

2.6 Cultural Resources and Native American Concerns

2.6.1 Study Area

The cumulative effects study area for cultural resources includes the following subwatersheds in portions of Sheridan, Johnson, Campbell, and Converse counties: Upper Powder River, Little Powder River, Upper Belle Fourche River, Upper Cheyenne River, Antelope Creek, and Dry Fork Cheyenne River (**Figure 1-1**). It includes portions of the area administered by the BLM Buffalo and Casper field offices and a portion of the TBNG, which is administered by the FS (**Figure 1-2**).

2.6.2 Cumulative Impacts

2.6.2.1 Cultural Resources Regulations, Evaluation Procedures, and Management Planning

Regulations

At the time of permitting, the RFD activities considered in this study would be subject to the following regulations relative to cultural resources.

The goal of the consideration of historic properties under Section 106 of the National Historic Preservation Act of 1966 (NHPA) as amended, its implementing regulations, including but not limited to 36 Code of Federal Regulations (CFR) 800, 36 CFR 61, Executive Order 11593, and NEPA and its implementing regulations including 40 CFR 1500—1508, is the preservation of the cultural values embodied in those historic properties. The BLM national cultural resource management objectives to meet the requirements of the latter statutory authorities and additional related authorities listed in BLM Manual M8100.03 are:

- A. Respond in a legally and professionally adequate manner to (1) the statutory authorities concerning historic preservation and cultural resource protection, and (2) the principles of multiple use.
- B. Recognize the potential public and scientific uses of, and the values attributed to, cultural resources on public lands, and manage the lands and cultural resources so that these uses and values are not diminished, but rather are maintained and enhanced.
- C. Contribute to land use planning and the multiple use management of the public lands in ways that make optimum use of the thousands of years of land use history inherent in cultural resource information, and that safeguard opportunities for attaining appropriate uses of cultural resources.
- D. Protect and preserve in place representative examples of the full array of cultural resources on public lands for the benefit of scientific and public use by present and future generations.
- E. Ensure that proposed land uses, initiated or authorized by BLM, avoid inadvertent damage to federal and non-federal cultural resources.

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The operational objectives to achieve this goal are:

1. Identification of historic properties within the APE of proposed actions that are part of or associated with the federal undertaking;
2. Evaluation of the cultural values of those historic properties within appropriate historic contexts; and
3. Avoidance or minimization of adverse effects to those cultural values.

The cultural resources management objective of the BLM, including stewardship considerations in addition to Section 106 and NEPA compliance, is to “Protect, preserve, interpret, and manage significant cultural resources for their informational, educational, scientific, and recreational values” (BLM 2001:4). However, in cases of split estate (where surface ownership and mineral ownership differ), surface resources, such as cultural sites, belong to the surface owner. The surface owner must be consulted about investigation, mitigation, or monitoring.

These objectives are achieved through:

1. Inventory;
2. Evaluation;
3. Native American Consultation;
4. Management Options; and
5. Monitoring

Inventory is the process of gathering together information on the cultural resources that are present in the area of a proposed undertaking. Levels of inventory include an overview that reviews documentation of previously known resources and intensive pedestrian survey that inspects the APE for all evidence of previously known and undocumented cultural resources. Site-specific inventories are required before surface disturbing activities for all federal actions that involve federal surface ownership, federal minerals ownership, federal funding, or federal permits. Cultural resource inventories must conform to current Wyoming standards and guidelines, including the BLM Handbook H-8111-1 Cultural Resources Wyoming Handbook, guidance for completion of the Wyoming Cultural Properties Form, and the Buffalo BLM Coal Bed Methane Guidebook.

Evaluation is the process of assessing the importance of a cultural resource site. All cultural resource sites and many Native American traditional places are evaluated in accordance with the National Register Criteria (36 CFR 60.4 [a-d]) and within a defined historic context. The National Register Criteria assess whether a site is eligible for listing on the National Register of Historic Places (NRHP) at the national, state, or local level. A site that is listed on or is eligible for the NRHP is considered a historic property. Typically, the majority of cultural resource sites are evaluated as not eligible. Cultural resources are evaluated as completely as possible during initial documentation. If a site cannot be conclusively evaluated from surface evidence and limited testing, the additional information or specialized analysis necessary to complete the evaluation are identified, and a recommendation is made for the most prudent and expedient procedure to complete the evaluation. Additional studies might include archival or other documentary research, evaluation of the resource

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by a specialist, analysis of specialized samples, subsurface test excavations, or other forms of well-defined research that are beyond the scope of surface survey.

During Native American consultation, the agency authorizing the federal action will contact tribes that may have legitimate concerns within or related to proposed undertakings and convey the major findings of cultural resource inventories. The tribes may raise concerns about the treatment of cultural resources, natural resources, or natural landscape features that have traditional religious or cultural value. These groups also have concerns about handling inadvertent discoveries of human remains. Consultation is the government-to-government identification of concerns and discussion of their resolution.

Management options are standard treatments of historic properties, Native American concerns, or inadvertent discoveries. The preferred option for the treatment of historic properties is avoidance and protection. In most cases, the historic property can be avoided and protected by minor adjustments or stipulations to the proposed undertaking, especially if an adequate area has been surveyed for cultural resources. If a historic property cannot feasibly be avoided, which is likely to occur in the case of properties located within surface coal mine permit areas, data recovery or other mitigation measures are proposed. The nature and level of mitigation depend on the nature and extent of the adverse effect to the historic property and must be approved by the federal agency authorizing the action, in consultation with the State Historic Preservation Officer (SHPO) and, if applicable, the surface owner. Any data recovery plan must discuss the property in terms of the historic context and identify the research questions that would be addressed by the anticipated data classes.

Monitoring is conducted to: 1) verify that actions have complied with constraints and stipulations; 2) verify that the constraints and stipulations have achieved the intended objectives; and 3) evaluate whether management plans and objectives have achieved their goals. Monitoring includes monitoring construction for compliance, monitoring for potential discovery situations, and monitoring of ongoing operations.

Inventory and Evaluation

Cultural resource sites are defined as discrete locations of past human activity, which can include artifacts, structures, works of art, landscape modifications, and natural features or resources important to history or cultural tradition. These sites can include extensive cultural landscapes (e.g., farm or ranch landscapes), linear landscapes (e.g., historic trails with associated towns, forts, and way stations), or railroad landscapes and traditional use areas. In this document, significant sites are defined as those sites that are listed on, determined eligible for, or recommended eligible for the NRHP under the Criteria for Evaluation (36 CFR 60.4), and sites that have not been evaluated.

Federal regulations require cultural resource inventory, recordation, and evaluation of resources in the APE as part of the approval process. Archaeological clearance is required by the Section 106 process prior to disturbance for all federal undertakings, including projects on federal surface, projects recovering federal minerals, and all projects requiring federal funding or permits. All areas of proposed ground-disturbing activity must be inventoried for cultural resources. Any discovered resources must be documented and evaluated for eligibility for the NRHP. In most cases and with proper planning, effects to eligible properties can be minimized. Indirect effects from changes to soil stability or drainage patterns cannot always be anticipated. Indirect effects can be minimized by soil

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stabilization, fencing, or protective flagging to prevent inadvertent traffic in sensitive areas. Direct and indirect effects when eligible sites cannot be avoided would be subject to mitigation procedures. Adverse effects can be minimized by implementation of approved data recovery plans. There are a large number of unevaluated sites. In addition, specific procedures are established for the treatment of unanticipated discoveries and human remains that were not identified by surface investigation.

An important element of the inventory and evaluation process is the evaluation of previously known and newly discovered cultural resources and an assessment of potential effects. The following list represents the potential sequence in the evaluation of a cultural resource.

- A cultural resource is identified and documented or revisited.
- The resource does not meet any of the National Register Criteria. If the resource is evaluated as not eligible, no further work is required beyond the documentation of the site and its evaluation. Generally, the majority of cultural resources are evaluated as not eligible.
- Information available from surface survey and limited testing is inadequate to evaluate the resource. Additional historic documentation, specialized analysis, or subsurface testing is necessary to complete evaluation. If, after this additional work, the resource is evaluated as not eligible, no further work is required.
- The resource meets one or more of the National Register Criteria and is identified as a historic property.
- Assessment of the potential effects of the proposed actions indicates that the historic property will not be affected or that the proposed actions can be modified to avoid any adverse effects.
- Assessment of the potential effects of the proposed actions indicates that portions of the historic property may be affected, but that those portions of the historic property do not contribute to the eligibility of the historic property. Constraints are identified to protect the contributing portions of the historic property from adverse effects.
- If adverse effects to the historic property cannot feasibly be avoided, a treatment is recommended to minimize or mitigate adverse effects.

Adaptive Management and Planning Model

The Wyoming SHPO currently is developing a geoarchaeological model to help identify locations of deposits that might contain buried and intact archaeological material. The model will inform the user who wants to know if a particular known site is located within an area where the burial of subsurface cultural material is possible. Likewise, the model informs the user that certain landscapes have the geological qualities conducive to site burial. If applied properly, the burial model could lead to more efficient management of cultural resources so that both resource preservation and development activities are facilitated.

In the past, all Section 106 applications have been evaluated in the same manner, no matter where in the state the project was proposed. The model would vary the application process and mitigation requirements. Those areas where there is a high probability of encountering buried archaeological

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sites either could be avoided by the developers using the model, or could require different mitigation from those sites located in areas with a low prediction of finding buried resources.

The goal of the model is to use soils mapping, surficial geology, and alluvial valley information to help predict the location of sediments that are the right age and type to contain significant buried archaeological sites. Sensitivity zones are classified as very high, high, very low, and low; the remaining areas are classified as moderate. The sensitivity classification system ranks areas according to potential geological conditions that favor buried site formation. Zones rated as very high and high predict locations where conditions are favorable for: 1) retention of archaeological behavioral-spatial context; 2) preservation of perishable archaeological materials (e.g., bone and charcoal); and 3) stratigraphic separation of archaeological occupation zones. It should be noted that the sensitivity model only predicts where site preservation conditions might be favorable, and not locations that may have been attractive to human activity.

Ultimately, the information supplied by the model should be supplemented by training in its use. The proper application of the information will require targeted field visits by agency and project archaeologists. It also should be noted that the model would not require any changes to minimum Section 106 management requirements. No reduction in cultural resources inventory would be recommended. Minimal testing requirements would be supported, and deeper testing would be recommended where indicated. As a way to fulfill the model's adaptive management goal, the model will be subjected to ongoing maintenance. In the future, the model could be used to allow for better planning and help reduce conflicts between management goals of site preservation and resource development.

2.6.2.2 Year 2010 – Lower Development Scenario

The potential number of cultural resource sites that could be affected by RFD activities was evaluated based on the average number of sites per square mile as determined by previous surveys in the study area. The total square miles, square miles previously surveyed, percent previously surveyed, and average number of known sites per square mile by subwatershed are shown in **Table 2.6-1**. The amount of land involved varies greatly by subwatershed, with the largest amount of acreage in the Upper Powder River subwatershed and the smallest in the Upper Cheyenne River. Previously surveyed areas and the percent of area previously surveyed also varied greatly. The average number of sites per square mile for the study area is 5.5, with the largest number of sites per square mile found in the Dry Fork Cheyenne River subwatershed and the smallest in the Upper Belle Fourche River subwatershed. However, in **Table 2.6-1**, the site density is inflated by thematic surveys that reported sites, but where no survey acreage is associated. The number of sites per square mile in each subwatershed in the study area appears low; however, it is likely a result of the amount of surveyed acreage being low rather than indicating a low site density. The most common sites in the study area are prehistoric artifact scatters and rural historic sites.

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Table 2.6-1
Previously Surveyed Area and Average Density of Known Cultural Resource Sites per Square Mile by Subwatershed

Subwatershed	Total Square Miles	Square Miles Surveyed	Percentage Surveyed	Sites per Square Miles
Antelope Creek	1,031.7	206.4	20.0	4.7
Dry Fork Cheyenne River	483.3	64.0	13.2	8.9
Little Powder River	1,352.3	158.6	11.7	4.6
Upper Belle Fourche River	1,320.1	245.3	18.6	4.3
Upper Cheyenne River	323.1	131.2	40.6	5.2
Upper Powder River	2,505.5	229.4	9.2	5.0

Source: BLM 2003.

Adverse effects to cultural resources could result from the construction and operation of the RFD activities analyzed in this study. Effects to sites could be direct as a result of construction or other earth-disturbing activities, or could be indirect as a result of increased erosion, increased access, vibration from traffic or machinery, or alteration of the setting. Adverse effects to cultural properties may include alteration of visual, atmospheric, and auditory aspects of site setting, or site destruction by placement of facilities and infrastructure. Indirect effects could be particularly important in the consideration of sites that are eligible for their location, setting, and feeling, such as emigrant trails or locations of historic battles. Cultural sites are a nonrenewable resource and, if disturbed, lose potential information, integrity, and heritage value. Avoidance of eligible sites is the preferred mitigation. Although careful project planning could help alleviate inadvertent or unintentional effects to eligible sites, these effects still could occur. Data recovery plans could be undertaken in cases where eligible sites could not be avoided or would be unintentionally affected. Mitigation of adverse impacts may include, site avoidance through project relocation or redesign, visual resource management including adjustment of the color of facilities, landform screening, detailed mapping and recordation, historic documentation, or data recovery.

Due to the requirements for compliance with federal regulations including, but not limited to, Section 106 of the NHPA, NEPA, and the Archeological Resources Protection Act, all RFD-related disturbance areas on federal lands, or on lands that involve federal mineral ownership, would be inventoried for cultural resources prior to ground-disturbing activities. Equivalent regulatory mandates are not in place for activities on private or State of Wyoming lands that do not involve split estates. However, if a RFD activity involves a federal permit or authorization, federal historic preservation requirements would apply.

Split estates, where mineral ownership is federal and surface ownership is private, occur in much of the study area. In these areas, during the federal permitting process, the surface owners must be kept informed of activities planned on their property, including the identification and treatment of historic and prehistoric resources. They also must be made aware that resources on their property belong to them, that they would be consulted in the mitigation process, and that they would have the option of taking possession of any cultural materials recovered on their land after the completion of appropriate documentation and analysis. The responsibility of the authorizing federal agency is to consider the effects of the agency's permitting decision on historic properties. Where necessary and

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possible, the authorizing federal agency, in consultation with the Wyoming SHPO, would address mitigation of adverse impacts to historic properties.

Under this scenario, past and projected activities would result in approximately 531 square miles of cumulative disturbance (approximately 7.6 percent of the study area). Assuming that site density is uniform throughout each subwatershed, the average number of sites per square mile from **Table 2.6-1** was used as a multiplier to estimate the average number of sites in the APE given the square miles of projected cumulative disturbance (**Table 2.6-2**). The average number of cultural resource sites identified would be greater because an area larger than the projected surface disturbance would be surveyed. The potential number of sites affected by subwatershed would vary from a high of 704 (Upper Belle Fourche River subwatershed) to a low of 74 in the Dry Fork Cheyenne River subwatershed. All areas of ground disturbance associated with federal actions would be surveyed for cultural resources during the Applications for Permit to Drill (APD) process. Until those surveys have been completed, only rough estimates can be made of the actual number of eligible cultural resource sites that would be affected by RFD activities.

As development progresses in the study area, the opportunities for avoiding direct or indirect effects to historic properties would diminish. With increased development (particularly oil and gas), it will become increasingly difficult to avoid visual and auditory impacts to cultural landscapes.

Of the projected 531 square miles of cumulative disturbance, approximately 154 square miles would be associated with coal mining activities. The average number of sites per square mile for the study area (5.5) was used as a multiplier to estimate the average number of sites in the APE given the square miles of cumulative disturbance. Based on these calculations, 848 sites potentially could be affected by coal mining in the study area. In the future, the coal mines frequently would be advancing into areas where CBNG development already would have occurred. Many of the sites in those areas may have been avoided or previously protected through BLM- or FS- and SHPO-approved mitigation measures for the CBNG development; however, it would be necessary to re-evaluate potential impacts to those resources that would occur as a result of coal mining operations. The surface coal mines must conduct cultural resource inventories for all areas included within their mining permit. Consultation with SHPO must be completed prior to approval of the required federal mining plan for each mine. Data recovery plans would be required for sites that are recommended as eligible for the NRHP following testing and consultation with SHPO and that cannot be avoided when the coal is mined.

2.6.2.3 Year 2010 – Upper Production Scenario

Under this scenario, cumulative impacts would be the same as described for the lower production scenario in 2010, with the following exceptions. Past and projected activities would result in approximately 537 square miles of cumulative disturbance (approximately 7.7 percent of the study area). Assuming that site density is uniform throughout each subwatershed, the average number of sites per square mile from **Table 2.6-1** was used as a multiplier to estimate the average number of sites in the APE given the square miles of projected cumulative disturbance (**Table 2.6-2**). The average number of cultural resource sites identified would be greater because an area larger than the projected surface disturbance would be surveyed. The average number of sites potentially affected by subwatershed would vary from a high of 713 (Upper Belle Fourche River subwatershed) to a low of 74 (Dry Fork Cheyenne River subwatershed). All areas of ground disturbance associated with federal actions would be surveyed for cultural resources during the APD process.

Table 2.6-2

Square Miles of Projected Cumulative Disturbance and Number of Potentially Affected Cultural Resource Sites by Year and Subwatershed¹

Subwatershed	Year 2010 Lower Production Scenario		Year 2010 Upper Production Scenario		Year 2015 Lower Production Scenario		Year 2015 Upper Production Scenario		Year 2020 Lower Production Scenario		Year 2020 Upper Production Scenario	
	Square Miles ¹	Sites ²										
Antelope Creek	74	346	75	376	97	484	99	496	122	608	126	629
Dry Fork Cheyenne River	8.3	74	8.3	74	12	109	12	109	17	151	17	151
Little Powder River	90	415	91	419	108	495	109	502	123	567	125	577
Upper Belle Fourche River	164	704	166	713	186	801	192	824	209	899	219	940
Upper Cheyenne River	60	314	62	321	72	375	74	387	83	433	85	445
Upper Powder River	135	674	135	674	190	953	191	953	232	1,159	232	1,159
Total	531	2,527	537	2,577	665	3,217	677	3,271	786	3,817	804	3,901

¹ Calculated based on database disturbance acreages prepared for the Task 2 Report for the Powder River Basin Coal Review, Past and Present and Reasonably Foreseeable Development Activities (Appendices A and D) (ENSR 2005c).

² The number of sites was calculated by multiplying the average sites per square mile (as shown in **Table 2.6-1**) by the number of square miles of projected cumulative disturbance.

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Until those surveys have been completed, only rough estimates can be made of the number of eligible cultural resource sites that would be affected by RFD activities.

Of the projected 537 square miles of cumulative disturbance, approximately 160 square miles would be associated with coal mining activities. The average number of sites per square mile for the study area (5.5) was used as a multiplier to estimate the average number of sites in the APE given the square miles of cumulative disturbance. Based on these calculations, 880 sites potentially could be affected by coal mining in the study area. Impacts to cultural resource sites in proposed mine disturbance areas would be mitigated as discussed under the 2010 lower production scenario in Section 2.6.2.2.

2.6.2.4 Year 2015 – Lower Production Scenario

Under this scenario, cumulative impacts would be the same as described for the lower production scenario in 2010, with the following exceptions. Past and projected activities would result in approximately 665 square miles of cumulative disturbance (approximately 9.5 percent of the study area). Assuming that site density is uniform throughout each subwatershed, the average number of sites per square mile from **Table 2.6-1** was used as a multiplier to estimate the average number of sites in the APE given the square miles of projected cumulative disturbance (**Table 2.6-2**). The average number of cultural resource sites identified would be greater because an area larger than the projected surface disturbance would be surveyed. The average number of sites potentially affected by subwatershed would vary from a high of 953 (Upper Powder River subwatershed) to a low of 109 in the Dry Fork Cheyenne River subwatershed. All areas of ground disturbance associated with federal actions would be surveyed for cultural resources during the APD process. Until those surveys have been completed, only rough estimates can be made of the number of eligible cultural resource sites that would be affected by RFD activities.

Of the projected 665 square miles of cumulative disturbance, approximately 183 square miles would be associated with coal mining activities. The average number of sites per square mile for the study area (5.5) was used as a multiplier to estimate the average number of sites in the APE given the square miles of cumulative disturbance. Based on these calculations, 1,007 sites potentially could be affected by coal mining in the study area. Impacts to cultural resource sites in proposed mine disturbance areas would be mitigated as discussed under the 2010 lower production scenario in Section 2.6.2.2.

2.6.2.5 Year 2015 – Upper Production Scenario

Under this scenario, cumulative impacts would be the same as described for the lower production scenario in 2010, with the following exceptions. Past and present activities would result in approximately 677 square miles of cumulative disturbance (approximately 9.6 percent of the study area). Assuming that site density is uniform throughout each subwatershed, the average number of sites per square mile from **Table 2.6-1** was used as a multiplier to estimate the average number of sites in the APE given the square miles of cumulative disturbance (**Table 2.6-2**). The average number of cultural resource sites identified would be greater because an area larger than the projected surface disturbance would be surveyed. The average number of sites potentially affected by subwatershed would vary from a high of 953 (Upper Powder River subwatershed) to a low of 109 in the Dry Fork Cheyenne River subwatershed. All areas of ground disturbance associated with federal actions would be surveyed for cultural resources during the APD process. Until those

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surveys have been completed, only rough estimates can be made of the number of eligible cultural resource sites that would be affected by RFD activities.

Of the projected 677 square miles of cumulative disturbance, approximately 194 square miles would be associated with coal mining activities. The average number of sites per square mile for the study area (5.5) was used as a multiplier to estimate the average number of sites in the APE given the square miles of cumulative disturbance. Based on these calculations, 1,070 sites potentially could be affected by coal mining in the study area. Impacts to cultural resource sites in proposed mine disturbance areas would be mitigated as discussed under the 2010 lower production scenario in Section 2.6.2.2.

2.6.2.6 Year 2020 – Lower Production Scenario

Under this scenario, cumulative impacts would be the same as described for the lower production scenario in 2010, with the following exceptions. Past and present activities would result in approximately 786 square miles of cumulative disturbance (approximately 11.2 percent of the study area). Assuming that site density is uniform throughout each subwatershed, the average number of sites per square mile from **Table 2.6-1** was used as a multiplier to estimate the average number of sites in the APE given the square miles of cumulative disturbance (**Table 2.6-2**). The average number of cultural resource sites identified would be greater because an area larger than the projected surface disturbance is surveyed. The average number of sites potentially affected by subwatershed would vary from a high of 1,159 (Upper Powder River subwatershed) to a low of 151 in the Dry Fork Cheyenne River subwatershed. All areas of ground disturbance associated with federal actions would be surveyed for cultural resources during the APD process. Until those surveys have been completed, only rough estimates can be made of the number of eligible cultural resource sites that would be affected by RFD activities.

Of the projected 786 square miles of cumulative disturbance, approximately 214 square miles would be associated with coal mining activities. The average number of sites per square mile for the study area (5.5) was used as a multiplier to estimate the average number of sites in the APE given the square miles of cumulative disturbance. Based on these calculations, 1,181 sites potentially could be affected by coal mining in the study area. Impacts to cultural resource sites in proposed mine disturbance areas would be mitigated as discussed under the 2010 lower production scenario in Section 2.6.2.2.

2.6.2.7 Year 2020 – Upper Production Scenario

Under this scenario, cumulative impacts would be the same as described for the lower production scenario in 2010, with the following exceptions. Past and present activities would result in approximately 804 square miles of cumulative disturbance (approximately 11.5 percent of the study area). Assuming that site density is uniform throughout each subwatershed, the average number of sites per square mile from **Table 2.6-1** was used as a multiplier to estimate the average number of sites in the APE given the square miles of cumulative disturbance (**Table 2.6-2**). The average number of cultural resource sites identified would be greater because an area larger than the projected surface disturbance is surveyed. The average number of sites potentially affected by subwatershed would vary from a high of 1,159 (Upper Powder River subwatershed) to a low of 151 in the Dry Fork Cheyenne River subwatershed. All areas of ground disturbance associated with federal actions would be surveyed for cultural resources during the APD process. Until those

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surveys have been completed, only rough estimates can be made of the number of eligible cultural resource sites that would be affected by RFD activities.

Of the projected 804 square miles of cumulative disturbance, approximately 233 square miles would be associated with coal mining activities. The average number of sites per square mile for the study area (5.5) was used as a multiplier to estimate the average number of sites in the APE given the square miles of cumulative disturbance. Based on these calculations, 1,281 sites potentially could be affected by coal mining in the study area. Impacts to cultural resource sites in proposed mine disturbance areas would be mitigated as discussed under the 2010 lower production scenario in Section 2.6.2.2.

2.6.2.8 Native American Concerns

Prior to approval of future federally permitted projects, effects to traditional cultural properties, localities of traditional concern, and sacred sites must be considered. Federal regulations that require consultation with recognized Native American tribes include, but are not limited to:

- NHPA, as amended. This act requires federal agencies to consult with Indian tribes regarding federal undertakings in order to identify properties with tribal, religious, or cultural significance that may be eligible for the NRHP, and to determine ways to avoid or minimize effects to those properties.
- NEPA. This act requires federal agencies to consult with Native American tribes regarding land use plans.
- Federal Land Policy and Management Act. This act provides Native American tribes and groups the opportunity to express their views and identify places of concern.
- American Indian Religious Freedom Act. This act requires federal land management agencies to identify, through consultation, the concerns of traditional Native American religious practitioners, and to accommodate access to and ceremonial use of sacred sites in the planning process.
- Archaeological Resources Protection Act. This act requires consideration of Native American concerns and requires that federal land management agencies notify appropriate tribes before approving permits for excavation of archaeological resources if the location may have cultural or religious importance to the tribes.
- Native American Graves Protection and Repatriation Act. This act requires federal agencies to consult with appropriate tribes before the authorization of excavation or removal of Native American human remains and funerary objects with the purpose of determining how the tribes would like the agency to treat these remains.
- Executive Order No. 13007 Indian Sacred Sites. This order requires federal agencies to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, to avoid adversely affecting the physical integrity, and to maintain the confidentiality of sacred sites.

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For federal actions in the PRB study area, the following tribes would be considered interested parties for consultation: Cheyenne River Sioux, Crow, Crow Creek Sioux, Eastern Shoshone, Flandreau Santee Sioux, Lower Brule Sioux, Northern Arapaho, Northern Cheyenne, Ogalala Lakota, Rosebud Sioux, Santee Sioux, Southern Arapaho, Southern Cheyenne, and Standing Rock Sioux.

In carrying out their mandated responsibilities, all federal agencies that authorize disturbance which might affect traditional cultural properties, localities of traditional concern, and sacred sites are obligated to ensure that the concerns that Native Americans have regarding federal actions are adequately addressed. The federal agencies must foster and maintain credible government-to-government relationships with Native American tribes.