

**MEMORANDUM OF AGREEMENT BETWEEN THE
DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT
Ely District Office, Bristlecone Field Office**

and

NEVADA STATE HISTORIC PRESERVATION OFFICER

Regarding the

REMOVAL OF MILL SITE RUINS AT 26WP12630, WHITE PINE COUNTY, NEVADA

WHEREAS, the Bureau of Land Management (BLM) has determined that the undertaking, for the purposes of this agreement, is the Comprehensive Environmental Response Compensation Liability Act (CERCLA) removal of mill site ruins at 26WP12630, White Pine County, Nevada. BLM determined that this undertaking will have an adverse effect upon this historic property eligible for inclusion to the National Register of Historic Places (NRHP) under Significance Criterion A and has consulted with the Nevada State Historic Preservation Office (SHPO) pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA) 54 U.S.C. § 306108; and

WHEREAS, BLM has defined the undertaking's area of potential effect (APE) to include all direct and indirect effects and is located in T.24 N., R.62 E. within Section 36 (Attachment A); and

WHEREAS, BLM has consulted with the Ely Shoshone Tribe pursuant to 36 C.F.R. § 800 and determined that the undertaking will not pose an effect to any property of religious and cultural importance to the Tribe; and

WHEREAS, in accordance with Component 5 of the Programmatic Agreement between the BLM, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (2012), this undertaking does not meet the thresholds for ACHP notification; and

WHEREAS, to the best of our knowledge and belief, no human remains, associated or unassociated funerary objects or sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001), are expected to be encountered in the project location; and

NOW, THEREFORE, BLM and 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 historic properties.

BLM shall ensure that the following measures are carried out:

STIPULATIONS

I. MITIGATION:

For adverse effects to 26WP12630:

- A. BLM shall ensure that a qualified archaeologist documents 26WP12630 consistent with the requirements of Appendix F, Nevada Protocol Agreement between BLM and the SHPO, 2014 (Protocol).
 1. Due to human health and safety issues related to on-site heavy metal contamination, no fieldwork elements of Appendix F requiring close contact with the property, e.g., measured drawings and interior photographs will be undertaken (Protocol V:F.4a).
 2. BLM shall ensure that the contractor, in conjunction with a qualified archeologist, physically demarcates the areas of remediation prior to the initiation of any fieldwork required for mitigation.

For effects to the Standing Mill structure:

- A. BLM shall ensure that the standing mill structure, located within the indirect APE of this project, will be photo-documented and recorded on a Nevada Architectural Resources Assessment form. This documentation will then be submitted to the SHPO. The timeframe for the submission of recordation will not exceed the duration of this document.
 1. Due to human health and safety issues related to on-site heavy metal contamination, no fieldwork elements requiring close contact with the property, e.g., measured drawings and interior photographs will be undertaken (Protocol V:F).

II. NOTICES TO PROCEED (NTP)

BLM may issue a Notice to Proceed (NTP) for the undertaking with the following procedure:

- A. The qualified archaeologist shall provide BLM with a summary of the fieldwork described in Stipulation I.A only accompanied by all digital photographs required by Appendix F. This documentation may be submitted in a digital format but must include labels for all images; and
- B. BLM shall review the summary; and
- C. BLM shall provide a copy of the summary to the SHPO; and

D. The SHPO shall review the summary. If SHPO concurs or does not respond within two working days of receipt, BLM shall assume concurrence and issue the NTP.

E. No ground disturbing activities will begin until BLM issues a NTP for the undertaking.

III. DURATION

This MOA will expire if its stipulations are not carried out within five (5) years from the date of its execution. At such time, and prior to work continuing on the undertaking, BLM shall either (a) execute a 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. Prior to such time, BLM may consult with SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below.

IV. POST REVIEW DISCOVERIES

BLM shall be notified of all unanticipated discoveries and adhere to Section VI of the Protocol.

If potential historic properties are discovered, or unanticipated effects on historic properties occur, BLM shall implement the Discovery Without Prior Planning included as noted in Section VI:B of the Protocol.

V. MONITORING AND REPORTING

The BLM archeologist will be unable to monitor during the remediation due to human health and safety concerns; however, post-remediation monitoring and photography will occur within 30 days of the undertaking's completion. BLM shall retain a copy of the documents produced with the administrative record of the undertaking.

VI. DISPUTE RESOLUTION

Should either Signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, BLM shall consult with SHPO to resolve the objection. If BLM determines that such objection cannot be resolved, BLM will comply with the Protocol provision as stipulated under BLM-SHPO Dispute Resolution Section XIV, A, B.

The BLM is responsible to continue to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute.

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 either Signatory determines that its terms will not or cannot be carried out, that Signatory shall immediately consult with the other Signatory to attempt to develop an amendment per Stipulation VII, above. If within thirty (30) days (or another time period agreed to by both Signatories) an amendment cannot be reached, either Signatory may terminate the MOA upon written notification to the other Signatory. Once the MOA is terminated, and prior to work continuing on the undertaking, BLM must either (a) execute an MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to any comments of the ACHP under 36 CFR § 800.7. BLM shall notify the SHPO and ACHP as to the course of action it will pursue.

EXECUTION of this MOA by BLM and SHPO, and implementation of its terms evidence that BLM has taken into account the effects of this undertaking on historic properties.

SIGNATORIES:



Jill A. Moore, Bristlecone Field Manager, Ely District, BLM 8/29/16
DATE



Rebecca L. Palmer, Nevada State Historic Preservation Officer 9/2/16
DATE