

- 47 • The designation of routes for OHV travel within Limited OHV Areas. Routes can be
48 comprehensively designated in Travel Management Plans for a particular planning area, or
49 designated on a route-by-route basis as determined appropriate. Route designations typically
50 involve the following actions:
51 ○ Numbering and signing routes for OHV travel;
52 ○ Identifying routes on publicly-available travel maps;
53 ○ Maintaining and upgrading routes when no new ground disturbance is necessary; and
54 ○ Rehabilitating and barricading closed routes.
55 • The approval of Special Recreation Permits that authorize commercial, competitive, and
56 organized group activities to occur on designated routes.

57
58 **WHEREAS**, in addition to the regulations at 36 CFR 800, these travel planning undertakings
59 must be approved in conformance with the BLM’s *Designation of Areas and Trails* regulations
60 at 43 CFR Subpart 8342. BLM-Utah begins the 36 CFR 800 process for these undertakings
61 upon initiation of implementing its *Resource Management Planning* regulations (43 CFR
62 Subpart 1610) and/or the *Procedures for Implementation of the National Environmental Policy*
63 *Act* (NEPA, 36 CFR Part 805); and

64
65 **WHEREAS**, BLM-Utah is the lead federal agency responsible for ensuring that all stipulations
66 of this agreement are carried out, and is a signatory to this agreement; and

67
68 **WHEREAS**, BLM-Utah invited the Advisory Council on Historic Preservation (ACHP) to
69 participate in the consultation process for this agreement in accordance with the *Programmatic*
70 *Agreement among the BLM, ACHP, and National Conference of State Historic Preservation*
71 *Officers regarding the Manner in which BLM will meet its Responsibilities under the National*
72 *Historic Preservation Act* (National PA). The ACHP elected to participate in this agreement
73 because it presents questions of policy or interpretation and presents issues of concern to Indian
74 tribes. The ACHP is a signatory to this agreement; and

75
76 **WHEREAS**, the SHPO has responsibilities under NHPA, *Procedures for State, Tribal, and*
77 *Local Government Historic Preservation Programs* (36 CFR Part 61), and 36 CFR Part 800 to
78 advise and assist BLM-Utah in complying with its Section 106 responsibilities for proposed
79 undertakings on public lands in Utah. The SHPO is a signatory to this agreement; and

80
81 **WHEREAS**, in accordance with 36CFR800.6(c)(1), a signatory has the sole authority to
82 execute, amend, or terminate the agreement. The signatories for this agreement are the ACHP,
83 BLM-Utah and SHPO; and

84
85 **WHEREAS**, in accordance with 36CFR800.6(c)(3), a concurring party is a consulting party
86 invited by the signatories to concur with this agreement. A concurring party does not have the
87 authority to amend or terminate the agreement, nor is their signature required to execute this
88 agreement. A concurring party signature is considered by the signatories as an endorsement of
89 this agreement; and

90
91 **WHEREAS**, BLM-Utah has invited the governments of the following federally recognized
92 Indian tribes to be concurring parties: Confederated Tribes of the Goshute Reservation, Eastern
93 Shoshone Tribe, Kaibab Band of Paiute Indians, Kewa Pueblo, Navajo Nation, Northwest Band

94 of the Shoshone Nation, Ohkay Owingeh Pueblo, Paiute Indian Tribe of Utah, Pueblo of Acoma,
95 Pueblo de Cochiti, Pueblo of Isleta, Pueblo of Jemez, Pueblo of Laguna, Pueblo of Nambe,
96 Pueblo of Picuris, Pueblo of Pojoaque, Pueblo of San Felipe, Pueblo of San Ildefonso, Pueblo
97 of Sandia, Pueblo of Santa Clara, Pueblo of Taos, Pueblo of Tesuque, Pueblo of Zia, Pueblo of
98 Zuni, San Juan Southern Paiute Tribe, Skull Valley Band of the Goshute Indians of Utah,
99 Southern Ute Tribe, Tamaya Pueblo, The Hopi Tribe, Ute Indian Tribe, Ute Mountain Ute Tribe,
100 and White Mesa Ute Tribe; and

101
102 **WHEREAS**, the following tribal governments participated in the development of this
103 agreement. . . ; and the following tribal governments are concurring parties to this agreement. . . ;
104 and

105
106 **WHEREAS**, BLM-Utah will continue to consult with interested Indian tribes regarding travel
107 planning undertakings in accordance with 36CFR800.2(c)(2); and

108
109 **WHEREAS**, BLM-Utah has invited the following federal and state government agencies to
110 participate to be signatories or concurring parties: National Park Service, United States Army
111 Dugway Proving Ground, United States Forest Service, State of Utah School and Institutional
112 Trust Lands Administration, Utah Department of Transportation, Utah Division of Wildlife
113 Resources, Utah’s Public Lands Policy Coordination Office, Utah State Parks; and

114
115 **WHEREAS**, the following government agencies participated in the development of this
116 agreement: United States Army Dugway Proving Ground, State of Utah School and Institutional
117 Trust Lands Administration, and Utah’s Public Lands Policy Coordination Office. The
118 following government agencies are concurring parties to this agreement . . . ; and

119
120 **WHEREAS**, BLM-Utah has invited the following local governments to be concurring parties:
121 Beaver County, Box Elder County, Cache County, Carbon County, Daggett County, Davis
122 County, Duchesne County, Emery County, Garfield County, Grand County, Iron County, Juab
123 County, Kane County, Millard County, Piute County, Rich County, San Juan County, Sanpete
124 County, Sevier County, Tooele County, Uintah County, Utah County, Washington County,
125 Wayne County, and Weber County; and

126
127 **WHEREAS**, the following local governments participated in the development of this agreement:
128 Beaver County, Duchesne County, Emery County, Iron County, Juab County, Kane County,
129 Piute County, San Juan County, Uintah County, and Washington County. The following local
130 governments are concurring parties to this agreement . . . ; and

131
132 **WHEREAS**, BLM-Utah has invited the following organizations and individuals to be
133 concurring parties: American Lands and Access Association, Blue Ribbon Coalition, Colorado
134 Plateau Archaeological Alliance, Friends of Cedar Mesa, Great Old Broads for Wilderness,
135 Milford Archaeological Research Institute, National Off-Highway Vehicle Conservation
136 Council, National Trust for Historic Preservation, Nine Mile Canyon Coalition, Old Spanish
137 Trail Association, Oregon-California Trails Association, San Juan Public Entry and Access
138 Rights, San Juan Heritage Council, Southern Utah Wilderness Alliance, United Four Wheel
139 Drive Associations, Utah 4 Wheel Drive Association, Utah Professional Archaeological Council,
140 Utah Shared Access Alliance, Utah Statewide Archaeological Society, Utah Rock Art Research

141 Association, Owen Severance, and Lynell Shalk; and

142

143 **WHEREAS**, the following organizations have participated in the development of this
144 agreement: American Lands and Access Association, Colorado Plateau Archaeological Alliance,
145 Nine Mile Canyon Coalition, Old Spanish Trail Association, Southern Utah Wilderness Alliance,
146 United Four Wheel Drive Associations, Utah 4 Wheel Drive Association, and Utah Rock Art
147 Research Association. The following organizations and individuals are concurring parties to this
148 agreement . . . ; and

149

150 **WHEREAS**, Unless specifically identified, Indian tribes, SHPO, local governments,
151 organizations and individuals that are identified or accepted by the agency official for
152 consultation or input during undertakings covered by this agreement are listed as consulting
153 parties in this agreement; and

154

155 **NOW, THEREFORE**, the signatories and concurring parties agree that travel planning shall be
156 implemented in accordance with the following stipulations.

157

158 **STIPULATIONS**

159

160 BLM-Utah shall ensure that the following stipulations in this agreement are carried out:

161

162 **1. Professional Standards**

163

164 A. For the purposes of this agreement, the “agency official” identified in 36CFR800.2
165 includes the BLM-Utah State Director, District Managers, Field Managers, Monument
166 Manager, and National Conservation Areas Manager that maintain approval authority for
167 travel planning undertakings and can commit BLM-Utah resources towards the
168 implementation of this agreement’s stipulations.

169

170 B. BLM-Utah will ensure that all work undertaken to satisfy the terms of this agreement
171 meets the *Secretary of the Interior’s Standards and Guidelines for Archeological and*
172 *Historic Preservation* for identification, evaluation, documentation and preservation. All
173 work will also take into consideration the ACHPs *Section 106 Archaeology Guidance*
174 (<http://www.achp.gov/archguide.html>) and *Guidelines for Evaluating and Documenting*
175 *Traditional Cultural Properties*, National Register Bulletin 38.

176

177 C. BLM-Utah will ensure that all work undertaken to satisfy the terms of this agreement will
178 be conducted or overseen by field office personnel who meet the qualifications
179 established by the Office of Personnel Management for a GS-0193 professional series
180 archaeologist, (i.e., a qualified BLM cultural resource professional) as agreed to in *BLM-*
181 *Utah’s Statewide Programmatic Agreement for Small-Scale Undertakings (Statewide*
182 *Small-Scale PA)*.

183

184 **2. Terminology Standards**

185

186 **A. Cultural Resource Management Terminology**

187 Unless otherwise noted, the terms used in this agreement, including “adverse effect,”
188 “area of potential effect,” “historic property,” and “National Register,” are consistent
189 with the definitions found in federal regulations related to the *Protection of Historic*
190 *Properties* at 36 CFR 800.16, regulations for *Determinations of Eligibility for Inclusion*
191 *in the National Register of Historic Places* at 36 CFR Part 63, the BLM’s *Identifying and*
192 *Evaluating Cultural Resources Manual* (BLM Manual Section-8110), BLM-Utah's
193 *Guidelines for Identifying Historic Properties Manual and Handbook* (BLM-Utah
194 Manual 8110 and Handbook 8110).

195
196 **B. Travel and Transportation Management Terminology**

197 Unless otherwise noted, the terms used in this agreement, including “Open, Limited, and
198 Closed OHV Areas,” “routes,” “travel management plan,” and “Special Recreation
199 Permits,” are consistent with the definitions found in BLM’s regulations for the
200 *Designation of Areas and Trails* at 43CFR8342, regulations for *Special Recreation*
201 *Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation*
202 *Use in Special Areas* at 43CFR2932, the BLM’s *Travel and Transportation Management*
203 *Manual* (BLM Manual Section-1626, “Travel Planning Manual”), and the BLM’s *Travel*
204 *and Transportation Handbook* (BLM Handbook-8342, “Travel Planning Handbook”).

205
206 For the purposes of this agreement, the term “concentrate travel” refers to a determination
207 made by the BLM-Utah agency official in conformance with Stipulation F, that a
208 proposed route designation would likely result in the shift, concentration, or expansion
209 OHV travel on the route beyond its existing use patterns to such an extent that adverse
210 effects to historic properties could occur.

211
212 For the purposes of this agreement, a route-based Special Recreation Permit (SRP) is an
213 undertaking that would authorize a permit holder to conduct commercial, competitive,
214 and/or organized group activities that involve motorized and non-motorized access on
215 existing and/or designated routes. Such route-based SRP undertakings include, but are
216 not limited to endurance events, mountain bike and motor cross races, and historic trail
217 reenactments.

218
219 **C. Identification Terminology**

220 For the purposes of this agreement, the following definitions are used for BLM-Utah to
221 meet its reasonable and good faith identification efforts required at 36CFR800.4:
222

223 **1. BLM-Utah Cultural Resource Identification Strategies for Travel Planning**

224 A “BLM-Utah Field Office Cultural Resource Identification Strategy for Travel
225 Planning” refers to the strategy identified in Stipulation 3.1 of this agreement. The
226 strategies will identify each BLM-Utah field office’s respective priorities and
227 associated timeframes to complete any additional cultural resource identification
228 needs for previously-approved future travel planning undertakings, including the
229 development of a Class I inventory and any additional Class II and III surveys.

230
231 **2. Site Revisit**

232 For the purposes of this agreement, a “site revisit” is an on-the-ground exercise
233 completed by a BLM archaeologist to identify the potential effects to a historic

234 property or an unevaluated site that may be related to a travel planning undertaking.
235 Cultural resource site form updates may be necessary for each site revisited, and
236 updates may include, but not be limited to, incorporating missing or incomplete site
237 data and updating a site's National Register eligibility determination. A site form
238 update will not be needed where a BLM archaeologist official determines that there
239 have been no changes to the site or eligibility determination since the previous
240 recording.
241

242 **3. Class I Inventory**

243 A "Class I inventory" is a professionally prepared study that includes a BLM-Utah
244 field office's travel planning area; it includes a summary of cultural resource
245 information, ethnographic data, historic records, relevant research studies, a
246 management summary, and a GIS dataset that contains all cultural resource
247 inventories and recorded cultural resource sites, as well as their relevant GIS
248 metadata (e.g., site type, National Register eligibility determination, etc.). This GIS
249 dataset will also include a statistically-based predictive model that maps whether the
250 public lands within the planning area maintain a high, medium or low potential for
251 historic properties.
252

253 For a Class I, the agency official may replace the statistically-based predictive model
254 with an expert-informed planning map (planning map). The development of a
255 planning map requires the direct input of multiple experts in a workshop framework.
256 Experts generally include professional archaeologists, tribal representatives, and
257 consulting parties. In the workshop context, polygons will be drawn around areas that
258 experts consider to have a high, medium or low potential for historic properties.
259 Existing GIS data, cultural resource publications, satellite imagery, and field visits
260 may be used to further refine the potential areas.
261

262 BLM-Utah field offices are responsible for maintaining and updating their respective
263 Class I inventories' maps of high, medium, and low potential for historic properties as
264 relevant information regarding the likelihood of identifying cultural resources is
265 received, including when additional Class II and III cultural resource surveys are
266 completed; additional cultural resource sites are identified; new public, consulting
267 party, and tribal input is received; and/or as new cultural resource publications,
268 satellite imagery, professional field visits, and relevant law enforcement
269 investigations.
270

271 **4. Class II Survey**

272 A "Class II survey" is a targeted field survey designed to aid in characterizing
273 whether the public lands maintain a high, medium, or low potential for historic
274 properties, including a particular area's possible density, diversity, and distribution
275 of historic properties. Class II surveys include intensive field surveys, but the survey
276 does not occur across one hundred percent of the area of potential effect for a
277 particular undertaking, and/or the survey is completed using alternative Class III
278 field identification methods, such as using a wider spaced survey transect, linear
279 sample surveys along a particular route or routes, and sample survey blocks.
280

281 Class II surveys provide BLM-Utah with data regarding the presence or absence of
282 cultural resources across a particular landscape, as well as specific quantitative and
283 qualitative information regarding identified historic properties. For Class II survey
284 commitments that will be completed after the approval of travel planning
285 undertakings, the level of on-the-ground surveys will be commensurate with the
286 availability of existing data, the potential for the undertaking to cause adverse
287 effects, and the need for a Class I inventory predictive model or planning map. Such
288 Class II survey commitments agreed upon in the Section 106 process will include
289 timeline for completion and additional opportunities for consulting parties to provide
290 input.

291 **5. Class III Survey**

293 A “Class III survey” is a professionally conducted, intensive pedestrian survey of an
294 entire target area, aimed at locating and recording all cultural resources that have
295 surface indications, by walking close-interval parallel transects until the area has
296 been thoroughly examined. Class III surveys provide BLM-Utah with data regarding
297 the presence or absence of cultural resources across a particular landscape, as well as
298 specific quantitative and qualitative information regarding identified historic
299 properties.

301 **3. Identification Standards**

303 **A. BLM-Utah Cultural Resource Identification Strategies for Travel Planning**

304 No later than September 30, 2016, and then on an annual basis no later than September
305 30 of each year, BLM-Utah field office shall finalize and share with interested consulting
306 parties their respective “BLM-Utah Field Office Cultural Resource Identification
307 Strategies for Travel Planning” that incorporates the direction outlined in Stipulation 3 of
308 this agreement. The strategies will identify each BLM-Utah field office’s respective
309 priorities and associated timeframes related to the development of a Class I inventory and
310 any additional Class II and III surveys necessary to implement the identification
311 standards outlined under this stipulation. The objective of the annually updated
312 identification strategies is to provide consulting parties with regular updates regarding the
313 implementation of these efforts. Specific identification strategies for individual travel
314 planning undertakings may be discussed at this meeting.

316 **B. Identifying Areas of Potential Effects (APE)**

318 **1. APEs for Open, Limited and Closed OHV Areas**

319 The APE will be the geographical extent that Open and Limited OHV areas
320 designated in RMPs and RMP amendments could potentially affect historic
321 properties. During the public scoping phase of the RMP or RMP amendment, the
322 responsible BLM-Utah agency official will invite and seek tribal and consulting party
323 input into the undertaking’s Section 106 process, including whether to expand the
324 APE for proposed open and limited OHV area designations to account for direct,
325 indirect, and/or cumulative effects.

326 **2. APEs for Route Designations**

328 The APE for routes designated in a comprehensive travel plan or on a route-by-route
329 basis will encompass the geographic width that the governing RMP or RMP
330 amendment provides for off-route OHV travel for parking and dispersed camping
331 purposes (for example, if a BLM-Utah field office's RMP authorizes OHV travel up
332 to 50 feet on either side of a route's centerline, then the APE for the route designation
333 would be 100-feet wide). In the event that the governing RMP does provide for off-
334 route OHV travel for parking and dispersed camping purposes, the APE will be a
335 minimum of 15 meters-wide along each route, which will encompass all physical
336 disturbances associated with the route and typically five additional meters outside of
337 such disturbances. During the NEPA public scoping phase for travel planning
338 undertakings, the responsible BLM-Utah agency official will invite and seek
339 consulting party and tribal input into these undertakings' concurrent Section 106
340 processes, including whether to expand the APE for proposed route designations to
341 better account for potential direct, indirect, and/or cumulative effects.
342

343 **3. APEs for Route-Based SRPs**

344 The APE for proposed route-based SRPs will be the same geographic scope that was
345 delineated for the route designation, as well as any proposed travel, parking, camping,
346 or other use that fully encompass the permitted activities. BLM-Utah agency officials
347 will determine whether inviting and seeking tribal and consulting party into these
348 undertakings' Section 106 processes, including the identification of an APE, is
349 necessary in accordance with the route-based SRP identification standards included in
350 Stipulation 3 of this agreement.
351

352 **C. Site Revisits**

353 Upon initiation of the Section 106 process for all travel planning undertakings, BLM-
354 Utah field offices will review known cultural resource site data within the APE that is
355 included in the Class I inventory that is currently internally available, or available from
356 the SHPO. During this review, BLM-Utah archaeologists will identify and revisit all
357 documented historic properties and cultural resource sites without National Register
358 eligibility determinations that could potentially be affected prior to the approval of
359 proposed travel planning undertakings.
360

361
362
363 When the site revisit results in the BLM-Utah agency official's determination that no
364 adverse effects to historic properties are occurring or would occur from the proposed
365 undertaking, cultural resource site forms and other documentation will be updated as
366 appropriate and incorporated into the Section 106 process for the undertaking. When the
367 site revisit results in the BLM-Utah agency official's determination that adverse effects to
368 historic properties would occur from the proposed undertaking, the BLM-Utah field
369 office will invite and seek tribal and consulting party input to develop and evaluate
370 alternatives or modifications to the undertaking that could avoid, minimize or mitigate
371 adverse effects on historic properties in accordance with the National PA and
372 36CFR800.6.
373

374 When the site revisit results in the BLM-Utah agency official’s determination that
375 adverse effects to historic properties are currently occurring from OHV travel, BLM-Utah
376 will initiate implementation of the “Unanticipated Discoveries” Stipulation of this
377 agreement. In conformance with 43CFR8341.2, when the site revisit results in the BLM-
378 Utah agency official’s determination that OHV travel is causing or will cause
379 considerable adverse effects to cultural and historical resources, the agency official shall
380 immediately close the route until the adverse effects are eliminated and measures are
381 implemented to prevent their recurrence.
382

383 **D. Class I Inventories**

384 Each BLM-Utah field office will complete and/or update a Class I inventory prior to
385 designating open, limited, and closed OHV areas in a RMP or RMP amendment, and/or
386 comprehensive designating routes for a particular planning area in a travel management
387 plan. BLM-Utah field offices will invite and seek information from consulting parties in
388 the development and updates of their respective Class I inventories, including the
389 location of un-recorded or partially recorded cultural resource sites, traditional cultural
390 properties, and places of religious significance. Prior to finalizing their respective Class I
391 inventories and updates, BLM-Utah field offices will provide interested consulting
392 parties with a minimum 30 calendar-day timeframe to review and provide feedback on
393 draft Class I inventories. The sharing of any cultural resource data under this agreement
394 will follow Stipulation 8. With concurrence from the SHPO, the responsible BLM-Utah
395 agency official will determine whether the Class I inventories are sufficient for BLM-
396 Utah field offices to implement the cultural resource identification stipulations in this
397 agreement for proposed and/or future travel planning undertakings.
398

399 **E. Class II Surveys**

400
401 **1. Class II Surveys for Open OHV Areas**

402 BLM-Utah field offices will conduct Class II surveys within proposed Open OHV
403 Areas under the following circumstances:

404 • **Medium Potential for Historic Properties**

405 For proposed Open OHV Areas and portions of proposed Open OHV Areas that
406 are located within an area that a Class I inventory has identified as maintaining a
407 medium potential for historic properties, BLM-Utah field offices will complete
408 Class II surveys prior to designating the Open OHV Area. The BLM-Utah field
409 office will invite and seek tribal and consulting party input into the Section 106
410 process for the RMP or RMP amendment regarding the appropriate level of Class
411 II surveys. This could include the determination that one hundred percent Class
412 III surveys for the proposed Open OHV Area is appropriate prior to approving the
413 undertaking.

414 • **Low Potential for Historic Properties**

415 For proposed Open OHV Areas and portions of proposed Open OHV Areas that
416 are located within an area that a Class I inventory has identified as maintaining a
417 low potential for historic properties, BLM-Utah field offices will complete Class
418 II surveys. The BLM-Utah field office will invite and seek tribal and consulting
419 party input into the Section 106 process for the RMP or RMP amendment when

420 determining the appropriate level of on-the-ground pedestrian surveys and/or
421 alternative field identification methods for the Class II survey effort.
422

423 **2. Class II Surveys for OHV Route Designations**

424 For proposed travel management plans that would comprehensively designate
425 existing OHV routes across a particular planning area, BLM-Utah field offices will
426 complete Class II surveys that may occur after the undertaking is approved. The
427 BLM-Utah field office will invite and seek tribal and consulting party input into its
428 Section 106 processes for these undertakings when determining the appropriate level
429 of Class II surveys that should occur post-approval. Post-approval Class II survey
430 commitments will include a prioritized list of additional cultural resource
431 identification needs along the following types of existing, designated routes:

- 432 • Routes within an area that a Class I inventory has identified as maintaining a high
433 potential for historic properties, but where the agency official determined that the
434 route designation would not concentrate travel;
- 435 • Routes within an area that a Class I inventory has identified as maintaining a
436 medium potential for historic properties;
- 437 • Routes within an area that a Class I inventory has identified as maintaining a low
438 potential for historic properties and the agency official has determined that the
439 route designation would concentrate OHV travel; and/or
- 440 • Routes that a consulting party provides BLM-Utah field offices with documented
441 cultural resource and OHV management issues, conflicts, and/or effects.
442

443 BLM-Utah field offices will provide interested consulting parties with a minimum 30
444 calendar-day timeframe to review and provide feedback on the draft report. BLM-
445 Utah field offices will then submit the report to SHPO for a 30 day eligibility and
446 effect concurrence review. With concurrence from the SHPO, the responsible BLM-
447 Utah agency official will consider this specific identification effort complete.
448

449 **3. Class II Surveys for Route-Based SRPs**

450 Prior to approving route-based SRP undertakings, BLM-Utah field office will
451 complete Class II surveys when the following two circumstances apply:

- 452 • When the permitted activity or portions of the activity would occur on lands
453 identified in a Class I inventory as maintaining medium and low potential for
454 historic properties; and
- 455 • When the BLM-Utah agency official determines that the proposed route-based
456 SRP would concentrate OHV travel in conformance with Stipulation 3.F.2.

457 When these two circumstances apply, the BLM-Utah field office will invite and seek
458 tribal and consulting party input into the Section 106 process for the undertaking
459 when determining the appropriate level of Class II surveys that would occur before
460 the undertaking is approved.

461 BLM-Utah field offices will provide interested consulting parties with the draft report
462 and a minimum 30 calendar-day timeframe to review and provide input. BLM-Utah
463 field offices will then submit the final report to SHPO for a 30 day eligibility and

464 effect concurrence review. With concurrence from the SHPO, the responsible BLM-
465 Utah agency official will consider this specific identification effort complete.

466

467 F. Class III Surveys

468

469 1. Class III Surveys for Open OHV Areas

470 Prior to designating the Open OHV Area, BLM-Utah field offices will conduct one
471 hundred percent Class III surveys within proposed Open OHV Areas and portions of
472 proposed Open OHV Areas that are located within an area that a Class I inventory has
473 identified as maintaining a high potential for historic properties.

474

475 BLM-Utah field offices will provide interested consulting parties with the draft report
476 and a minimum 30 calendar-day timeframe to review and provide input. BLM-Utah
477 field offices will then submit the final report to SHPO for a 30 day eligibility and
478 effect concurrence review. With concurrence from the SHPO, the responsible BLM-
479 Utah agency official will consider this specific identification effort complete.

480

481 2. Class III Surveys for OHV Route Designations

482 Prior to approving OHV route designations, BLM-Utah field offices will complete
483 Class III surveys when both of the following circumstances apply:

- 484 • The route is located within an area that the Class I inventory has identified as
485 maintaining a high potential historic properties; and
- 486 • The BLM-Utah agency official has determined that the route designation will
487 likely shift, concentrate, or expand OHV travel on the route beyond its existing
488 use patterns to such an extent that adverse effects to historic properties could
489 occur. As a part of the route designation and NEPA processes, the BLM-Utah
490 agency official will consider the following information when determining whether
491 a proposed route designation would likely shift, concentrate, or expand OHV
492 travel to an extent that adverse effects to historic properties could occur:
 - 493 ○ An overall reduction in the number of routes providing OHV access to a
494 particular destination or area;
 - 495 ○ Routes that could be reasonably foreseen to have a substantial increase in
496 OHV travel;
 - 497 ○ Routes that are being or will be promoted as OHV-based tourism destinations
498 by the BLM or an organization outside of the BLM;
 - 499 ○ Routes designations that would provide for the future approval of route-based
500 SRP activities, such as OHV races and historic trail reenactments, that would
501 authorize new or unique modes of travel;
 - 502 ○ Other relevant information submitted by Indian tribes, cooperating agencies,
503 and interested individuals during the public involvement phases of the travel
504 planning NEPA process.

505

506 BLM-Utah field offices will provide interested consulting parties with the draft
507 report and a minimum 30 calendar-day timeframe to review and provide input.
508 BLM-Utah field offices will then submit the final report to SHPO for a 30 day
509 eligibility and effect concurrence review. With concurrence from the SHPO, the

510 responsible BLM-Utah agency official will consider this specific identification
511 effort complete.

512 **3. Site Revisits**

513 During the route designation process, the BLM-Utah agency official shall identify
514 historic properties and unevaluated sites that may be potentially affected by route
515 designations identified in the Class I. Each of these properties will be revisited
516 following the procedures outlined in Stipulation C.3. prior to the completion of the
517 route designation process.

518 BLM-Utah field offices will provide interested consulting parties with the draft report
519 of the Site Visits and a minimum 30 calendar-day timeframe to review and provide
520 input. BLM-Utah field offices will then submit the final report to SHPO for a 30 day
521 eligibility and effect concurrence review. With concurrence from the SHPO, the
522 responsible BLM-Utah agency official will consider this specific identification effort
523 complete.

524 **4. Class III Surveys for Route-Based SRPs**

525 Prior to approving route-based SRP undertakings, BLM-Utah field office will
526 complete one hundred percent Class III surveys when the following two
527 circumstances apply:

- 528 • When the permitted activity or portions of the activity would occur on lands
529 identified in a Class I inventory as maintaining a high potential for historic
530 properties; and
- 531 • When the BLM-Utah agency official determines that the proposed route-based
532 SRP would concentrate OHV travel in conformance with Stipulation 3.F.2 of this
533 agreement.

534 BLM-Utah field offices will provide interested consulting parties with the draft report
535 and a minimum 30 calendar-day timeframe to review and provide. BLM-Utah field
536 offices will then submit the final report to SHPO for a 30 day eligibility and effect
537 concurrence review. With concurrence from the SHPO, the responsible BLM-Utah
538 agency official will consider this specific identification effort complete.

539 **4. Findings of Effect and Resolution of Adverse Effects**

540 For identification efforts completed both before and after an undertaking is approved, BLM-
541 Utah field offices will invite and seek tribal and consulting party input regarding its findings
542 of effects and identification of adverse effects resulting from its cultural resource
543 identification efforts in accordance with the standard Section 106 process found at 36 CFR
544 800.4(d) and 36 CFR 800.5(a)(1) and (2)(i) to (vii).

546 If the BLM-Utah agency official determines that a proposed undertaking would have adverse
547 effects on a historic property, the field office will also invite and seek tribal and consulting
548 party input to develop and evaluate alternatives or modifications to the undertaking that
549 could avoid, minimize, or mitigate adverse effects on historic properties in accordance with
550 the standard Section 106 process found at 36CFR800.6 and in the National PA. This maybe
551

552 be accomplished through a Historic Properties Treatment Plan or site specific Memorandum
553 of Agreement. Potential management actions to resolve adverse effects include those that are
554 designed to prevent OHV travel on a route, such as installing closure signs, modifying the
555 boundaries of an open area, changing the route location, installing physical barriers, capping
556 or sealing the ground surface, assigning limitations to vehicle type or season of use, and
557 completing site stabilization measures. Additional measures may include historic research,
558 interpretation, photo documentation, intensive recording, periodic monitoring, and
559 archaeological excavation.

560
561 **Historic Properties Treatment Plan:** After the BLM-Utah agency official has provided
562 consulting parties with a draft HPTP or a draft summary of treatment recommendations, the
563 agency official will hold a meeting with the parties to consult on the treatment
564 recommendations. If any reviewing party fails to submit written comments to the agency
565 official within 30-calendar days after the meeting, the agency official will assume they have
566 no comments regarding the measures identified in the HPTP. The agency official will revise
567 the HPTP, as needed, to address comments from this consultation process.

568
569 After consulting party consultation has been conducted; the HPTP will be submitted to the
570 SHPO. The SHPO will have 30 calendar days from receipt to forward comments to the
571 agency official. The agency official will revise the HPTP, as needed, to address these
572 comments. If the SHPO does not submit written comments within 30 calendar days of receipt
573 of the HPTP, the agency official may assume the SHPO has no comments to the measures
574 identified in the HPTP or objections to the adequacy of the plan.

575
576 Adverse effects identified in an HPTP from will be resolved prior to OHV area and route
577 designation process is complete. Adverse effects identified in an HPTP from a Class II or
578 Class III survey of a route-based SRP will be resolved prior to issuing the permit. Adverse
579 effects identified through Class II surveys for route designations will be resolved after route
580 designation.

581
582 When the BLM-Utah agency official determines that unresolved adverse effects to historic
583 properties are currently occurring from OHV travel, the BLM-Utah field office will initiate
584 implementation of the “Unanticipated Discoveries” Stipulation of this agreement. In
585 conformance with 43CFR8341.2, when the BLM-Utah agency official determines that OHV
586 travel is causing or will cause considerable adverse effects to cultural or historical resources,
587 the agency official shall immediately close the route until the adverse effects are eliminated
588 and measures are implemented to prevent their recurrence.

590 5. Exemptions to this Agreement

591 The following travel planning undertakings will be considered exempt from the survey and
592 consultation:

- 593 • Closing areas and routes to OHV use, and the rehabilitation of closed areas and routes
594 using methods that do not involve new surface disturbance. Prior to conducting non-
595 surface disturbing route rehabilitation methods, a BLM archaeologist will introduce field
596 crews to the various cultural resource site types commonly found in the area and how to
597 avoid them as they are rehabilitating a route;
- 598 • Installing route numbering and designation signs;

- 599 • Designating existing paved, gravel, and dirt County B Roads as identified by the Utah
600 Department of Transportation that BLM-Utah has confirmed are constructed and
601 regularly maintained; and
- 602 • Approving route-based SRPs for activities, such as commercial outfitter and guide
603 services, when the following circumstances apply:
 - 604 ○ The BLM-Utah agency official determines that the undertaking does not have
605 potential to affect historic properties; and
 - 606 ○ The BLM-Utah agency official determines that the proposed route-based SRP would
607 not concentrate OHV travel in conformance with Stipulation 3.F.2.

608 **6. Unanticipated Discoveries**

609 **A. Discoveries and Unanticipated Effects**

610 A discovery is defined as the identification of previously unknown historic properties
611 and/or unanticipated adverse effects to historic properties from previously-approved and
612 proposed travel planning undertakings. The agency official in consultation with
613 consulting parties may develop a comprehensive plan to manage post-review discoveries
614 and unanticipated effects as part of historic properties treatment plan. In the event that
615 post-review discoveries or unanticipated effects occur prior to development of the
616 historic properties treatment plan, the agency official shall ensure the following measures
617 are implemented.

- 618 1. The agency official, will halt all surface disturbing activities within 100 feet of the
619 post-review discovery and protect any exposed archaeological resources;
- 620 2. A BLM archaeologist will inspect the discovery within 72 hours and apply the
621 National Register criteria (36 CFR Part 63) and the Secretary's Standards and
622 Guidelines for Evaluation to the discovery;
- 623 3. The agency official shall notify consulting parties, within 48 hours of the discovery
624 and shall provide formal notification of the BLM's assessment of National Register
625 eligibility and determination of effect from continued use of the route designation or
626 route-based SRP; and
- 627 4. The consulting parties shall respond within 48 hours of the notification. The BLM
628 shall take into account their recommendations regarding National Register eligibility
629 and the proposed actions, and then carry out the appropriate actions. The BLM shall
630 notify the consulting parties when the actions are completed.

631 The BLM-Utah agency official may approve the activity to resume following completion
632 of review, consultation and mitigation, if any.

633 **B. Treatment of Human Remains**

634 In the event of an inadvertent discovery of human remains, the agency official must be
635 notified immediately by telephone and with written confirmation (43CFR10.4(a)). No
636 additional disturbance may take place and all work in the area must cease immediately
637 within a 300-foot radius of the discovery. The 300-foot radius must be secured and
638 personnel and equipment will be excluded from this area to the extent practicable and
639 permitted by law until a determination is made of the next action. All human remains,
640 burial sites, and funerary objects will be treated with dignity and respect.

646
647 The agency official shall notify the Sheriff's Office (Sheriff) of the county where the
648 remains are located, requesting, if possible, the remains be examined in place. The
649 Sheriff must determine if the remains are related to a crime scene or a recent burial. For
650 human remains determined by the Sheriff to be related to a crime scene or recent burial,
651 the agency official will follow the protocols determined by the appropriate law
652 enforcement officers for resolving such findings.
653

654 For inadvertent discoveries of human remains determined by the Sheriff to not be related
655 to a recent burial or crime scene, the BLM will be responsible for determining if the
656 human remains are Native American. Inadvertent discoveries of human remains on
657 federal lands determined to be Native American and any associated funerary objects shall
658 be treated in accordance with the provisions of the Native American Graves Protection
659 and Repatriation Act of 1990 (NAGPRA) and its implementing regulations at 43 CFR
660 Part 10.
661

662 Pursuant to 43CFR10.4(d), the BLM, as soon as possible, but no later than 3 working
663 days after receipt of written confirmation of notification of the inadvertent discovery,
664 will:

- 665 1. Certify receipt of the notification outlined in 43CFR10.4(d)(1)(i);
- 666 2. Take immediate steps to further secure and protect the human remains and associated
667 objects outlined in 43CFR10.4(d)(1)(ii);
- 668 3. Notify any lineal descendants or culturally affiliated Indian tribes by telephone with
669 written confirmation 43CFR10.4(d)(1)(iii);
- 670 4. Initiate consultation on the inadvertent discovery pursuant to 43CFR10.5 and 43 CFR
671 10.4(d)(1)(iv);
- 672 5. If any part of the discovery must be excavated or removed, follow the requirements
673 and procedures outlined in 43 CFR 10.3(b) and 43 CFR 10.4(d)(1)(v);
- 674 6. Ensure that disposition of all inadvertently discovered human remains, funerary
675 objects, sacred objects, or objects of cultural patrimony is carried out following
676 43CFR10.5 and 43 CFR 10.4(d)(1)(vi) and,
- 677 7. Once it has been determined the remains are not recent and subject to the authority of
678 the County Sheriff and are Native American, and if the identified human remains
679 could be adversely affected by the continued use of an area or route designation,
680 the agency official will re-design the proposed activity to the extent practicable and
681 permitted by law to avoid any further adverse effect on the discovery.
682

683 Pursuant to 43 CFR 10.4(d)(2), the activity that resulted in the inadvertent discovery may
684 resume 30 days after the agency official certifies receipt of the written confirmation of
685 notification of inadvertent discovery, if the resumption of the activity is otherwise lawful.
686 The activity may also resume, if otherwise lawful, at any time that a written, binding
687 agreement is executed between the Federal agency and the affiliated Indian tribe(s) that
688 adopt a plan for the treatment of the human remains, funerary objects, sacred objects, or
689 objects of cultural patrimony following 43 CFR10.3 (b)(1).
690
691

692 The agency official will ensure that any archaeological excavation that is allowable under
693 this agreement through a specific HPTP will be consistent with the regulations pertaining
694 to intentional archaeological excavations pursuant to 43CFR10.3.
695

696 **7. Public Engagement**

697 Recognizing that the implementation of this agreement will result in some unknown effects
698 to historic properties, BLM-Utah will also undertake the following public engagement
699 activities that have the potential avoid, minimize, and/or mitigate adverse effects to historic
700 properties from travel planning undertakings:
701

702 **A. Annual Coordination Meeting**

703 As a part of its regularly scheduled annual coordination meeting with the SHPO, ACHP,
704 and interested consulting parties, BLM-Utah will include opportunities for input into its
705 annually updated “BLM-Utah Field Office Cultural Resource Identification Strategies for
706 Travel Planning.”
707

708 **B. Integration of the Section 106 and NEPA Processes**

709 BLM-Utah field offices will continue to seek ways to engage Indian tribes and consulting
710 parties in the Section 106 process for travel management plans concurrently with these
711 undertakings separate NEPA process. Such efforts will include, but not be limited to,
712 continued implementation of public outreach commitments made in BLM-Utah’s Small-
713 Scale Programmatic Agreement to notify the public of proposed undertakings that could
714 potentially affect historic properties.
715

716 **C. Public Outreach**

717 BLM-Utah will prioritize the development and implementation of the following public
718 outreach campaigns:

- 719 • The “Respect and Protect” campaign that focuses on eliminating the looting and
720 vandalism of archaeological resources from federal and tribal lands; and
- 721 • The interagency “Ride on Designated Routes, Utah” campaign that focuses on
722 promoting responsible OHV ethics.
723

724 **D. Public Education**

725 BLM-Utah will continue to prioritize and will seek to increase the delivery of
726 archaeological resource education and ethics to K through 12 classrooms through its
727 Project Archaeology program.
728

729 **E. Site Stewardship Program**

730 BLM-Utah will continue to prioritize the support of existing field office Site Stewardship
731 Programs that train interested volunteers to monitor at-risk cultural resource sites. BLM-
732 Utah will also seek to increase the number of field offices sponsoring Site Stewardship
733 Programs and the number of volunteers in each program.
734

735 **8. Standards for Releasing Sensitive Information**

736 All consulting parties will ensure that all sensitive information, as defined in Section 9 of the
737 *Archaeological Resources Protection Act* of 1979 and Section 304 of the NHPA, and
738 excluded from public release under the *Freedom of Information Act* (5 U.S.C. 552) is

739 protected from public release. Information concerning the nature and location of any
740 archaeological resource (historic or prehistoric) will be considered for public release to
741 consulting parties under the provisions of Section 9 of ARPA; which may result in BLM-
742 Utah sharing summary cultural resource reports and/or reports where locational information
743 has been redacted. In the event that the BLM-Utah agency official determines that sharing
744 complete reports with consulting parties is appropriate, interested consulting parties must
745 first enter into a Data Sharing Agreement with BLM-Utah to ensure that information
746 concerning the nature and location of archaeological resources is safeguarded from general
747 public release.
748

749 **9. Dispute Resolution Procedures**

750 Should any signatory or consulting party who has signed this agreement object to
751 implementation of this agreement; they shall provide written notice to BLM-Utah's State
752 Director of their objection with supporting justification. If after consulting with the objecting
753 party and other signatories to resolve the dispute, the State Director, acting as the responsible
754 agency official for this agreement, determines that the objection cannot be resolved within
755 30-calendar days, the State Director shall forward all documentation relevant to the dispute to
756 the ACHP. Within 30-calendar days after receipt of all pertinent documentation, the ACHP
757 shall provide the State Director with their recommendations to resolve the dispute. After
758 receiving these recommendations, the state director will make a final decision on the dispute
759 within 15-calendar days. The objecting party and other signatories will be notified in writing
760 of the State Director's decision.
761

762 **10. Amendments to the Agreement**

763 Any signatory may request that the agreement be amended by informing the State Director in
764 writing of the reason for the request and the proposed amendment language. The State
765 Director shall notify all signatories and consulting parties who signed the agreement of the
766 proposed amendment. The signatories will consult to reach agreement within 30 days, unless
767 the signatories agree to a longer period of consultation or the party of the proposed
768 amendment retracts its proposal. During this time, the State Director will determine if a
769 meeting with signatories, consulting parties is needed. The amendment will be effective on
770 the signature date of the last signatory to sign the amended agreement. The State Director
771 will notify all consulting parties of the amendment and provide them an opportunity to sign
772 the amended agreement.
773

774 **11. Termination of the Agreement**

775 Any signatory may terminate this agreement by providing a concurrent 90-calendar day
776 notice to the other signatories, provided that during this period the signatories attempt in
777 good faith to find a collaborative resolution that would avoid terminating this agreement. The
778 State Director will determine if a meeting with signatories and concurring parties is needed to
779 discuss the potential termination of this agreement. The BLM-Utah Deputy Preservation
780 Officer may request the assistance of the BLM Preservation Board, the National Conference
781 of State Historic Preservation Officers, or the ACHP in this dispute resolution process. If the
782 agreement is terminated, BLM-Utah will comply with Section 106 of the NHPA by
783 following the implementing regulations at 36 CFR Part 800. BLM will notify all signatories
784 and concurring parties that this agreement has been terminated.
785

786 **12. Agreement Duration**

787 This agreement shall be in effect for 10 years. This 10-year time period begins when all of
788 the signatories have signed this agreement. After nine years, the signatories will consult to
789 extend, amend or terminate this agreement.

790
791 **EXECUTION** of this agreement by the BLM-Utah, SHPO and ACHP and implementation of its
792 terms evidence that BLM-Utah has taken into account the effects of this undertaking on historic
793 properties and afforded the ACHP an opportunity to comment.

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Signatories

State Director	Date
Bureau of Land Management-Utah	

P. Bradford Westwood	Date
State Historic Preservation Officer	
Utah State Historic Preservation Office	

John M. Fowler	Date
Executive Director	
Advisory Council on Historic Preservation	

Concurring Parties