

# **STATE PROTOCOL AGREEMENT**

between

The Bureau of Land Management, Nevada

and

The Nevada State Historic Preservation Office

for

Implementing the National Historic Preservation Act

Revised January 2012

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## **PREAMBLE**

The Bureau of Land Management (BLM) has developed a nationwide Programmatic Agreement (National Programmatic Agreement, or NPA, Appendix J of this Protocol) governing the manner in which the Bureau shall meet its responsibilities under the National Historic Preservation Act (NHPA). This State Protocol Agreement (or Protocol) has been developed pursuant to provisions of the NPA.

In carrying out its responsibilities, the BLM has developed policies and procedures through its Cultural Resources Manual (Sections 8100-8170) to guide planning, decision-making, and activities. The Nevada State Office of the Bureau of Land Management (BLM) has professional Cultural Resource staff to advise the BLM's managers and to implement cultural resource policies. It is the intent of this Protocol to provide a process for consistent compliance with Sections 106, 110 and 112 of the NHPA by the BLM. Where referenced, the provisions of 36 Code of Federal Regulations (CFR) 800 (Protection of Historic Properties), effective August 5, 2004, apply; those regulations are included as Appendix L in this Agreement.

This Protocol prescribes the manner in which the BLM and the Nevada State Historic Preservation Office (SHPO) shall cooperatively implement the NPA in Nevada. It is intended to ensure that the BLM organizes its programs to operate efficiently and effectively in accordance with the intent and requirements of the NHPA and NPA, and that the BLM integrates its cultural resource planning and management decisions with other policy and program requirements. The Protocol streamlines the Section 106 process by eliminating case-by-case consultation with the SHPO on undertakings that culminate in no effect or no adverse effect determinations.

This State Protocol Agreement supersedes in all ways the provisions of State Protocol Agreement between the Nevada State Director of the Bureau of Land Management and the Nevada State Historic Preservation Officer, executed on June 4, 1999, which will terminate and have no further force and effect with the last signature on this Protocol. However, undertaking-specific agreements in force at the time of the execution of this Protocol shall continue to function according to their terms.

## **PURPOSE**

This Protocol defines how the SHPO and the BLM will interact under the NPA for implementing the NHPA. The goal of the NPA and this Protocol is a more meaningful and productive partnership between the SHPO and the BLM (the Parties) to enhance cultural resource management on public lands managed by the BLM in Nevada.

The NPA and this Protocol addresses all work done by BLM under provisions of the NHPA, including Section 106, Section 110 and Section 112 in particular.

## **PART 1. SECTION 106 ACTIVITIES**

### **I. DEFINING AN UNDERTAKING**

BLM activities that are undertakings, as defined below, are subject to compliance with Section 106 of the NHPA and this Protocol.

#### **A. Establishing an Undertaking**

A qualified BLM Cultural Resource Specialist (CRS) will determine if a planned action is an undertaking subject to compliance with the NHPA. Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of the BLM. Undertakings also include those carried out by or on behalf of BLM; those carried out with BLM's financial assistance; and those requiring a BLM permit, license or approval, after 36 CFR 800.16(y).

1. If a proposed action is not an undertaking, no notice to SHPO is necessary.
2. If a proposed action is determined to be an undertaking and if it has the potential to cause effects on historic properties, assuming that historic properties are present, then it is subject to the provisions of this protocol.
3. If the undertaking does not have the potential to cause effects on historic properties, assuming such historic properties were present, the BLM has no further obligations under Section 106 of the NHPA.

If a disagreement concerning the definition of an undertaking occurs between the CRS and a District- or Field-level manager (Manager), the determination as to whether a planned action is an undertaking will be referred to the Deputy Preservation Officer (DPO), defined in part 2.b of the NPA signed in 1997. The DPO will first discuss the matter with the Manager to determine whether an undertaking exists and will make a recommendation to the Manager. The DPO may discuss the situation informally with the SHPO. If the DPO and Manager cannot agree, the DPO will convey a recommendation to the Deputy State Director for Resources, Lands and Planning (DSD) for a decision. If the DPO and DSD cannot agree, the BLM will consult with SHPO per terms of this Protocol per terms of XIV.A of this Agreement. The State Director will make the final BLM decision following consultation.

#### **B. SHPO Notification of Proposed Undertakings**

In the earliest feasible planning stage for any undertaking, BLM will determine the information needed to identify and evaluate historic properties within the Area of Potential Effect (APE). Such determinations will be based on a file search of the SHPO/BLM cultural resource records, aerial photographs, GLO records, BLM land records, resource management plans, project-specific NEPA documents of the proposed project area, available cultural resource planning models, and on information sought and obtained from the SHPO and from interested persons. As needed BLM will gather the necessary information through appropriate levels of inventory or interviews with appropriate members of the public, professionals, and tribal experts. Sites of religious and cultural significance to Native American tribes must be included in determining inventory needs, based on appropriate notification and consultation, as required per BLM Manual 8120 and BLM Handbook H-

8120-1, as well as any additional relevant instruction or guidance.

1. Inventory Needs Assessment Form—Electronic Format. A qualified CRS will prepare an Inventory Needs Assessment form (Attachment 1) establishing the inventory and any other appropriate recommendations for the undertaking. The completed form will be forwarded to the responsible Manager or other responsible agency official for approval.

a. One copy of the form will be included in the case file to document the information gathering decision; and

b. One copy of the form will be sent to the SHPO and one copy to the State Office prior to authorizing the undertaking.

c. The SHPO will have two working days from when the completed written form is electronically transmitted by BLM (e.g., via e-mail, via facsimile transmission) to notify BLM via electronic transmittal or by telephone that either:

(1). the SHPO wants to consult on the undertaking, or

(2). the SHPO may provide recommendations within the same electronic transmittal regarding additional parties that might be consulted or inventory recommendations. These recommendations will not require formal consultation unless the CRS and SHPO cannot agree upon an acceptable inventory strategy or the CRS declines to follow the SHPO's recommendations.

d. If the SHPO has not responded by the Close of Business on the second working day, the BLM will assume that the SHPO does not want to consult and will proceed with the undertaking.

e. As other tracking systems come on line and are agreed to by BLM and SHPO, these will be used for the Inventory Needs assessment and SHPO notification process.

f. The format of the Inventory Needs Assessment form is established by the Nevada State Office. District or Field offices may implement modified formats after approval by the Deputy State Director, Resources, Lands and Planning.

2. When BLM delivers a paper version of the Inventory Needs Assessment Form via standard U.S. surface mail when no electronic notification process is available,

a. The distribution will be the same as for the electronic version, including the case file, SHPO and State Office.

b. The SHPO will be allowed five working days from when the form is received to notify BLM that the SHPO wants to consult on the undertaking. The SHPO's response will be made using electronic transmission or telephone whenever BLM's corresponding systems are operative.

c. If SHPO has not responded by the Close of Business on the fifth working day, the BLM will assume that the SHPO does not want to consult and will proceed with the



undertaking.

3. Information in the general project case file is available for public inspection and should provide a clear rationale for determinations of the need for inventory or other action. The case file should also be managed to ensure appropriate confidentiality, including withholding of information from disclosure to the public, as necessary to protect the resource (BLM Manual 8110.55).

4. BLM will provide a new notification to SHPO if BLM determines the previous assessment must be updated to reflect significant changes in project location, the kinds of resources expected (including those that exceed BLM's in-house expertise), or important new information.

5. BLM and SHPO will coordinate in developing standards for the electronic format of submissions.

## **II. UNDERTAKINGS REQUIRING SHPO CONSULTATION**

Under the regulations at 36 CFR 800, undertakings are subject to SHPO consultation on identification, eligibility, effect and treatment prior to authorization. This Protocol modifies the process by developing a set of understandings and standard operating procedures (SOPs) that eliminate the need for SHPO consultation prior to authorization in most, but not all, cases. Specifically, the Protocol streamlines the Section 106 process by eliminating case-by-case consultation with the SHPO on undertakings that culminate in no effect or no adverse effect determinations. A determination of adverse effects requires that BLM consult with SHPO per the regulations at 36 CFR 800, as do certain other conditions or situations stipulated below.

### **A. Required Consultation with SHPO.**

BLM will initiate consultation with SHPO on the categories of undertakings shown in II.A.1 to II.A.9, below. BLM will consult with SHPO on the following categories of undertakings to determine whether SHPO wants to be consulted under 36 CFR 800 or SHPO agrees that BLM can utilize this State Protocol Agreement:

1. that involve interstate or interagency projects or programs for which BLM Nevada is the lead Federal Agency, unless (a) a previous interagency agreement or similar documentation has been approved establishing BLM as project lead and (b) a copy of the interagency agreement is on file with SHPO;
2. that adversely affect National Register listed or eligible properties;
3. that require an Environmental Impact Statement (EIS);
4. that are phased, segmented or would otherwise require a project-specific Programmatic Agreement (PA) (as specified in Section II B) prior to implementation;
5. when the BLM lacks access to appropriate expertise;
6. that are determined by either party to be beyond the scope of this Protocol;
7. that involve land transfers out of Federal management;

8. when SHPO agrees to consult on an undertaking because SHPO review has been requested by a tribal government, a local government, an applicant for a BLM authorization, a member of the public, or other interested person;

9. where BLM's treatment options for historic properties may be limited due to land status or statutory authority.

## **B. Undertakings Requiring SHPO Consultation on a Project-Specific Agreement Prior to Authorization**

Other agreements may be developed to define project-specific procedures or manage specific undertakings. These include:

### **1. Multiple Agency and Interstate Undertakings**

a. With the agreement of all federal agencies and SHPOs involved, this Protocol will apply when more than one Federal agency is involved in an undertaking and Nevada BLM is the lead agency for NHPA compliance.

(1). Each agency agreeing to follow this Protocol will provide BLM and SHPO with a letter of agreement.

(a) No letter is needed where a separate interagency agreement or similar documentation establishing BLM as project lead has been approved previously and a copy of this agreement is on file with SHPO.

(2). When agencies and/or SHPO cannot agree that a Federal agency will follow the protocol, the affected agency and SHPO will negotiate a separate consultation process.

b. When more than one Federal agency is involved in an undertaking, and the BLM is not the lead agency for NHPA compliance, the BLM may agree that the lead agency's procedures will be followed.

(1) The BLM will provide the lead agency and SHPO with a letter of agreement.

c. When agencies intend to deviate from either this protocol, or the lead agency's procedures, or if the agencies cannot agree on whose procedures to follow, the agencies and SHPO may negotiate a PA prior to initiating work on the undertaking. An involved Federal agency that does not designate a lead Federal agency or does not participate in a PA designating a lead Federal agency will follow 36 CFR 800.

d. Undertakings on lands in other states managed by BLM Nevada may be processed without a project-specific PA when the BLM state office and SHPO from the other state have certified the relevant BLM Nevada personnel (i.e., CRS, managers) to work in that state.

## **2. Phased or Segmented Undertakings**

The BLM may determine that Section 106 compliance accomplished under the SPA for large or complex undertakings, or for undertakings with restricted access to historic properties, should be segmented or phased using an incremental approach to identification, evaluation, and treatment. The SHPO may ask BLM to consult in consideration of an incremental approach under these conditions as well.

a. Undertakings implemented under terms of this SPA that are phased over time or are otherwise segmented require an Agreement document if BLM wishes to defer final identification, evaluation of historic properties or application of the criteria of adverse effect. The BLM may propose to negotiate a Programmatic Agreement (PA) if BLM wishes to develop alternative procedures for any specific project. Any MOA or PA shall be completed and signed prior to BLM's issuance of a decision record for the undertaking.

b. The BLM and SHPO agree that BLM will conduct appropriate identification and evaluation activities to determine the presence of historic properties in an APE prior to authorizing an undertaking.

c. BLM will also take effects into account prior to authorizing an undertaking and will prepare an appropriate treatment plan prior to initiation of the undertaking. The BLM will ensure that the treatment represented in the plan occurs before historic properties are affected by activities associated with an undertaking.

## **3. Multiple BLM Office Undertakings**

a. Undertakings involving more than one Nevada BLM District or Field office will be reported to the DPO by the lead field office, or by all involved field offices if there is no lead. The DPO will recommend to the Deputy State Director, Resources, Lands and Planning, Nevada State Office (DSD) as to the need for a PA or other agreement among the involved BLM offices, the State Office, and the SHPO to define how the undertaking will be managed to comply with the NHPA. This determination will be based on factors such as project magnitude, complexity, and the opportunities to achieve improved project management by means of a PA or other agreement. The DSD will determine the need for a PA or other agreement and will also determine the timing to initiate field work in relation to development of the PA or other agreement.

b. As necessary, the DSD will consult with involved Managers to determine the lead office. When a PA or other agreement has been determined necessary by the Nevada State Office, the lead office will have responsibility for preparation of the agreement.

c. Undertakings involving minor crossings of BLM office boundaries (including, but not limited to seismic surveys, local power lines, small phone lines, and fence lines) and for which one field office is processing the undertaking for all involved field offices and is coordinating cultural resource management decisions among field offices, do not require a project-specific PA or other agreement. However, these projects must also be identified to the DPO.

#### **4. BLM Office Responsibilities during Preparation of Memorandum of Agreement**

a. In efforts to avoid, minimize or mitigate adverse effects to historic properties, BLM will negotiate a memorandum of agreement (MOA) with the SHPO and with other parties as appropriate.

#### **C. Undertakings Not Requiring SHPO Consultation prior to Authorization**

1. The BLM and SHPO agree that the BLM's professional cultural resources staff may conduct inventory, develop determinations of eligibility and effect and apply exemptions, without involvement of SHPO, except those specified in Section II.A.

a. When professional staff determinations and recommendations, or recommendations of appropriately qualified permittees or BLM contractors are approved by the appropriate BLM Manager, no SHPO consultation is required.

b. If the BLM Manager does not accept the professional determinations or recommendations of the cultural resource specialist, including but not limited to the scope of inventory, determinations of eligibility, findings of effect, and application of exemptions, the BLM Manager may either opt to employ the dispute resolution process in XIV.A of this Agreement, or may initiate consultation with the SHPO under 36 CFR 800.

#### **D. Thresholds for Council Notification**

The BLM will request the Advisory Council on Historic Preservation's (Council's) participation in the following classes of undertakings:

1. Nonroutine interstate and/or interagency projects or programs; or
2. Undertakings adversely affecting National Historic Landmarks; or
3. Undertakings the BLM determines to be highly controversial; or
4. Undertakings with adverse effects where BLM and SHPO cannot resolve disputes through formal agreement (e.g., Memorandum of Agreement).

### **III. NOTIFICATION/REPORTING TIME FRAMES**

#### **A. Notification**

1. Requirements for providing SHPO with a notification of an undertaking are found in I.B, above.

2. Undertakings Requiring SHPO Consultation Prior to Authorization: Unless otherwise agreed, the SHPO shall have 35 calendar days from receipt of appropriate documentation to respond to any BLM consultation request regarding identification, evaluation, treatment, or effect for undertakings specified in Section II.B.

3. Time frames for Discovery Situations are found in Section VI.

4. If the SHPO does not respond within the designated time limit, the BLM may assume SHPO concurrence and can proceed with the BLM's proposed course of action.

5. If BLM or its consultant discovers buildings or structures over 50 years of age are present, the BLM shall consult with SHPO under provisions of II.A.5.

## **B. Reporting**

For undertakings, BLM will select an appropriate format (i.e., inventory report, testing plan, treatment plan, data recovery plan, treatment report, etc.) to document its actions and decisions made in accordance with Section V of this Agreement. This will also include determination of the APE, the nature and intensity of information gathering efforts, level of public involvement, tribal and other Native American consultation, resource identification activities, National Register status, intensity of effect, and treatment needs for resources potentially affected by an undertaking. If an undertaking is phased, additional appropriate format(s) may provide for the resolution of adverse effects.

Except when working under a project-specific PA, or by other arrangement with SHPO, the reports, site records, and related documentation compiled in accomplishing provisions of Section V of this Agreement will be forwarded to SHPO within 35 days of authorizing the undertaking. Reports not forwarded to SHPO within this time frame or a time frame made by other arrangement with SHPO will be documented as described in Appendix A, including a date for completion and submission.

When working under a project-specific PA, the results of all other NHPA compliance activities shall be documented and reported as specified in the agreement.

## **C. Reporting Standards**

The BLM and the SHPO will collaborate on the development of standards for preparing inventory and treatment reports, and jointly developing isolated artifact, isolated feature, and site forms. The standards in the most recent edition of the BLM Nevada cultural resources inventory guidelines will be in effect.

1. The BLM and SHPO agree that the current edition of the Nevada Intermountain Antiquities Computer System (IMACS) site record forms and accompanying definitions and dictionaries adopted in BLM Nevada's Guidelines and Standards for Archaeological Inventory, or any successor guidelines and standards agreed upon thereafter, comprise the standard for archaeological site documentation and recording, except where the two agencies have made mutually agreed upon modifications or exceptions.

2. Standing buildings and structures will be documented by qualified persons using the SHPO's Historic Resources Inventory Forms, which are referenced in Appendix I. Reporting requirements for standing buildings and structures, also in Appendix I, will be followed.

3. Treatment of standing buildings and structures will be documented according to Appendix G, Documentation Standards for Historical Resources of Local and State Significance.

4. Archaeological resources and standing building or structure resources will be documented

in separate reports.

5. During inventory and recording phases, digital photography may be used. Requirements for digital photography during inventory and recording are found in Appendix M.

#### **D. Backlog Reports**

This Protocol is predicated in part on the assumption that the parties have need for and access to an automated site and project database that is as up-to-date as possible given circumstances of funding and staffing to aid in management planning, undertaking processing, and resource modeling. The available data from Nevada repositories has been or is being entered in the Nevada Cultural Resource Information System (NVCRIS) maintained by the SHPO, with the goal of creating one consolidated record-keeping system. One way in which NVCRIS can be impaired is by allowing a backlog of basic resource information and reports of identification, evaluation, and treatment to develop in field offices. Therefore, the Parties agree that:

1. Each Field Office will notify SHPO when documentation will take longer than 35 days, or will be completed outside of the time frames in a project-specific PA or cultural resources management plan (testing, treatment, data recovery, interpretation, etc.).

2. Projects initiated prior to the implementation of the Protocol dated June 4, 1999, can be cleared from a BLM office backlog by sending SHPO site records (including completed encoding forms) and maps, with project maps showing project boundary, APE, area inventoried, resource locations and a one page description of the project and how its associated cultural resource data were acquired. Unless a BLM office makes other arrangements directly with SHPO, the backlog in this category will be cleared within one calendar year after this agreement is signed by BLM and SHPO.

3. Projects that are or were cancelled prior to report preparation can be cleared from a field office backlog by sending SHPO site records (including completed encoding forms) and maps. If available, project maps showing project boundary, APE, area inventoried, resource locations and a one page description of the project and how its associated cultural resource data were acquired should also be forwarded to SHPO. Unless a BLM office makes other arrangements directly with SHPO, the backlog in this category will be cleared on or before September 30 of the year in which the project occurred, or within six months of project cancellation.

4. There may be projects which can no longer be reconstructed or retrieved sufficiently to create the minimum necessary records. Examples include projects where the specialist who did the work is no longer available, or there is insufficient information to allow the production of site or project records. These projects need to be identified and cleared from the BLM office backlog by informing the SHPO that they will never be completed and should be eliminated from BLM office files, data repository paper records, and NVCRIS. Unless a BLM office makes other arrangements directly with SHPO, the backlog in this category will be completed within six months after the last signature is applied to this Agreement.

#### **IV. DEFINING THE AREA OF POTENTIAL EFFECTS (APE)**

As early as possible in developing or processing an undertaking, the BLM CRS will define an appropriate APE that is sufficient to allow analysis and treatment of potential effects associated with the undertaking. In defining the APE:

A. The APE boundary is not limited by the physical footprint of the undertaking. It should be large enough to encompass all potential direct and indirect effects, including visual effects.

B. Levels of intensity in identification, evaluation, and treatment should be scaled by the scope of the undertaking and the nature of potential effects as follows:

1. Direct Physical Effects: The physical footprint of the undertaking and any other associated areas likely to experience primary physical effects will be inventoried to standards determined appropriate in the Inventory Needs Assessment process, or as defined in appendices to this Agreement; resources also will be evaluated, and effects will be treated as specified in Section V.

2. Indirect Physical Effects: If the undertaking creates or has the potential to create secondary physical effects, such as increased vandalism, erosion, or traffic, the physical footprint of those effects will be inventoried to standards determined appropriate in the Inventory Needs Assessment process, resources will be evaluated, and all effects will be treated as specified in Section V.

3. Effects to Setting: If the undertaking creates direct or indirect effects (i.e., changes that diminish the integrity of location, design, setting, materials, workmanship, feeling, and association that contribute to the property's significance) to an historic property's setting, then the APE will be defined to include appropriate consideration of those effects, using the Inventory Needs Assessment process. This determination may or may not lead to additional Class III inventory; however it will lead to some additional work such as visual simulation of changes, and development and evaluation of possible alternatives intended to reduce the effect on setting, including development of project design and location alternatives.

C. Although an APE is defined early in the identification process, the APE may be modified by BLM during the process when resources are avoided with the Standard Measures in Appendix H. If, in this case, the final APE does not contain historic properties, the BLM can document the lack of historic properties within the redefined APE and proceed with the undertaking using terms of section V.C.

1. Documentation for the undertaking will contain maps of both the original APE and the redefined APE, along with the basis for the redefinition.

2. Documentation will also include site records and maps for all resources located in the initial inventory and subsequently excluded from the APE through redesign (including deletion) as well as all resources within the redefined APE.

## **V. IDENTIFICATION, EVALUATION, AND TREATMENT OF HISTORIC PROPERTIES**

The BLM will ensure that historic properties that may be affected by any undertaking are identified and evaluated in accordance with the procedures established below. The BLM will ensure that undertaking-specific surveys and other efforts to identify and evaluate historic properties are conducted in accordance with appropriate professional standards. These standards are defined in BLM Manual 8110, *Identifying and Evaluating Cultural Resources*, BLM Manual 8140, *Protecting Cultural Resources*, Nevada BLM supplements to this agreement, the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716), and relevant written SHPO guidance.

## **A. Determining Information Needed**

1. **Level of Field Inventory:** The BLM and SHPO agree that Class III inventory will be the standard level of field inventory required to identify archaeological resources. Therefore, when the APE will be investigated with a Class III inventory, the BLM need not seek SHPO consultation on identification efforts prior to initiating the inventory unless consultation occurs per Section II.A or unless a PA or similar agreement is required or anticipated, per IIB.

a. If the undertaking is subject to SHPO review, and the BLM decides to investigate an APE at less than Class III intensity, BLM will consult with the SHPO on the adequacy of the inventory design prior to initiating the inventory or authorizing the proposed undertaking.

b. If the undertaking is not subject to SHPO review, the BLM will inform the SHPO per Section I.B, using an Inventory Needs Assessment Form, of its intent to deviate from Class III inventory standards prior to initiating the undertaking and allow SHPO to consider initiation of consultation within the time frames found in Section I.B.

c. The basis for the decision to deviate and the nature and coverage of the inventory, as well as the date and means of notifying the SHPO, must be documented in the report on the undertaking.

2. **Exemptions from Inventory Requirement:** Undertakings exempted from inventory requirements and from Section 106 review are identified in Appendix C. Other classes of exempted undertakings may be added to Appendix C if the BLM and the SHPO agree that such undertakings qualify.

3. The BLM CRS will, after determining information needed to identify and evaluate cultural properties, determine if specific undertakings should appropriately be exempted from further Section 106 review when the undertaking is not located within a historic property unless the specific provisions in Appendix C apply, as follows:

a. **Disturbed Areas:** If the CRS determines that previous ground disturbance has modified the surface of an APE so that the probability of finding intact cultural properties within the APE is negligible, then the disturbed portion of the APE should be excluded from further inventory and treatment.

b. **Previous Adequate Inventory:** If the BLM CRS determines that the APE, or any portion of the APE, is included in the area inventoried by an adequate Class III inventory completed within the last 10 years, and was previously reviewed by the SHPO, the BLM may proceed with determining eligibility and effect without additional inventory.

(1) Inventories more than 10 years old will be evaluated by the CRS to determine their adequacy for contemporary identification purposes in locating and evaluating historic properties in relation to land use applications subject to terms of this Protocol. This will include an assessment of need for further consultation with Indian tribes.

(a) BLM will notify SHPO prior to authorizing an undertaking when an



inventory more than 10 years old is determined adequate for identification purposes.

c. **Areas with Low Potential for Containing Historic Properties:** Areas that have not been inventoried, or appropriately modeled, will be treated as if they contain high sensitivity historic properties, unless the BLM and the SHPO jointly determine that specific areas do not need to be inventoried because current information suggests that the area has little or no potential to contain historic properties. Such determinations may be developed in two ways:

(1). **Project-Specific:** If the proposed undertaking is not listed in the exemptions found in Appendix C, the BLM will seek the concurrence from the SHPO on project-specific exemptions due to low site probability;

(2). **Supplemental Protocol Agreements:** Low site probability areas, identified through appropriate models and appropriately validated, may be exempted through a Supplemental Protocol Agreement between the BLM and the SHPO.

4. **When properties of religious and cultural importance to Indian tribes are identified,** consultation with tribes to comply with the NHPA will be guided by BLM Manual 8120, *Tribal Consultation Under Cultural Resources Authorities*, and BLM Handbook H-8120-1, *Guidelines for Conducting Tribal Consultation*.

5. **Reporting:** A record listing all undertakings authorized under this section will be documented in the Annual Report in accordance with the information requirements stipulated in Appendix A.

6. **Resources Extending Outside the APE:** The extent of inventory area outside of an APE, and the extent to which cultural resources outside of the APE are recorded shall be at the discretion of the BLM CRS.

a. **BLM's objective is to have site boundaries and characteristics determined completely whenever reasonably possible.** Where a site is large in area and extends beyond a project's APE, the extent of recording and collection of information should be sufficient to support evaluation of significance of the resource as a whole, per V.B.2.b, as determined by the BLM CRS.

## **B. Evaluation for National Register Eligibility**

1. **Categorical Determinations:**

a. **Classes of Properties Not Eligible for the National Register:** The BLM and the SHPO may jointly determine a class or classes of properties to be not eligible for listing on the National Register (Appendix E).

b. **Classes of Properties Eligible for the National Register:** The BLM and the SHPO may jointly determine a class or classes of properties to be eligible for listing on the National Register.

2. **Evaluation Standards:** All resources discovered or rerecorded within the APE during an

inventory shall be evaluated for inclusion in the National Register.

BLM evaluations shall be consistent with the *Secretary of the Interior's Standards and Guidelines for Evaluation* (48 FR 44729), BLM Manual 8110, *Identifying and Evaluating Cultural Resources*, Nevada BLM supplements to this agreement, and relevant written SHPO guidance.

a. Resources within the APE: The BLM will ensure that all resources identified within an APE are evaluated in accordance with the provisions of this Protocol.

b. Resources extending outside the APE: Sites located within an APE but extending outside of the APE must be evaluated as a whole. Except for contributing elements that straddle the APE boundary, elements of National Register Districts that are entirely outside of the APE do not have to be recorded or evaluated.

c. Linear features will be evaluated according to Appendix D.

d. Resources outside the APE: Resources completely outside of an APE and that will not be affected by the undertaking do not have to be evaluated.

3. Properties Eligible under Criterion D only: Using the guidelines referenced at Section VII, a professionally qualified BLM CRS can determine eligibility under National Register Criterion D for resources for which they are qualified (i.e., prehistoric and/or historic period archaeological sites) without initiating specific SHPO consultation.

a. Professionally qualified means that the cultural resource specialists have been determined to meet requirements expressed in Section VII.A.

b. A qualified consultant who is making recommendations to BLM will hold a BLM-issued Cultural Resources Use Permit which documents qualifications appropriate to the resources being evaluated.

4. Properties with Associative or Design Value under Criteria A, B, or C: This provision applies to properties significant for their association to events (Criterion A), their association with important persons (Criterion B), or because they are representative of a distinctive design or construction (Criterion C). Excluding property types discussed under V.B.3., the BLM's evaluation of National Register eligibility depends on BLM access to appropriate expertise. BLM's access to such expertise may be provided by a qualified BLM employee, a qualified person working directly for BLM under contract or other arrangement, or by a qualified person working for a BLM permittee or other consulting group.

a. Since BLM does not permit historians, historic architects, or architectural historians, consultants in these areas must meet personnel qualifications listed in Appendix I.

b. If the undertaking is being reviewed by the SHPO pursuant to Section II.A, the BLM will determine eligibility in consultation with the SHPO. If the BLM and the SHPO agree there are no eligible properties identified within an undertaking's APE, BLM may document this conclusion in the case file and proceed with the undertaking without further consultation.

c. If the undertaking is not being reviewed pursuant to Section II.B, and

(1) the BLM has access to professionally qualified consultants, and the BLM CRS agrees with the consultant's eligibility recommendations, the BLM can proceed with the undertaking without specific SHPO consultation on eligibility. Or,

(2) If the BLM cultural resource specialist disagrees with the consultant's recommendations, the BLM must consult with SHPO regarding eligibility before proceeding with the undertaking. Or,

(3) If BLM has professionally qualified staff, the BLM can make eligibility determinations and proceed with the undertaking without specific SHPO consultation.

d. Historic period linear features will be evaluated as specified in Appendix D.

5. Provisions for evaluation extend to properties of religious and cultural significance to Indian tribes. Eligibility determinations are made by the BLM Manager based on consultation with affected Indian tribes and on recommendations made by professionally qualified cultural resources staff. The BLM also acknowledges that Indian tribes possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance. The BLM's consultation process should follow Manual 8120 (*Tribal Consultation Under Cultural Resources Authorities*) and Handbook 8120-1 (*Guidelines for Conducting Tribal Consultation*).

6. Disagreement on Eligibility:

a. The BLM decision regarding eligibility may differ from a consultant's recommendations, in keeping with qualifications of BLM's qualified staff. The BLM will not require the consultant to amend the final report to conform to the BLM's decision. Instead, the BLM's decision, not the consultant's recommendations, will form the basis for Section 106 compliance.

b. When a consulting party, defined in 36 CFR 800.2(c), other than the consultant making the determination, disagrees with BLM eligibility determinations, BLM will request the view of the SHPO on an eligibility determination.

If the SHPO and BLM cannot agree whether the eligibility criteria are met, or if the Council so requests, the BLM will seek a formal determination of eligibility from the Keeper of the National Register pursuant to 36 CFR Part 63.2.

c. If an affected Indian tribe does not agree with a BLM determination that a property of religious and cultural significance is not eligible for the NRHP, the affected tribe may ask the Advisory Council on Historic Preservation to request that the BLM to seek a determination of eligibility from the Keeper of the National Register.

## **C. No Adverse Effects**

1. No Historic Properties Present: If, as a result of an appropriate inventory (as defined in BLM Manual 8110 and this Protocol), the BLM determines that there are no historic properties within the APE, BLM will report to SHPO as per Section III.B of this Agreement, notify interested persons, if any, and proceed with the undertaking.

2. No Historic Properties Affected: If the BLM determines that identified historic properties will be avoided with the Standard Measures in Appendix H, the BLM can determine that the undertaking will have no effect on historic properties and proceed with the undertaking without SHPO consultation. Documentation for the undertaking will include the basis for this determination.

3. Effect Situations: In determining if an undertaking has an effect on historic properties, the BLM will follow 36 CFR 800 and apply the Criteria of Effect and Adverse Effect.

a. Effect means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register of Historic Places.

b. An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.

4. SHPO Involvement. If the undertaking is being reviewed by the SHPO pursuant to Section II, the BLM will determine effects in consultation with SHPO. Issues relating to BLM's findings of effect or treatment which cannot be resolved between BLM and SHPO shall be referred to the Advisory Council for review.

a. Effects to historic properties located within an APE but extending outside of the APE must be treated as if the property is completely within the APE.

b. In accordance with the Council's *Treatment of Archaeological Properties - A Handbook*, Principles; 36 CFR part 68 (1995); and BLM Manual 8140, avoidance is the preferred strategy for treating potential adverse effects on cultural properties. When an undertaking is planned within or around the boundaries of historic properties, and the BLM treats potential effects to properties potentially affected--including properties eligible or important for reasons other than the information they contain--with the Standard Measures in Appendix H, so that the undertaking will not affect the qualities that contribute to the significance of the properties, the undertaking will be considered to have "no adverse effect." In these cases, the BLM need not consult with the SHPO on effect before proceeding with the undertaking.

c. If avoidance is not prudent or feasible, the BLM will consider a range of alternative physical or administrative treatments to minimize potential effects. The BLM may make a determination of effect resulting from implementation of these treatments as described in section V.C.5. The BLM will provide appropriate documentation including a report on

identification and evaluation efforts and a treatment plan intended to minimize effects to the SHPO, in accordance with V.C.5.

5. No Adverse Effect Situations include but are not necessarily limited to:

a. restoring, rehabilitating, stabilizing or otherwise altering a building, structure, or feature using means consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part 68 and applicable guidelines);

b. transferring, leasing, or selling a historic property with adequate restrictions and legally enforceable restrictions or conditions included in the transfer documents to ensure the long-term preservation of the property's historic significance; or

c. conducting applicable undertakings in accordance with Appendix F, Categorical No Adverse Effect Situations; or,

d. treating visual effects by maintaining the integrity and existing character of the NRHP-eligible historic landscape. Treatment is adequate when the level of change to the characteristic historic landscape can be seen but does not attract attention from the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant historic features of the characteristic historic landscape. If this objective cannot be achieved, BLM will consider additional measures to treat visual effects to setting in consultation with SHPO.

**D. Adverse Effects.** BLM will consult with SHPO for any undertaking resulting in an adverse effect determination. Undertakings resulting in adverse effect determinations are those for which treatment includes some or all of the following:

1. Implementing a data recovery plan for a property that is significant because of the data that it contains, provided the plan reflects the Advisory Council's Guidance on the Recovery of Significant Information from Archaeological Sites (May 18, 1999) and is accomplished using a Memorandum of Agreement or other agreement document involving SHPO and other appropriate parties;

2. Undertakings resulting in an adverse effect determination are those affecting properties of local or state significance and for which treatment can be achieved through the following:

a. documenting, to the standards in Appendix G, the significant architectural, historical, or engineering attributes of an architectural or historic building, structure, or feature; or

b. implementing a treatment plan resulting in interpretation, public education, collection of oral histories, or other methods agreed to by BLM and the SHPO.

c. Adverse effects to properties that are National Historic Landmarks, or otherwise eligible or listed as nationally significant will be determined and treated in consultation with the SHPO and Council, pursuant to Section II.D. As early as possible in the planning process, BLM will notify the SHPO and Council if an undertaking may have an adverse effect on a NHL or other nationally significant property. In these cases, the BLM's determination of

effect with supporting documentation can be sent to the Council and SHPO for concurrent review.

d. An undertaking's potential effects to properties of religious and cultural significance, as defined in BLM Manual 8120, and reasonable treatments for those effects can only be determined in consultation with the people who value the property. For Indian tribes and for Native American individuals, consultation shall be guided by BLM Manual 8120, *Tribal Consultation Under Cultural Resources Authorities* and BLM Handbook H-8120-1, *General Procedural Guidance for Native American Consultation/Guidelines for Conducting Tribal Consultation*. BLM Manual 8120 will also be used as a basis for determining and treating adverse effects to historic properties of religious and cultural significance.

(1) The BLM, with tribal concurrence, may seek the assistance of the SHPO in resolving disputes about effects on properties of religious and cultural significance.

(2) If Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered during an undertaking involving BLM managed lands, the parties will comply with the Native American Graves Protection and Repatriation Act (NAGPRA) and its implementing regulations at 43 CFR Part 10, Subpart B. Human remains and associated grave goods on private land will be handled according to the provisions of Nevada statute NRS 383.

e. BLM will prepare a Memorandum of Agreement (MOA) addressing adverse effects when BLM and SHPO agree on the measures to be taken.

(1) The MOA establishes BLM-SHPO concurrence regarding the resolution of project-related adverse effects according to a historic properties treatment plan. The BLM should initiate consultation with SHPO regarding eligibility, effects and resolution of adverse effects with sufficient lead time to allow for development of an MOA on a schedule meeting the undertaking's anticipated decision record. The MOA should be signed by the appropriate parties prior to BLM's issuance of a decision record for the undertaking.

(2) If BLM and SHPO cannot agree on the measures to be taken to address adverse effects from an undertaking, the dispute resolution measures in Section XIV will be implemented.

## **E. Treatment Limitations**

Where BLM's treatment options for historic properties on non-Federal lands may be limited due to land status or statutory authority, appropriate treatment actions will be developed by BLM in consultation with the SHPO. The BLM will inform the SHPO of potential limitations to treatment as early as possible in the planning process. An adverse effect is created when treatment limitations are so severe that BLM and SHPO cannot develop appropriate treatment.

## **VI. DISCOVERY SITUATIONS**

### **A. Planning For Discoveries**

The BLM will require discovery plans for large and complex undertakings and those involving land

disturbance in areas known to contain buried sites. If the undertaking is being reviewed by the SHPO pursuant to Section II, the proposed discovery plan will be forwarded to the SHPO for review along with BLM's determination of effect for the undertaking. With SHPO concurrence, the discovery plan will govern how discoveries will be handled.

## **B. Unplanned Discoveries**

If a Discovery Plan is not developed, and the BLM determines, after completion of the review process outlined in this Protocol, that an undertaking may affect or has affected a previously unidentified property that may be eligible for the National Register, the BLM will:

1. Ensure that activities associated with the undertaking within 100 meters of the discovery are halted and the discovery is appropriately protected, until the BLM Authorized Officer issues a Notice to Proceed (NTP).

a. If the undertaking is not being reviewed by the SHPO pursuant to Section II, BLM will determine if an adverse effect exists. If an adverse effect is found, BLM will identify the applicable criteria of significance and will propose actions to resolve the adverse effects. BLM will notify SHPO, the Council, affected tribes and any other identified consulting parties, who will have 48 hours from the initial notification to respond to BLM, which will take any recommendations into account regarding eligibility and proposed treatment, and will then implement appropriate actions. A copy of the resulting report will be provided to consulting parties within 90 days after report completion and acceptance by BLM.

b. Notices to Proceed (NTP) may be issued by the BLM under any of the following conditions:

- (1) evaluation of potentially eligible resource(s) results in a determination that the resource(s) are not eligible; or
- (2) the fieldwork phase of the treatment option has been completed; and
- (3) the BLM has accepted a summary description of the fieldwork performed and a reporting schedule for that work;

2. If the undertaking was approved under the stipulations at Section II, the BLM shall notify the SHPO and consider SHPO's initial comments on the discovery. If the undertaking was approved under the stipulations at Section II.D, the BLM shall notify the SHPO and the Council and consider the SHPO's and Council's initial comments on the discovery.

a. Within two working days of notification to the SHPO, the BLM shall notify the proponent, tribes, and other interested persons as appropriate, of the BLM's decision on eligibility and proposed treatment, if any, and solicit comments on the BLM's proposed course of action;

b. The SHPO, Council, tribes, and other interested persons as appropriate, will be asked to provide BLM with comments within two working days of BLM's notification. Any timely comments offered by the SHPO, Council, Tribes, and other interested persons will be documented, considered in dealing with the discovery, and, subject to confidentiality

requirements, be made available for public inspection;

c. The BLM shall notify the SHPO, Council, tribes, and other interested persons of its decision regarding evaluation and treatment and shall ensure that treatment actions, if any, are implemented; and

d. The BLM shall ensure that reports of treatment efforts for discovery situations are completed in a timely manner and conform to the stipulations of this agreement. Final reports on the treatment effort shall be sent to the SHPO, Council, tribes, and other interested persons as appropriate, for informational purposes, within 90 days after BLM has accepted the report.

e. Potential treatment options include archaeological excavation and removal under terms of an approved data recovery plan reflecting the Advisory Council's Guidance on the Recovery of Significant Information from Archaeological Sites (May 18, 1999).

## **VII. STAFFING AND OBTAINING SPECIALIZED CAPABILITIES**

### **A. Staffing**

1. Per the NHPA, Section 112, the BLM will ensure identification and evaluation of cultural resources by specialists who meet the qualifications and are classified in the appropriate professional series by the Office of Personnel Management (e.g., Series 193 for archaeologists). Specialists at, or below, the GS-7 level are considered to be performing duties in a trainee or developmental capacity. Reports prepared by GS-7 or below specialists, District Archaeological Technicians, volunteers or any cultural resource consultant, must be submitted to the SHPO after review by a GS-9 or higher grade cultural resources specialist. Any involved resources will be evaluated by a GS-9 or higher grade cultural resources specialist.

2. When new managers or cultural resources specialists are hired by a BLM office, the BLM will ensure that the new managers or cultural resources specialists receive orientation and training, within 90 days, in BLM Manual procedures and procedures for operating under this Protocol; the BLM and SHPO may agree to an alternative time frame in specific cases. It shall be the responsibility of the BLM DPO to provide appropriate orientation and training to new managers and cultural resource specialists; the DPO will coordinate with SHPO to involve SHPO in training. Training needs will be reviewed during the annual review meeting. As funding is available, BLM may provide assistance to SHPO for purposes of this training. Prior to the orientation, the BLM office will be required to follow the procedures at 36 CFR Part 800 when no trained cultural resource specialists are on staff. Once the orientation and training are completed, the State Director will notify the SHPO and the affected BLM office that new staff may implement the procedures of this Protocol.

a. The SHPO will invite BLM to participate in training of new SHPO review and compliance personnel.

3. The BLM may utilize the services of qualified consultants for purposes of inventory, evaluation, treatment, and management. BLM will ensure that consultants, who may also be represented as permittees or as contractors, either working directly for the BLM or for a land-use proponent, will meet the educational and experience requirements established in the Secretary of the Interior's Historic Preservation Professional Qualification Standards (36 CFR 61, Appendix A [1983]). Persons working in the capacity of a consulting archaeologist must qualify according to



standards established in BLM Manual 8150.12B2b and by Nevada BLM, including separate provisions for qualifications relating to prehistoric archaeology and historic period archaeology.

### **B. Specialized Capabilities**

When the BLM is involved in an undertaking requiring expertise not possessed by available BLM staff (e.g., architectural history), it will obtain that expertise to determine National Register eligibility, effects, and treatment for the cultural properties in question. The BLM may request the assistance of the SHPO staff in such cases or may obtain the necessary expertise through contracts, BLM personnel from other states, or cooperative arrangements with other agencies. Those persons will be qualified per those criteria set forth in VII.A.3, above.

## **VIII. RELATIONSHIP TO OTHER AGREEMENTS AND OTHER AUTHORITIES**

A. In the event the NPA is suspended or terminated, this agreement will remain in effect until a replacement for the NPA is made. Existing project specific agreements remain in effect.

This protocol will be implemented in accordance with provisions of 36 CFR 800 issued August 5, 2004, and in effect at the time of signing.

B. BLM and SHPO may agree, by reference or by incorporation, to use procedures and related appendices of this State Protocol Agreement in other plans, memoranda and agreements, including programmatic agreements. The procedures and related appendices include:

1. notification or consultation with SHPO,
2. definition of an undertaking or the APE,
3. identification and evaluation of cultural resources, including definitions and determinations of resource types which are categorically not eligible (Appendix E),
4. reporting procedures and recording of cultural resources,
5. tribal involvement,
6. public participation,
7. professional qualifications,
8. unplanned discoveries,
9. reporting,
10. documentation standards for historical resources of local and state significance (Appendix G), and
11. avoidance measures.

## **IX. ADMINISTRATIVE INTERACTION AND REPORTING REQUIREMENTS**

The BLM Nevada State Office, with input from the district offices, will prepare a report to the SHPO that describes the implemented actions taken in the previous federal fiscal year. This report will be due to the SHPO in December of each year and will include the information outlined in Appendix A.

## **X. SHPO INVOLVEMENT IN RESOURCE MANAGEMENT PLANNING**

The BLM and SHPO have agreed to limit SHPO involvement in case-by-case undertaking review and to increase SHPO participation in the BLM land-use planning process. In order to allow broad and active participation by SHPO in BLM's planning activities, the BLM and SHPO agree that:

## **A. Resource Management Planning**

Each District Office responsible for preparing or amending a land use plan (Resource Management or Management Framework Plan) or preparing an Activity Plan (such Fire Management Plans, Allotment and Habitat Management Plans, Cultural Resource Management Activity Plans, Travel Planning and Recreation Management Planning) that may affect cultural resources will invite the SHPO to participate, as a cooperating agency, from the beginning of the planning process. The SHPO agrees to provide the BLM with technical assistance in preparing National Register nominations.

## **B. Project Planning**

As early as possible in the scoping/planning process for major undertakings (i.e., large surface disturbing projects, land transfers, rights of way, etc.), the appropriate BLM Manager will contact the SHPO to discuss likely effects to cultural resources. This discussion should focus on facilitating these projects to meet cultural resource preservation goals. Project planning discussions may be by telephone, correspondence, or meetings, as agreed between the parties.

## **C. Informal Consultation**

The SHPO is encouraged to meet with the BLM State Office or a BLM Manager at any time to discuss annual work plans, specific undertakings, outreach efforts, or other issues related to Cultural Resource Management. The BLM will make every effort to arrange such meetings in a timely manner and to provide information requested by the SHPO. The SHPO and BLM personnel may confer informally, at their discretion, on specific undertakings or the BLM Cultural Resource Management Program.

Field Tours: BLM Field Offices will notify the SHPO, in writing, of public field tours relating to land use planning efforts (RMPs and RMP amendments) or to Environmental Impact Statement (EIS) planning efforts that may affect cultural resources. The BLM should also invite SHPO's participation in other projects or activities that may be subject to Environmental Analysis (EA) land use planning efforts and involve very sensitive or controversial cultural resources issues.

## PART 2. SECTION 110 AND OTHER ACTIVITIES

### XI. COOPERATIVE ACTIVITIES

The BLM and the SHPO recognize the advantages of working together on a wide range of cultural resource preservation activities, pursuant to NHPA sections 110 and 112. Accordingly, BLM and SHPO will cooperatively pursue the following efforts:

#### A. Data Sharing and Information Management

The BLM and the SHPO will work jointly in regard to Data System Management, to include a statewide automated cultural database which will be accessible from all BLM Offices and available to appropriate persons. The BLM and the SHPO will further collaborate on ways to synthesize and use the automated cultural data to develop Geographic Information System (GIS) capabilities. The BLM and the SHPO will continue to cooperate in this endeavor by providing financial, personnel, hardware, and software resources as funding becomes available. The SHPO agrees to be responsible to maintain this system (currently known as the Nevada Cultural Resources Information System, or NVCRIS), or systems. To the extent allowed by current funding levels, the BLM will support and cooperate with SHPO in developing and maintaining NVCRIS to support BLM's activities, particularly in planning and inventory.

#### B. State BLM Supplemental Guidance

In addition to the procedures described in Bureau-wide directives and Manuals, Nevada BLM will be guided by procedural supplements (guidelines or handbooks) issued by the Nevada State Office. The BLM will update these supplements as needed to conform to Bureau-wide directives, policies issued by the Nevada State Director, new laws, new regulations, and operational needs. The SHPO will be invited to participate in development and subsequent revisions of all supplements and handbooks. BLM will also be guided by procedural supplements (guidelines or handbooks) issued by the SHPO for historic archaeology and historic architecture. The BLM will be invited to participate in developing any subsequent revisions of all SHPO supplements and handbooks.

BLM field procedures will be detailed in a Nevada BLM Handbook as a supplement to BLM Manual procedures. Until this is done, the standards (but not the processes) in the Statewide Programmatic Agreement, dated July 29, 1990 and the 4th edition of the *BLM Nevada Cultural Resources Inventory General Guidelines* will remain in force. All changes or amendments to the handbook procedures will be made in cooperation with the SHPO.

#### C. Public Outreach, Site Stewardship, and Heritage Education

The BLM and the SHPO will work cooperatively to promote and enhance public education and outreach in Historic Preservation and Cultural Resources Management through the following programs:

1. Archaeology Awareness and Historic Preservation Month: The BLM and the SHPO will participate in and support financially, as funding permits, *Archaeology Awareness and Historic Preservation Month* activities, including public presentations, field tours and excavations, exhibits, archaeology fairs, posters, brochures, and educational activities.

2. Project Archaeology: The BLM and the SHPO will support *Project Archaeology* as a component of BLM's Heritage Education Program, by encouraging staff archaeologists to be trained and serve as facilitators in the program, with the goal of

integrating the teaching of archaeological concepts and preservation ethics in Nevada schools statewide.

3. Adventures in the Past/Heritage Education: The BLM and the SHPO may, as funding permits, cooperatively work on the interpretation of cultural resources through a variety of media including, but not limited to exhibits, brochures, lectures, radio and television promotions, Internet web pages, and interpretive signs.

4. Nevada Archaeological Association: The BLM and the SHPO are encouraged to work cooperatively with the Nevada Archaeological Association to promote preservation ethics, good science, and professional standards statewide to amateur archaeologists by participating in society meetings, serving as chapter advisors, providing presentations and demonstrations, and providing assistance as appropriate.

5. Professional Organizations: The BLM and SHPO cultural resource specialists are encouraged to participate in and work cooperatively with professional historic preservation organizations to promote preservation ethics, science, history, and professional standards statewide, and open dialogue regarding historic preservation issues.

6. Site Stewardship:

a. The BLM is committed to supporting the SHPO statewide site stewardship program and will:

(1) identify cultural resources locations where BLM desires monitoring to occur and will share related cultural resources data;

(2) provide training support (including accompaniment during an initial site visit) and training opportunities to site stewards, as possible within limitations of funds and staff time. BLM will also support the program by limiting site stewards to those enlisted BLM volunteers that have been appropriately trained in the SHPO program.

(3) where possible, BLM field offices will designate a cultural resources specialist as the point of contact responsible for coordinating site stewardship activities.

b. The SHPO agrees to:

(1) coordinate the statewide program and related documentation,

(2) maintain a roster of appropriately trained stewards

(3) work with BLM to match stewards with resources to be monitored, and

(4) provide reporting data to BLM regarding site steward activities and accomplishments.

(5) SHPO will coordinate with BLM to ensure that site stewards working on BLM managed lands are enrolled as BLM volunteers prior to working as site stewards.

#### **D. Historic Context and Research Design Development**

The BLM and the SHPO will jointly develop standards and guidelines for historic contexts and research designs and will strive to involve other land-managing agencies and the public in this effort. The BLM and the SHPO will jointly develop statewide priorities for historic context or research design needs and develop high priority contexts and designs, as funding permits. Project-specific contexts may be developed as needed.

Historic contexts must be consistent with the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716). In accordance with Section 101(b)(3) of the NHPA, the SHPO shall review and provide comments on BLM historic context documents developed as general guidance independent of any particular undertaking. Non-undertaking specific historic contexts that define site eligibility criteria, levels of adequate inventory, site documentation requirements, standards for assessment of effects, or appropriate treatment of historic properties shall require SHPO concurrence prior to implementation.

As supplements to this Protocol, the BLM and SHPO may jointly develop research plans, or treatment approaches, designed to answer specific questions, or deal with recurring treatment issues, in ways that programmatically resolve the issue. Such supplements will include a clear process for resolving the issue and funding commitments to ensure that the issue is resolved in a timely manner.

#### **E. Public Participation**

The BLM will seek and consider the views of the public when considering undertakings in compliance with this Protocol through the public participation opportunities mandated by the National Environmental Policy Act (NEPA), and the Federal Land Policy and Management Act (FLPMA), as implemented at 43 CFR Part 1610.3. Interested parties shall be invited to consult early in the review process if they have expressed an interest in a BLM undertaking or action subject to the Protocol, or if they have expressed an interest in a particular class of cultural resources (e.g., historic trails). Such interested parties may include, but are not limited to, local governments; grantees, permittees, or owners of affected lands or land surfaces; Indian Tribes, organizations, and individuals; and those seeking to participate as consulting parties in a particular undertaking. Participation shall be guided by 36 CFR 800 and by BLM Manual 8110.12. American Indian participation shall be guided by the provisions of BLM Manual 8120 and Handbook H-8120-1 and by 36 CFR 800.

#### **F. SHPO Planning**

The SHPO will invite BLM to participate in the identification of problems, issues and potential solutions in the SHPO's State Historic Preservation Plan (SHPP). The BLM will reflect those components of the SHPP in its planning process, as appropriate.

## PART 3. PROGRAM REVIEW AND MONITORING

### XII. PROGRAM REVIEW

The NPA assigns duties to the Preservation Board to ensure that the cultural resources policies and procedures are being followed appropriately by the BLM offices. Further, where problems are identified, the Preservation Board is assigned the responsibility for movement to correct the matter.

The Preservation Board may choose to review an office's certification status to operate under terms of the NPA and state protocol agreement. The State Director, a BLM manager, the ACHP, or the SHPO may request that the Preservation Board initiate a review.

This Protocol establishes an internal process of program review in order to ensure that Nevada offices are operating in conformance with policies and procedures laid out in the NPA and this Protocol, prior to invoking assistance from the Preservation Board.

**A. Review.** Professional review of field office programs is a component of certification. Such reviews are intended to improve operations at individual BLM offices having responsibilities under this Protocol as well as the cultural resource program statewide. The DPO will ensure that reviews take place. Reviews may involve any aspect of a program's function including, but not limited to, documentation, findings and recommendations, record keeping and curation, security, and professional contributions.

1. If the SHPO documents a pattern of failure to comply with the terms of this Protocol, the SHPO may ask the State Director for a program review of a district or field office's status and its capability for carrying out the terms of the NPA and this Protocol.
2. A district or field office manager or the BLM State Director may request reviews that would be organized or led by the DPO.

**B. Levels of DPO Review.** Three levels of review are available to the DPO: annual review, technical review and program review. Findings of reviews shall be relevant for purposes of assessing certification status of the BLM's offices. The SHPO or a BLM Manager may also request a review of a BLM office's status and its capability for carrying out the terms of the NPA and this Protocol.

**1. Annual Review.** The DPO shall assess annually each office's ability to implement the provisions of the Protocol. The Annual Review will be based primarily on information and data submitted for the Annual Report required in Appendix A of this Protocol; however, other data also may be considered.

**2. Technical Review.** The DPO shall determine whether BLM offices are maintaining an appropriate level of technical capability and performance in particular program elements such as documentation of protocol actions, Section 110 actions, curation, inventory documentation, determinations and findings from Annual Reviews.

**3. Program Review.** The DPO shall determine whether BLM offices' Cultural Resource programs are fully functional in their ability to implement the Protocol. Program reviews are broad-based reviews, some of which take place at the district or field office. Review teams will consist of the DPO, representation from the Nevada State Historic Preservation Office and any other BLM staff the

Nevada State Office deems appropriate. A review team shall have the ability to interview cultural resource staff, other resource staff and managers, have access to Cultural Resources Management records and maps, NEPA files, and other appropriate documentation. The team would be responsible for developing findings and generating a set of recommendations to be reviewed by the State Director. When the State Director accepts the report, the report will be sent to the appropriate district or field office manager. Reporting will occur per terms of XII.B.4.

**4. Reporting.** The DPO shall document the findings of the review and following acceptance by the State Director, forward the findings with the report to the SHPO. When recommendations to correct deficiencies receive SHPO concurrence and are accepted by the State Director, implementation of such recommendations shall become the responsibility of the BLM Manager to initiate corrective actions within sixty (60) days from the date the recommendations are accepted by the State Director. Depending on the nature of the identified deficiencies, the State Director may elect to place a Field Office in provisional status according to the procedures describes in Stipulation XIII of this Protocol.

### **XIII. DECERTIFICATION FOR CAUSE**

#### **A. Action Plans**

The State Director shall be informed if review by the DPO determines that there are compliance problems with a district or field office. The BLM State Director may ask the DPO to prepare an action plan, in consultation with the SHPO, that when implemented would bring that office into compliance with this Protocol. The DPO, in consultation with the SHPO, may also recommend that the State Director place a district or field office on a provisional status based on findings from any of the reviews specified in Stipulation XII of this Protocol.

The BLM State Director may request a review and recommendations from appropriate staff and/or the Preservation Board.

#### **B. Provisional Status**

A BLM office is under Provisional status when the State Director has directed the office to implement an Action Plan. The involved BLM office will continue to operate under terms of the Protocol until deficiencies are corrected within the terms and time limits set under the Action Plan. While on provisional status, a district or field office will have the opportunity to correct deficiencies under the Action Plan at any time. If all parties agree that the problems have been corrected, the State Director will issue a memorandum to the affected district or field office manager and SHPO that the district or field office is once again in compliance and restored to certified status.

1. If not corrected beforehand, upon expiration of the provisional status term, the parties to this Protocol shall convene to determine whether identified deficiencies have been satisfactorily corrected. Their findings shall be conveyed to the State Director. Should the State Director determine that such deficiencies remain uncorrected, or should new deficiencies that the parties deem significant be identified, the decertification process shall be initiated.

#### **C. Decertification for Cause**

If the State Director determines that a BLM office remains out of compliance, he or she may decertify

a Field Office from operating under the terms of this Protocol. A BLM office that is decertified from operating under this Protocol will comply with the regulations at 36 CFR Part 800 until it is reinstated.

The State Director, in consultation with the SHPO, shall develop an action plan to bring any decertified office into compliance with this Protocol. After the subject BLM office believes that it has completed the actions specified in the plan, it will notify the State Director through the BLM DPO.

The District or Field Office Manager, the DPO or the SHPO may request that the Preservation Board review a district or field office's certification status. The Preservation Board will respond under the terms of the NPA at Component Eight. If the Preservation Board finds that a BLM office does not maintain the basis for its certification (e.g., the professional capability needed to carry out these policies and procedures is no longer available, or the office is not in conformance with this Protocol), and the BLM Manager has not voluntarily suspended participation under this Protocol, the Preservation Board will recommend that the State Director decertify the district or office, per the NPA.

1. A district or field office manager may ask the State Director to review the Preservation Board's decertification recommendation, in which case the State Director may ask the Director to review the Preservation Board's decertification, in which case the Director will request the Advisory Council's participation in the review, per the NPA.

2. The Preservation Board will notify the Nevada SHPO and the Advisory Council if the status of a certified office changes. In consultation with the SHPO, and at the direction of the State Director, the DPO will prepare a Plan of Action to address the identified deficiencies. The DPO may consult with the Preservation Board in preparing a Plan of Action.

3. When a district or field office is suspended or decertified, the responsible manager shall follow the procedures of the most current version of 36 CFR 800 to comply with Section 106.

4. If a suspended or decertified district or field office is found to have restored the basis for certification, the Preservation Board will recommend that the State Director recertify the office.

#### **XIV. BLM-SHPO DISPUTE RESOLUTION**

The NPA requires this Protocol to contain provisions for resolving disagreements. This section addresses that requirement in relation to BLM-SHPO disagreements and also establishes measures for dispute resolution involving members of the public and Indian tribes, for use when this Protocol is applied, referenced or included as part of another agreement.

##### **A. Disputes Involving BLM and SHPO**

1. The BLM or the SHPO may object to an action proposed or taken by the other pursuant to this Protocol. When informal resolution is not effective or satisfactory, the objecting party shall notify the other party in writing of the objection. Within seven (7) calendar days following receipt of notification, the parties shall initiate a formal 30 calendar day consultation period to resolve the objection. If the objection is resolved within this time frame, the parties shall proceed in accordance with the terms of that resolution.



2. If the objection is not resolved within this time frame, and the parties have not agreed to extend the consultation period, the DPO shall refer the objection to the Preservation Board, which will provide the State Director with its recommendations, per Component 2 of the NPA. If the State Director accepts the Board's recommendations, the State Director shall promptly notify the SHPO of such acceptance, provide a copy of the Board's recommendations, and afford the SHPO 30 calendar days following receipt of the notification to comment on the recommendations. If the SHPO concurs in the Board's recommendations within this time frame, the State Director and the SHPO shall proceed in accordance with the Board's recommendations to resolve the objection.

3. If either the State Director or the SHPO rejects the Board's recommendations after a period of consideration not to exceed 30 days, the State Director shall promptly notify the Board in writing of the rejection, and immediately thereafter submit the objection, including copies of all pertinent documentation, to the Advisory Council on Historic Preservation for comment in accordance with Component 4 of the NPA. Within 30 calendar days following receipt of any Council comments, the State Director shall make a final decision regarding resolution of the objection and in writing notify the Board, the SHPO and the Council of that decision. The objection shall thereupon be resolved. In reaching a final decision regarding the objection, the State Director shall take into account any comments received from the Board, the SHPO, and the Council pursuant to this stipulation.

#### **B. Disputes by a Member of the Public or a Federally-recognized Indian tribe or individual**

1. If a Member of the Public or a Federally-recognized Indian tribe objects at any time in writing to the manner in which this Protocol is being implemented, the BLM shall consult with the objecting party for a period not to exceed 30 days and, if the objecting party requests, with the SHPO, to resolve the objection. If the objecting party and the BLM resolve the objection within 30 days, the BLM shall proceed in accordance with the terms of that resolution. The BLM should inform SHPO of any objections and the outcome of attempts at resolution within 10 days after period of resolution has expired.

2. If the objection cannot be resolved, and if the objecting party has not requested review by the Council under II.D.3 of this Agreement, the DPO shall refer the objection to the Preservation Board, which will provide the State Director and the objecting party with its recommendations for resolving the objection. If the State Director and the objecting party accept the Preservation Board's recommendations, the State Director shall proceed in accordance with these recommendations to resolve the objection.

3. If either the State Director or the objecting party rejects the Preservation Board's recommendations for resolving the objection, the State Director shall refer the objection to the Council in accordance with Component 4 of the NPA. The State Director shall make a final decision regarding the resolution of the objection and shall in writing notify the Board, the objecting party, the SHPO and the Council of that decision. The objection shall thereby be resolved. In reaching a final decision regarding the objection, the State Director shall take into account any comments received from the Board, the objecting party, the SHPO, and the Council pursuant to this paragraph. Any objection filed pursuant to this paragraph shall not prevent the BLM from proceeding with project planning; however, project implementation shall be deferred until the objection is resolved pursuant to the terms of this paragraph.

#### **XV. AMENDMENTS AND TERMINATION OF THE PROTOCOL**

A. The BLM or the SHPO may propose amendment of this Protocol at any time, whereupon the parties shall consult to consider such amendment. "Amendment" refers to the process of adding supplemental procedures or modifying current procedures for specific BLM programs when parties to the Protocol wish those procedures to be made explicit. The amendment process culminates in the issuance of Protocol Amendments, which are administratively appended to the Protocol on their effective date. Amendments to the Protocol will only become effective upon signature of both parties. Protocol Amendments shall be housed in an appropriate and designated part of this Protocol.

B. The BLM or SHPO may terminate this Protocol or any Protocol Amendment. The party proposing termination shall in writing notify the other party of intent to terminate and explain the reasons for proposing termination. Within seven calendar days following receipt of such notification, the parties shall initiate a 90 day consultation period 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, the party proposing termination may terminate this Protocol or any Protocol Amendment by providing the other party with written notice of such termination. Termination shall render this Protocol or any affected Protocol Amendment to have no further force or effect, as appropriate.

C. In the event of termination of this Protocol, the BLM shall comply with the provisions of the latest version of 36 CFR 800 for undertakings covered by this Protocol. In the event a Protocol Amendment is terminated, BLM shall comply with the latest version of 36 CFR 800 for the program or practices subsumed under the Protocol Amendment except insofar as SHPO and the BLM in writing agree to subsume such program or practices under this Protocol.

D. This Protocol shall terminate automatically on the fifth anniversary of its execution and have no further force or effect, unless it is extended by written agreement of the parties. Should the Protocol not be extended and should no successor agreement document be in place at the time of automatic termination, BLM shall comply with the latest version of 36 CFR 800, except with regard to those activities addressed in Protocol Amendments which the parties in writing agree shall remain in full force and effect.

## **XVI. APPENDICES**

- A. Report Contents and Scheduling
- B. Special Situations
- C. Categorical Exemptions
- D. Recordation and Evaluation of Historic Linear Resources and Districts
- E. Resource Types Categorically Not Eligible
- F. Categorical No Adverse Effect Situations
- G. Documentation Standards for Historical Resources of Local and State Significance
- H. Avoiding Properties
- I. Architectural Resources
- J. National Programmatic Agreement

**XVII. APPROVALS**

**BUREAU OF LAND MANAGEMENT**

[signed by Amy L. Lueders]  
State Director, Nevada

February 1, 2012

Date

**STATE HISTORIC PRESERVATION OFFICE**

[signed by Ronald M. James]  
Nevada State Historic Preservation Officer

February 3, 2012

Date

## **APPENDIX A: REPORT CONTENTS AND SCHEDULING**

### **A. Annual Report Contents**

1. State whether Inventory Needs Assessment documentation was prepared per Section I.B.1.b and sent to the SHPO.
2. A list of eligible properties including property type and the criteria under which each is eligible,
  - a. Criteria are defined using the relevant Secretary of the Interior's significance criteria a, b, c and d, per 36 CFR 60.4;
  - b. Acceptable property types include archaeological, architectural, and those of cultural and religious importance.
    - (1) Eligible archaeological resources shall be categorized by prehistoric and historic site types;
    - (2) Eligible architectural resources shall be listed separately;
    - (3) Properties of cultural and religious importance will be listed separately.
3. A list of properties determined ineligible, categorized by historic and prehistoric sites;
  - a. Site types include archaeological, architectural, and properties of cultural and religious importance.
    - (1) Non-eligible archaeological resources shall be categorized by prehistoric and historic site types;
    - (2) Non-eligible architectural resources shall be listed separately;
    - (3) Properties of cultural and religious importance will be listed separately.
4. A list by Field Office of reports not submitted and a schedule for their completion and submission;
5. A list of proactive cultural resources projects and activities (i.e., Section 110 responsibilities), their nature, purpose and general location, and
6. The BLM federal fiscal year Annual Report on Cultural Resources.

### **B. Annual Report Schedule**

The Annual Report for a federal fiscal year shall be due to SHPO on December 31 following the end of that fiscal year.

### **C. Field Office Visits**

1. Each year the BLM and SHPO may conduct joint on-site visits to Field Offices to determine if:

- (a) the Office has access to qualified professional staff;
- (b) undertakings are receiving appropriate cultural resource consideration;
- (c) project documentation is completed and sent to SHPO in a timely manner;
- (d) cultural resources staff are making appropriate accurate professional judgments;
- (e) cultural resource identification, evaluation and treatment has occurred before undertakings proceed; and
- (f) follow-up monitoring, where required by avoidance stipulations, MOA or treatment plan specifications, is being completed.

2. The BLM/SHPO team will prepare a joint report for each field visit, within 60 days of the visit, and submit the report to the State Director.

## **APPENDIX B: SPECIAL SITUATIONS**

### **A. Emergency Situations**

1. Emergency situations are undertakings implemented within 30 days after a disaster or emergency has been formally declared by the appropriate authority, unless that time frame has been modified based on BLM's request to the Council to extend the period.

2. Unless BLM has:

(a) approved procedures in place at the time the emergency situation is declared for taking historic properties into account, based on consultation with SHPO/THPO, affected tribes and the Council, or has

(b) developed a PA to resolve adverse affects from undertakings relating to the emergency situation, then

(c) the BLM shall afford SHPO and/or affected THPO, and any Indian tribes that may attach religious and cultural significance to historic properties likely to be affected, seven days prior notification of the pending undertaking.

3. If BLM determines that circumstances do not permit seven days for comment, the BLM shall notify the Council, the SHPO and/or affected THPO, and any affected Indian tribes and invite comments within the time available.

### **B. Lands Actions**

#### **1. Transfers**

a. Transfers to Federal Agencies: Where BLM proposes to transfer or withdraw land to another federal agency that must comply with Section 106 of the NHPA, BLM need not conduct a field inventory of the lands to be transferred. Upon transfer the BLM will provide a copy of pertinent cultural resource data to the agency receiving such land.

Data identified as proprietary by Native Americans will not be transferred to the recipient agency without the written permission of the Native American group identifying the data as proprietary. BLM will notify the agency receiving the lands that there are specific Native American concerns regarding the lands and identify a point of contact for dealing with the concerns.

b. Transfers to Other Entities: Where lands are considered for conveyance to other entities, the BLM will:

(1) review its cultural resource data base to determine if conveyance may affect known cultural resources or areas where undiscovered cultural resources are likely to occur;

(2) discourage selection of lands where such effects are likely, unless BLM determines after compliance with Stipulation V.D., that the conveyance is in the public

interest; and

- (3) comply with this protocol if it decides to proceed with the conveyance.

## **2. Restrictive Covenants**

Restrictive covenants should be used only when bonding for the necessary data recovery or treatment is not appropriate and BLM assumes responsibility for funding and completing the treatment or data recovery. Covenants should not contain an automatic sunset clause, and should remain in effect no longer than is necessary to complete the field portion of the data recovery or treatment.

## **3. Retention of Significant Resources**

The BLM may elect to retain lands identified for disposal when the cost of treatment or data recovery outweighs public benefits which might be gained by the exchange. The BLM may also elect to retain lands when it is not feasible to adequately treat the expected effects on scientific, public, traditional or conservation values.

## **C. BLM Responsibilities on Non-Federal Lands**

1. The intent of the National Historic Preservation Act is to consider the effects of federal decision making on historic properties regardless of the land status involved. Therefore, the BLM will assure that its actions and authorization are considered in terms of their effects on cultural resources located on non-federal as well as federal lands.
2. The determination of the extent of BLM's responsibility for identifying and treating adverse effects to non-federal historic properties is based on the independent evaluation of the following factors:
  - a. Would the project remain viable if the federal authorization were not provided?
  - b. How likely are historic properties in the area of potential impact?
  - c. The degree to which BLM authorizations affect the location of surface disturbing activities on non-Federal lands.
3. The BLM will conduct, or cause to be conducted, an inventory and evaluation of cultural resources on non-federal lands within the area potentially impacted by proposed land uses, whether the undertaking was initiated by BLM, or in response to a land use application.
4. The BLM will consider the effects of its decision-making upon historic properties. It will either treat, or cause to be treated, adverse effects to non-federal historic properties that would result from land uses carried out by or authorized by BLM, or will consult with the SHPO and the Council on the basis of an adverse effect determination.
5. When treatment involves data recovery, adequate time will be allocated for the analysis of the artifacts, samples, and collections recovered from non-federal lands and for report preparation. The



artifacts, samples, and collections recovered from non-federal lands remain the property of the non-federal landowner unless donated to the federal government, a state facility, or are otherwise subject to state law. The BLM must receive complete and true copies of field notes, maps, records of analyses, photographs, other data, and reports for treatment work conducted on behalf of the federal government. Reports resulting from work on non-federal land will be made available to the land owner.

6. Identification and/or treatment of adverse effects may be required as a condition of a lease, permit, or license issued by BLM, whether federal or non-federal lands are involved.

#### **D. Travel Management**

**1. Introduction:** As part of its land use planning process, BLM is required to designate off-highway vehicle (OHV) routes and areas on public lands as open, limited or closed (see 43 CFR 8342 and 43 CFR 8340.0-5). These designations must be included in the Records of Decision for Resource Management Plans (RMPs), Travel Management Plans (TMPs); and any other plans that designate OHV routes or areas.

In some cases, route designations, such as continued use with no change in use, will allow the continuation of a longstanding use of the public lands and will create minimum new impacts to cultural resources. Other designations will benefit cultural resource protection by reducing the proliferation of OHV routes and providing clearer enforcement authority to reduce impacts to public lands. Still others will increase impacts to cultural resources by opening new areas or concentrating previously dispersed use.

Given the nature and anticipated effects of BLM decisions made to designate OHV routes or areas in land use plans and travel management plans, the parties agree that these decisions are undertakings subject to compliance with Section 106 of the NHPA. Section 106 compliance for these undertakings will be handled as follows:

**2. Planning:** Evaluations of routes or areas to be designated as closed to protect cultural resources should be based on existing inventory information and not postponed until additional information is acquired.

Available cultural resource information must be used to take into account potential impacts on cultural resources when making route or area designations. This includes areas where use is introduced, expanded or intensified through OHV designation. It also includes any changes that result in expansion or deepening of an existing route, or creating a new route.

Each land use plan or travel management plan should include a process for prioritizing route or area inventory and monitoring efforts, and the implementation of treatment measures.

SHPO will be given the opportunity to be a cooperating agency in travel management planning efforts being analyzed by means of an EIS.

**3. Area of Potential Effect (APE):** The APE should include both the areas in which direct and indirect impacts are likely. If route designation is expected to affect only the area previously impacted along the route, the APE can be limited to the area previously impacted. If route designation would increase the APE by authorizing, or allowing, use outside of the area previously impacted, then the new APE should be inventoried and impacts treated prior to implementing the travel plan. Designated use areas adjacent to existing and future designated routes where various activities, including parking vehicles and camping, are authorized or allowed, should be included in the APE.

**4. Inventory:** The decision to inventory should be based on the nature of the use authorized by the designations and the likelihood that cultural resources will be affected by the designations. Inventory efforts should focus on proposed route designations that change OHV use or travel patterns in ways that could adversely affect cultural resources. The decision relating to inventory must be documented using the Needs Assessment process.

Route or area closures need not be inventoried to Class III standard unless there is a reasonable expectation that the closure will shift OHV in ways that result in adverse effects on cultural resources. Areas expected to receive additional use that could adversely affect cultural resources should be inventoried to Class III standards.

Class III inventories are not required when designations would allow OHV use to continue on routes that have been effectively open or limited in use. Class III is necessary when the route or right-of-way is expanded in ways that could impact cultural resources

Class III inventories are required prior to designating new routes or new areas not previously open for OHV use.

Class III inventories are not required for routes in areas (1) where there is a low probability of finding cultural resources, or (2) where cultural resources are not likely to be affected by OHV use.

**5. SHPO Consultation:** If the SHPO elects to become a cooperating agency in the plan, then SHPO consultation will occur during plan developments. If not then SHPO should be consulted prior to initiating a land use or travel management planning effort to ensure that appropriate identification, monitoring, and treatment options are developed and implemented during or after the effort.

**6. Coordination with Tribal Governments:** The planning team should coordinate with tribal governments prior to initiating a land use or travel management planning effort to ensure that appropriate identification and treatment options are developed and implemented during or after the effort. SHPO will be informed to the tribal heritage resource identification effort and consulted on evaluations and effect determinations as specified in this protocol.

**7. Treatment/Monitoring:** A cultural resource specialist shall be included in the team for monitoring the effects of OHV use and route or area designation actions. Specific projects undertaken to improve, or rehabilitate, routes or areas are subject to Section 106 review and may require Class III inventory and SHPO consultation.

When monitoring is proposed as mitigation for potential effects from route or area designation, the decision record should make it clear: (1) when the results of monitoring will automatically initiate treatment actions; (2) what actions should be taken; and (3) the conditions under which travel can be resumed. This should obviate the need for further environmental analysis or a plan amendment prior to the emergency closure.

Route or areas in which monitoring reveals adverse effects to cultural resources will be protected through an emergency closure action and remain closed until the effects can be appropriately treated.

**8. Plan Modification:** A cultural resource specialist should be included on any team working on periodic plan maintenance or on a plan amendment.

Cultural resource monitoring and inventory information, gathered after a plan is approved, maintained, or

amended, shall be used to review and update the route network as necessary in any plan maintenance or plan amendment process.

**9. Emergencies:** Each travel management plan shall follow the process described in 43 CFR 8342 for closing routes or areas to avoid emergent impacts to cultural resources.

## APPENDIX C: CATEGORICAL EXEMPTIONS

1. Reintroducing endemic or native species into their historical habitats in ways that do not involve surface disturbance.
2. Maintaining, replacing or modifying existing projects, facilities, routes, or programs that do not disturb additional surface area, or historic properties; or where the ground has been previously disturbed to the extent that historic properties could not exist; or where the facility itself is not a historic property.
3. Conducting, or approving permits for, non-archaeological data collection and monitoring activities, not associated with proposed undertakings, which involve new surface disturbance less than 1 square meter. Such activities could include forage trend monitoring, stream gauges, weather gauges, research geophysical sensors, photoplots, traffic counters, animal traps, or other similar devices.
4. Classifying lands as to their cultural resource use, mineral character, vehicle use, waterpower and water storage values where the classification itself does not directly entail surface disturbance.
5. Issuing withdrawal continuations, modifications, extensions, terminations, or revocations where there would be no change in use or surface disturbance.
6. Issuing withdrawal terminations, modifications or revocations and classification cancellations and opening orders where the land would be opened to discretionary land laws and where each discretionary action would be subject to the NHPA Section 106 process.
7. Renewing existing rights-of-ways characterized by complete surface disturbance (roads, pipelines, power lines, communication sites, etc.) when no new surface disturbance is authorized.
8. Continuing Recreation and Public Purpose Act lands, small tract lands, or other land disposal classifications where the continuation conveys no additional rights.
9. Assigning land use authorization where the assignment conveys no additional rights and the assignee agrees to abide by any cultural resource stipulations in the original authorization.
10. Issuing permits and rights-of-way where no additional surface disturbance is authorized.
11. Issuing rights-of-way for overhead lines with no pole, tower, or other surface disturbance.
12. BLM easement acquisitions.
13. Installing facilities, such as, recreational, special designation, regulatory, or information signs, visitor registers, kiosks, cattle guards, gates, temporary corrals, or portable sanitation devices in previously disturbed areas outside of known historic properties.
14. Issuing or modifying regulations, orders, standards, notices, and field rules where no new surface disturbance is authorized or is not subject to NHPA review.
15. Decisions and enforcement actions (that do not involve cultural resources) to ensure compliance with laws, regulations, orders, lease stipulations, and all other requirements imposed as conditions of

approval, when the original approval was subject to the NHPA Section 106 process.

16. Approving non-surface disturbing operations pursuant to 43 CFR 3000 to 43 CFR 3299 (Oil & Geothermal).

17. Conducting minerals exploration that conforms to casual use (43 CFR 3802.1-2 and 43 CFR 3809.5(1)).

18. Approval of modifications to, or variances from, activities authorized in an approved mine or exploration plan of operations that do not involve additional surface disturbance or affect cultural resources.

19. Dispersed non-permitted recreation activities, such as rock hounding, that do not involve new surface disturbance.

20. Issuing recreation permits authorizing:

a. use on rivers and trails or in other specified areas where use is similar to previous permits for which environmental documents addressing cultural resource concerns have been prepared and which will not affect cultural properties;

b. Off Highway Vehicle (OHV) events over courses where Section 106 consultation has already been completed and no changes in the course, spectator areas, pit areas, or other surface disturbing activities is allowed; and

c. long-term visitor use that does not involve surface disturbance and does not increase the probability of vandalism of cultural resources.

21. Authorizing OHV events that are limited to previously disturbed or non-historic routes and routes with no historic properties that are highly visible from the course. Previously disturbed and non-historic routes include: developed roads, roads and trails where use has created surface disturbance at least 2 meters wide, roads less than 50 years old, and active washes (washes with recent loose sandy/gravelly/silty in the non-vegetated bottoms of drainage) that are subject to annual water action.

22. Continued use of high explosives, designated target areas within the Training Ranges that have been used historically for this purpose and are highly disturbed, as shown in Appendix K, Figure 1.

## **APPENDIX D: RECORDING AND EVALUATING HISTORIC LINEAR FEATURES OR DISTRICTS**

Many of the most important and prominent cultural resources in Nevada are linear features from the historic period. These include trails, roads, highways, railroads, canals, telegraph lines, fences, and other similar features. Some historic linear features have an excellent documentary record showing when they were created, who was involved in their creation, where they are located, and what has happened to them during their existence. However, problems arise in determining how much to record, how to evaluate, and thresholds of integrity. As a result, a consistent method of providing the information required to record, evaluate, and manage linear features is provided in this appendix.

The evaluation of a linear resource is more challenging than that of a non-linear resource with manageable boundaries. The linear resource may possess varying states of preservation and integrity, and may pass through federal, state, county, and private lands, causing recordation and evaluation to be complex tasks. Surveys of linear resources should attempt to ascertain or reconstruct the nature, extent, and chronology of the resource, and the historical context to which it belongs. Recording linear features is problematical because the full extent of the resource usually extends beyond the APE. It should be agreed upon in advance whether the project should involve the recordation and evaluation of the entire resource or a portion of it. The investigator should prepare a historical context to evaluate the entire linear feature unless BLM and SHPO agree otherwise.

### **A. Conducting Research for Historic Linear Features or Districts**

Pre-field research may indicate the presence of historic linear features. They may be present on GLO plat maps and USGS topographical maps. Secondary sources of history may also provide information about their presence.

When linear features are encountered, the investigator needs to assess whether a linear resource is historic in origin. The following three criteria should be applied to make such a determination:

1. Is the general alignment present on historic maps, such as GLO plats or USGS maps?
2. Does the resource possess artifacts of the period?
3. Does the resource possess physical characteristics similar to other identified linear resources?

Fieldwork must be supplemented by historical research to locate historic photographs, maps, and plans, or engineering drawings of the resource.

To evaluate the feature, the BLM will prepare a historic context using information found in records such as GLO records, State Board of Control/Engineers records, Highway Department records, Army Topographical Corps reports, USGS topographical maps, aerial photographs, and county records. General histories of Nevada and the region should be consulted to determine if the project or the individuals involved are historically significant. Newspapers may be checked to see if the construction event was widely reported at the time or if the feature was considered important in engineering or design, and local histories should be consulted to determine if the event or individuals were considered important by the local population. The investigator should also consult the transportation chapter of the *Nevada Comprehensive Preservation Plan* (1991) and any Certified Local Governments within the APE. References should be cited in the

documentation, whether they yielded pertinent information or not. The results of the records search should be incorporated into the report and onto the *Nevada Cultural Properties Form* to evaluate the linear resource.

## **B. Documenting Historic Linear Resources**

Some specific considerations for documenting linear resources are:

1. Location and Boundaries--on a map (or maps) of appropriate scale indicate the location of the known extent of the resource and identify the portion(s) being documented, as well as any feature associated with the linear resource.

a. Linear resources may intersect and exceed limits of an APE. Unless otherwise specified by the BLM's cultural resource specialist handling the project, recording of linear features exceeding the APE will extend 100 meters beyond the APE boundaries.

2. Description--provide information on the construction techniques, configuration of, and materials used to construct the linear feature. Describe any features and/or artifacts that may be associated with it. Describe in detail each cultural feature associated with the linear resource. Features of a linear resource generally consist of components integral to the functioning of the resource. Feature descriptions should include information about its construction details, dimensions, and any brand names or patent information recorded on machinery. Plans, cross-sections, and elevations of associated features should be included in the engineering documentation section of the report. Examples of features associated with linear resources include:

a. Roads: retaining walls, culverts, borrow pits, road beds and grades, fences, bridges, and tunnels;

b. Ditches/Water Systems: siphons, flumes, spill gates, gate valves, dams, headgates, sluices, canals, pipes, ditch/flume tenders' cabins, and reservoirs;

c. Trails: blazes, cairns, retaining walls, and paving;

d. Railroad Grades: through cuts, sidings, retaining walls, culverts, spurs, signals, switch stations, depot remains, fences, bridges, tunnels, and trestles;

e. Telegraph/Power Lines: poles, access roads.

3. Setting--Describe in detail the natural or physical environment through which the linear resource passes. Such information would include descriptions of natural features, landscape characteristics, slope, vegetation, etc. Provide an estimate of the proportion of the resource that has been destroyed or modified, where possible.

4. Dimensions--describe the dimensions of the entire linear feature or the portion being documented in the following manner:

a. Top Width--measure the linear feature at its highest point. For water systems such as ditches and canals, the top width should be measured at the crest of the berm(s) or wall(s). Record more than one width or range of widths, if appropriate. For example, a single water

delivery system may be composed of a flume, earthen ditch, and concrete canal with different top widths. Clearly identify the elements being measured and the locations where measurements were taken.

b. **Bottom Width**--provide a width for the base of the feature, or provide a range of widths, as appropriate.

c. **Height or Depth**--provide the maximum depth or height of the resource, as applicable, or indicate the variation in that dimension along the length of the linear feature, or the segment being documented. Note any changes to this measurement, such as siltation in a ditch.

d. **Length**--provide the overall length of the linear feature and the segment being documented, if applicable.

### **C. Evaluating Historic Linear Resources: National Register Criteria and Integrity Issues**

Evaluating the significance and National Register eligibility of a linear resource is as problematical as documenting it, because it may be significant under one or more of the four National Register eligibility criteria, and it most likely will display varying states of preservation and integrity. An investigator must identify the criteria under which the linear resource may be eligible for inclusion in the National Register before considering integrity issues. However, integrity, and thereby eligibility may be determined on a segment-by-segment basis.

The National Register defines integrity as the ability of a resource to convey its significance. The evaluation of integrity must always be grounded in an understanding of a resource's physical features and how they relate to its significance. To retain historic integrity a resource will possess at least several of the seven aspects of integrity. These aspects of integrity are: location, design, setting, materials, workmanship, feeling, and association.

Setting is an important factor in demonstrating integrity of a linear resource. The setting must reflect the character of the historic period with minimal intrusive elements. The National Register has been liberal in the evaluation of numerous linear resources in Nevada by determining eligibility on the basis that there has been little change in the landscape since the historic period. For example, a railroad grade may lack ties and tracks, but if little of its historical appearance has changed, it may still be eligible for the National Register under Criterion A. Because of the importance of setting to a linear resource, viewsheds may become a major consideration in determining project effects. However, setting may be less important in evaluating a water conveyance feature because the feature may be most significant for its engineering, and its design and workmanship become most important in determining integrity.

Some linear resources possess structural and/or engineering features (e.g., the Marlette Lake Water System), and some possess none (e.g., the Old Spanish Trail). Therefore, assessing integrity of design and workmanship may have limited applicability, or it may be highly significant. Some considerations regarding design and workmanship might be to determine if the linear feature has distinctive engineering features such as rock retaining walls, trestles, or culvert. If so, determine whether these elements exhibit structural integrity. If the resource retains some degree of its original fabric and workmanship, ascertain if it is sufficient to demonstrate the feature's significance. Significance might then be viewed in terms of distinction as a representative of a type or style. It



would also be important to determine if there are any other associated resources present and in sufficient numbers to convey an understanding of the linear resource.

On-going maintenance and continued use of a linear resource may or may not affect the resource's integrity. Maintenance and use that has been conducted consistent with methods employed when the resource was developed do not compromise the historic integrity of the resource. These resource activities include canals, the use of roads along the canal, and cleaning silt from the canal; for railroads, the in-kind replacement of ties, rails and switching facilities; and for roads, in-kind repairing, grading, and cleaning of roads. Maintenance and use that is not consistent with historic use compromise the integrity of a historic resource. Such actions would include changing headgate or siphon design for canals, lining earthen ditches with concrete, changing the ballast type, rail type, or other structures for railroads, and changing the surface material and grade of roads. Modification of the route of any linear feature may also compromise its integrity.

Feeling and association may be important facets of integrity for trails (Oregon-California Emigrant Trail), but their retention alone is never sufficient to support eligibility of a property for the National Register.

## **APPENDIX E: RESOURCE TYPES CATEGORICALLY NOT ELIGIBLE**

### **A. Isolate artifact**

A single artifact or pieces from a single artifact, i.e., 10 pieces of glass from a single bottle. An isolate artifact is considered single and unassociated when separated by 30 meters or more from any other artifact. For example, two flakes of the same or different raw material separated by 29 meters would be documented as a site. Ten pieces of glass from a single bottle spread across 31 meters would be an isolate. Isolates are not recorded on a site form, but are listed in a table designated by number, description, and location.

### **B. Isolated or Unassociated feature**

A single feature unassociated with other features or artifact scatters that are undateable; e.g. a prospect pit, a claim marker, an audit, or a shaft. An isolated or unassociated feature is considered single and unassociated when separated by 30 meters or more from any other feature or artifact. If these features are elements to a historic district, they are not isolated or unassociated. In addition, if an isolated feature is unique because of its construction (elaborate stonework claim marker) or distinctive qualities, the feature has to be evaluated for eligibility. Isolated features that have potential data (fire hearth) need to be evaluated for eligibility. Isolated or unassociated features need not be recorded on a site form, but are listed in a table designated by number, description, and location.

### **C. Post-1960 Cultural Resources**

Cultural resource sites that post-date 1960 (or contain a majority of artifacts that post-date 1960) are not considered eligible for the purposes of Section 106 compliance unless the site is of exceptional significance as defined in National Register B Bulletin 22, entitled *How to Evaluate and Nominate Potential National Register Properties That Have Achieved Significance Within the Last 50 Years*.

### **D. Unassociated Historic Artifact Scatters**

This site type is categorically not eligible when it cannot be definitively associated with a specific historic theme as defined in the *Nevada Comprehensive Preservation Plan (1991)*. One example of this site type is a single episode roadside refuse deposit.

Unassociated artifact scatters will be considered categorically ineligible with the submission of the following information:

1. A minimal level of archival research does not reveal a possible association. The feature or site in question may not be depicted on the following documents:
  - a. General Land Office map (provide date);
  - b. Land Status map;
  - c. Mineral Survey records;
  - d. Nevada State Museum records;
  - e. State Water Engineer's records;

- f. 15 minute Quadrangle (provide date); or
- g. Local city and county records.

2. A brief justification for this determination will be included in the eligibility section of the report and will address the following topics:

- a. location and type of nearest recorded site; and
- b. location of the nearest known town, community, or historical development.

### **E. Linear Resources**

Linear resources in isolation from other linear resources, archeological deposits, and buildings/structures are discussed below in this framework for categorical exemptions. Artifacts directly associated with that linear resource, such as an insulator for a telecommunication line is considered inclusive to that linear resource. If only a segment of the linear resource is present within the project area, and is determined ineligible (non-contributing), the remaining portions of the linear resource are considered unevaluated for the purposes of Section 106 compliance.

1. **Roads/Trails:** If a road or trail is undateable, cannot be historically associated with a historic theme, lacks engineered features associated with the road or trail, and has been bladed, then that segment is considered not eligible under all criteria.
2. **Water Conveyance:** If a water conveyance system is undateable, cannot be historically associated with a historic theme, and lacks engineered features associated with the water conveyance feature, then that segment considered as not eligible under all criteria.
3. **Fences:** If a fence is undateable, lacks unique construction features, is constructed of metal T-posts and barbed wire, then that segment of the fence is considered not eligible under all criteria.
4. **Telecommunication lines (telegraph, telephone, power transmission):** If a telecommunication line is undateable, lacks unique engineered features associated with that segment of the telecommunication line, then that segment is considered not eligible under all criteria.

## **APPENDIX F: CATEGORICAL NO ADVERSE EFFECT SITUATIONS**

### **A. Single Pass Geophysical Exploration**

Single pass geophysical exploration can be categorically determined to have no adverse effect where:

1. All traffic associated with exploration must follow routes that avoid cultural resources. Company flagging crews will identify and flag anticipated detours on the route, so that potential detours can be inventoried along with the main route.
2. The following may be excluded from cultural inventory requirements:
  - a. vibroseis and conventional truck-mounted shothole drill routes and operations located on constructed roads or well-defined existing roads and trails;
  - b. pedestrian routes and placement sites for hand-carried geophone, cables, or similar equipment;
  - c. cross-country operations of seismic trucks and support vehicles on bare frozen ground or over sufficient snow depth (vehicle traffic does not reveal the ground) so as to prevent surface disturbance;
  - d. one time (single pass) routes of wheeled vehicles under 10,000 lbs GVW;
  - e. above ground seismic blasting (Poulter method);
  - f. helicopter-supported activities, including shothole drilling and above ground seismic blasting (Poulter method) in most areas, that do not require helicopter staging area preparation and vehicle use off of roads and trails; and
  - g. exploration activities defined as casual use in 43 CFR 3150.
3. Other geophysical exploration activities that require blade work or other surface disturbing activities. These activities also involve additional direct and indirect effects for vehicle traffic. Consequently, the following situations will usually necessitate cultural inventory as determined by the Field Manager on a case-by-case basis:
  - a. cross-country vibroseis and conventional truck or OHV mounted shothole drilling operations;
  - b. surface disturbing activities associated with any geophysical technique such as blading access routes or helicopter staging areas, or disc-and-drill seeding for rehabilitation;
  - c. portions of jug truck and OHV routes, "backpack" shothole drilling, helicopter-supported activities including shothole drilling, and above ground seismic blasting (Poulter method) in areas with potential for significant fragile surface or subsurface cultural resources (dune fields, antelope traps, standing structures, etc.).

4. This exemption does not apply to 3D seismic exploration projects or to any other types of multiple pass projects.

## **B. Hazards Abatement**

1. Hazards abatement where cultural resources are not involved.

2. Authorizing or installing devices to protect human or animal life that do not involve new surface disturbance.

3. Abandoned Mine Hazard Abatement. Nevada Department of Minerals (NDOM), in cooperation with the BLM, identifies and abates mine hazards on Public Lands in Nevada. Some of these mine hazards are over 50 years in age. When the BLM and NDOM find it necessary to close or barricade mine workings that present immediate health and safety concerns, the BLM will ensure that the following measures are implemented:

a. Temporary Closures: When a temporary fence is installed to limit public access to the hazard, the BLM will:

(1) prior to installing a temporary fence, ensure inspection of the fence location by cultural resources staff or a DAT, and the fence moved, if necessary, to avoid effects on cultural resources.

(2) inform the SHPO of all temporary closures. This will include for each closure the nature of the hazard, UTM coordinates established using an appropriate global positioning system unit, a map showing the location of the fence in relation to cultural resources, and a brief description of the cultural resources involved.

b. Permanent closure of abandoned mines over 50 years old, identified on a BLM list of proposed closures for a given fiscal year, can be done without prior BLM/SHPO consultation if:

(1) Prior to any ground-disturbing activity, a qualified historical archaeologist:

(a) prepares a resource assessment of the individual mine site(s) targeted for permanent closure. The assessment must record the shafts/adits to be closed and define the historical attributes of these shafts/adits.

(b) records and conducts Class III inventory in areas from which fill will be taken and define and document the cultural attributes of this areas; and

(c) Takes 5 x 7 inch black and white photographs of the shafts/adits before and after closure. The pictures must sufficiently illustrate the construction/engineering features of each shaft/adit, artifact concentrations, as well as an overview depicting its setting within the landscape. Each photograph will be accompanied by a photo point number, a corresponding UTM location, and photo direction; and

(d) by means of a 7.5' USGS topographic map as well as global positioning system to determine and record UTM coordinates, locates and maps each

shaft/adit as well as corners of all inventory areas from which fill removal is proposed; and

(e) produces an archival copy of the resource assessment, photographs, and maps within 60 days of finishing the permanent closure. Each BLM office will provide a report to the Nevada SHPO on the basis of the federal fiscal year.

(f) A “qualified historical archaeologist” is defined as someone who meets qualifications for inclusion on a Nevada BLM cultural resources use permit in the capacity of Principal Investigator or Crew Chief as a historic period archaeologist.

(2) During closure, either a qualified historical archaeologist or an appropriately trained DAT will:

(a) monitor placement of fill into each shaft/adit to ensure that significant historical archaeological features are not damaged by the activities;

(b) take 5 x 7 inch black and white photographs of the shafts/adits after closure and of any fill/borrow areas after removal or use, including overviews depicting setting within the landscape;

(c) file a final monitoring report with the BLM and SHPO that outlines field procedures employed to ensure compliance with this item;

(d) ensure that fill is taken only from areas previously inventoried by a qualified archaeologist and is not part of another archaeological/ historic site;

(e) ensure that the landscape is restored to the no adverse effect standard defined in Section IV.B. 3. within the historic landscape; and

(f) files a final monitoring report with BLM and SHPO that outlines field procedures employed to ensure compliance with this item.

(g) Appropriately trained DATs are those persons who have successfully completed a regimen of instruction provided by Nevada BLM in the identification of archaeological remains (particularly those of the historic period), map reading, site record interpretation, photography, and use of GPS locating devices.

### **C. Trespass Abatement**

Removing non-significant structures, machines, or materials that are less than 45 years old, such as, abandoned vehicles, trash dumps, trespass buildings, ranches, and mines, and other similar items.

The site from which these materials are removed may be reclaimed, without additional SHPO consultation, as long as the reclamation does not expand previous surface disturbance.

## **D. Fences**

### **1. Enclosure Fences**

a. Enclosure fences can be categorically determined to have no adverse effect where cultural resources within the proposed enclosure have been sufficiently inventoried and evaluated so that the fence will not divide an historic property and place a portion of it outside of the fence and there will be no historic properties within 10 meters of the fence. An exception is possible where the fence can run through a historic property by following the edge of an existing road that is on the outside of the enclosure, and the fence is kept on the edge of the road disturbance;

b. the fence is placed so that it does not call attention to historic properties;

c. the fence is constructed with methods that minimize surface disturbance; and

d. there will be no livestock grazing within the enclosure.

### **2. Other Fences**

Other fences can be categorically determined to have no adverse effect where:

a. it is possible to run the fence through a historic property by following an existing road, or similar surface disturbance, and the fence, and associated trailing is kept within the road disturbance;

b. the fence and associated trailing can be placed so that it avoids all cultural resources in the manner specified in Appendix H.

## **E. Spring Development Pipelines**

Spring development pipelines can be placed across historic properties within previously disturbed areas and categorically determined to have no adverse effect if:

1. the pipeline is either installed on or above the surface or placed below the surface by excavating a trench with hand tools or a mechanical trenching device (e.g., Ditchwitch™) that is no more than 8" wide and 18" deep;

2. the spring itself is not a cultural resource and therefore the spring development, separate from the pipeline, will not affect an historic property;

3. the pipeline impacts no more than 5% of the surface exposure of the site and is located by an archaeologist in an area of low artifact density with no features;

4. an archaeologist monitors the trenching and sample fill from the trench to detect subsurface cultural deposits and the project will be halted if the archaeologist determines that the installation is having unexpected effects; and

5. the trench will be backfilled using hand tools.

## **F. Sale of Subsurface Mineral Estate**

The BLM can convey the subsurface mineral estate to the surface owner, without field inventory and SHPO consultation, if it finds that the parcel has no potential for containing mineral deposits. The SHPO will be notified of the transfer and sent an informational map showing the lands affected and a list of any known cultural resources within the transfer area.

## **G. Rejuvenating Existing Seedings**

Undertakings to rejuvenate existing seedings can be considered as categorically having no adverse effect if:

1. the original seeding was plowed;
  2. the proposed rejuvenation does not extend beyond the boundaries of the original seeding;
- and
3. rejuvenation activities will not impact more than the top 10 cm of the plowed surface.

## **H. Roads and Trails**

1. New undertakings that involve road construction, reconstruction, and improvement projects that may affect cultural resources will be considered using the procedures in this Protocol.

2. If an historic property is traversed by facilities or improvements created within the last 50 years, these existing facilities or improvements may be used for a project so long as their use is consistent with the function for which they were created and that use does not further affect cultural resources (e.g., the use of existing access roads that use or traverse linear sites such as railroad grades). Such continued use shall be considered to have no effect on historic properties.

3. Continued use or reuse of a road or trail will not affect a property and no case-by case consultation with the SHPO is necessary under the following circumstances:

- a. when a physical barrier along the traveled way (fences, boulder barriers, existing pavement) prevents further damage to cultural resources;
- b. where the roadway or railway was cut through or is situated below a property (e.g., archaeological deposit) through which it passes. The absence of a property (e.g., cultural deposit) may be documented by field work in the form of surface observations and/or subsurface test excavation. These excavations may include shovel test, excavation units, or auger bores.

## **I. Fire Management**

**1. Wildland Fire Management.** As defined by the National Wildland Coordinating Group, a wildland fire is any non-structure fire that occurs in the wildland. Wildland fires are categorized as either (1) wildfires or (2) prescribed fires.



a. Wildfires are unplanned ignitions or prescribed fires that are declared wildfires. A wildland fire may be concurrently managed for one or more objectives (or uses) and objectives can change as the fire spreads across the landscape. Objectives are affected by changes in fuels, weather, topography; varying social understanding and tolerance; and involvement of other governmental jurisdictions having different missions and objectives.

(1) Wildland fire will be used to protect, maintain, and enhance resources and, as nearly as possible, be allowed to function in its natural ecological role. Use of fire will be based on Land Use and Resource Management Plan and associated Fire Management Plans and will follow specific prescriptions contained in operational plans.

b. Prescribed Fire is any fire ignited by management actions to meet specific objectives. A written, approved prescribed fire plan must exist, and NEPA requirements (where applicable) must be met, prior to ignition.

**2. Wildland Fires:** Wildfires will be suppressed in accordance with Guidance for Implementation of Federal Wildland Fire Management Policy February 2009 replacing the Federal Wildland Fire Management Policy (June 2003). In these emergency situations there is no need to consult with the SHPO prior to suppressing the fire. Fire rehabilitation will be done in accordance with Appendix F, Section J.

Response to wildland fires will be based on ecological, social and legal consequences of the fire. The circumstances in which a fire occurs, and the likely consequences on firefighter and public safety and welfare, natural and cultural resources, and values to be protected, dictate the appropriate response to the fire.

a. Use of Fire. Use of fire refers to the management of wildland fire for one or more objectives (or “uses”), including to allow fire to function in its natural ecological role. The decision support process for protection of cultural resources during use of wildland fire may be accomplished without prior SHPO consultation when a manager implements a decision support process to guide and document wildfire management decisions which meets the following conditions. The process will also provide situational assessment, analyze hazards and risk, define implementation actions, and document decisions and rationale for those decisions.

(1) A Cultural Resource Specialist with concurrence by the appropriate BLM Manager determines that there is a low probability of discovering vulnerable archaeological sites within the proposed fire area; and

(2) There is written documentation that the area has burned within the last 50 years at a sufficient intensity so that there is a low probability that vulnerable resources in the use area could have survived the fire; or

(3) The use area has been previously inventoried and no historic properties were identified; or

(4) The use area will be managed within prescription limits outlined in a fire management plan (FMP) that has been reviewed by SHPO.

b. If archaeological sites or historic properties are found within the fire areas, these resources or areas will be protected to ensure that fire temperatures do not exceed 600 degrees (F) in the vicinity of the historic property by means such as hand-constructed fire lines, foam wetting agents, or fire shelter fabric outlined in the approved FMP.

**3. Prescribed Fires (Rx):** The BLM agrees that prescribed burns have the potential to affect historic properties. Properties at high risk from prescribed burns include, but are not limited to historic buildings, structures and artifacts, prehistoric and ethnohistoric wooden structures (houses, wing traps, ramadas), ethnohistoric pinion processing equipment, rock art, and sites, such as rock shelters and habitation areas, with flammable organic deposits. Prescribed Fire Plans will be developed in accordance with the Interagency Prescribed Fire Planning and Implementation Procedures Reference Guide and BLM Supplement in order to allow for SHPO consultation as defined in this Protocol. Prescribed Fire Areas may be ignited by BLM without SHPO consultation if:

- a. A Cultural Resource Specialist with concurrence by the appropriate Field Manager determines that there is a low probability of discovering vulnerable archaeological sites within the proposed fire area; and
- b. There is written documentation that the proposed fire area has burned within the last 50 years at a sufficient intensity so that there is a low probability that vulnerable resources could have survived the fire; or
- c. The proposed prescribed fire area has been previously inventoried and no historic properties were identified; or
- d. The proposed prescribed fire area will be managed within the prescription limits (that protect historic properties from fire areas by hand-constructed fire lines, foam wetting agents, or fire shelter fabric) outlined in the approved prescribed fire plan that has been reviewed by the SHPO.

**4. Avoidance Measures:** Identified cultural resources that may incur damage from fire shall be excluded from Rx fire areas and protected by appropriate means to ensure that fire temperatures do not exceed 600 degrees (F) in the vicinity of the historic property. Avoidance measures may include, but may not be limited to hand-constructed fire lines, foam wetting agents, or fire shelter fabric. New fire line construction routes (e.g., dozer lines) shall be surveyed and fire lines reconfigured to avoid historic properties.

**5. Tribal Consultation:** Native American consultation, as appropriate, should be completed at the Resource Management Plan level as well as at the Fire Management Plan level to identify concerns regarding the burning of resources or resource areas of religious or cultural importance.

#### **J. Fire Stabilization/Rehabilitation**

1. Any fire stabilization/rehabilitation activities (such as aerial seeding, most hand planting, temporary fences on steep slopes, and etc.) that do not involve mechanized surface disturbance, will not be inventoried or treated for Section 106 purposes. Rehabilitation activities involving more than 10 cm depth of mechanized surface disturbance will be handled to Class III standard. When determined appropriate in the Inventory Needs assessment process giving consideration to factors such as the number and types of expected cultural resources properties and their sensitivity, proposed

rehabilitation methods and anticipated impacts, rehabilitation activities such as rangeland drilling involving no more than 10 cm depth of mechanical surface disturbance will be handled with the procedures specified here.

2. Prior to initiating survey, the BLM will complete a records and literature search, as specified in the BLM General Guidelines, to identify known resources and areas with a high probability of containing resources in primary context.

3. When determined appropriate in the Inventory Needs assessment process, fire stabilization/rehabilitation activities that involve mechanized surface disturbance less than 10 cm depth will have the Area of Potential Effect surveyed based on the records search to identify areas that are likely to contain archaeological resources in primary context. In general, 100 meter transect surveys, with deviations to inspect high probability areas will be used. The BLM and the SHPO can agree, through informal discussions, to other survey approaches appropriate to individual rehabilitation undertakings.

4. All archaeological resources discovered or relocated, will be plotted on maps and recorded on the BLM Nevada IMACS short form. Resources, except those previously determined not eligible, by BLM and the SHPO, or that have been previously treated, will be flagged for avoidance and avoided during rehabilitation activities.

5. Flagging will be placed to minimize the potential for looting and vandalism and removed as soon as possible after re-seeding is completed. Sites will be hand seeded for camouflage as appropriate.

6. All areas inventoried in this manner will not be considered to have been inventoried for any other purposes and any subsequent undertakings in these areas will be inventoried to Class III standards.

7. The BLM will not consult with the SHPO prior to authorizing fire stabilization/rehabilitation activities conducted under these provisions. The BLM will provide the SHPO with an informational copy of a map showing the APE, area surveyed, and an informational copy of the short form(s) for any archaeological resources within it.

**K. Grazing Management:** The BLM recognizes the potential for grazing to affect historic properties through: (1) the concentration of livestock on cultural resources; (2) construction and maintenance of grazing facilities; and (3) other grazing operations in the immediate vicinity of historic properties. Therefore, grazing shall be administered as follows:

**1. Issuing Grazing Permits:**

a. as a permit comes up for renewal, the range staff and the cultural staff will discuss the potential impacts to cultural resources from grazing. Using archaeological site maps and use pattern maps, areas of high grazing use and known concentrations of cultural resources, or areas of high potential for significant resources, will be identified;

b. when there are known grazing conflicts with cultural resources, these will be mitigated or eliminated by amending grazing practices authorized in the permit;

c. when there is a high probability of grazing conflicts, the range and cultural staff should visit the area to see if there are, in fact, ongoing impacts from the grazing practices authorized in the permit. If there are, the permit will be amended to eliminate or mitigate these impacts;

d. the permittee and BLM staff will be made aware that the standard stipulations in the permit give BLM the ability to expeditiously mitigate or eliminate impacts to cultural resources discovered after the permit is approved;

e. prior to the start of each fiscal year, each Field Office will prepare a general letter to Tribes informing them of plans and schedules for permit renewals in the upcoming fiscal year and inviting them to share their concerns, if any, with issuing or renewing the grazing permit identified in the letter. There is no need to consult with tribes on each renewal, but only on renewals in areas where they express an interest or that you know that they have an interest;

f. if the permit application is being considered as a Determination of NEPA Adequacy (DNA) under NEPA, and the process above is followed, there is no need to consult with the SHPO before renewing each permit. The SHPO will be provided with an information copy of the memorandum to the permit file documenting the analysis used in authorizing the permit; a map showing known resource conflict areas; and a description of the measures used to mitigate impacts;

g. if the permit application is being considered in an EA or EIS, it will be analyzed through the standard Section 106 and Native American consultation processes outlined in this Protocol.

**2. Range Improvements and Projects:** After a permit has been issued or renewed, range improvements, surface disturbing projects, and changes in grazing practices (that will concentrate grazing and could create impacts) will be approved through the standard Section 106 and Native American consultation processes outlined in this Protocol.

## **L. Mechanical, Chemical and Manual Vegetation Fuels Management Activities**

### **1. Project Planning**

a. Fuels management projects include methods for mechanical, chemical, or manual vegetation manipulation that have the potential to adversely affect historic properties. Fire management activities involving wildland fire use or prescribed fires are addressed in the SPA, Appendix F.I and are not considered further here.

b. Mechanical, chemical, and manual vegetation fuels management proposals shall conform to approve Fire Management Plans which are subject to concurrence with the SHPO, per section X of the SPA.

c. A qualified Cultural Resources Specialist (CRS) will assist the Field Manager to establish the Area of Potential Effects (APE) for a fuels management project. The APE will include all areas where a proposed treatment may be purposefully or inadvertently applied and any buffer zones included in the project plan. The CRS is responsible for completing a cultural resources

Needs Assessment form as part of project planning and having it approved prior to project implementation.

## **2. Definitions**

a. High sensitivity cultural resources are those for which the proposed fuels management project, if implemented, could result in loss of, or damage to, those qualities that may qualify the site for listing on the National Register of Historic Places (NRHP). Cultural resource specialists will determine this sensitivity.

(1) Resources listed on or eligible for the NRHP (also known as “historic properties”) as well as known but unevaluated resources will be treated as if they are high sensitivity properties.

(2) Properties with high sensitivity to mechanical or manual treatments have surface or near-surface features or areas with patterns of distribution or relationships that may contain information important to understanding history or prehistory. Examples include, but are not necessarily limited to hearths; rock rings; a complex of ground stone implements; areas of discrete, single episode flaked stone reduction; remnants of historic structures or structural complexes; historic debris concentrations, rare or unusual features such as game drive traps.

(3) Examples of properties with high sensitivity to chemical treatments include, but are not necessarily limited to, those where chemical applications may:

(a) Alter the integrity or appearance of artifact assemblages, buildings or features in such a manner as to diminish or eliminate the potential for interpretation or alter those qualities that may qualify the site for listing on the NRHP; or

(b) Affect the utility of samples or artifacts for analysis, such as the contamination or alteration of radiocarbon samples through use of chemical treatments.

## **3. Inventory Requirements**

a. Inventory requirements for mechanical, chemical and manual vegetation or fuels management activities will be determined in the Inventory Needs assessment process found at Section V.A.

b. Areas known or expected to contain high sensitivity resources should be subject to Class III inventory.

c. When deemed appropriate in the needs assessment process, areas of a fuels management APE involving no mechanized surface disturbance (such as through aerial seeding, hand clearing up to 10 cm in depth, installing temporary fences on steep slopes, non-organic chemical treatments, etc.) and that are expected to have no effect on high sensitivity resources need not be inventoried. High sensitivity sites will be avoided or effects treated prior to initiating the proposed action. As determined during the needs assessment analysis, staging areas, access routes, and other support facilities will be inventoried to Class III standards and

redesigned to avoid impacts, unless alternative strategies are developed per section 6a.

(1) When deemed appropriate in the needs assessment process, the area of a non-mechanized “lop and scatter” hand-thinning project will be considered a non-ground disturbing activity provided no activity results in disturbance over 10 cm below surface.

(2) If removed or displaced fuels are to be burned, staging and burn areas will be inventoried to Class III standards for a distance of 30 meters beyond the exterior margins of the proposed burn area, unless established otherwise through the needs assessment analysis or unless alternative strategies are developed per Appendix F.L.6.

d. Those portions of a fuels management APE involving more than 10 cm depth of surface disturbance will be inventoried to Class III standards and effects appropriately treated, unless alternative strategies are developed.

e. When deemed appropriate in the needs assessment process, fuels management activities involving less than 10 cm depth of mechanized surface disturbance, and for which the surface will not be removed, will be handled with the procedures specified here.

(1) The APE will be examined to re-locate known historic properties and unevaluated sites and to examine areas likely to contain high sensitivity cultural resources. In general, field examinations could be accomplished using 100 meter transect separation, with deviations accomplished through reconnaissance inventory to re-locate known resources or to inspect high probability areas. An APE with ground cover restricting visibility may require closer intervals as determined by the CRS.

(2) All archaeological resources discovered or re-located by means other than Class III inventory will be plotted on 7.5-minute US Geological Survey topographic maps and recorded on the BLM Nevada IMACS short form, unless alternative strategies are developed per section 6a of this amendment. Class III inventory site documentation and reporting will be as per the SPA.

(3) Site boundaries will be determined in all cases. In instances where surface fuel density precludes adequate surface visibility, a minimum buffer of 50-meters will be established beyond the known site perimeter where avoidance is proposed during project implementation.

(4) Class III inventory along margins of historic roads or trails (i.e., those known or likely to be more than 50 years old) generally will be done for 100 meters on each side of the physical traces of the road or trail identified in the field and within the project area.

#### **4. Treatment**

a. Appropriate steps for avoidance or treatment of effects to historic properties shall be implemented prior to initiating the undertaking.

b. Resources for which eligibility determinations are deferred shall be treated as if

they are historic properties.

c. High sensitivity resources will be flagged and avoided during management activities, except for those previously determined not eligible, by BLM and the SHPO, or that have been previously treated in relation to those qualities that would be affected by the proposed fuels management project.

(1) Standard avoidance measures found in Appendix F.L.6 will apply.

(2) Where vegetation removal or reduction may pose a threat to site integrity through post-treatment effects such as erosion or vandalism, sites will be hand-seeded or otherwise treated (e.g., camouflage, mitigation) as appropriate.

## **5. Special Considerations**

a. Rejuvenation of Existing Seeded Areas. When deemed appropriate in the needs assessment process, the APE for a project to rejuvenate an existing seeding need not be inventoried if:

(1) The project is done with the same methods as the original seeding; and

(2) The project APE does not extend beyond the boundaries of the original seeding; and

(3) Rejuvenation activities will not impact more than the top 10 cm of the plowed surface; and

(4) Known historic properties and unevaluated sites will be avoided; and staging areas, access routes, and other support facilities will be inventoried to Class III standards and redesigned to avoid impacts, based on determinations in the needs assessment analysis. The use of vegetation mosaics to camouflage cultural resources should be considered.

Or,

(5) Past seeding projects may have resulted in disturbance to depths exceeding 10 cm below surface. If the needs assessment analysis indicates that this prior disturbance precludes affecting known or potential historic properties using methods proposed for a mechanical, chemical or manual fuels management project, no cultural resources inventory is required, per the SPA, Appendix C.

## **6. Avoidance Measures**

a. Avoidance measures may include retention of existing vegetation as buffer zones to ensure adequate avoidance or to obscure the exact location of a sensitive cultural resource.

b. The design of vegetation mosaics may incorporate cultural resource areas but should not be limited to them, in order to avoid creation of inadvertent signals for the presence of sites that could lead to vandalism. Vegetation mosaics should include buffer zones extending

beyond actual site boundaries.

c. Temporary markers used to identify outer boundaries of avoidance areas shall be distinctive from other project markers to minimize the potential for confusion and inadvertent damage to sites. Markers around cultural resources or their buffer zones must be removed after completion of the project or project phase. The use of monitors (e.g., Project Inspector) to ensure successful resource avoidance is recommended.

## **7. Compliance**

a. The BLM and the SHPO can agree, through informal discussions or formal consultations, to other inventory and treatments appropriate to individual fuels management projects.

b. The BLM need not consult with the SHPO prior to authorizing fuels management activities conducted under these provisions, except as noted. Nothing alters the BLM's agreement to request SHPO review for undertakings meeting threshold criteria expressed in the SPA, IIA-B.

c. For field reconnaissance conducted at less than Class III intensity, the BLM will provide the SHPO with project documentation consisting of (a) a copy of the approved Needs Assessment form, (b) a map showing the APE, area surveyed and survey method (e.g., reconnaissance, Class II), and (c) an informational copy of the short form(s) for any archaeological resources within it. Reporting requirements for all Class III inventory efforts remain as per the SPA.

(1) The site record for any NRHP-eligible (historic property) or unevaluated site that is not avoided by the proposed action shall include a specific statement of sensitivity and rationale for why no adverse effect will occur, unless this information appears in the Needs Assessment form.

d. Inventory accomplished at less than Class III intensity will not suffice for purposes of Section 106 compliance under other non-fuels management circumstances unless the inventory strategy was implemented based on project-specific consultation with the SHPO.

## **M. Fire Suppression Activity Damage**

BLM policy requires that fire suppression activity damage repair actions be planned and performed primarily by the suppression incident organization as soon as possible prior to demobilization and that Fire Damage Assessment Reports be prepared. Fire suppression activity damage repair actions are documented by the fire suppression incident management team when possible, including both accomplished actions and those still needed to ensure that all planned actions are completed. In some cases, actions may be conducted by other units following containment of the wildland fire and demobilization of the incident management team.

Fire suppression activity damage repair must consider the extent and nature of ground-disturbing suppression-related activities including (but not limited to) dozer lines, temporary fire camps, and actions such as dozer line rehabilitation. Providing accurate locations to the cultural resource specialist, including GIS shape files derived from GPS mapping, may enhance the efficiency and



accuracy of determinations of the need for inventory. Where possible, cultural resources inventory should precede rehabilitation efforts in order to avoid the possibility of increased damage to sites. Accomplishment of any necessary cultural resources inventory should not delay implementation of rehabilitation actions by incident equipment where such equipment must be removed for emergency actions.

For cultural resources, determinations of the need for and extent of inventory are made by a qualified cultural resource specialist and are documented using the needs assessment process in Section II.A of this agreement, based on known or expected site densities, modeling, sensitive areas, historical documentation, reconnaissance or observation during or after the fire, etc. To be implemented, this needs assessment form must be approved by the appropriate official of the incident management team, field office or agency.

Charges for cultural resources inventory and related activities are funded by the appropriate fire suppression account (fire number) but may not be charged to the Emergency Stabilization or Rehabilitation subactivity accounts.

Reporting requirements for such inventories will follow the Statewide Protocol Agreement with the Nevada State Historic Preservation Office. Results of inventory will be summarized for inclusion in a separate confidential appendix to the Fire Damage Assessment Report.

Measures necessary to evaluate sites affected by suppression-related activities for eligibility to the National Register of Historic Places, or to treat effects from suppression-related activities will be discussed in consultation with SHPO, per terms of this Protocol.

Measures necessary to evaluate sites affected by suppression-related activities for eligibility to the National Register of Historic Places, or to treat effects from suppression-related activities, are charged to the appropriate fire suppression account. These procedures and accounting practices for suppression-related effects to cultural resources apply equally to Federal and non-Federal property.

In instances where qualified persons accompanied mechanized equipment during fire suppression for the purpose of avoiding cultural resource damage, the reporting information includes identification of personnel and any results (such as descriptions and locations of sites avoided). Location maps of disturbance and avoidance areas should be provided as part of the report.

## **APPENDIX G: DOCUMENTATION STANDARDS FOR HISTORICAL RESOURCES OF LOCAL AND STATE SIGNIFICANCE**

This appendix deals with treatment of historic, not prehistoric, resources and provides standards for historic resources eligible for inclusion in the National Register at a state or local level of significance, not at a national level of significance. Should the BLM propose to affect historic resources significant at the state or local level, the agency may propose treatment to mitigate the effect. In the past, BLM not only consulted with the SHPO but sought advice from the National Park Service (NPS) on the kinds of treatment that would be required. NPS no longer requires HABS/HAER documentation on properties of local or state significance, instead, requesting that SHPOs create their own state standards. Seeking advice from NPS is now unnecessary unless the resource is of national significance.

To assist in preparing a treatment plan and in estimating costs, this appendix provides standards for treatment of historic resources as agreed upon by the BLM and the SHPO.

### **A. Levels of Significance**

Within the framework of the National Register, the level of significance is defined as the geographic magnitude or scope of a property's historical significance and can be national, state, or local. Local significance is defined as the importance of a property to the history of its community, such as a town, city, or county. Likewise, state significance refers to the importance of a resource to the history of the state in which it is located. The following documentation standards are specific to historic resources eligible to the National Register at the local or state level of significance.

### **B. Resource Categories**

For the purposes of this document, a historic resource is defined as a historic district, building, site, structure, or object; specifically, any such resource that is listed or eligible for listing in the National Register of Historic Places. The following is a partial listing of historic resource types that might be subjected to the level of documentation described herein:

1. District--a geographically-definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development; may also comprise individual elements separated geographically but linked by association or history. Examples of historic districts are mining sites with multiple resources, including buildings and equipment; farms and ranches; and various linear resources, such as water systems and railroads.

2. Building--a structure enclosing a space and providing protection from the elements and that shelters some form of human activity; typically includes walls, a roof, and other components. Commercial buildings may include banks, breweries, casinos, factories, foundries, garages, hangers, laundries, mortuaries, office buildings, railroad stations, blacksmith's shops, stores, theaters, and warehouses; residential types may be single family dwellings, duplexes, apartment buildings, barracks, dormitories, hotels, bunkhouses, quarters, shacks, and shanties; institutional buildings may be academies, amphitheaters, armories, arsenals, asylums, aviaries, Capitols and other governmental buildings, churches, courthouses, fortifications, hospitals, jails, libraries, museums, post offices, and schools; agricultural and rural buildings may be barns, blinds, cellars, kennels, pole structures,

Quonset huts, sheds, stables, smokehouses, and storehouses.

3. Site--location of a significant event, a historic occupation or activity, or building or structure, whether standing, ruined, or vanished, where the location itself possesses significance independent of the value of any existing structure at the location. Examples of such a resource include a battlefield, a farm, or a ranch.

4. Structure--any kind of human construction; often used to refer to an engineering work, as opposed to a building, constructed for purposes other than to provide shelter. Examples of structures include aqueducts, blast furnaces, bridges, cisterns, canals, dams, fences, fortifications, flumes, railroad turntables, reservoirs, root cellars, silos, snow sheds, spring houses, stamp mills and other mining equipment, water tanks, viaducts, wellheads, and windmills.

5. Object--a material thing of functional, aesthetic, cultural, historical, or scientific value; typically primarily artistic in nature or relatively small in scale and simply constructed; may be, by nature or design, movable yet related to a specific setting or environment. Examples include airplanes, boats, boundary markers, head stones, mile posts, monuments, railroad engines, sculptures, statuary, or steam engines.

6. Linear Features--are long, narrow works of human construction, which may be classified by the National Register as structures, districts, or sites. Examples of linear features include canals, ditches, fences, flumes, roads and trails, railroad tracks or roadbeds, walls, or water systems.

7. Properties Suffering Loss of Integrity--where there is an impaired authenticity of a property's historic identity. Examples of properties that have lost integrity, but nevertheless warrant documentation include structures moved, reconstructed, or altered; portions of linear features of which other portions remain intact; minor elements of a complex, unless architecturally distinctive; ruins, collapsed structures, or shells of structures, which may be eligible for the National Register because of their historical importance or associations, but that have little structural/architectural interest and/or integrity.

### **C. Documentation Standards**

The following documentation standards apply to the classes of historical properties defined above. In order to satisfy the documentation requirements for historic properties eligible for the National Register at the local or state level of significance, a report detailing the historical context and significance of the property, and architectural and engineering documentation, including plans and photographs of the property, must be submitted. The requirements for these elements are as follows:

Historical Documentation--is a detailed record of the historical context and significance of a property presented in a report format. Historical documentation will employ appropriate methodology to obtain the desired information. Methods and techniques of historical research should be chosen to obtain needed information in the most efficient manner. Sources will be recorded so that other researchers can verify or locate information discovered during research. Historical research to create documentation uses secondary source materials, archival materials, and primary sources, such as personal records, deed and title books, newspapers, plats, maps, atlases, photographs, vital records, censuses, historical narratives, and interviews with individuals. The historical documentation section should include the following elements:

1. Title Page--should include the title of the report, including the nature and location of the

project, the author of the report, the sponsoring institution, association or agency, and the date the report was prepared.

2. Table of Contents--should list report chapters and all subdivisions, including study unit sections. Pagination must be shown in the table of contents.

3. Introduction--should summarize the purpose of the documentation, the eligibility criteria used to evaluate the resource, the level of significance the resource possesses, the reason for the treatment (i.e., impending threat to the resource), objectives for conducting the historical documentation, the scope of the project, and the agencies involved. A map showing the location of the project must be included.

4. Documentation Methodology--should include an explanation of the procedures used to execute the documentation, including the name of the researcher, date of the research, sources searched, and limitations of the project.

5. Historical Narrative--should provide a full description of the resource(s), a historical context against which significance is assessed, and a comprehensive history of the resource. The following elements should be included in this section:

a. Historical Context--including early settlement, historical overview, and physical development of the project area. The historical context should be guided by the thematic study units identified in the *Nevada Comprehensive Preservation Plan* (1991).

b. Designers, Engineers, and Builders--including biographical information on architects, landscape architects, engineers, builders and contractors, and other designers who practiced in the project area.

c. Notable People--including biographical information on major figures in the community's history and in the history of the resource being documented.

6. Bibliography--references to secondary sources should indicate author, title, and date of publication. Primary sources should be identified by name, collection identifier, and location. Interviews should be noted including the date and location of the interview, names of both parties.

Architectural and Engineering Documentation--the historic significance of the building, site, structure, or object will be conveyed through drawings, photographs, and other materials that comprise documentation. The appropriate level of documentation for properties eligible for the National Register at a local, regional, or state level of significance must include:

1. Photographs with 35mm black-and-white negatives of exterior and interior views of the resource. The exterior should be documented by at least 6 views including a) the front and one side; b) the rear and one side; c) the front elevation; d) environmental view showing the building as part of its larger landscape; e) major elements of the building, including doors, windows, additions, etc.; and f) details, such as materials and hardware. Interior photographs should yield information about the floor plan. Three or four views should be sufficient to document the significant elements of the interior, unless the resource is large or complex;

**APPENDIX M:  
Standards for Digital Photography  
During Inventory and Recording**

BLM expects that high quality digital color images will be submitted with reports to record heritage resources (including buildings and structures), artifacts, settings, landscapes and related subjects found during inventory and evaluation phases. The BLM should be consulted separately for the means and standards of photo documentation for use in National Register nominations and in mitigation (e.g., Appendix G), as different and higher standards may apply or be developed.

**Inventory-level Digital Image Recording and Submission Standards**

1. High-quality digital images are required.
  - a. Individual image files must be a minimum of 1200-x-1600 pixels (approximately 1.9 megapixels) each.
  - b. These images must allow for printing a high-quality image in either color or black-and-white with a minimum of 300 x 300 dots per inch (dpi) or higher.
2. Images are required in digital format, and may also be required in print format, or both digital and print formats.
  - a. Each BLM office should be consulted to determine whether print copies will be required by BLM or for submittal to SHPO.
  - b. Reports or records involving submittal of SHPO's Historic Resources Inventory Forms must be accompanied by color or black-and-white prints on 8.5 x 11 inch white paper.
  - c. Images submitted with reports must measure no less than 4-x-6 inches and may be printed on either standard-sized paper (8.5 x 11 inch) or as individual 4-x-6 print images on photographic paper, as determined by the BLM office.
  - d. Each image must be accompanied by a caption/label minimally including BLM and/or NSM site number, date photograph was taken, direction of photo, subject, and project. If persons are present in the image, they should be identified by first and last name.
  - e. BLM offices should be consulted ahead of time to determine if other documentation is required, such as UTM location of photographer for each image.

3. Digital images will be submitted in an acceptable electronic format (e.g., compact disk).
  - a. Individual BLM offices should be consulted to determine the acceptable means of storing digital images.
  - b. Image file formats must be compatible with BLM software; JPEG is acceptable.
  - c. Storage media must be labeled individually with the project name, BLM project number or other BLM assignation, month and year, and source or provider (e.g., permittee company name).
4. A standard metric or metric/English scale must accompany artifact photos or other images where scale is needed to convey essential information.

**ATTACHMENT 1: INVENTORY NEEDS ASSESSMENT FORM**

Bureau of Land Management Nevada State Office  
Cultural Resources Inventory Needs Assessment

**REQUIRED:**

BLM Office:

To be completed by Project Manager/Lead:

Project Name/No.:

Project Description/Scope (who, what, when, where, why, how, and how much [acreage]):

Legal Description:

Attached Copy of 7.5-minute Map with Map Reference showing Project Location:

To be completed Cultural Resource Specialist (CR):

Area of Potential Effect:

APE Acreage:

Records Check:

Records Examined:

Results:

Inventory Type Needed:

None

Categorical Exemption (Number \_\_\_)

Reconnaissance

Class I

Class II

Class III

Architectural

Rationale for Inventory Type determination:

Tribal Notification/Consultation Needs:

Rationale:

Tribe(s) to be contacted:

Public Notification Needs:

Rationale:

Person(s), group(s) to be contacted:

CRS Approval: /s/

Field or other appropriate Manager Concurrence: /s/

Date:

Date:

**ADDITIONAL:**

Field offices may add categories appropriate to their internal procedures.