

**Appendix J**  
**Cultural MOAs**

**Cultural Resources  
Memorandum of Understanding**

**Direct Effects**

**MEMORANDUM OF AGREEMENT**  
**BETWEEN THE BUREAU OF LAND MANAGEMENT AND**  
**THE COLORADO STATE HISTORIC PRESERVATION OFFICER REGARDING**  
**THE FRAM OPERATING, LLC WHITEWATER UNIT MASTER DEVELOPMENT PLAN**  
**AND ASSOCIATED INFRASTRUCTURE**  
**IN MESA COUNTY, COLORADO**

WHEREAS, the Bureau of Land Management – Grand Junction Field Office (BLM) plans to approve a Master Development Plan (MDP) for the future development and construction of up to 108 wells on 12 new well pads, roads, gas gathering pipelines, oil gathering pipelines and produced water gathering pipelines (the undertaking) pursuant to Federal Land Policy and Management Act (FLPMA) Public Law 94–579 of 1976; and

WHEREAS, the BLM has defined the undertaking's area of potential effect (APE) as the 52,543 acres in which the well pads, wells, and linear routes will be built (see Attachment 1); and

WHEREAS, the BLM has determined, in consultation with the Colorado State Historic Preservation Officer (SHPO), that the undertaking will have an adverse effect on historic properties and has consulted with the Colorado State Historic Preservation Officer (SHPO) pursuant to 36 CFR part 800 of the regulations implementing Section 106 of the National Historic Preservation Act (16 USC § 470f) and the Colorado Protocol Agreement; and

WHEREAS, the BLM has consulted with Fram Operating, LLC (Fram) regarding the effects of the undertaking on historic properties and has invited it to sign the Memorandum of Agreement (MOA) as an invited signatory; and

WHEREAS, the purpose of this MOA is to mitigate the undertaking's direct effects to historic properties and to establish acceptable monitoring protocol; and

WHEREAS, this MOA does not exempt Fram from additional mitigation that may be required as a result of future construction activities or tribal mitigation associated with this undertaking; and

WHEREAS, the BLM has consulted with the Colorado State Historic Preservation Officer (Colorado SHPO) on its determinations of eligibility and effect, and the SHPO has concurred with BLM's determinations; and

WHEREAS, the BLM is consulting with the Ute Indian Tribe of the Uintah and Ouray Reservation, Ute Mountain Ute Tribe, and the Southern Ute Tribe pursuant to Section 106 of the NHPA; and

WHEREAS, pursuant to the National Programmatic Agreement among the BLM, the Advisory Council on Historic Preservation (ACHP) and the National Conference of State Historic Preservation Officers, the undertaking does not meet the threshold for ACHP notification; and

NOW, THEREFORE, the BLM and the SHPO agree that the undertaking shall be implemented in

accordance with the following stipulations in order to take into account the direct effects of the undertaking on recorded historic properties within the APE.

## STIPULATIONS

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

### I. MITIGATION

A. Fram will implement the mitigation measures identified in the Cultural Mitigation Plan for Fram Operating's Whitewater Project, Mesa County, Colorado (Attachment 2) for all drilling and production activities.

B. Fram will implement the alternative mitigation measures for cumulative impacts as outlined in the separate Memorandum of Agreement Between the Bureau of Land Management and the Colorado State Historic Preservation Officer Regarding the Fram Operating, LLC, Whitewater Unit Master Development Plan in Mesa County, Colorado.

### II. MONITORING AND DISCOVERIES

A. Fram will implement the Monitoring and Cultural Resource Discovery Plan described in Attachment 2 (Appendix C).

### III. DURATION

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the BLM may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below.

### IV. POST-REVIEW TRIBAL MITIGATION

The BLM shall contact the SHPO to incorporate mitigation identified during its on-going consultation with tribes. Modification to Attachment 2 will not require an amendment to the MOA.

### V. MONITORING AND REPORTING

One year following the execution of this MOA, until it expires or is terminated, the BLM shall provide all parties to this MOA an annual summary report detailing work undertaken pursuant to its terms by September 30th. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the BLM's efforts to carry out the terms of this MOA.

### VI. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the BLM shall consult with such party to resolve the objection. If the BLM determines that such objection cannot be resolved, the BLM will:

A. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide the BLM with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the BLM

shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The BLM will then render a Decision and proceed accordingly.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. It is the BLM's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

## VII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## VIII. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the BLM must either (a) execute an MOA pursuant to 36 C.F.R § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R § 800.7. The BLM shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the BLM and the SHPO is in accordance with the Colorado Protocol Stipulation VIII(C)(2)(A)(1) and therefore is in compliance with 36 C.F.R. § 800.6(b)1(iv) and 36 C.F.R. § 800.6(c).

In witness whereof, the parties to this MOA, through their duly authorized representatives, have executed this MOA on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOA as set forth herein.

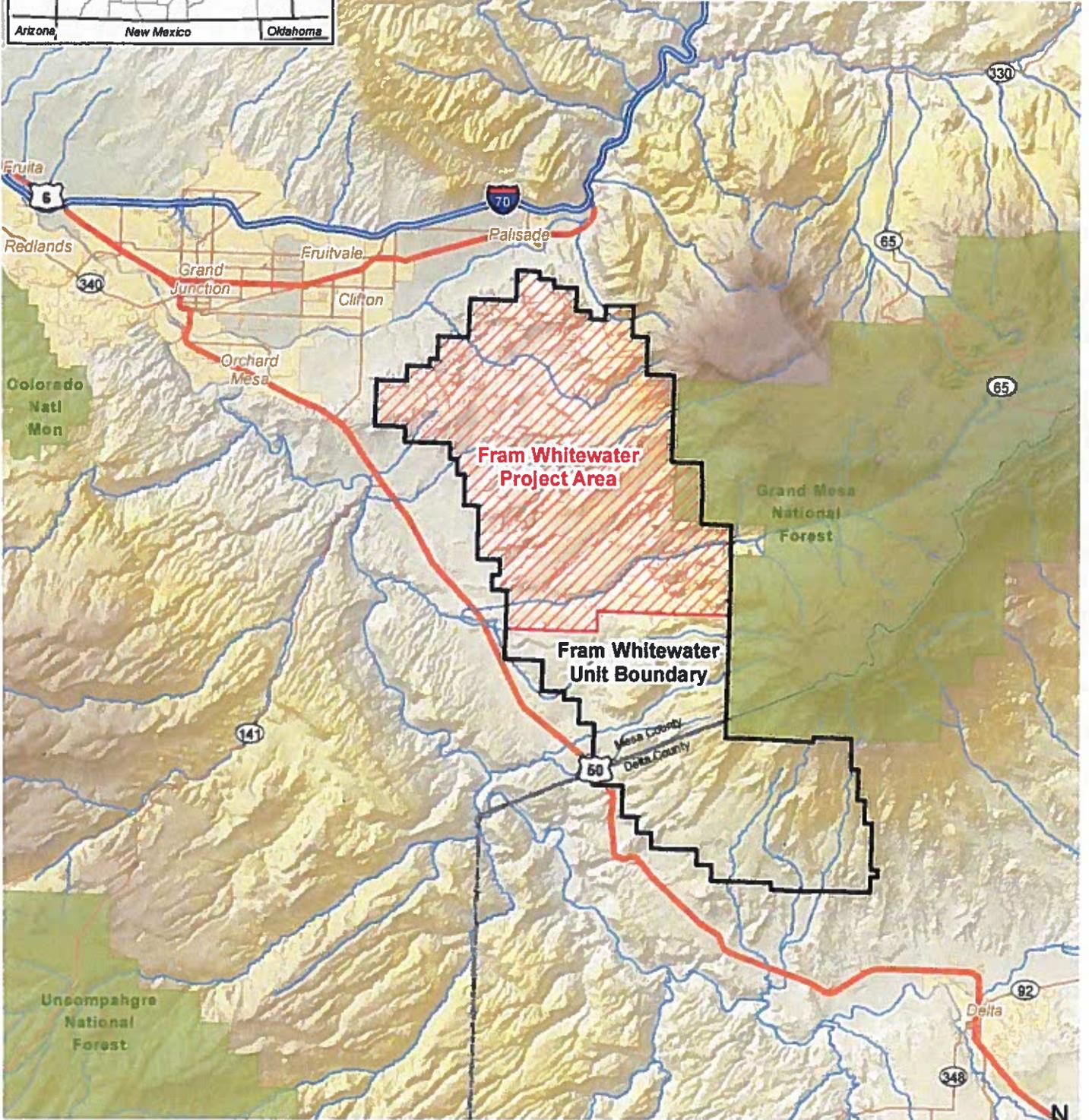
The effective date of this MOA is the date signed by the last signatory below.



Attachment 1:  
Fram Whitewater Master Development Plan  
Location Area and APE Maps



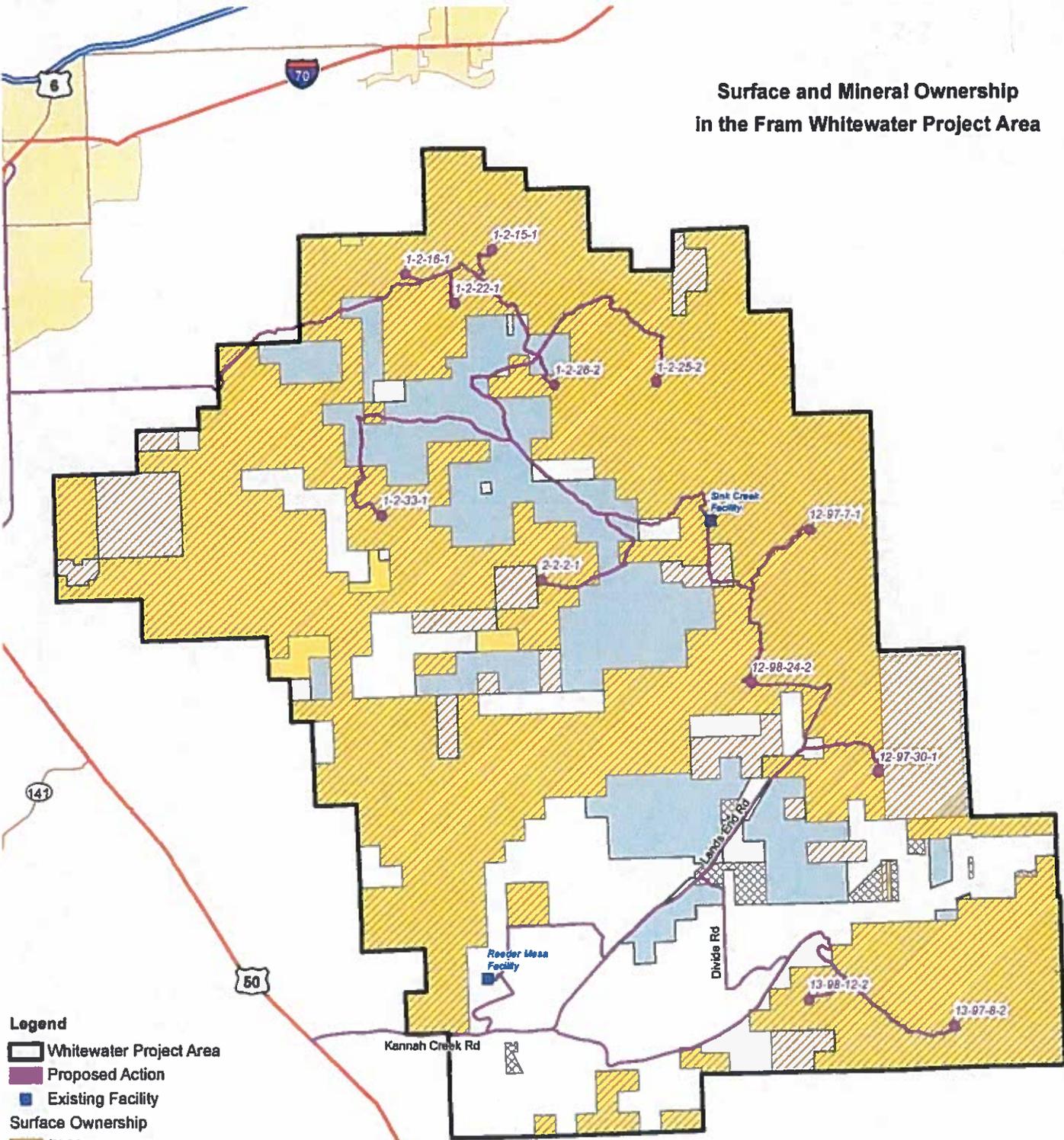
### General Location of the Fram Whitewater Project Area



No warranty is made by the Bureau of Land Management for use of the data for purposes not intended by the BLM



# Surface and Mineral Ownership in the Fram Whitewater Project Area



- Legend**
- Whitewater Project Area
  - Proposed Action
  - Existing Facility
  - Surface Ownership**
  - BLM
  - Forest Service
  - Grand Junction
  - Private
  - Mineral Ownership**
  - Federal
  - Private
  - Unknown



No warranty is made by the Bureau of Land Management for use of the data for purposes not intended by the BLM



Attachment 2:

Cultural Mitigation Plan for Fram Operating's Whitewater  
Project, Mesa County, Colorado

**Cultural Resources  
Memorandum of Understanding**

**Cumulative Effects**

**MEMORANDUM OF AGREEMENT**  
**BETWEEN THE BUREAU OF LAND MANAGEMENT AND**  
**THE COLORADO STATE HISTORIC PRESERVATION OFFICER REGARDING THE FRAM**  
**OPERATING, LLC WHITEWATER UNIT MASTER DEVELOPMENT PLAN IN MESA**  
**COUNTY, COLORADO**

WHEREAS, the Bureau of Land Management – Grand Junction Field Office (BLM) plans to approve a Master Development Plan (MDP) for the future development and construction of up to 108 wells on 12 new well pads, roads, gas gathering pipelines, oil gathering pipelines and produced water gathering pipelines (the undertaking) pursuant to Federal Land Policy and Management Act (FLPMA) Public Law 94–579 of 1976; and

WHEREAS, the BLM has defined the undertaking's area of potential effect (APE) as the 52,543 acres in which the well pads, wells, and linear routes will be built; and

WHEREAS, the BLM has determined, in consultation with the Colorado State Historic Preservation Officer (SHPO), that the undertaking may have an adverse effect on historic properties and has consulted with the Colorado State Historic Preservation Officer (SHPO) pursuant to 36 CFR part 800 of the regulations implementing Section 106 of the National Historic Preservation Act (16 USC § 470f) and the Colorado Protocol Agreement; and

WHEREAS, the BLM has consulted with Fram Operating, LLC (Fram) regarding the effects of the undertaking on historic properties and has invited it to sign the Memorandum of Agreement (MOA) as an invited signatory; and

WHEREAS, the sole purpose of this MOA is to reduce the undertaking's cumulative impacts as well as adverse effects to historic properties that have not been recorded due to denied land owner access for cultural resources survey; and

WHEREAS, this MOA does not exempt Fram from additional mitigation that may be required as a result of future construction activities associated with this undertaking; and

WHEREAS, pursuant to the National Programmatic Agreement among the BLM, the Advisory Council on Historic Preservation (ACHP) and the National Conference of State Historic Preservation Officers, the undertaking does not meet the threshold for ACHP notification; and

NOW, THEREFORE, the BLM and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on unrecorded historic properties on private land and the cumulative effects to historic properties within the APE.

## STIPULATIONS

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

### I. MITIGATION

A. Fram will voluntarily provide the approximate equivalent of the costs it would have incurred to conduct survey on the 172 private acres where survey permission was not obtained, as well as additional funds to cover administrative costs, in an amount not to exceed \$21,000.

B. Such funds will be held by BLM in a "mitigation bank."

C. Mitigation bank funds will be used to address adverse effects to historic properties located within the APE. Examples of mitigation include, but are not limited to:

- 1) The scientific investigation, through excavation or systematic testing, of features that would likely be impacted in the future by activities such as road maintenance and widening;
- 2) The interpretation of a site or sites for the public, and/or;
- 3) The intensive recordation (such as 3D imaging) or listing of a site to the National Register of Historic Places, which would recognize and honor the importance of sites within the project area.

C. The BLM will work with the SHPO to determine appropriate uses for the mitigation bank funds.

### II. DURATION

This MOA will be null and void if its terms are not carried out within three (3) years from the date of its execution. Prior to such time, the BLM may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VI below.

### III. POST-REVIEW DISCOVERIES

In the event that additional historic properties are discovered, the BLM shall contact the SHPO for further consultation.

### IV. MONITORING AND REPORTING

One year following the execution of this MOA, until it expires or is terminated, the BLM shall provide all parties to this MOA an annual summary report detailing work undertaken pursuant to its terms by September 30th. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the BLM's efforts to carry out the terms of this MOA.

### V. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the BLM shall consult with such party to resolve the objection. If the BLM determines that such objection cannot be resolved, the BLM will:

A. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the

ACHP. The ACHP shall provide the BLM with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The BLM will then render a Decision and proceed accordingly.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. It is the BLM's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

## VI. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## VII. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VI, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the BLM must either (a) execute an MOA pursuant to 36 C.F.R § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R § 800.7. The BLM shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the BLM and the SHPO is in accordance with the Colorado Protocol Stipulation VIII(C)(2)(A)(1) and therefore is in compliance with 36 C.F.R. § 800.6(b)1(iv) and 36 C.F.R. § 800.6(c).

In witness whereof, the parties to this MOA, through their duly authorized representatives, have executed this MOA on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOA as set forth herein.

The effective date of this MOA is the date signed by the last signatory below.

SIGNATORIES:

Bureau of Land Management

*Katie A Stevens* Date *2-9-2014*  
Kathryn A. Stevens, Grand Junction Field Office Manager

Colorado State Historic Preservation Office

*Ed Nichols* Date *2/18/14*  
Edward C. Nichols, State Historic Preservation Officer

INVITED SIGNATORY:

Fram Operating, LLC

*David A. Cook* Date *3/5/14*  
David A. Cook, Manager, Fram Operating, LLC

AMENDMENT NO. 1 TO

MEMORANDUM OF AGREEMENT  
BETWEEN THE BUREAU OF LAND MANAGEMENT AND  
THE COLORADO STATE HISTORIC PRESERVATION OFFICER REGARDING  
THE FRAM OPERATING, LLC WHITEWATER UNIT MASTER DEVELOPMENT  
PLAN IN MESA COUNTY, COLORADO

WHEREAS, the Bureau of Land Management (BLM) entered into a Memorandum of Agreement (MOA) with the Colorado State Historic Preservation Office (SHPO) which included Fram Operating, LLC (Fram) as an invited signatory and the MOA was executed by all parties as of March 5, 2014;

WHEREAS, Fram has secured additional permissions from private land owners to survey lands within the Whitewater Unit Master Development Plan project and the survey was completed by a permitted BLM Colorado consulting firm. The current amount not surveyed due to landowner denial is now 89 acres.

WHEREAS, pursuant to 36 CFR § 800.6(c)(7), the parties to the MOA desire to amend the MOA.

NOW THEREFORE, the parties agree as follows:

I. The MOA shall be amended to replace Stipulation 1A in full with the following language:

Fram will voluntarily provide the approximate equivalent of the costs it would have incurred to conduct survey on the 89 private acres where survey permission was not obtained, as well as additional funds to cover administrative costs, in an amount not to exceed \$17,600.

II. All other provisions of the MOA, as amended, are unchanged and shall remain in full force and effect.

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SIGNATORIES:

Bureau of Land Management

for Wayne Watneat Date 5-28-14  
Kathryn A. Stevens, Grand Junction Field Office Manager

Colorado State Historic Preservation Office

for Edward C. Nichols (Deputy SHPO) Date 5-30-14  
Edward C. Nichols, State Historic Preservation Officer

INVITED SIGNATORY:

Fram Operating, LLC

David A. Cook Date 6/2/14  
David A. Cook, Manager, Fram Operating, LLC