the BLM will make it clear to the public that the
26 agency is seeking views on effects to historic properties under this Protocol and pursuant to the
27 NHPA (36 CFR § 800.2). Interested parties¹ will be invited to consult early in the review process
28 if they have expressed an interest in a BLM undertaking or action subject to this Protocol. Such
29 interested parties include, but are not limited to, local governments; grantees, permittees, or
30 owners of affected lands or land surfaces; Indian tribes, organizations, and individuals; and
31 those seeking to participate as consulting parties in a particular undertaking (see also
32 Stipulation V).

33

34 **C. Advisory Council on Historic Preservation Participation**

35

36 The ACHP may participate on its own initiative or at the request of the BLM, SHPO, an Indian
37 tribe, a local government, an applicant or any other consulting party in any proceeding
38 associated with the BLM’s NHPA Section 106 responsibilities under the regulations, the nPA, or
39 this Protocol.

40

41

42

¹ An interested party as used in this document includes Indian tribes, consulting parties and the public.

1 **V. PROCEDURES FOR CONSIDERATION OF EFFECTS TO HISTORIC PROPERTIES FROM BLM**
2 **UNDERTAKINGS**

3
4 BLM manages cultural resources on public lands including historic properties as defined below.

5
6 *Cultural resources or cultural properties* are defined as a definite location of human activity,
7 occupation, or use identifiable through field inventory (survey), historical documentation, or
8 oral evidence. The term includes archaeological, historic, or architectural sites, structures, or
9 places with important public and scientific uses, and may include definite locations (sites or
10 places) of traditional cultural or religious importance to specified social and/or cultural groups.
11 Cultural resources are concrete, material places and things that are located, classified, ranked,
12 and managed through the system of identifying, protecting, and utilizing for public benefit.
13 They may be but are not necessarily eligible for the National Register. BLM Manual 8100.

14
15 *A historic property* is defined as “any prehistoric or historic district, site, building, structure, or
16 object included in, or eligible for inclusion in, the National Register of Historic Places The
17 term includes properties of traditional religious and cultural importance to an Indian tribe . . .
18 that meet the National Register criteria,” often referred to as Traditional Cultural Properties
19 (TCPs). 36 CFR § 800.16(l)(1).

20
21 *An undertaking* is “a project, activity, or program funded in whole or in part under the direct or
22 indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal
23 agency; those carried out with Federal financial assistance; and those requiring a Federal
24 permit, license or approval.” 36 CFR § 800.16(y).

25
26 BLM will make an up to date schedule of NEPA projects and pending undertakings, including
27 land transfer, subject to this Protocol and/or Section 106 of the NHPA, available via the BLM
28 state website, where NEPA documents will be posted. The NEPA implementing regulations
29 require that agencies coordinate their compliance processes to the extent possible. BLM Idaho
30 uses the NEPA public participation requirements to assist the agency in satisfying the public
31 involvement requirements under Section 106 of the NHPA (16 U.S.C. 470(f)) pursuant to 36 CFR
32 800.2(d)(3). The information about historic and cultural resources within the area potentially
33 affected by the proposed undertaking (project/action/approval) will assist the BLM in
34 identifying and evaluating impacts to such resources in the context of both NEPA and Section
35 106. Through the NEPA process we provide an opportunity for public participation and
36 comment pursuant to both the requirements of the NEPA and the NHPA. The website notifies
37 the public and interested parties of proposed undertakings and the opportunity to comment
38 and identify concerns for historic properties. Thirty days is the standard timeline for
39 commenting, however this may vary significantly based on the complexity of the undertaking
40 and resources affected. Fifteen days will be the minimum provided for opportunities to
41 comment.

42
43 In order to provide greater efficiency in the review process, a short BLM Inventory Record
44 (Appendix E(1) and (2)) will be used to document most cultural resource investigations

1 completed by BLM cultural resource specialists. Each Field Office will prepare, or update as
2 needed if already prepared, a Cultural Resource Background Document within one year of the
3 signing of this Protocol. This synthesis provides currency in regional research, allowing for
4 more informed treatment of past and present data in identification and evaluation of
5 resources. If the SHPO deems that a Field Office failed to produce an adequate Background
6 Document within the time frame above, the Field Office will complete the SHPO standard long
7 report (Appendix F) when submitting inventory reports.

8
9 The Cultural Resource Background Documents generally provide basic information on topics
10 such as the physical environment, major studies, types and distribution of sites, ethnographic
11 information and important cultural themes, as well as critical research questions addressing
12 regional settlement and subsistence patterns and other important cultural resource issues for
13 each Field Office. This document will be updated when enough new data on the prehistory,
14 ethnography or history of the area has been obtained that changes the information contained
15 in the document and/or as agreed upon by the Field Office and SHPO, and in consultation with
16 tribes or other interested parties. The SHPO, tribes and interested parties will have 30 days to
17 review this document for adequacy from date of receipt. If needed, per SHPO
18 recommendation, the Field Office will have 60 days to revise and resubmit. The Cultural
19 Resource Background Document is intended not only to substitute for background information
20 in short inventory records, but also to provide a synthesis of information for BLM planning
21 documents and SHPO context documents and to serve as training materials for in-coming BLM
22 Field Managers and cultural resource specialists.

23 24 **A. Identification**

25
26 During the earliest feasible planning stage of any undertaking, the BLM will determine the area
27 of potential effect (APE) and the information needed to identify and evaluate cultural
28 resources, including those of religious and cultural significance, situated within the APE. In
29 defining the APE, the BLM will consider potential direct, indirect, and cumulative effects to
30 cultural properties and their associated settings as applicable and in consultation with the
31 SHPO, tribes and interested parties as appropriate. Tribes possess special and unique
32 knowledge concerning historic properties of religious and cultural significance and will be
33 consulted to insure these properties are addressed during the identification process.

34
35 Once the APE is established, BLM will determine whether further investigations are needed to
36 complete the identification of cultural resources. The need for further investigations may be
37 based on information derived from a number of sources including, but not limited to, a file
38 search of the SHPO/BLM cultural resource records (site and survey data) and Geographic
39 Information System (GIS) spatial data, aerial photographs, Government Land Office (GLO)
40 records, BLM land records (including the Cultural Resource Background Document), RMPs,
41 NEPA documents, on-line resources, and information sought and obtained from the SHPO,
42 Indian tribes and interested parties.

43
44 Once the APE is determined, the BLM will perform a Class III inventory of areas not previously

1 the focus of a cultural resource inventory meeting current standards. During this inventory,
2 BLM will make a reasonable and good faith effort to record cultural resources for identification
3 and evaluation purposes as stipulated in 36 CFR § 800.4, unless the undertaking is exempt
4 pursuant to Stipulation V.A.1-3 or addressed under a Protocol amendment, MOA, or
5 Programmatic Agreement.

6
7 In all cases where BLM's Cultural Resource staff determines that less than a Class III inventory is
8 appropriate for an undertaking, a written justification and research design or strategy shall be
9 prepared and reviewed by SHPO, tribes and interested parties as applicable. When Class II
10 inventories (probabilistic field survey or targeted inventory) are deemed appropriate, Field
11 Office Cultural Resource staff shall informally seek the views of the SHPO staff concerning the
12 justification and research design/strategy for the reduced level of inventory. The SHPO may
13 concur with the proposed approach or may determine that formal consultation shall be
14 initiated. Where Amendments to this Protocol apply to a particular undertaking and also
15 address alternative inventory procedures, those alternative inventory procedures will be
16 followed.

17
18 1. Exemptions: Under this Protocol, Exempt Undertakings, defined in Appendix C, are
19 evaluated on a case-by-case basis by the Field Office cultural resource specialist and are
20 generally exempt from further review or consultation. Documentation and justification
21 regarding an undertaking's exemption from review under this Protocol will be on file at the
22 Field Office (see Appendix G: Exempt Undertakings) and entered into the annual report. In
23 consultation with the SHPO, Indian tribes, and other interested parties, the list of exemptions
24 may be revised to add, delete, or modify specific exemptions. Depending on project
25 circumstances, a Field Office may elect to review a normally exempted undertaking under the
26 terms of this Protocol or 36 CFR part 800.

27
28 2. APE Previously Inventoried with no Historic Properties Affected: The BLM cultural resource
29 specialist may determine that the APE for an undertaking has previously been adequately
30 inventoried for cultural resources. Considering the geomorphology of the inventory area and
31 its effect on exposure of resources, if a Class III inventory meeting current standards (*see BLM*
32 *Manual 8110*) has been completed and BLM and SHPO have previously agreed that no historic
33 properties will be affected, the BLM will review documentation and present a finding of
34 adequacy. The BLM cultural resource specialist will document the finding in a BLM report to
35 the file (Appendix E) and submit to SHPO the determination via email in a memo format briefly
36 addressing previous investigations and BLM's justification for no further evaluation. SHPO will
37 respond within 15 days if it requires more information regarding BLM's determination. The BLM
38 may proceed with the undertaking within 15 days of SHPO notification if no SHPO response is
39 received.

40
41 3. Areas of Low Potential for Historic Properties: The BLM cultural resource specialist may
42 determine specific areas do not need to be inventoried because current information suggests

1 the area has little or no potential to contain historic properties. Indicators of low probability for
2 historic properties may include severe disturbance, steep slopes with no potential for sites to
3 occur (such as rock art, mining-related features, rock alignments, or rock shelters), and other
4 conditions agreed upon in consultation with SHPO or as defined in guidance developed jointly
5 by BLM and SHPO and attached to this Protocol. BLM may also determine that a less than Class
6 III inventory of the APE may be adequate. In all situations where less than 100% (Class III)
7 inventory is proposed, BLM will provide justification and seek written SHPO concurrence prior
8 to initiating the inventory. SHPO will respond within 15 days of receipt of correspondence or
9 BLM may assume concurrence with the proposed reduction in inventory of the APE and
10 proceed with reduced inventory.

11

12 **B. Determination of Eligibility**

13

14 In determining if there are historic properties within the APE, BLM will apply the criteria for
15 evaluation found in 36 CFR § 60.4 and National Register Bulletin 15 to all cultural resources that
16 will be effected, including TCPs and properties of religious and cultural significance. BLM will
17 give consideration to environmental history and the APE's potential to yield eligible properties
18 in evaluating previously recorded sites within the APE. If prehistoric sites determined ineligible
19 in previous investigations were not excavated to evaluate if subsurface deposits were extant, it
20 may be necessary for BLM to reevaluate considering the APE's geology, geomorphology and
21 potential to yield eligible resources.

22

23 1. Routine Evaluation: Applying the National Register criteria, the BLM may generally make
24 determinations of eligibility without consultation with the SHPO if no project effects will occur
25 and no TCPs are involved. All determinations will be documented, providing justification,
26 detailing BLM's determination, resources consulted in making the determination, and included
27 in the site record and report. However, any BLM Field Manager or cultural resource specialist
28 may and is encouraged to contact the SHPO or the DPO concerning determinations of eligibility
29 when he or she feels that assistance or additional perspectives related to this decision would be
30 helpful, or, as applicable, and pursuant to 36 CFR §§ 800.4(d)(1), 800.4(d)(2), seek information
31 from Indian tribes and other interested parties.

32

33 2. Consultation with SHPO: BLM will consult with the SHPO, and interested parties as
34 appropriate (36 CFR §§ 800.4(d)(1), 800.4(d)(2), regarding eligibility determinations if the
35 undertaking will cause an effect to identified cultural resources or is subject to application of 36
36 CFR part 800 (Stipulation I.B.).

37

38 a) Disputes on Eligibility: If the BLM and the SHPO cannot concur on the eligibility of a
39 cultural resource, and agreement cannot be reached within 30 days, then the BLM will
40 request a formal determination of eligibility from the Keeper of the National Register of
41 Historic Places (Keeper), pursuant to 36 CFR § 800.4(c)(2). The process to be followed is
42 detailed in 36 CFR part 63 regulations on eligibility for inclusion in the National Register
43 of Historic Places. The Keeper's determination will be final.

44

1 **C. Determinations of No Effect and No Historic Properties Affected**

2 Upon determining that historic properties are present within the APE, the BLM will apply the
3 criteria of effect (36 CFR §§ 800.4, 800.5) to determine whether those properties may be
4 affected by the undertaking, giving consideration to the views of the interested parties. BLM
5 will consult with the SHPO, and interested parties as appropriate (see Stipulations IV and V.B.1
6 and 2), regarding determinations of effect if the undertaking will cause an effect to historic
7 properties or is subject to application of the regulations at 36 CFR part 800 (Stipulation I.B.).
8

9 1. No Cultural Resources Identified: When no cultural resources of any kind are identified by
10 inventory, or those identified are exempted sites types as defined in Appendix C, BLM will make
11 the determination of “No Effect,” notify interested parties as applicable (Stipulation IV), and
12 proceed with the undertaking. BLM will submit the BLM Inventory Record (Form A: Appendix
13 E(1)) to the SHPO no later than 60 calendar days after making the determination.
14

15 2. No Eligible Historic Properties Identified: If the inventory identifies cultural resources that
16 are determined to be ineligible, then the BLM will make the determination of “No Historic
17 Properties Affected,” submit all documentation including the BLM Inventory Record,
18 justifications for all eligibility determinations, and all site forms to the SHPO, and allow SHPO 15
19 days after receipt to review and comment or request additional review time or information if
20 needed. If no comment or request for additional information or review time from SHPO has
21 been received within this time frame, BLM may presume SHPO concurrence with
22 determinations, notify and give consideration to the views of interested parties as appropriate
23 (Stipulations IV and V.B.1 and 2), and proceed with the undertaking. If the SHPO comments
24 and requests consultation, BLM will consult with the SHPO for 30 days further before
25 proceeding with the undertaking. If disagreements between BLM and the SHPO regarding site
26 eligibility arise and cannot be resolved, the matter will be forwarded to the Keeper pursuant to
27 Stipulation V.B.2(a).
28

29 3. No Historic Properties Affected: If historic properties are present but will be avoided or
30 otherwise not affected, as defined under 36 CFR § 800.16(i), by the undertaking, then the BLM
31 will make the determination of “No Historic Properties Affected,” notify tribes, consulting
32 parties and the public and provide documentation as appropriate (Stipulations IV and V.B.1 and
33 2), prior to proceeding with the undertaking. BLM will submit the BLM Inventory Record (Form
34 B: Appendix E(2)), including a description of effects avoidance measures, to the SHPO no later
35 than 60 calendar days after making the determination.
36

37 **D. Determinations of No Adverse Effect or Adverse Effect**

38
39 Upon determining that historic properties are present within the APE and that the undertaking
40 will alter (directly, indirectly, or cumulatively) one or more of the characteristics of a historic
41 property that qualify the property for inclusion in the National Register the BLM will apply the
42 criteria of adverse effect (36 CFR § 800.5). BLM will seek concurrence, from the SHPO and any
43 tribes who attach religious or cultural significance to an affected historic property, in its effect

1 determination prior to proceeding with the undertaking.

2
3 1. No Adverse Effect

4
5 If a proposed undertaking will cause effects to a historic property, but the effects will not
6 diminish the integrity of the property's location, design, setting, materials, workmanship,
7 feeling, or association that make the property eligible for listing in the NRHP, then BLM will
8 make a determination of "No Adverse Effect" as defined in 36 CFR § 800.5(b). BLM will notify
9 Indian tribes and other interested parties pursuant to Stipulations IV and V.B.1 and 2, invite
10 their views and submit the standard SHPO inventory report (Form B: Appendix E(2)) and
11 associated evaluations and site forms to SHPO, and allow SHPO 30 days after receipt to review
12 and comment. If within this time frame, SHPO, Indian Tribes, or any interested party disagrees
13 with the finding and specifies the reasons for the disagreement in the notification, the BLM will
14 consult with the SHPO or party to resolve the disagreement. If resolution cannot be
15 accomplished, BLM will request that the ACHP review the finding.

16
17 2. Adverse Effect

18
19 If BLM determines that there are historic properties present that will be adversely affected by
20 the undertaking, BLM will seek, in coordination with SHPO, Indian tribes and other interested
21 parties, to resolve the adverse effect through avoidance, mitigation or project redesign to reach
22 a no adverse effect determination. If a no adverse effect determination cannot be reached,
23 BLM will follow the procedures outlined in Stipulation V.E. below.

24
25 **E. Resolution of Adverse Effects**

26
27 BLM will consult with SHPO, affected Indian tribes and other interested parties as appropriate
28 to develop and evaluate alternatives or modifications to the undertaking that could avoid,
29 minimize, or mitigate adverse effects on historic properties. These alternatives, modifications,
30 and any treatment measures will be outlined in a MOA between BLM and SHPO pursuant to the
31 procedures outlined in 36 CFR § 800.6(b) to resolve the adverse effect(s). Other parties may be
32 invited to sign, or concur with, the stipulations of the MOA. Certain types of undertakings will
33 also require BLM to request ACHP's participation in the MOA process (see Stipulation I.B.).

34
35 **F. Emergencies**

36
37 Should BLM find it necessary to implement an emergency undertaking as an immediate
38 response to a declared emergency, or another immediate threat to life or property, in a manner
39 that would preclude the use of this Protocol, BLM will implement, to the extent prudent and
40 feasible, any measures that could avoid or minimize harm to historic properties and will
41 implement rehabilitation measures and evaluations for properties that have been adversely
42 affected.

1 **G. Reporting**

2
3 1. Report Submittal Within 60 Days: Under this time frame, BLM may make “no effect” and “no
4 historic properties affected” determinations, notify interested parties pursuant to Stipulations
5 IV and V.B.1 and 2 as applicable, proceed with the undertaking, and submit the BLM Inventory
6 Record with all associated documentation, including site evaluations and site forms, to the
7 SHPO no later than 60 calendar days after making the decision, or an extended timeframe as
8 agreed upon by the SHPO. The following class of situations is covered by this time frame:

- 9
10 a) An undertaking where the APE has been inventoried, the inventory meets current field
11 methods (if previously inventoried), has been evaluated pursuant to Stipulation V.A.2,
12 and no effects are determined;
- 13 b) No cultural resources are identified within the APE, or sites identified have previously
14 been determined ineligible with SHPO concurrence (see Stipulation V.B.); and
- 15 c) Historic properties have been identified within the APE, but they will be avoided or
16 otherwise not affected.

17
18 2. Inventory Record Submittal and 15-Day Review: If cultural resources are determined by BLM
19 to be ineligible for inclusion in the National Register, following consultation and review by
20 interested parties, BLM will submit the BLM Inventory Record with all associated
21 documentation, including site evaluations and site forms, to the SHPO upon making the
22 determination and allow SHPO 15 days from receipt, or longer if requested by the SHPO or
23 additional information is needed (see Stipulation V.C.3.), to review and comment before
24 proceeding with the undertaking. Following 15 days, if not notified by the SHPO, BLM may
25 assume SHPO concurrence.

26
27 3. Report Submittal and 30-Day Review: If the undertaking requires review under the
28 Regulations, 36 CFR part 800 (see Stipulations I.B. and III.D.), or if the undertaking is a “No
29 Adverse Effect” or an “Adverse Effect,” BLM must submit the standard inventory report and all
30 associated documentation to the SHPO and allow the SHPO 30 days from receipt to review and
31 comment. Interested parties will be notified pursuant to Stipulations IV and V.B.1 and 2 as
32 appropriate, and provided a 30 day period to comment prior to BLM proceeding with the
33 undertaking. Following 30 days, if not notified by the SHPO or interested parties, BLM may
34 assume concurrence with BLM findings.

35
36
37 **VI. DISCOVERY SITUATIONS AND HUMAN REMAINS**

38
39 **A. Inadvertent Discovery of Cultural Resources**

40
41 In the event that properties are discovered during implementation of an undertaking that has
42 been duly considered under the terms of this Protocol and in which the property cannot be
43 protected, BLM will address the discovery in accordance with the provisions of 36 CFR §
44 800.13(b). All work in the area will be halted until the discovery may be adequately assessed,

1 effects determined and reasonably avoided or mitigated. In consultation with the SHPO, and
2 any Indian tribe that might attach religious or cultural significance to the affected property,
3 BLM will select the appropriate mitigation option. In the event that properties are discovered
4 during implementation of an undertaking that has been exempted (See Stipulation V.A.),
5 section 800.13(b) provisions will apply to treatment of the discovery.
6

7 **B. Human Remains**

8
9 In the event that any human remains, funerary objects, associated funerary objects,
10 unassociated funerary objects, sacred objects, or objects of cultural patrimony as defined in 43
11 CFR § 10.2(d) are encountered, work in the immediate vicinity of the discovery, other than non-
12 disturbing documentation, will cease and BLM will positively determine land ownership and
13 comply with applicable State laws or NAGPRA (see 43 CFR part 10) and ARPA (see 43 CFR part
14 7). The parties will ensure that human remains, funerary objects, sacred objects, or objects of
15 cultural patrimony on federal or tribal lands, or located within the areas identified as aboriginal
16 homelands, are treated respectfully. Once determined to be of Native American origins, the
17 BLM or SHPO (on state and private lands) will seek to determine lineal descent and cultural
18 affiliation through consultation in accordance with the consultation requirements articulated in
19 43 CFR §§ 10.4 and 10.5 or state law (Idaho Code Ch. 5, Sections 27-501-504) as applicable.
20

21 **VII. PROFESSIONAL STAFFING, TRAINING, AND PERFORMANCE REVIEWS**

22 **A. Staffing**

23
24
25
26 1. Professional Staff: BLM is committed to employing a professional cultural resource staff. In
27 hiring new full time cultural resource staff, BLM will follow Section 112(a)(1)(B) of the NHPA
28 and seek candidates that meet the Secretary of the Interior’s Professional Qualifications
29 Standards. These candidates must meet the education and experience standards set forth in
30 the BLM Manual Series 8150. Each Field Office will have at least one full-time, permanent,
31 professional cultural resource specialist assigned to manage the Field Office’s cultural resource
32 program. Field Offices that do not have the services of a BLM cultural resource specialist
33 assigned to them, either on staff or through a shared arrangement, will be evaluated for
34 decertification to work under this Protocol (Stipulation VIII.C).
35

36 2. Assistance to Cultural Resource Specialist: The Pathways Program (or succeeding programs),
37 designed for student interns or recent graduates, may be used to recruit new staff that may
38 assist the full time cultural resource specialist in the Field Office. Qualified term and temporary
39 employees may also be employed. Pathways trainees and temporary employees will work
40 under the direct technical supervision of BLM professional cultural resource staff and may not
41 substitute for professional cultural resource staff in making decisions or determinations
42 regarding identification, evaluation, or effect as stipulated in this Protocol or under 36 CFR part
43 800.
44

1 3. Appropriate Expertise: When the BLM is involved in a single undertaking requiring expertise
2 not possessed by available BLM staff, the BLM may request the assistance of the SHPO staff
3 with specific expertise, such as an architectural historian, or may obtain the necessary expertise
4 through contracts, BLM personnel from other states or Field Offices, or cooperative
5 arrangement with other agencies. The BLM may employ other specialists or technical staff that
6 do not have requisite experience. In such instances, individuals who do not meet the
7 Standards, as defined in section A.1. above, will work under the direct technical oversight of
8 BLM professional cultural resource staff and may not substitute for professional cultural
9 resource staff in making decisions or determinations regarding identification, evaluation, and
10 effect as stipulated in this Protocol or in 36 CFR part 800.

11 **B. Professional Development and Training**

12
13
14 1. Field Managers: Training and development are key elements in maintaining the
15 effectiveness of this Protocol. Field Managers and others who may act in the role of Field
16 Managers within the scope of this Protocol will receive nPA and Protocol training within 90 days
17 of the beginning of their tenure and periodically thereafter. The SHPO will be offered the
18 opportunity to assist the BLM in Protocol training.

19
20 2. Cultural Resource Staff: Cultural resource staff will periodically receive training in the use
21 and implementation of this Protocol including the procedural requirements of 36 CFR part 800
22 which are to be implemented in instances where this Protocol does not apply. The BLM Idaho
23 DPO will identify and arrange specialized cultural resource training to occur during the annual
24 cultural resource staff meeting.

- 25
26 a) Professional Development: Field Managers, in consultation with the DPO, are advised to
27 devise professional development plans for their cultural resource staff to ensure that
28 current professional standards in the discipline can be met and maintained, and training
29 needs identified. BLM recognizes that staying current in relevant professional literature
30 and participation of cultural resource staff in professional societies and annual meetings
31 (e.g., Idaho Archaeological Society, Society for American Archaeology, Society for
32 Historical Archaeology, Idaho Professional Archaeological Council, Society of
33 Architectural Historians, etc.) are integral to staying abreast of developments and
34 advances in the discipline, for enhancing professional knowledge and skills, and for
35 providing opportunities for leadership and service to the profession.

36
37 3. Certification and Annual Report: Annual participation by Field Managers and appropriate
38 staff in cultural program training and implementation of professional development in
39 appropriate individual development plans for cultural resource staff will be key considerations
40 for continuing certification of individual Field Offices. Training received will be reported as a
41 component of annual reporting (Stipulation II.C.).

1 **C. Field Office Cultural Resource Performance Reviews**

2
3 Professional review of Field Office program operations is an important component of the BLM's
4 cultural resource program and this Protocol, especially as it pertains to certification (Stipulation
5 VIII). Ensuring that such review takes place is a primary function of the DPO. Reviews may
6 involve any aspect of a program's function. The SHPO, if concerned about a Field Office's
7 performance under this Protocol, may submit a request for a review to the DPO. The intent of
8 such reviews is to improve operations at individual Field Offices and to improve the cultural
9 resource program. Three levels of internal review are available to the DPO. Findings of reviews
10 will be relevant for purposes of assessing certification status of Field Offices.

11
12 1. Annual Review: Consistent with provisions of the nPA (Component 9), the DPO will assess
13 annually Field Office cultural resource staff's ability to implement the provisions of this
14 Protocol. The Annual Review will be based primarily on information and data submitted for the
15 Annual Report required in Stipulation II.C of this Protocol. However, other data may be
16 considered.

17
18 2. Technical Review. Consistent with provisions of the nPA (Component 9), the DPO will
19 determine whether Field Office cultural resource staff are maintaining an appropriate level of
20 technical capability and performance in particular program elements. Such elements may
21 include, but are not limited to, record-keeping, documentation of Protocol actions, Section 110
22 actions, curation, inventory documentation, determinations and recommendations, security,
23 budget issues, and findings from Annual Reviews.

24
25 3. Program Review. Consistent with provisions of the nPA (Component 9), the DPO will
26 determine whether Field Office cultural resource programs are fully functional in their ability to
27 implement this Protocol. Program reviews are broad-based reviews of the entire cultural
28 resource program at a Field Office, although such a review may focus on particular areas of
29 interest.

30
31 Pursuant to Component 9 of the nPA, the DPO may invite the participation in the review of the
32 BLM FPO, DPO(s) from other states, SHPO(s), the ACHP, and the Preservation Board. Should
33 deficiencies be identified, the DPO with the review team will develop corrective
34 recommendations. When such recommendations are reviewed and accepted by the State
35 Director, they will be provided to the SHPO for concurrence. Implementation of such
36 recommendations will become the responsibility of the Field Manager, who will be required to
37 initiate corrective actions within 60 days from the date the recommendations are accepted by
38 the State Director and SHPO. Failure to initiate corrective actions within the specified time or
39 failure to correct the deficiencies will require the State Director to consider, in consultation
40 with the FPO, DPO and the SHPO, actions under Stipulation VIII of this Protocol.

1 **VIII. CERTIFICATION AND DECERTIFICATION**

2
3 **A. Certification**

4
5 The Preservation Board, in coordination with the appropriate DPO, SHPO, and the ACHP,
6 and with consideration of tribal comments, may choose to review the status of a district or field
7 office's certification to employ this Protocol; or the district or field manager, the state director,
8 the ACHP, or the SHPO, may request that the Preservation Board initiate a review of a district or
9 field office's certification.

10
11 The DPO will periodically reconsider the certification status of each Field Office during the
12 review process delineated in Stipulation VII.C of this Protocol.

13
14 **B. Provisional Status**

15
16 The DPO or the SHPO may recommend that the State Director place a Field Office on a
17 provisional status based on findings from any of the reviews specified in VII.C of this Protocol.
18 Provisional status may extend from one to two years, although the term of the provisional
19 status will be a matter of agreement between the parties to this Protocol and will reflect the
20 complexity of the deficiencies identified. While on provisional status, a Field Office will have
21 the opportunity to correct deficiencies that have been identified and documented during
22 review of Field Office practices under this Protocol. Upon expiration of the provisional status
23 term, or sooner, the parties to this Protocol will convene to determine whether identified
24 deficiencies have been satisfactorily corrected. Should the parties determine that such
25 deficiencies remain uncorrected, or should new deficiencies that the parties deem significant
26 be identified, the decertification process will be initiated as described in Stipulation VIII.C of
27 this Protocol.

28
29 **C. Decertification**

30
31 The Preservation Board may choose to review a Field Office's certification status. The Field
32 Manager, the DPO, or the SHPO may request that the Preservation Board initiate such a review,
33 in which case the Preservation Board will respond under the terms of the nPA (Component 9).
34 If a Field Office is found not to have maintained the basis for its certification (e.g., the
35 professional capability needed to carry out these policies and procedures is no longer available,
36 or the office is not in conformance with this Protocol) and the Field Manager has not voluntarily
37 suspended participation under this Protocol, the Preservation Board will recommend that the
38 State Director decertify the Field Office.

- 39
40 1) A Field Office may ask the State Director to review the Preservation Board's
41 decertification recommendation, in which case the State Director will request the
42 ACHP's participation in the review.

- 1 2) The Preservation Board will notify the SHPO and the ACHP if the status of a certified
2 office changes. In consultation with the SHPO, the DPO will prepare a Plan of Action to
3 address the identified deficiencies.
4 3) When a Field Office is decertified, the responsible manager will follow the procedures
5 of 36 CFR part 800 to comply with Section 106.

6 **D. Recertification**

7
8 If a decertified Field Office is found to have restored the basis for certification, the Preservation
9 Board will recommend that the State Director recertify the office.

10
11
12 **IX. COOPERATIVE PROGRAMS AND ACTIVITIES**

13
14 **A. Preservation Planning and Cooperative Stewardship**

15
16 1. Cultural Resource Background Document: The Cultural Resource Background Document
17 developed by each Field Office (see Stipulation V) is intended to provide basic information on
18 topics such as the physical environment, major studies, types and distribution of sites, and
19 important cultural themes, as well as critical research questions addressing regional
20 settlement/subsistence patterns and other important cultural resource issues specific to the
21 geographic jurisdiction for that office. As such, the Background Document is a critical
22 document that provides a regional synthesis and assists in preservation planning.

23
24 2. Section 110: BLM commits to fulfill the responsibilities outlined in Section 110 of the NHPA.
25 The State Director will implement a Preservation Program supporting proactive management of
26 cultural resources. The Preservation Program will guide BLM in achieving measurable progress
27 toward compliance with Section 110 of the NHPA. Proactive management may include, but will
28 not be limited to, programs of evaluation and National Register nomination, monitoring for
29 historic property condition, stabilization and preservation, inventory, documentation of known
30 but unrecorded properties, research, interpretation, training and professional contributions,
31 and public involvement and outreach in historic preservation activities.

32
33 3. Historic Context Development: BLM will assist SHPO in development of the historic context
34 component of the Idaho State Historic Preservation Plan. As funding allows, BLM may
35 coordinate with SHPO to develop historic contexts that help define site eligibility criteria, levels
36 of adequate inventory, site documentation requirements, standards for assessment of effects,
37 or appropriate treatment of historic properties. All historic contexts must be consistent with
38 the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic
39 Preservation (48 FR 44716). In accordance with Section 101(b)(3) of NHPA, whereby the SHPO
40 has responsibility for preparing and implementing the state’s comprehensive historic
41 preservation plan, the SHPO will review and provide comments on all historic context
42 documents.

1 **B. Public Education and Community Involvement in Preservation**

2
3 Public outreach and education is a key component of the program to enhance preservation and
4 personal development. The BLM and the SHPO will work cooperatively to promote and
5 enhance public education and outreach in historic preservation and cultural resource
6 management through the following programs:

7
8 1. Idaho Archaeology and Historic Preservation Month: The BLM will participate in and support
9 financially, as funding permits, Idaho Archaeology and Historic Preservation Month activities,
10 including public presentations, field tours and projects, exhibits, archaeology fairs, posters,
11 brochures, and educational activities.

12
13 2. Project Archaeology: The BLM and SHPO will support Project Archaeology as a component
14 of the educational programs of both agencies. This will include joint support of the
15 development of a school reader and any subsequent activities that facilitate the program.

16
17 3. Idaho Archaeological Society and Idaho State Historical Society: BLM is encouraged to work
18 cooperatively with the Idaho Archaeological Society and the Idaho State Historical Society to
19 promote preservation ethics, good science, and professional standards statewide to avocational
20 archaeologists and historians by participating in society meetings, serving as advisors, providing
21 presentations and demonstrations, and other assistance as appropriate.

22
23 4. Professional Organizations: BLM is encouraged to participate in and work cooperatively with
24 professional historic preservation organizations (e.g., Idaho Professional Archaeological Council)
25 to promote preservation ethics, good science, professional standards statewide, and open
26 dialogue regarding historic preservation issues.

27
28 5. Public Dissemination of Information: When appropriate, the BLM, SHPO, or an undertaking
29 proponent will provide funding for development and distribution of brochures, monographs,
30 interpretive signs or kiosks, or web based digital information media summarizing the results of
31 archaeological investigations or other historic preservation projects for the general public.
32 These can be either part of the Section 106 compliance responsibility or Section 110 research
33 on public lands. Opportunities for public dissemination will especially be sought when research
34 produces information that may be of particular interest to the general public. The BLM and
35 SHPO will cooperate in developing these materials either by BLM and SHPO staff or through
36 contracts. BLM will seek funding and other resources, such as grants and partnerships, for
37 these activities.

38
39 6. Historic Preservation Training and Workshops: The BLM and SHPO will cooperate and
40 participate in both the initial training and future on-going training of BLM managers and
41 cultural resource staff, SHPO staff, public land users, and cultural resource contractors relative
42 to the nPA and implementation of this Protocol. Training resources will include, but are not
43 limited to, all facets of the BLM Manual System, planning documents, and statewide historic
44 context documents.

1 7. Cooperative Stewardship: The BLM and the SHPO will cooperate, as funding and staff
2 availability permit, to develop a volunteer site stewardship program to recruit and train
3 members of the public to serve as monitors and stewards of Idaho’s cultural resources on
4 public lands. BLM and SHPO will cooperate in efforts to obtain funding and other resources,
5 such as grants and partnerships, for these activities.
6

7 **C. Curation**
8

9 BLM, in accordance with 36 CFR part 79, will submit and maintain their archaeological
10 collections (artifacts and associated field notes and other documents) within the Archaeological
11 Survey of Idaho (ASI) repository system where they will be available statewide for the benefit of
12 public, scientific, and educational purposes. Following BLM archaeological investigations, BLM
13 will track progress of collections from BLM lands and will submit them to the appropriate ASI
14 repository, with funding support, as follow-up studies are complete. BLM will ensure to the
15 greatest extent possible that curation and disposition of all archaeological materials and data
16 from Federal lands conform to BLM Manual 8110 and 8160 and other sections as appropriate,
17 as well as 36 CFR part 79 and ASI curation standards. Management of non-Federal
18 archaeological materials and data will be consistent with applicable laws and professional
19 curation requirements as negotiated with non-Federal landowners or managers. Non-museum
20 collections may be maintained at Field Offices for purposes of education and outreach.
21

22 **D. Information Management and Data Sharing**
23

24 1. BLM Information Management: BLM will maintain complete, current, and permanent
25 records for cultural resource activities, including but not limited to survey areas, effect
26 findings, determinations of eligibility, monitoring and condition reports, images, inventory
27 records, historic property records, archaeological site records, isolate forms and
28 correspondence, to fully document fulfillment of its responsibilities under this Protocol, and
29 other laws, regulations, and policies. Records management will conform to the standards
30 and policies at BLM Manual 8110.5 and standards and procedures developed subsequent to
31 execution of this Protocol.
32

33 Site locational and spatial data will be collected in the field using a Global Positioning
34 System (GPS) and meet BLM’s accuracy standards, as described in Appendix 2 of the BLM
35 8110 Manual. GPS coordinate collection and reporting will meet BLM’s standards, with
36 coordinates reported in Universal Transverse Mercator (UTM), North American Datum 1983
37 (NAD83). Along with paper archival copy, site records should be maintained electronically
38 in both word processing and Portable Document Format (PDF) for ease of editing, access,
39 management, data transfer, and analytical applications. Polygon features will be maintained
40 for all sites, with point data reserved for isolated finds, and line features will be maintained
41 for linear sites such as trails, roads, canals, flumes, etc. Isolated finds should be maintained
42 as a separate feature class and require a unique identifier to ensure they can be filtered
43 from site data. Undertaking records that document identification and inventory efforts,
44 research designs, peer reviews, assessment of effects and impacts, and use of Exemptions

1 (Appendix C) will be retained in files under the control of the Field Office cultural resource
2 specialist. Records will include cross references to other files or curated documents that
3 contain information pertaining to individual properties.
4

5 2. Inventory Record and Site Form Standards: The BLM cultural resource specialists will
6 document all undertakings, determinations, findings, and recommendations made under this
7 Protocol. Such determinations, findings, and recommendations include, but are not limited to,
8 delineating areas of potential effect, determining National Register eligibility, applying
9 exemptions, findings of effect, and other findings and determinations. BLM will submit to the
10 SHPO copies of all inventory reports and site forms for Section 106 undertaking investigations,
11 including those conducted by contractors, as required in this Protocol (See Stipulation V.G. 1-3).
12 All cultural resource investigations associated with implementing this Protocol, regardless of
13 findings, will be documented to the standards stipulated in BLM Manual 8110, the Secretary of
14 the Interior’s Standards and Guidelines, and written guidance of the SHPO. BLM will review the
15 work of permitted contractors and ensure they adhere to the same standards. Section 110
16 activities will be documented and provided to the SHPO in a timely manner, including inventory
17 reports and site records.
18

19 Reports and site records will be submitted to SHPO in paper (1 copy) and electronic PDF format.
20 Cultural resource data will be entered on the ASI Site Inventory Form with attached maps and
21 photograph documentation using the ASI database. An updated ASI site form will be provided
22 for all previously recorded cultural resources. Completion of the ASI site form and updates will
23 follow the guidance provided by the SHPO. As appropriate, data on buildings and structures
24 will be entered on the Idaho Historic Sites Inventory (IHSI) form and database. Site/resource
25 and inventory spatial data will be submitted in standard GIS digital format (e.g., shapefile,
26 geodatabase). SHPO will provide BLM with trinomial designations for newly recorded sites
27 within 30 days of report submittal.
28

29 3. Data Sharing: BLM and SHPO will support and maintain compatible and up-to-date
30 databases. BLM has developed and maintains a geodatabase for cultural resources and cultural
31 resource investigations in a GIS in accordance with Section 112(2) of the NHPA and BLM Manual
32 8110.5. The geodatabase will be updated with newly recorded and re-recorded resource and
33 investigation data. BLM and SHPO will work jointly to implement compatible databases to
34 allow for the electronic submission of spatial data (GIS entities) and tabular records (inventory
35 records, fieldwork reports, and site forms) as needed. BLM and SHPO will work to ensure that
36 any joint efforts meet both agencies’ needs. As part of this cooperative effort, SHPO will
37 provide state datasets to BLM at least annually and as agreed upon in a Data Sharing Assistance
38 Agreement (AA). SHPO recognizes BLM’s need for polygon data for planning and analytical
39 application and will begin maintenance of polygon datasets for site and inventory data
40 following standards outlined in Stipulation IX.D.1. BLM will support SHPO’s management of a
41 statewide inventory by providing assistance through various mechanisms and as agreed upon in
42 the AA. Assistance may be in the form of financial, personnel, and/or hardware and software
43 resources when funding is available.
44

1 4. Sensitive Information: Non-sensitive cultural resource compliance documents, including
2 findings, determinations, and recommendations, may be disclosed to the public. Under the
3 authority of Section 304 of NHPA (see 36 § CFR 800.11(c)), Exemption 3 of the Freedom of
4 Information Act (5 USC § 552(b)(3)), and consistent with Section 9 of ARPA (see 43 CFR § 7.18),
5 it has been determined that public disclosure of the location and character of cultural resources
6 may risk harm to those resources. Sensitive cultural resource information under the control of
7 BLM and SHPO, regardless of ownership of the resource, will not be disclosed inappropriately.
8 Sensitive information will not be stored in documents or files open to the general public. This
9 determination notwithstanding, the BLM may characterize cultural resources in writing
10 sufficiently for the purposes of required analyses under NEPA, and cultural resource
11 information may be disclosed when such disclosure is deemed to advance management,
12 educational, or scientific purposes. The BLM may allow access to some sensitive data through
13 the execution of specific data sharing agreements.
14
15

16 **X. DISPUTE RESOLUTION PROCEDURES, REVISIONS, AMENDMENTS, AND TERMINATION**

17 **A. Procedure for Resolving Objections**

18 1. BLM or SHPO Objections: The BLM or the SHPO may object to an action proposed or taken
19 pursuant to this Protocol. The objecting party will notify the other party in writing of the
20 objection. Within seven calendar days following receipt of notification, the parties will begin to
21 consult for a minimum of 30 calendar days to resolve the objection. If the objection is resolved
22 within this time frame, the parties will proceed in accordance with the terms of that resolution.
23 If the objection is not resolved within this time frame, and the parties have not agreed to
24 extend the consultation period, the DPO will refer the objection to the Preservation Board,
25 which will provide the State Director with its recommendations. If the State Director accepts
26 the Board's recommendations, the State Director will promptly notify the SHPO of such
27 acceptance, provide a copy of the Board's recommendations, and afford the SHPO 30 calendar
28 days following receipt of the notification to comment on the recommendations. If the SHPO
29 concurs with the Board's recommendations within this time frame, the State Director and the
30 SHPO will proceed in accordance with the Board's recommendations, and the objection will
31 thereby be resolved. If either the State Director or the SHPO rejects the Board's
32 recommendations after consideration, not to exceed 30 days, the State Director will promptly
33 notify the Board in writing of the rejection, and immediately thereafter submit the objection,
34 including copies of all pertinent documentation, to the ACHP for comment in accordance with
35 Stipulation IV.C. Within 30 calendar days following receipt of any ACHP comments, the State
36 Director will make a final decision regarding resolution of the objection and in writing notify the
37 Board, the SHPO and the ACHP of that decision. The objection will thereupon be resolved. In
38 reaching a final decision regarding the objection, the State Director will take into account any
39 comments received from the Board, the SHPO, and the ACHP pursuant to this stipulation.
40
41
42

43 2. Public Objections: If a member of the public or a federally recognized Indian tribe or other
44 American Indian group or individual formally objects in writing at any time to the manner in

1 which this Protocol is being implemented in a specific case, the BLM will consult with the
2 objecting party for a period not to exceed 45 calendar days and, if the objecting party requests,
3 with the SHPO, to resolve the objection. If the objecting party and the BLM resolve the
4 objection within 45 calendar days, the BLM will proceed in accordance with the terms of that
5 resolution. If the objection cannot be resolved, the DPO will refer the objection to the
6 Preservation Board, which will provide the State Director and the objecting party with its
7 recommendations for resolving the objection. If the State Director and the objecting party
8 accept the Preservation Board’s recommendations, the State Director will proceed in
9 accordance with these recommendations and the objection will thereby be resolved. If either
10 the State Director or the objecting party rejects the Preservation Board’s recommendations for
11 resolving the objection, the State Director may refer the objection to the BLM Director who
12 may request the ACHP’s participation in accordance with Stipulation IV.C. Within 30 calendar
13 days following receipt of any ACHP comments, the State Director will take into account any
14 comments received from the Board, the objecting party, the SHPO, and the ACHP and make a
15 final decision regarding resolution of the objection and will, in writing, notify the Board, the
16 objecting party, the SHPO and the ACHP of that decision. The objection will thereupon be
17 resolved. Any objection filed will not prevent the BLM from proceeding with undertaking
18 planning; however, undertaking implementation will be deferred until the objection is resolved.
19

20 **B. Review and Revision of this Protocol**

21
22 BLM and SHPO, in consultation with Indian tribes and other interested parties, will review this
23 Protocol on or prior to the tenth anniversary of the date of its execution to determine if
24 amendment or extension is warranted. This Protocol is intended to be responsive to changing
25 circumstances. Therefore, the BLM or the SHPO may propose revision of this Protocol at any
26 time, whereupon the parties will consult with Indian tribes and other interested parties to
27 consider the proposed Revision. “Revision” as used herein refers to the process of review and
28 rewriting of all or portions of this Protocol, including the addition, deletion, or modification of
29 appendices to this Protocol. Revisions will only become effective upon written concurrence of
30 the parties.
31

32 **C. Amendments to this Protocol**

33
34 1. Amendment Initiation: In keeping with the intended responsive nature of this Protocol, the
35 BLM or the SHPO may propose an amendment to this Protocol at any time, whereupon the
36 parties will consult to consider such amendment. “Amendment” as used herein refers to the
37 process of adding supplemental procedures for specific BLM programs when parties to this
38 Protocol wish those procedures to be made explicit. The amendment process culminates in the
39 issuance of Protocol Amendments, which are administratively appended to this Protocol on
40 their effective date. Amendments to this Protocol will only become effective upon signature of
41 both parties. Protocol Amendments will be housed in Appendix H of this Protocol.
42

43 2. Amendment Continuation: The parties to this Protocol agree that upon termination or
44 expiration of this Protocol, any and all supplemental agreements, procedures, or amendments

1 contained in the Protocol appendices may continue in full force and effect, with the written
2 consent of the signatories, and in consultation with Indian tribes and other interested parties
3 subject to the terms of Stipulation X of this Protocol regarding Dispute Resolution Procedures,
4 Revisions, Amendments, and Termination, until a successor Protocol or Programmatic
5 Agreement is executed, not to exceed two years.
6

7 **D. Termination, Automatic Termination, and Review of this Protocol**

8

9 1. Termination of this Protocol or Any Supplemental Agreement, Procedure, or Amendment:

10 The BLM or SHPO may terminate this Protocol or any Supplemental Agreement, Procedure, or
11 Amendment contained in the Appendices. The party proposing termination will notify the
12 other party in writing of its intent to terminate and explain the reasons for proposing
13 termination. Within seven calendar days following receipt of such notification, the parties will
14 begin to consult for a minimum of 90 days to seek alternatives to termination. Should such
15 consultation result in agreement on an alternative to termination, the parties will proceed in
16 accordance with the terms of that agreement. Should such consultation fail to result in
17 agreement on an alternative, the party proposing termination may terminate this Protocol or
18 any Supplemental Agreement, Procedure, or Amendment by providing the other party with
19 written notice of such termination. Termination hereunder will render this Protocol or any
20 terminated Agreement, Procedure, or Amendment without further force or effect.
21

22 2. Resumption of 36 CFR Part 800: In the event of termination of this Protocol, the BLM will
23 comply with the provisions of 36 CFR part 800 for all undertakings covered by this Protocol,
24 with the exception of those supplemental agreements, procedures, or amendments in the
25 appendices of this Protocol which, by written agreement of the signatories, and in consultation
26 with Indian tribes, and other interested parties, may remain in full force and effect. In the
27 event one of these appendices is terminated, BLM will comply with 36 CFR part 800 for the
28 program or practices subsumed under that Agreement, Procedure, or Amendment.
29

30 3. Extension of this Protocol: At midnight of the tenth anniversary of the date of its execution,
31 this Protocol will automatically terminate and have no further force or effect, unless it is
32 extended by written agreement of the parties. Indian tribes, consulting parties and interested
33 publics will be notified prior to extension and provided an opportunity to comment. Should this
34 Protocol not be extended and should no successor agreement document be in place at the time
35 of automatic termination, BLM will comply with 36 CFR part 800, except with regard to those
36 activities addressed in supplemental agreements, procedures, or amendments to the Protocol
37 which the signatory parties in writing agree remain in full force and effect following
38 consultation with Indian tribes and other interested.
39

40 **XI. OTHER PROCEDURES**

41

42 BLM will follow procedures and adhere to policies detailed in the BLM 8100 Manual Series
43 along with standards and guidelines promulgated by the SHPO, such as recording requirements.
44

1 BLM, in consultation with SHPO, may develop other guidance as necessary and will consider
2 incorporating such guidance as supplemental procedures to this Protocol (X.C.).
3
4

5 **XII. ANTI-DEFICIENCY PROVISION**

6

7 Nothing herein shall, or shall be construed to, obligate BLM to expend, or involve the United
8 States of America in any contract or other obligation for the future payment of, money in
9 excess of appropriations authorized by law and administratively allotted and allocated for the
10 purposes contemplated in this Protocol.
11

12 **XIII. APPENDICES**

13

14
15 Appendix A: National Programmatic Agreement, online at the following link: [nPA](#)

16 Appendix B: BLM 8100 Manual Series, online at the following link: [8100 Manual Series](#)

17 Appendix C: Exemptions

18 Appendix D: Annual Report Format

19 1) Summary of Cultural Resource Inventories, Exempted Undertakings, Properties and
20 Discoveries. Idaho BLM Annual Cultural Resource Report to Idaho SHPO

21 2) Field Office Listing of Projects: Idaho BLM Annual Cultural Resource Report to Idaho
22 SHPO

23 Appendix E: Report Short Form to be used with Background Document

24 1) Form A: No Effect, No Historic Properties Present

25 2) Form B: No Historic Properties Affected or No Adverse Effect

26 Appendix F: Report Format when Background Document not used

27 Appendix G: Exempt Undertakings Documentation

28 Appendix H: Amendments and Supplemental Procedures

29 1) Supplemental Procedures for 10 Year Livestock Permit/Lease and Livestock Trailing
30 Authorizations

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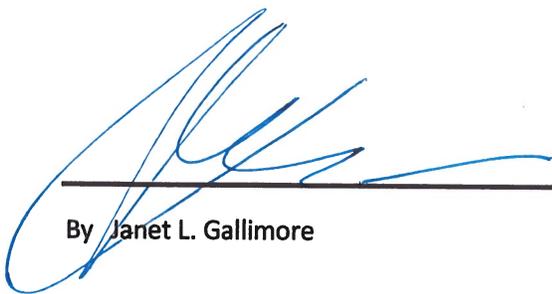
STATE DIRECTOR, BUREAU OF LAND MANAGEMENT, IDAHO



By Timothy M. Murphy

Date: May 28, 2014

STATE HISTORIC PRESERVATION OFFICER, STATE OF IDAHO



By Janet L. Gallimore

Date: May 28, 2014

APPENDIX A



PROGRAMMATIC AGREEMENT

AMONG

THE BUREAU OF LAND MANAGEMENT,

THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND

**THE NATIONAL CONFERENCE OF STATE HISTORIC
PRESERVATION OFFICERS**

REGARDING

**THE MANNER IN WHICH THE BLM WILL MEET ITS
RESPONSIBILITIES**

UNDER THE NATIONAL HISTORIC PRESERVATION ACT

February 2012

Online at the following link:

[nPA](#)

APPENDIX B

BLM 8100 Manual Series

Online at the following link:

[BLM Manual](#)

APPENDIX C



Exempted Undertakings, Exempted Sites and Categorically Excluded Resources

APPENDIX C

A. Exempted Undertakings

Included below are BLM undertakings excluded from project specific consultation with the SHPO. The Cultural Resource (CR) Specialist determines the applicability of the exclusions on a case-by-case basis upon review of previous survey work. The CR Specialist, at their discretion, may require an inspection or inventory of the exempt undertaking if they anticipate that historic properties will be disturbed.

The CR Specialist will document the decision that an undertaking is excluded from inventory and consultation in the project file at the BLM District or Field Office. A summary of the number and types of undertakings excluded from inventory and project specific consultation will be included in the annual report prepared by the BLM for the SHPO (Stipulation II.C.).

1. Any revegetation by broadcast seeding that does not involve ground disturbance other than the minor disturbance of placing seeds on the ground.
2. Manual planting using hand-held augers or planting bars if no known historic properties occur within the planting area and probability for site occurrence is low (e.g., steep terrain: see 3. below).
3. Timber management activities where trees are to be removed from areas determined by the CR Specialist to involve slopes exceeding 30%, and where the occurrence of historic properties is exceedingly rare based on a Cultural Resource Background Document (see Stipulation V.).
4. Hand cutting of young, non-old growth juniper less than 100 years old, where access is by foot and limbs are hand scattered across the landscape.
5. Mechanical seeding for habitat restoration on newly acquired lands that have been previously disturbed by historic farming practices, where no disturbance will occur (vertically or horizontally) outside of the historic plow zone.
6. Cadastral landline surveys, boundary marking and corner location, where eligible historic corners and markers will not be disturbed.
7. Core drilling within the constructed prism of existing roads where no disturbance will occur outside of disturbed prism and no evidence of sites or site elements (as exposed by use and maintenance) occur within the prism (e.g., lithic concentrations, hearths as evidenced by ash/charcoal, features, etc.).
8. Seismic surveys conducted on existing roads where no disturbance beyond the vertical and horizontal limits of previous construction or disturbance will occur and no known standing historic or prehistoric structures or rock art sites are within 300 meters.
9. Mineral operating plans that involve work in areas that were previously inventoried to current standards and that do not contain properties that qualify for listing on the National Register of Historic Places.

10. Routine recreation site maintenance involving minimally disturbing activities such as replacement of existing barriers or signs, re-graveling of roads and parking areas when original gravel is not removed, general maintenance of fences, and hazard tree removal when a skidder is not involved.
11. Installation of recreation, road and trail signs where disturbance is limited to post holes.
12. Road closures with the installation of gates and barriers.
13. Replacement or repair of existing water lines, buried utility lines, vault toilets, tank replacement of water collector system and pipeline or similar underground improvements, in exact previous locations when no additional ground disturbance occurs and previous Section 106 compliance and tribal consultation has been completed.
14. Resurfacing, blading, or maintenance of existing roads and trails where disturbance outside the existing constructed prism/tread and existing alignment will not occur and this restriction is reflected in the ROW document.
15. Emplacement of buried utility lines, pipelines, telephone lines and similar linear features where disturbance will not extend beyond the vertical and horizontal limits of previous construction or disturbance (e.g., roads) and previous Section 106 compliance and tribal consultation has been completed and meets current standards.
16. Wildlife and fisheries improvements consisting of hand planting for stream bank stabilization, sediment sampling, installation of fish monitoring devices, and channel blasting sediment control structures in the stream channels when only the stream bed is impacted, no heavy equipment is used, and existing vehicular access is used.
17. Activities limited to stream channels, not including terraces and cut banks.
18. Fence construction and maintenance (where posts are pounded into the ground) and that does not require blading for the fence line or that does not create an area for livestock congregation and heavy trampling, such as cattle guards or spring sites, and there are no adverse effects to historic properties. Congregation areas will be surveyed.
19. Right-of-way amendments that would add another user and related electronic equipment to an approved communication facility or structure, not requiring the expansion of the facilities permit area, with inadvertent discovery provisions in force.
20. Use of existing material source sites where no horizontal expansion of the pit will occur.
21. Issuance of recreation special-use permits (e.g., outfitters, bike races, trail rides, motorized vehicle, etc.) entailing the use of horses, mountain bikes, motorcycles, all-terrain vehicles (ATVs), utility terrain vehicles (UTVs), and other motorized vehicles on existing routes where the potential to cause ground disturbance or affect historic properties is negligible. Periodic monitoring may be conducted to confirm that effects are negligible. Types of projects include but are not limited to:

- a) Well-established trails and other specified areas where use is similar to previous permits for which environmental documents addressing cultural resources have been prepared, and that would not increase the level of use.
 - b) Where uses are consistent with planning decisions, in which cultural resources have been addressed, (e.g., Travel Management Plans) or land allocations, as applicable, and where there will be no new surface disturbance.
22. River use permits where use is similar to previous permits for which environmental documents addressing cultural resources have been prepared, that would not increase the level of use, where stipulations prohibiting soil disturbance and protecting cultural resources are attached to the permit, or where landforms, such as sandbars, preclude any possibility of intact historic properties.
 23. Placement of monitoring stations where negligible ground disturbance is involved (e.g., stream gauges, fish tracking devices, temporary radio repeaters, wind and RAW stations).
 24. Routine or preventive operation and maintenance activities on BLM facilities or lands that do not affect historic structures or previously undisturbed ground.
 25. Grants of rights-of-way, leases, or permits for the use of existing roads, facilities (non-historic), improvements, or sites for the same or similar purposes where there will be no new ground disturbance authorized and cultural resources have been previously considered.
 26. Withdrawal extensions or modifications that only establish a new time period and entail no change in segregative effect or use.
 27. Temporary (not to exceed 90 days) placement of a pipeline above ground, where quality control is ensured through maintenance stipulations in the authorizing permit to avoid leakage or bursts.
 28. Herbicide application where it would be unlikely to affect rock art or traditional Native American plant gathering areas.
 29. Fire training water drops, entailing dropping water from airplanes and/or helicopters, where water dispersement rates simulate heavy rainfall during a short thunder storm event.
 30. Projects such as installation of cattle guards, gates, culverts, where the APE does not extend beyond the vertical and horizontal limits of previous construction or disturbance (e.g., roads) and cultural resources have been previously considered.
 31. Issuance of Special Use Permits where no surface or resource disturbance is authorized and where there is no potential to affect access to or use of resources by Native Americans.
 32. Authorizing new lines on existing overhead structures when there is no change in pole or tower configuration and no new surface disturbance.

33. Removing modern materials and trash scatters less than 50 years old and not associated with a larger eligible entity. Abandoned vehicles and modern trash dumps are included in this class.
34. Dispersed non-commercial Special Forest Products activities such as Christmas tree cutting, firewood gathering, and pole and post gathering.
35. Acquiring lands and easements that do not entail any ground disturbing activities.
36. Transferring lands or interest in lands to other Federal agencies where future management will be subject to the Section 106 process.
37. Single-pass cross-country travel by rubber-tired vehicles (under 10,000 lbs GVW) engaged in official BLM activities where inventory is completed and appropriate site avoidance measures are in-place.
38. Burning of tree or shrub piles created during timber management or fuels reduction activities in areas where the potential to affect historic properties is negligible, where burning will be conducted in a manner designed to minimize potential for sub-surface soil impacts (e.g., soil sterilization).
39. Abandoned mine openings needing immediate closure because of significant public safety issues, where the potential to affect historic properties is negligible. Periodic monitoring may be conducted to confirm that effects are negligible. Types of closures excluded from project-specific SHPO consultation would be limited to:
 - a) Openings not associated with fragile or unavoidable historic structures (including stacked rock features, historic trails, roads, ditches, or collapsed or partially standing buildings) or associated historic features (including pieces of mining equipment or historic refuse scatters).
 - b) Openings where closure would be made using polyurethane foam (PUF) and/or stacked native materials, where the closure would be recessed so as to maintain the general impression of the adit, without disturbance to any associated historic structures, buildings or features.
 - c) Openings where closure would be made using gates or grates, where the structure would be recessed so as to maintain the general impression of the adit, without disturbance to any associated historic structures, buildings or features.

B. Exempted Site Types

The following list includes sites or features that are redundant and provide limited to no new information, over and above current documentation, about human use of the landscape, and in and of themselves would not warrant listing on the National Register of Historic Places. These sites will be exempted from formal recordation on a site record, but may be briefly described and reported in the inventory report.

1. Mining prospects that have no other associated historic features, artifacts or adjacent features with which to date the prospects or are within the spatial extent of mining district. Includes prospects that have been dug by a backhoe.
2. Mining claim markers.
3. Small (less than 50 items) historic can dumps that are fairly homogeneous and have no other associated historic features, including recent trash (post-1960).
4. Short-term, mobile camps, with no to limited cultural constituents, associated with livestock grazing or recreation that provide no significant information beyond that which is available in written or oral histories.
5. Unassociated historic artifact scatters that cannot be definitively tied to a specific historic theme as defined in the Idaho Comprehensive Historic Preservation Plan. This includes Items such as fence material and piles of barbed wire.
6. Rock piles in agricultural fields that are the obvious result of field clearing where tribal consultation has not provided information about a possible TCP or sacred site.
7. Power poles and lines that research shows have no particular historic importance or significant association to a historic event or district.

C. Categorically Excluded Resources:

Isolated Finds: It is recognized that the recordation of isolated finds exhausts their data potential, as the information they contain and what they can reveal about past human behavior is decidedly limited. Where warranted, isolates may be collected for analytical procedures (e.g., obsidian hydration, sourcing, etc.).

This class of cultural resource is a category lacking data potential and does not provide a statistically viable sample or context to produce further data (e.g., potential for buried deposits). They are locations exhibiting brief episodes of activity that are easily documented at discovery. Isolate manifestations lack artifact density and diversity of artifact classes and features. Features, generally, are not categorized as isolates. The artifacts lack diversity of morphological characteristics and raw material types and are indicative of a single expedient event or action such as core assaying, biface preparation and artifact discard or loss. Artifacts recorded will share similar morphological characteristics or be indicative of a single reduction trajectory and event. In essence isolates portray very short term, task-specific actions of transient human use of the landscape, and their recordation exhausts data potential.

The determination that an entity is an isolate versus a site is largely dependent on context and professional judgment. The recorder must consider the environmental context and potential for buried deposits when considering whether a resource is an isolate or warrants recordation as a site. In the event that a find exhibits the requisite characteristics of an eligible historic property, it should be recorded as a site location and not as an isolate.

Method for recording: For purposes of measure and statistical viability, an isolate is defined as the presence of fewer than 10 artifacts in a 10 m x 10 m area or are found to be re-deposited material that lacks significant locational context, and there are no other associated artifacts or features within a 30 meter radius of the location.

Isolates will be recorded with a GPS location and reported, with a brief description, in an inventory report in table format and with a separate isolated finds location map and using the ASI isolated find form. Metrics will be provided for diagnostic artifacts and if warranted should be drawn or photographed. It is incumbent on the recorder to show that the entity is an “isolate” through full description of the item(s), the environmental context, and event or activity as interpreted during recordation.

Any location with 10 or more artifacts will be recorded as a site. The measure of fewer than 10 items is a general guideline that is applied based on region, context and professional judgment. For instance, in some locations, 1 or 2 items may warrant recordation as a site if subsurface deposits are deemed highly probable or could be considered potentially eligible for listing in the NRHP. For instance, a single item such as a Clovis point may warrant recordation as a site due to data potential and rareness of information.

**ARCHAEOLOGICAL SURVEY OF IDAHO
ISOLATED FIND FORM**

1. Field No: _____ 2. Class: Prehistoric Historic 3. County: _____

4. Land owner: _____

5. Project: _____ 6. Report No.: _____

7. Recorder(s): _____

8. Organization: _____ 9. Date: _____

10. Attachments and associated records:

- Topographic map Photos with labels/log
 Site map Artifact illustrations

11. Elevation(site datum): _____ (ft)

12. UTM at site datum: Zone _____ m Easting _____ m Northing using the North American Datum of 1983.

13. UTM source: _____

14. Legal description:

Tshp	N/S	Rng	E/W	Section	QuQuQu	QuQu	Quarter

15. USGS 7.5' map reference:

16. Recorder's Definition of Isolated Find:

An isolate is defined as fewer than 10 artifacts in a 10m x 10m area, or re-deposited materials that lack significant context, with no other associated artifacts or features within a 30 meter radius of the location.

17. Describe Artifact(s) and their distribution (surface and the evidence or potential for buried deposits):

18. Phase/period and Justification:

19. Cultural Affiliation and Justification:

20. Artifacts: Collected Repository: _____

21. Environmental Information (Describe, elevation, landform, slope, soils, vegetation, nearby water source):

22. Why is this isolated find not eligible for the National Register?

APPENDIX D

Idaho BLM Annual Cultural Resource Report to Idaho SHPO

- 1) Summary of Cultural Resource Inventories,
Exempted Undertakings, Properties and Discoveries**

- 2) Field Office Listing of Projects**

Appendix D(1)
Summary of Cultural Resource Inventories,
Exempted Undertakings, Properties and Discoveries
Idaho BLM Annual Cultural Resource Report to Idaho SHPO

Fiscal Year:

Field Office:

I. Inventory

- A. Total project acres for BLM-administered surface which were inventoried at the Class III level:

- B. Total project acres for non-BLM-administered surface which were inventoried at the Class III level:

- C. Total acres inventoried that were not associated with specific projects (Proactive, Section 110 Inventory):

- D. Total number of Undertakings/Projects during the fiscal year:

II. Exempted Undertakings (Stipulation V.A.1., Appendix C)

- A. Number of projects within each exempted category that were not inventoried:

<u>Exemption Category No. *</u>	<u>Number of Projects Exempted from Inventory</u>
---------------------------------	---

*Refer to Appendix C of the Idaho BLM-Idaho SHPO Protocol

- B. Number of projects within each exempted category that were inventoried at the Cultural Resource Specialist's discretion:

<u>Exemption Category No. *</u>	<u>Number of Projects Exempted, but Inventoried</u>
---------------------------------	---

*Refer to Appendix C of the Idaho BLM-SHPO Protocol

III. Inventory Results

- A. Number of projects in which no properties were found:

- B. Number of projects with "no effect" findings:

- C. Number of projects with "no historic properties affected" findings:

- D. Number of projects with "no adverse effect" findings:

- E. Number of projects with "adverse effect" findings:

- F. Number of grazing permit renewals that had cultural resource evaluation and reports prepared pursuant to livestock permitting supplemental procedures (Appendix H(1)):

IV. Properties

- A. Number of properties that were determined eligible for the NRHP:

- B. Number of properties that were nominated to the NRHP:

- C. Number of properties that were determined ineligible for the NRHP:

- D. Number of properties with unresolved or deferred eligibility to the NRHP:

V. Discoveries

- A. Number of unanticipated discoveries found during implementation of BLM undertakings:

VI. Miscellaneous

- A.** Progress on creating cultural resource site and survey area GIS layers in each Field Office:
 - # of Sites Entered in GIS:

 - # of Inventories Entered in GIS:

- B.** Describe involvement of the cultural program in large-scale Land Use Planning projects (include Resource Management Plans, Environmental Impact Statements, sub-basin reviews, watershed analyses, etc.):

- C.** Number and brief description of public education events:

- D.** Number of volunteer efforts that lead to heritage education:

- E.** Number and type of partnerships with other federal or non-federal entities:

- F.** Training and Professional Conferences Attended:

APPENDIX E

Report Short Form to be used with Background Document

- 1) Form A: No Effect, No Historic Properties Present**
- 2) Form B: No Historic Properties Affected or No Adverse Effect**

**IDAHO BUREAU OF LAND MANAGEMENT
ARCHAEOLOGICAL AND HISTORICAL INVENTORY RECORD
FORM A - NO EFFECT, NO HISTORIC PROPERTIES PRESENT**

BLM Report Number:

Project Title:

Project Description:

Township: Range: Section(s): County:

USGS 7.5' Map Reference:

After performing a thorough record search, the Cultural Resource Specialist has made the following determination:

___ Previous inventories are adequate to assess effects. (No field inventory was conducted).

Inventories:

___ A field inventory was conducted by ___ to assess effects. No historic properties were found.

Dates of Record Search: Dates of Field Work:

Acres Inventoried: Intensive ___BLM ___ State ___ Private

 Reconnaissance ___BLM ___ State ___ Private

Field Methods:

Number of non-eligible properties in Area of Potential Effect (APE): ___ (Attach Site Forms)

Site No.

Site Type

Conclusion:

Recommendation:

Field Office Archaeologist

Date

Field Manager

Date

APPENDIX F



Report Format

No Background Document Used

Appendix F

Report Format When Background Document Is Not Used

ARCHAEOLOGICAL AND HISTORICAL SURVEY REPORT
ARCHAEOLOGICAL SURVEY OF IDAHO
IDAHO STATE HISTORIC PRESEVATION OFFICE

All surveys completed for review under Section 106 of the National Historic Preservation Act must include textual or checked responses to each element below. A failure to include all elements and required attachments will result in a rejection of the report for review purposes until the missing data are supplied. Surveys not 106-related must include all elements except those specified for 106.

A. KEY INFORMATION

1. Project name:
2. Report number or associated federal project number (if appropriate):
3. Agency name (if 106-related):
4. Report author (and principal investigator if different):
5. Date:
6. County:
7. Township, range, section (each township and associated sections listed separately):
8. Acres Surveyed: _____ intensive (30-meter or less transect interval)
_____ reconnaissance (greater than 30-meter transect interval,
intuitive, or statistical sample)

B. PROJECT DESCRIPTION (for 106-related surveys)

1. Description of project and potential direct and indirect impacts to known or suspected historic properties:
2. Description of Area of Potential Effects (APE) with reference to attached map:
3. Project acres:
4. Owner(s) of land in project area: (Key to map.)

C. STATEMENT OF OBJECTIVES FOR SURVEY

(Describe area to be investigated. Note the amount and kinds of archival and field information to be gathered with reference to historic contexts and property types that are expected. Be specific.)

D. LOCATION AND GENERAL ENVIRONMENTAL SETTING

1. USGS topographic map(s):
2. Setting: (Describe landforms, topography, elevation, water, flora, fauna, mineral resources, etc. as they relate to human use.)

E. PRE-FIELD RESEARCH

SHPO Record Search Number (provided by SHPO at the time of record search): _____

1. Sources of information checked:
 - Overviews Historical records/maps (list)
 - National Register
 - Archaeological site records/maps Individuals/groups with special knowledge (list)
 - Architectural site records/maps
 - Survey records Other (list)
 - Ethnographic studies
2. Summary of previous studies in the general area: (Include titles, authors, year, report numbers, and study results. Relate to contextual themes where appropriate.) None
3. Description and evaluation of projects in E.2 with regard to survey design, methods, personnel, and results:

F. EXPECTED HISTORIC AND PREHISTORIC LAND USE AND SITE SENSITIVITY

1. Are cultural properties known in this area? No Yes (List site numbers and provide brief description of cultural theme represented by known cultural properties. Key to map.)

2. Are cultural properties expected? Yes No (Why?)

3. What cultural themes/contexts are expected within the survey area? Check at least one theme in first two columns and at least one time period in the third column.

<u>Theme</u>	<u>Time Period</u>	
<input type="checkbox"/> Prehistoric Archaeology	<input type="checkbox"/> Military	<input type="checkbox"/> Prehistoric
<input type="checkbox"/> Agriculture	<input type="checkbox"/> Mining Industry	<input type="checkbox"/> Historic Native American
<input type="checkbox"/> Architecture	<input type="checkbox"/> Native Americans	<input type="checkbox"/> Exploration: 1805-1860
<input type="checkbox"/> Civilian Conserv. Corp.	<input type="checkbox"/> Politics/Government	<input type="checkbox"/> Settlement: 1855-1890
<input type="checkbox"/> Commerce	<input type="checkbox"/> Public Land Mngt/Conserv.	<input type="checkbox"/> Phase I Statehood: 1890-1904
<input type="checkbox"/> Communication	<input type="checkbox"/> Recreation/Tourism	<input type="checkbox"/> Phase II Statehood: 1904-1920
<input type="checkbox"/> Culture and Society	<input type="checkbox"/> Settlement	<input type="checkbox"/> Interwar: 1920-1940
<input type="checkbox"/> Ethnic Heritage	<input type="checkbox"/> Timber Industry	<input type="checkbox"/> Pre-Modern: 1940-1958
<input type="checkbox"/> Exploration/Fur Trapping	<input type="checkbox"/> Transportation	<input type="checkbox"/> Modern: 1958-present
<input type="checkbox"/> Industry	<input type="checkbox"/> Other (list)	

4. Brief description of where cultural properties associated with expected themes might be found with respect to landforms, water, vegetation, slope, fauna, and historical documentation:

G. FIELD METHODS

(Be specific and complete.)

1. Areas examined and type of coverage: (Describe actual methods used including transect interval and transect routes as shown on attached map. Justify any non-intensive survey.)

2. Description of ground surface conditions: (Describe surface and subsurface visibility and factors such as vegetation or snow obscuring visibility. Specify percentage of surface that was visible.)

4. Areas not examined and reasons why: (Key to map.)

5. Names of personnel participating in the survey in the field:

6. Dates of survey:

7. Problems encountered: None

H. RESULTS

1. Listing of all cultural properties (including previously recorded) in this area: (Fully describe each on attached site forms and indicate precise location on attached USGS map.) None

<u>Field No.</u>	<u>Site No.</u>	<u>Type of Property</u>	<u>Artifacts/Features</u>
------------------	-----------------	-------------------------	---------------------------

2. Summary of important characteristics of properties listed above: (Consider property type, integrity, age, cultural affinity of occupants, function, depth, and size.)

3. Recommendations for National Register eligibility of each cultural property: (Specify both appropriate National Register criteria and contexts listed in F. Justify on attached site forms.)

<u>Site No.</u>	<u>Eligibility</u>	<u>Criteria</u>	<u>Context</u>
-----------------	--------------------	-----------------	----------------

4. Recommendations for further investigations needed to evaluate cultural properties:

5. Cultural properties noted but not formally recorded: (Key to map.) None

<u>Field No.</u>	<u>Description</u>	<u>Reason not Recorded</u>
------------------	--------------------	----------------------------

I. CONCLUSIONS AND RECOMMENDATIONS

1. Brief summary of relevance of cultural properties to contexts listed under F, discussing potential contributions to these contexts:

2. Discussion of potential threats to the integrity of the cultural properties and recommendations for future investigations or protective actions:

3. For 106-related surveys, discussion of relationship of each cultural property to direct and indirect project impacts. Specifically state project's effect (no effect, no adverse effect, or adverse effect) upon each cultural property: No properties

4. For 106-related surveys affecting cultural properties, discussion of avoidance or mitigation options for each property:

5. For 106-related surveys, recommendations for additional information gathering or survey, avoidance measures, monitoring, mitigation, and future management: None

J. ATTACHMENTS

(The following is only a checklist. All survey reports must include maps of the survey area showing survey transects, precise locations of all cultural properties, and, if 106-related, area of potential effects. All survey reports must include attached completed site forms [ASI or equivalent forms for archaeological sites and ISHS forms for structures and buildings] for each cultural property.)

1. Appropriate forms attached for each site? Yes
2. Maps attached? Yes
3. Other attachments? (List) Yes

K. REPOSITORY

(Copies of all survey reports and site forms are located at the Idaho SHPO office. List where original survey records and attendant data will be located.)

L. CERTIFICATION OF RESULTS

I certify that this investigation was conducted and documented according to Secretary of Interior's Standards and guidelines and that the report is complete and accurate to the best of my knowledge.

Signature of Reporter

Date

APPENDIX G

Exempt Undertakings Documentation

**IDAHO BUREAU OF LAND MANAGEMENT
ARCHAEOLOGICAL AND HISTORICAL INVENTORY RECORD
EXEMPTED UNDERTAKINGS**

**Under the terms of the 2014 State Protocol Agreement between Idaho SHPO and BLM
STIPULATION V.A.1. and APPENDIX C**

The following undertaking is excluded from case-by-case review with SHPO as per Stipulation V.A.1., Appendix C of the 2014 State Protocol Agreement (SPA) between Idaho BLM and the Idaho State Historic Preservation Office. This form should be kept on file at the Field Office with the project NEPA analysis file as supporting documentation.

Project Title:

BLM Project Number:

Project Description:

Township:

Range:

Section(s):

County:

USGS 7.5' Map Reference:

The Cultural Resource Specialist has documented that this undertaking is excluded from inventory and consultation under Stipulation V.A.1., Appendix C of the following exempted undertakings:

Inadvertent and Late Discoveries: If at any time during project implementation cultural resources are discovered all work in the area must cease until a BLM archaeologist can evaluate the resources.

The following may be used in your EA to cover the discussion on cultural resources:

The proposed undertaking is an exempt undertaking and excluded from case-by-case review with Idaho SHPO as per Stipulation V.A.1., Appendix C of the 2014 the State Protocol Agreement between Idaho BLM and the Idaho State Historic Preservation Office. This project would have no effect to historic properties.

Field Office Archaeologist

Date

APPENDIX H

Amendments and Supplemental Procedures

1) Supplemental Procedures for 10 Year Livestock Permit/Lease and Livestock Trailing Authorizations

SUPPLEMENTAL PROCEDURES FOR
10 YEAR LIVESTOCK GRAZING PERMIT/LEASE AND TRAILING
AUTHORIZATIONS

A CULTURAL RESOURCES AMENDMENT
TO
THE STATE PROTOCOL AGREEMENT

BETWEEN

IDAHO BUREAU OF LAND MANAGEMENT
AND
THE IDAHO STATE HISTORIC PRESERVATION OFFICER

The purpose of this Amendment to the State Protocol Agreement (Protocol) is to address the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*) (NHPA), Section 106 compliance procedures for processing 10 year grazing permit/lease (permit) applications and livestock trailing permits in Idaho. This Amendment shall cover grazing permit renewals for livestock as defined in 43 CFR § 4100.0-5 as “...domestic livestock – cattle, sheep, horses, burros, and goats.” The following procedures will allow for renewal and issuance of the permits while maintaining compliance with the NHPA. The procedures herein represent a “reasonable and good faith effort,” as defined under 36 CFR § 800.4(b)(1), to identify and address the nature and extent of potential effects to historic properties.

This Amendment shall only apply to grazing permit/lease authorizations and livestock trailing permits. This Amendment shall not apply to grazing permits issued under an appropriations rider. All new proposed undertakings for range improvements shall follow the established procedures within the Protocol

Alternative approaches to this Amendment may be developed by individual Field Offices, but such approaches shall fall under the provisions of the Protocol or Section 106 regulations of the NHPA (36 CFR part 800) and require individual Field Office consultation with the SHPO, Indian tribes, and other interested parties.

Procedures

The following steps and methods will be used when executing these supplemental procedures.

I. Planning

Cultural resource compliance will be completed when processing grazing and trailing permits. Compliance includes scheduling for inventory, evaluation, treatment, and monitoring of cultural resources as addressed in this Amendment.

II. Evaluation Methodology

Records Search:

A Class I records search will be accomplished to identify previous cultural resources investigations and to quantify inventory acreage and sites recorded within each allotment. BLM's cultural resources GIS database and the Archaeological Survey of Idaho (ASI) Access database will allow for these analyses. Sites determined eligible or potentially eligible for listing in the National Register of Historic Places (NRHP) and that are determined to be located within livestock congregation areas that have not been previously inventoried, will be considered for evaluation to determine actual grazing impacts and develop mitigation measures where necessary.

Congregation areas are defined as those areas where livestock concentrate for limited or extended periods of time, which may result in measurable subsurface disturbance due to trampling and wallowing. This concentrated use can displace and damage archaeological artifacts and features. Congregation areas can include unfenced springs, perennial water courses, ponds, lakes, and range improvements such as troughs, stock ponds and salting areas. Also, sheltered areas located in rock shelters, overhangs and along rock faces with rock art may serve as congregation areas. Springs and accessible perennial water sources are generally understood to be areas of potential high sensitivity for cultural resources, while shelters, troughs and salting areas may be in lower sensitivity areas depending on relationship to water resources.

Targeted Inventory:

To address the impacts of grazing on cultural resources, and following the Class I and GIS analyses, a Class II sampling or targeted survey strategy shall be developed by the cultural resource specialist in consultation with range staff that focuses inventory efforts on areas where livestock are known to congregate and coincidental to areas of high sensitivity for cultural resource site locations. A GIS strategy incorporating aerial or satellite imagery will be used as a form of visual verification of congregation areas to assist in determining sample design of areas to be targeted for inventory.

In general, fence lines are not viewed as congregation areas but rather as trailing areas with impacts limited to cattle trailing along a one meter wide swath along either side of the fence. Impacts to cultural resources are generally restricted to this corridor; therefore existing linear improvements will not be inventoried. Exceptions would include circumstances in which portions of fence lines are in association with congregation areas such as corrals, gates, water gaps and pasture corners, and/or are within areas of known high sensitivity for the occurrence of cultural resource sites and have not been previously inventoried, and Class I and GIS analyses indicate a need for further evaluation.

Following analyses, existing range improvements that have created livestock congregation, such as troughs, spring developments, stock ponds, river access points, and/or that are within areas of high sensitivity for the occurrence of cultural resource sites, shall be inventoried if not previously subjected to Section 106 review. Salting locations will be assessed by the cultural resource specialist in consultation with range staff and the permittee. Locations will be inventoried if they occur in areas where the probability for the occurrence of cultural resources is high. Livestock loading and unloading areas and corral areas will also be inventoried within areas of high sensitivity for the location of cultural resources if not previously subjected to Section 106 review.

Field Inventory Methods:

All areas identified and targeted for inventory shall be covered intensively using BLM Class III standards with transect spacing no greater than 30 meters. Targeted range improvements, such as troughs, that have not been surveyed will be completely inventoried within a 100 meter diameter (50 meter radius) of the location. Known perennial spring locations that are accessible and used by livestock will also be fully inventoried within a 100 meter diameter of the spring if terrain allows. A sample inventory will be completed along livestock accessible perennial water courses, targeting areas where impacts are occurring or areas with a high probability for significant resources and congregation areas. Within the sampling area, a 50 meter corridor on each side of the water course will be evaluated.

Recordation:

Within the sample area all unrecorded site locations will be recorded, and previously recorded sites updated. A report of findings for each allotment will be completed, describing proposed mitigation measures if employed, using the standard format provided in Appendix H1 of this amendment. These investigations shall only address public lands administered by BLM. Private, state and county in-holdings will not be evaluated.

III. Tribal and Interested Party Consultation

Field Offices will be responsible for contacting and consulting with Tribes and interested parties as outlined in the Protocol, 36 CFR § 800.2 and the 8120 Manual guidelines and for meeting BLM government-to-government responsibilities for consultation pursuant to regulations, executive orders and policies. This consultation can be coordinated with NEPA scoping, but tribal concerns should be formally addressed through government-to-government consultation.

IV. Determinations of Eligibility

Determinations of eligibility for inclusion in the NRHP shall only be undertaken on sites or properties where it can be reasonably ascertained that range activities are likely to continue to adversely impact a site's integrity and those elements that contribute to the site's NRHP eligibility. Sites whose surface components lack the requisite qualities and integrity for listing in the NRHP will only be further evaluated for NRHP eligibility if livestock use is creating subsurface disturbance below 10 cm. Site surface is defined as the top 10 cm of soil.

V. Effect

When an adverse effect is determined further consultation with SHPO will be required to devise mitigation strategies or to obtain concurrence on application of standard protective measures as outlined in Section VI.

Range undertakings where historic properties are avoided or otherwise not affected may be implemented under the Protocol without prior consultation with SHPO. These undertakings shall be documented utilizing the reporting form in Appendix H1 and submitted to SHPO as well as summarized in the Protocol Annual Report using the reporting table in Appendix H2.

Range undertakings where historic properties are identified within the area of potential effect (APE) and are adversely effected by project activities will require consultation with SHPO pursuant to Stipulation V.D.2. to resolve or mitigate adverse effects. For other determinations, procedures under Stipulation V of the State Protocol Agreement will be followed.

VI. Mitigation

Standard Protective/Mitigation Measures (SPMs) can include but are not limited to:

- A. Fencing or enclosure of concentrated livestock use from the cultural resource sufficient to ensure long-term protection, according to the following specifications:
 - 1. the area within the enclosure must be inventoried to locate and record all cultural resources (this does not apply to gap fencing); and
 - 2. the enclosure (i.e., fence) should not divide a cultural resource so that a portion is outside of the fence unless, in consultation with the SHPO, the area is determined to lack integrity and/or not contribute to the site's eligibility; and
 - 3. the size of the enclosure will be sufficient to protect the cultural resource from disturbance.
- B. Relocation of livestock management facilities/improvements at a distance from cultural resources sufficient to ensure resource protection from concentrated grazing use.
- C. Decommissioning of facilities/improvements such as troughs, wind mills and stock reservoirs to remove congregation that is affecting eligible resources.
- D. Removal of natural attractants of livestock to a cultural resource when such removal, based on the judgment of the cultural resource specialist, will create no disturbance or other adverse effect to the cultural resource (e.g., removing vegetation that is providing shade).
- E. Removal of the area(s) containing concentrations of eligible cultural resources from grazing use through land use planning or amendments.

- F. Adjusting grazing practices, which may include adjusting livestock numbers and/or herding away from eligible cultural resource sites.
- G. Using salting, trough placement, or other permitted livestock attractants as a tool to move concentrations of livestock away from eligible cultural resource sites.
- H. Locating sheep bedding grounds away from known eligible cultural resource sites.
- I. Other protective measures established in consultation with and accepted by SHPO.

The SPMs defined above may be used to address damage to cultural resources. If the SPM can be effectively applied, and SHPO concurs, then no evaluation or further consultation with SHPO on effects will be necessary. The adopted SPM may be added to grazing permit's "Terms and Conditions" as appropriate for each grazing permit issued or reissued as fully processed permits (completed NEPA analysis, consultation, and decision).

VII. Evaluation of Treatment Measures

SPMs and/or other agreed upon treatment measures will be addressed in the decision record. Standard language may be included in the "Terms and Conditions" of the grazing permit to allow for addition to or removal of SPMs for a specific allotment, when monitoring indicates either SPMs are no longer required or additional SPMs are needed to protect historic properties.

A. To determine and document the effectiveness of treatment measures, the following guidelines are provided:

1. when treatment measures are put in place, following the first year of implementation, documentation will be submitted to SHPO to describe whether and how the prescribed mitigation measures are effective .

B. When SPMs are effective:

1. after documenting effectiveness, and when no additional degrading damage will likely occur because the SPMs or other treatment measures are adequate to prevent further damage from rangeland management activities, further SHPO consultation is not required.

C. When SPMs or Treatment Measures are ineffective:

1. when additional degrading damage will likely occur and the SPMs, or other treatment measures, are either ineffective or cannot be utilized, mitigation of adverse effects shall be addressed on a case-by-case basis, pursuant to 36 CFR §§ 800.5 and 800.6.

VIII. Disagreements

When agreement cannot be reached within the Field Office on the level of inventory, evaluation, monitoring, and application of SPMs, then the Field Manager shall consult with the State Office Chief of Resources and Sciences to assist in resolving disagreements. If the concerns resulting in a lack of agreement on procedures continue, the Field Manager shall initiate consultation with the SHPO.

IX. Reporting

A. Under this Protocol amendment, allotment evaluations will be reported and submitted to SHPO using the report format in Appendix H1, following the reporting timelines in Stipulation V.G. of the Protocol.

B. Each participating Field Office shall report annually a summary of activities carried out under this amendment during the fiscal year. The reporting shall be included in the Protocol Annual Report to the SHPO using the reporting format in Appendix H2 of this amendment.

C. Annual reports may contain recommendations for new or revised treatment measures.

X. Amending

In keeping with the intended responsive nature of this Protocol Amendment, the BLM or the SHPO may propose further amendment of provisions herein at any time, whereupon the parties shall consult with Indian tribes and other interested parties to consider such amendment. The amendment process will culminate in the issuance of new provisions under the amendment, which will only become effective upon signature of both parties.

XI. Termination

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

In the event this amendment is terminated, BLM shall comply with the Protocol.

STATE DIRECTOR, BUREAU OF LAND MANAGEMENT, IDAHO



By Timothy M. Murphy

Date: May 28, 2014

STATE HISTORIC PRESERVATION OFFICER, IDAHO



By Janet L. Gallimore

Date: May 28, 2014

Appendix H1:

IDAHO BUREAU OF LAND MANAGEMENT ARCHAEOLOGICAL
AND HISTORICAL INVENTORY RECORD
FOR GRAZING AND TRAILING PERMIT AND LEASE RENEWALS

IDAHO BUREAU OF LAND MANAGEMENT
ARCHAEOLOGICAL AND HISTORICAL INVENTORY RECORD
FOR GRAZING AND TRAILING PERMIT AND LEASE RENEWALS

BLM Report Number:

Allotment Name:

Allotment Number:

BLM Acres:

Proposed AUMs:

Type of Action:

County:

Township, Range, Section(s): (* denotes the allotment falls in a portion of the section only)

USGS 7.5' Map Reference: (all 7.5' USGS quads.)

BACKGROUND RESEARCH RESULTS

PREVIOUS INVENTORIES: (total acreage includes only surveys performed after 1984, * denotes that the inventory falls in a portion of another)

Total Acres Inventoried: _____ acres

PREVIOUSLY RECORDED SITES: (E= Eligible; NE= Not Eligible; UN= Unevaluated)

Date(s) of Record Search:

TARGETED INVENTORY

Targeted Acres Inventoried and Findings (indicate type, e.g., known site location, trough, spring, perennial watercourse, etc. and attach map with new survey and site locations):

Date(s) Targeted Inventory Conducted:

Targeted Inventory				
Type	Acres	Legal Description	Findings	Comments/Mitigation

CONCLUSIONS AND RECOMMENDATIONS

Effects Determination:

Recommendations:

Conclusions:

Archaeologist

Date

State Historic Preservation Officer

Date

Appendix H2:

IDAHO BUREAU OF LAND MANAGEMENT

GRAZING PERMIT LEASE RENEWALS SUMMARY REPORT TABLE

