520.040

STATE PROTOCOL AGREEMENT

between

The Bureau of Land Management, Nevada

and

The Nevada State Historic Preservation Officer

for

Implementing the National Historic Preservation Act

Revised December 22, 2014

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PREAMBLE

The Bureau of Land Management (BLM) has developed a National Programmatic Agreement (NPA, 1997, as amended 2012) governing the manner in which BLM will meet its responsibilities under the National Historic Preservation Act (NHPA). This State Protocol Agreement (Protocol) has been developed pursuant to provisions of the NPA.

In carrying out its responsibilities, BLM has developed policies and procedures through its Cultural Resources Manual (Sections 8100-8170) to guide planning, decision-making, and activities. The Nevada State Office of the BLM (NSO) has professional cultural resource staff to advise BLM's managers on compliance with cultural resource laws, regulations, and policies. It is the intent of this Protocol to provide a process for consistent compliance with Sections 106, 110 and 112 of the NHPA. This Protocol replaces the procedures set forth in 36 Code of Federal Regulations (CFR) § 800.3 through 800.7, effective August 5, 2004 (NPA, *Basis for Agreement*).

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

This Protocol supersedes in all ways the provisions of the first Protocol between the BLM Nevada State Director (State Director) and SHPO, executed on June 4, 1999, and all subsequent Protocol revisions and amendments, which will terminate and have no further force and effect with the last signature on this Protocol. However, project-specific agreements in force at the time of the execution of this Protocol shall continue to function according to their terms.

PURPOSE

This Protocol defines how BLM and SHPO will interact under the NPA for implementing the NHPA, including Section 106 (§ 800.3 through 800.7), Section 110 and Section 112.

The goal of the NPA and this Protocol is a more meaningful and productive partnership between BLM and SHPO to enhance cultural resource management on public lands managed by BLM in Nevada. The Protocol is also designed to enhance the participation of consulting parties, the general public and Native American tribes in the Section 106 process, as specified in the Preamble of the NPA.

A. Participation by Consulting Parties and the General Public: BLM will seek and consider the views of consulting parties and the general public when analyzing undertakings in compliance with this Protocol through the public participation opportunities mandated by the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA) as implemented at 43 CFR § 1610.3, and through this Protocol as specified in the NPA (Preamble). BLM will invite consulting parties to participate in the Section 106 process early in the review stage if they have expressed prior interest in a BLM undertaking or action subject to the Protocol, or if they have expressed an interest in a particular class of cultural resources (e.g., historic trails, railroads) that might be affected by the undertaking. Consulting parties include representatives of local governments, applicants, and certain individuals and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties, per the NPA (Preamble) and 36 CFR § 800.2(c)(3-5). BLM will also seek and consider the views of the general public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, per the NPA (Preamble). The Cultural Resource Specialist (CRS) will identify consulting parties and members of the general public on the Cultural Resource Inventory Needs Assessment (CRINA) form that they send to SHPO for review (see Sections I.B.1 and V.A.1 of this Protocol). Consulting parties and members of the general public listed on the CRINA, or, if appropriate, those who request to participate as consulting parties after completion of the CRINA, will receive written notification of BLM's determinations of eligibility and effect by email and/or letter, and BLM will invite these parties to provide comments or suggestions on BLM determinations prior to the BLM decision. In addition, if adverse effects will occur, BLM will invite the consulting parties and members of the public listed on the CRINA, or, if appropriate, those who request to participate as consulting parties after completion of the CRINA, to participate in the process of determining the actions to be undertaken to avoid, minimize, or mitigate those adverse effects. Public participation is also guided by BLM Manual 8110.12, as well as through the development of public education and outreach opportunities, including the BLM-SHPO Site Stewardship partnership as detailed in Section XI.C of this Protocol.

B. Native American Participation: Native American participation will be guided by 36 CFR § 800.2(c)(2)(ii)(A-F), the provisions of BLM Manual 8120 (Manual) and the latest edition of any associated Handbook, as well as any policy guidance issued by BLM that supplements the Manual. BLM Nevada has established data sharing agreements with many individual tribes across the state, and District and Field Office managers meet with tribes on a regular basis to exchange information and engage in government-to-government consultations. Many BLM Nevada Districts have also hired tribal coordinators to foster communication and outreach. Specific tribal involvement detailed in this Protocol can be found in the following Sections: I.B., V.A.4, V.C.3, VI.B.2, VI.C, XIV.B, and Appendix B (B.1.a and D.5).

APPLICABILITY

Public lands administered by the Nevada BLM are included within the scope of applicability of this Protocol unless alternative agreements are reached subsequent to the adoption of this Protocol and are attached to this Protocol as Appendices approved by BLM and SHPO.

This Protocol, subject to the limitations in this Protocol and threshold limitations specified in Part II, applies to all programs, funding initiatives, actions or decisions under the statutory or regulatory authority of the BLM that, regardless of land ownership, may affect historic properties unless the BLM, in formal consultation with SHPO, determines otherwise. This includes projects funded under the authority of laws such as the Southern Nevada Public Lands Management Act (SNPLMA) and the Lincoln County Archaeological Initiative (LCAI). This Protocol will remain in effect until the Nevada State Director and SHPO execute a successor, terminate it, or it expires, whichever comes first. In the event of the termination of the NPA, the signatories of this Protocol will promptly enter consultation to convert the Protocol into a statewide Programmatic Agreement pursuant to 36 CFR § 800.6 and § 800.14(b)(2).

This Protocol is not applicable to certain kinds of projects that will instead be processed under the full procedures at 36 CFR § 800 or other alternative procedures developed under 36 CFR § 800.14. At present most large scale renewable energy projects with appurtenant structures that would generate more than 20 megawatts of energy shall not be processed under the Protocol. This definition of large scale renewable energy projects is consistent with the Solar Programmatic Environmental Impact Statement (PEIS) and the Desert Renewable Energy Conservation Plan (DRECP) currently in preparation at the time of execution of this Protocol. For purposes of this Protocol, renewable energy includes solar, wind, and geothermal energy production and appurtenant transmission facilities. In addition to large scale renewable energy projects, several other types of projects are excluded from the Protocol. These involve other major infrastructure projects designated by the BLM Washington Renewable Energy Office as having national interest, projects that have the potential for presenting procedural problems, cases with substantial public controversy related to historic preservation issues, cases where disputes among or about consulting parties which the Advisory Council on Historic Preservation (ACHP) may be invited to help resolve, and cases that are involved or are likely to be involved in litigation on the basis of Section 106 as per Appendix A of 36 CFR § 800.

PART 1: SECTION 106 ACTIVITIES

I. DEFINING AN UNDERTAKING

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

A. Establishing an Undertaking

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

1. If a proposed action is not an undertaking, no notice to SHPO is necessary.

2. If a proposed action is determined to be an undertaking and if it has the potential to cause effects on historic properties, assuming that historic properties are present, then it is subject to the provisions of this Protocol.

3. If the undertaking does not have the potential to cause effects on historic properties, assuming such historic properties are present, BLM has no further obligations under Section 106 of the NHPA. This determination should be documented in the appropriate project case file.

   If a disagreement concerning the definition of an undertaking occurs between the CRS and a District or Field Manager (Manager), the Manager will refer the determination to the Deputy Preservation Officer (DPO) defined in Section 3.b of the NPA. The DPO will first discuss the matter with the Manager to determine whether an undertaking exists and will make a recommendation to the Manager. The DPO may discuss the situation informally with SHPO. If the DPO and Manager cannot agree, the DPO will convey a recommendation to the Deputy State Director for Resources, Lands and Planning (DSD) for a decision. If the DPO and DSD cannot agree, BLM will consult with SHPO per terms of this Protocol (Section XIV.A). The State Director will make the final BLM decision following consultation.

B. SHPO Notification of Proposed Undertakings

In the earliest feasible planning stage for any undertaking, BLM will determine the information needed to identify and evaluate historic properties within the Area(s) of Potential Effect (APE). BLM will base such determinations on a file search of the BLM/SHPO cultural resource records,

aerial photographs, Government Land Office (GLO) records, BLM land records, resource management plans, project-specific NEPA documents of the proposed project area, available cultural resource planning models, and on information sought and obtained from SHPO and consulting parties. As needed BLM will gather the necessary information through appropriate levels of inventory or interviews with members of the public, professionals, and tribal experts. Resources of religious and cultural significance to Native American tribes must be included in determining inventory needs, based on appropriate notification and consultation, as required per BLM Manual 8120 and any associated Handbook, as well as any additional relevant instruction or guidance.

1. Cultural Resource Inventory Needs Assessment Form. The intent of the CRINA is to establish the Direct and Indirect Effect APEs, provide a summary of known resources present within the APEs, evaluate inventory needs, describe the methods (other than standard inventory) that will be used to analyze effects (e.g., visual and auditory simulation modelling), and list the tribes, consulting parties and members of the public who will be consulted for individual undertakings. Problems that arise late in the processing of land use applications often stem from one or more of these critical pieces of Section 106 compliance missing from the process. The CRINA can help alleviate (but not eliminate) Section 106 compliance issues by ensuring these steps are established early in the planning process, and that both BLM and SHPO have the opportunity to communicate with one another on the planned Section 106 compliance process for individual undertakings. This, in turn, should assist in the efficient completion of the Section 106 compliance process set forth in this Protocol.

   A CRS will complete a CRINA form establishing the appropriate APEs, inventory type, methods of effect analysis, requirement of specialty resource knowledge such as an Architectural Historian, consulting parties, tribal consultation needs, and any other appropriate recommendations for the undertaking. The CRS will forward the completed form to the responsible Manager or other responsible agency official for approval. Further information concerning the CRINA can be found in Section V.A. of this Protocol.

   a. The CRS will ensure that one copy of the form is included in the case file to document the information gathering decision; and

   b. The CRS will ensure that one copy of the form is sent to the designated SHPO email as early in the planning process as possible, and prior to authorizing the undertaking.

   c. When circumstances require BLM to deliver a paper version of the CRINA via standard U.S. surface mail, the distribution and review time will be the same as for the electronic version, including the case file and SHPO.

   d. SHPO will have five working days from receipt when the completed written form is electronically transmitted by BLM via e-mail to notify BLM via electronic transmittal that either:

(1) SHPO has no questions or issues with the information contained in the CRINA.

or

(2) SHPO may provide recommendations within the same electronic transmittal regarding additional parties that might be consulted, inventory recommendations, adequacy of the designated APEs, and/or adequacy of the methods designed to assess adverse effects.

(a) If BLM determines that the undertaking is ***under-threshold*, therefore not requiring SHPO consultation**, then BLM may either (1) accept SHPO's recommendations and proceed with the Section 106 process, or (2) if BLM does not accept all or part of SHPO's recommendations, then BLM will respond to SHPO via electronic transmittal, and provide justifications for BLM's final determinations, and proceed with the Section 106 process.

(b) If BLM determines that the undertaking is ***above-threshold*, therefore requiring SHPO consultation**, then BLM and SHPO will agree to the information provided in the CRINA prior to proceeding with the Section 106 process. If BLM and SHPO cannot agree, then the dispute resolution process detailed in Section XIV of this Protocol will be implemented.

or

(3) SHPO wants to consult on the undertaking either under 36 CFR § 800.3 to § 800.7 per NPA Section 6.b.14 or this Protocol.

e. If SHPO has not responded by the close of business on the fifth working day to a CRINA submission, BLM will assume that SHPO has no comments and may proceed with the undertaking in accordance with this Protocol.

f. The format of the CRINA form is established by the NSO, and detailed in the latest edition of the *Guidelines and Standards for Archaeological Inventory* (*Guidelines*). District or Field offices may implement modified formats after approval by the DPO.

3. The CRS will place a copy of the completed CRINA in the project case file, and a copy should also be sent to tribes, consulting parties, and interested individuals. BLM will manage information contained in the CRINA that is placed in the general project case file or sent to the public to ensure appropriate confidentiality, including withholding of sensitive information from disclosure to the public, as necessary to protect the resources (BLM Manual 8110.55).

4. BLM will provide a new notification, or modified CRINA, to SHPO if BLM determines the previous assessment must be updated to reflect significant changes in project location, the kinds of resources expected (including those that exceed BLM's in-house expertise), or important new information that requires reassessment of the APE boundaries. After submitting the CRINA, the review process as identified in Section I.B.1.b-d will apply.

II. UNDERTAKINGS REQUIRING SHPO AND ACHP CONSULTATION

Under the regulations at 36 CFR § 800, undertakings are subject to SHPO consultation on identification, eligibility, effect and treatment prior to authorization. This Protocol modifies the process by developing a set of understandings and standard operating procedures that eliminate the need for SHPO consultation prior to authorization in many cases, in conformance with the NPA (*Basis for Agreement*, page 5). Specifically, the Protocol streamlines the Section 106 process by reducing consultations with SHPO on undertakings that culminate in no effect or no adverse effect determinations unless BLM either lacks or is unable to solicit the necessary technical expertise per Section II.A.5.

Undertakings that culminate in no effect or no adverse effect determinations, and are not included in the class of undertakings requiring SHPO and/or ACHP consultation under Section II.A-E of this Protocol, are referred to as ***under-threshold***. BLM and SHPO agree that BLM's CRS may conduct inventory, develop determinations of eligibility and effect in conjunction with the BLM Manager, and apply exemptions without involvement of SHPO following completion of the CRINA process outlined in Section I.B of this Protocol. These classes of undertakings are described in more detail in Section V.D-E. of this Protocol. If the BLM Manager does not accept the professional recommendations of the CRS for under-threshold undertakings, including but not limited to the determinations of eligibility, findings of effect, and application of exemptions, the BLM Manager may either opt to employ the dispute resolution process in Section XIV.A of this Protocol, or may initiate consultation with SHPO under 36 CFR § 800.

In contrast, undertakings that culminate in an adverse effect determination require BLM to consult with SHPO per the NPA (Section 2.b.(2)), as do certain other conditions or situations stipulated below, and described in more detail in Section V.F of this Protocol. In addition, certain classes of undertakings also require notification or consultation with the ACHP per the NPA (Section 2.b.(3)), and these are also detailed below. Collectively, the classes of undertakings that fall within the parameters of Section II.A-D of this Protocol are referred to as ***above-threshold***.

A. Required Consultation with SHPO

At the earliest feasible planning stage, BLM will initiate consultation via the CRINA with SHPO on the categories of undertakings shown in II.A.1 to II.A.11, below. BLM consultation seeking concurrence on eligibility, effect, and treatment will be by formal letter.

1. Routine, small-scale, non-controversial interstate or interagency undertakings for which BLM Nevada is the lead Federal Agency; or

2. Undertakings that result in an adverse effect to National Register of Historic Places (NRHP) listed or eligible properties; or

3. Undertakings that require an Environmental Impact Statement (EIS); or

4. Phased or segmented undertakings that require a project-specific Programmatic Agreement (PA) (as specified in Section II.C) prior to implementation; or

5. Undertakings containing architectural resources where BLM lacks access to appropriate expertise to address eligibility; effect; or treatment; or

6. Undertakings that are determined by either party to be highly controversial; or

7. Undertakings that involve land transfers out of Federal management; or

8. Undertakings where SHPO review has been requested by a tribal government, a local government, an applicant for a BLM authorization, a member of the public, or other interested person; or

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

10. Development of historic contexts consistent with the Secretary of Interior's Standards for Preservation Planning (see Section XI.D of this Protocol); or

11. Undertakings when BLM must notify the ACHP per the NPA thresholds at Section II.E. In those instances the BLM will conduct the consultation under the regulations at 36 CFR § 800.

B. Cancelled or Terminated Undertakings

In cases where BLM has initiated consultation with SHPO for an above-threshold undertaking but BLM later determines that the undertaking will not be implemented (such as when cancelled, terminated, or otherwise voided) the CRS will notify SHPO of the status of the undertaking within one year of this decision. SHPO will manage reports for such undertakings in accord with Section IX.C.4 of this Protocol.

C. Undertakings Requiring SHPO Consultation on a Project-Specific Programmatic Agreement (PA) Prior to Authorization

Phased or segmented undertakings require a PA and consultation with SHPO, as well as an ACHP invitation to participate in the development of the PA. BLM may determine that Section 106 compliance accomplished under the Protocol for large or complex undertakings, or for undertakings with restricted access to historic properties, should be segmented or phased using an incremental approach to identification, evaluation, and treatment. Phased or segmented undertakings postpone the identification, evaluation or agreed-upon treatment of historic

properties until after the approval of the undertaking through a Decision Record (DR) for an Environmental Assessment or Record of Decision (ROD) for an EIS. In these cases, the execution of an project-specific PA is required prior to the signing of a DR or ROD.

1. BLM and SHPO agree that PAs will specify that BLM will conduct appropriate identification and evaluation activities to determine the presence of historic properties in identified APEs prior to authorizing an undertaking.

2. BLM will take effects into account through the preparation of an appropriate Historic Properties Treatment Plan (HPTP). BLM will ensure that the treatment represented in the HPTP occurs before BLM issues a notice to proceed for activities associated with an undertaking that may pose an effect to the property.

D. SHPO Notification of Archaeological Site Testing and Artifact Collection

The intent of this subsection is to ensure that test excavation and artifact collection to determine the eligibility of archaeological sites (sites) and/or to complete small-scale research projects do not adversely affect historic properties without an executed Memorandum of Agreement (MOA) in place. In some cases, sites are tested by the CRS or by consultants in order to help determine NRHP eligibility under criterion D. In addition, sites can be tested and artifacts collected during research projects. Sites that are tested and result in artifact collection by consultants require BLM NSO to issue a Limited Testing and/or Collection Permit (see Appendix B of the *Guidelines*). BLM is also required to consider the views of Indian tribes on whether the issuing of this Permit may result in harm to, or destruction of, any Indian tribal site of religious or cultural importance (43 CFR § 7.7). The testing of sites through the excavation of test units, as well as the collection of artifacts either from the surface of a site or from the test unit(s), has the potential to cause adverse effects to historic properties. Sites that are tested or have artifacts collected from them that reach a level of adverse effect are above-threshold and require SHPO consultation and the execution of an MOA prior to the field work per Section V.F.4 of this Protocol.

BLM and SHPO agree that in cases where BLM will conduct or authorize site testing and/or collection of artifacts at sites that BLM has determined will not pose an adverse effect to historic properties for the purposes of either determining site eligibility or supporting research projects, will be handled by the process outlined below:

1. A brief Site Testing Plan and/or Artifact Collection Plan will either be written by BLM or by a consultant or primary researcher and submitted to BLM for approval. Once written or approved by BLM, the CRS will forward a hard copy to SHPO for review. The Site Testing Plan or Artifact Collection Plan will include a brief summary of the reasons for the testing and/or collection (e.g., land use application, Masters or PhD research project); location of the site(s) to be tested (including site form(s), topographic map(s) and site sketch map(s) if available); a brief research design that addresses the questions that the testing and collection are designed to answer, if applicable; and description of testing methodology,

including size, location, and number of test units to be excavated, as well as maximum percentage of specific artifact tool types to be collected from the surface of individual sites. This document should also have a justification for why implementation of the plan would not result in adverse effect to the site(s), which will be based on the known or suspected data potential that the site(s) possess. If BLM approves of site testing during the inventory planning phase of an undertaking in order to make better informed eligibility determinations, then general Site Testing Plans may be approved by BLM and concurred upon by SHPO using the process outlined in Section II.D.2-3 below.

2. SHPO will have 25 working days to review the Site Testing Plan or Artifact Collection Plan and provide BLM with comments.

   a. BLM will ensure that the transmittal letter accompanying the Site Testing Plan and/or Artifact Collection Plan states that BLM is submitting these documents under this provision of the Protocol.

   b. If SHPO concurs that the activities detailed in the Site Testing Plan or Artifact Collection Plan constitute a "no adverse effect", then no further consultation with SHPO is necessary prior to BLM authorizing the work.

   c. If SHPO does not concur that the activities detailed in the Site Testing Plan or Artifact Collection Plan constitute a "no adverse effect", then BLM and SHPO must engage in further consultation in order to reach consensus. This can result in a Site Testing Plan or Artifact Collection Plan that will constitute a "no adverse effect" or result in the determination of an "adverse effect" and execution of an MOA per Section V.F.4 of this Protocol.

   d. If BLM and SHPO cannot reach a consensus on the effect to historic properties, then the dispute resolution process detailed in Section XIV of this Protocol will apply.

3. All executed Site Testing Plans and/or Artifact Collection Plans will result in the production of a final report per Section III.B of this Protocol. The final report will include the updated Nevada IMACS forms for inclusion into NVCRIS.

E. Thresholds for ACHP Notification

1. BLM will invite ACHP participation in the following classes of undertakings:

   a. Non-routine interstate and/or interagency projects or programs; or

   b. Undertakings adversely affecting National Historic Landmarks; or

   c. Undertakings BLM determines to be highly controversial; or

d. Undertakings with adverse effects where BLM and SHPO cannot resolve disputes through a formal agreement (e.g., MOA).

2. If the ACHP is invited to participate in the Section 106 process, including the development of project-specific PAs, information provided to the ACHP shall follow the regulations at 36 CFR § 800.11(e)(1-6).

3. The development and approval of program alternatives, including project-specific PAs, will follow the process under 36 CFR § 800.14.

III. NOTIFICATION AND REPORTING STANDARDS

A. Notification

1. Requirements for providing SHPO with a notification of an undertaking are found in Section I.B of this Protocol.

2. Above-Threshold Undertakings Requiring SHPO Consultation Prior to Authorization: Unless otherwise agreed, SHPO will have 35 calendar days from receipt of adequate documentation to respond to BLM consultation requests regarding the evaluation of cultural resources for the NRHP, an undertaking's effect on historic properties, or the adequacy of HPTPs to mitigate adverse effects for undertakings specified in Section II.A of this Protocol.

3. Under-Threshold Undertakings: In some cases, BLM may choose to consult with SHPO on site eligibility for undertakings that are otherwise under-threshold. These circumstances may be particularly beneficial in cases where an under-threshold undertaking is likely to expand in scope and become a new undertaking that is above-threshold. In these cases, BLM's previous determinations of eligibility made for the under-threshold undertaking will be subject to SHPO consultation if those same resources are now part of the APEs established for the new above-threshold undertaking. In order to avoid evaluating these cultural resources twice, BLM may choose to consult with SHPO on site eligibility during the 'under-threshold phase' of the undertaking. In these cases, SHPO will have 35 calendar days from receipt of adequate documentation to respond to BLM's consultation request.

4. Agreement documents, such as PAs and MOAs, are not bound by the 35-day calendar response, but BLM and SHPO agree to respond to submissions in as timely a manner as possible.

5. Time frames for Unanticipated Discoveries or Unanticipated Effects are found in Section VI of this Protocol.

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

B. Reporting

BLM will select an appropriate format (i.e., testing plan, data recovery plan, inventory report, testing report, treatment report, etc.) to document its actions and decisions made in accordance with Section V of this Protocol. BLM and SHPO will collaborate on the development of standards for preparing inventory, testing, and treatment reports, and jointly developing isolated artifact, isolated feature, and the Nevada IMACS site forms. The standards in the most recent edition of the *Guidelines* regarding archaeological resources and the *Guidelines for Recording and Reporting Architectural Resources in Nevada* (*Architectural Guidelines*) regarding

architectural resources will be in effect.

When working under a project-specific PA, BLM will document and report the results of all other NHPA compliance activities as specified in the agreement.

The CRS will forward all other reports, site records, and related documentation compiled in accomplishing provisions of Section V of this Protocol within 35 days of acceptance of final reports. Reports not forwarded to SHPO within this time frame made by other arrangement with SHPO will be documented as described in Section IX of this Protocol, including a date for completion and submission.

IV. DEFINING THE AREA OF POTENTIAL EFFECTS (APEs)

As early as possible in developing or processing an undertaking, the BLM CRS will define appropriate Direct and Indirect Effects APEs that are sufficient to allow analysis and treatment of potential effects associated with the undertaking. In defining the APEs, boundaries are not limited by the physical footprint of the undertaking. They should be large enough to encompass all potential direct and indirect effects, such as, but not limited to, visual, audible, and atmospheric effects. APEs shall be identified on the CRINA that is sent to SHPO for review (also see Sections I.B and V.A of this Protocol).

Although BLM defines APEs early in the identification process, BLM may modify APEs to avoid resources with the Standard Measures found in Section V.D.2.a of this Protocol. If the final APEs do not contain historic properties, BLM will document the lack of historic properties within the redefined APEs and proceed with the undertaking using terms of Section V.D.1. Documentation for the undertaking will contain maps of both the original APEs and the redefined APEs, the basis for the redefinition, and site records and maps for all resources located in the initial inventory and subsequently excluded from the APEs through redesign (including deletion), as well as all resources within the redefined APEs.

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

A. Direct Physical Effects: The physical footprint of the undertaking and any other associated areas likely to experience primary physical effects will be inventoried to standards determined appropriate and documented in the CRINA, or as defined in appendices to this Protocol; resources will be evaluated and effects will be treated as specified in Section V of this Protocol.

B. Indirect Physical Effects: If the undertaking creates or has the potential to create secondary physical effects, such as increased vandalism, seismic events, erosion, or traffic, the physical footprint of those effects will be inventoried to standards determined appropriate and documented in the CRINA; resources will be evaluated and all effects will be treated as specified in Section V of this Protocol.

C. Indirect Visual, Audible, or Atmospheric Effects: If the undertaking creates or has the potential to create indirect visual, audible, or atmospheric effects (i.e., changes that diminish the integrity of location, design, setting, materials, workmanship, feeling, and/or association that contribute to the property's significance), then an Indirect Effects APE will be defined to include appropriate consideration of those effects and documented in the CRINA. This determination may or may not lead to additional inventory; however, it will lead to some additional analysis such as visual simulation of changes to the character of the existing landscape. Once BLM identifies historic properties in the Indirect APE, BLM will develop and evaluate possible alternatives intended to reduce the visual, audible, or atmospheric effects to the aspects of integrity possessed by the property. This can include, but not be limited to, the development of project design and location alternatives.

V. IDENTIFICATION, EVALUATION, AND TREATMENT OF HISTORIC PROPERTIES

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

A. Determining Information Needed

1. Level of Field Inventory: BLM and SHPO agree that Class III inventory will be the standard level of field inventory required to identify archaeological and architectural resources. However, there are cases in which it is appropriate to determine that Class II surveys (sample designed, reconnaissance etc.) are adequate or, in some circumstances, no survey is required. The level of surveyed proposed by BLM will be based on the undertaking as a whole; thus, a Class III inventory requires 30-meters or less spacings across the entire APE, while a Class II inventory proposes some degree of inventory but less than 30-meter spacings across all or part of an APE. The CRINA will include justifications for the level of inventory required, as well as the methods BLM will use to determine the potential undertaking's direct and indirect effects on historic properties. Additional minimum requirements of the contents of the CRINA are included in Section I.B of this Protocol, as well as the latest edition of the *Guidelines*.

    a. If the undertaking is subject to SHPO consultation per Section II.A (above-threshold), and BLM decides to investigate an APE at less than Class III intensity, BLM will consult with SHPO on the adequacy of the inventory design prior to initiating the inventory.

    b. If the undertaking is not subject to SHPO consultation (below-threshold), BLM will inform SHPO using the CRINA (per Section I.B.1), of its intent to deviate from Class III inventory standards prior to initiating the inventory.

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

2. Exemptions from Inventory Requirement: Undertakings exempted from inventory requirements and further Section 106 review with SHPO are listed in Appendix A.

3. The BLM CRS will, after determining information needed to identify and evaluate cultural resources, determine if specific undertakings will not require further identification efforts when the undertaking is located outside of the boundaries of any known historic property, as follows:

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

   b. Previous Adequate Inventory: If the BLM CRS determines that all Direct and Indirect APEs have been adequately inventoried and were previously reviewed and concurred on by SHPO (above-threshold or treated as above-threshold), BLM will document this finding in the CRINA.

      (1) The CRS will evaluate inventories more than 20 years old to determine their adequacy for contemporary identification purposes in locating and evaluating historic properties in relation to land use applications subject to terms of this Protocol. This will include an assessment of need for further consultation with Indian tribes.

         (a) BLM will notify SHPO as part of the CRINA process prior to authorizing an undertaking when an inventory more than 20 years old is determined adequate for identification purposes.

         (b) BLM will notify SHPO as part of the CRINA process prior to authorizing an undertaking if inventory data are being used that are part of a previous terminated undertaking per Section II.B of this Protocol.

4. When Indian tribes identify properties of religious and cultural importance, consultation with tribes to comply with the NHPA will be guided by the latest BLM manual and associated Handbook, appropriate Information Memoranda and Information Bulletins relaying guidance on tribal consultation protocols from the Washington Office or NSO, or by consultation procedures agreed to by BLM and a tribe through a signed Memorandum of Understanding (MOU).

5. Resources Extending Outside the APE: The extent of inventory area outside of an APE, and the extent to which cultural resources outside of the APE are recorded will be at the discretion of the CRS unless specified otherwise in this Protocol or *Guidelines*.

   a. BLM's objective is to have resource boundaries and characteristics determined completely whenever reasonably possible. Where a resource is large in area and extends beyond an undertaking's APE, the extent of recording and collection of information should be sufficient to support evaluation of significance of the resource, as

well as effects to the resource as a whole, per V.B.1.b.2, as determined by the CRS.

B. Evaluation for National Register Eligibility

When evaluating cultural resources, BLM will apply the criteria for evaluation found in 36 CFR § 60.4 and National Register Bulletin 15 to all cultural resources that may be affected, including Traditional Cultural Properties (TCPs) and properties of religious and cultural significance (National Register Bulletin 38). As appropriate, BLM will invite consulting parties to consult. BLM also acknowledges that tribes possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to them. All resources, including archaeological sites, shall be evaluated under all four National Register criteria in accordance with 36 CFR § 800.4(c)(1). Additional guidance for evaluating resources can be found in the Secretary of Interior's Standards and Guidelines for Evaluation. In order to determine the effect of an undertaking on historic properties, BLM must document which aspects are important in defining the integrity of the property.

1. Categorical Determinations:

   a. Classes of Properties Not Eligible for the NRHP: BLM and SHPO have jointly determined that the following class or classes of properties are not eligible for listing on the NRHP:

      (1) Isolated artifacts: See the latest edition of the *Guidelines* for recording and reporting standards.

      (2) Isolated or Unassociated features: See the latest edition of the *Guidelines* for recording and reporting standards.

      (3) Unassociated Prehistoric and Historic Artifact Scatters: *Prehistoric sites* of this type are categorically not eligible if they contain twenty or less unmodified flakes and no tools found within a microenvironment in which there is no potential or low potential for the presence of buried artifacts and features; they also must not contain more than 10 obsidian flakes that may used through further research to obtain chronological information through obsidian hydration analysis and/or mobility/trade information through sourcing analysis. These resources must not be associated with other historic properties within an identified Archaeological District. *Historic sites* of this type are categorically not eligible if they cannot be definitively associated with a specific historic theme as defined in the *Nevada Comprehensive Preservation Plan* (1991). In addition, Unassociated Historic Artifact Scatters may not be depicted on the following documents: General Land Office (GLO) map; land status map; mineral survey records; Nevada State Museum records; State Water Engineer's records; 15 minute Quadrangle; or local city and county records.

(4) Post-1970 Cultural Resources: Cultural resources that post-date 1970 (or contain a majority of artifacts that post-date 1970) are not considered eligible for the purposes of Section 106 compliance unless the resource is of exceptional significance as defined in National Register Bulletin 22, entitled *How to Evaluate and Nominate Potential National Register Properties That Have Achieved Significance Within the Last 50 Years.*

(5) Linear Resources: Linear resources in isolation from other linear resources, archaeological deposits, and buildings/structures are discussed below in this framework for categorical exemptions. Artifacts directly associated with that linear resource, such as an insulator for a telecommunication line is considered inclusive to that linear resource. If only a segment of the linear resource is present within the project area, and it is determined ineligible (non-contributing), then the remaining portions of the linear resource are considered unevaluated for the purposes of Section 106 compliance. In addition, linear resources may not be depicted on the following documents: GLO map; land status map; mineral survey records; Nevada State Museum records; State Water Engineer's records; 15 minute Quadrangle; or local city and county records. See Appendix C for definitions and further information on linear resources.

(a) Roads/Trails: If a road or trail is not dateable, cannot be historically associated with a historic theme, lacks engineered features associated with the road or trail, or cannot be located in geographical space (e.g., the feature shows up on records but cannot be located on the ground), then that segment is considered not eligible under all criteria.

(b) Water Conveyance: If a water conveyance system is not dateable, cannot be historically associated with a historic theme, and lacks engineered features associated with the water conveyance feature, then that segment is considered not eligible under all criteria.

(c) Fences: If a fence is not dateable, lacks unique construction features or is constructed of metal T-posts and barbed wire, then that segment of the fence is considered not eligible under all criteria.

(d) Telecommunication lines (telegraph, telephone, power transmission): If a telecommunication line is not dateable, lacks unique engineered features associated with that segment of the telecommunication line, or lacks integrity due to maintenance or upgrading of the original poles or lines, then that segment is considered not eligible under all criteria.

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

(1) Evaluation Standards: All resources identified within the APEs during an inventory that are not categorically ineligible will be evaluated for inclusion in the NRHP. BLM evaluations will be consistent with the *Secretary of the Interior's Standards and Guidelines for Evaluation* (48 FR 44729), BLM Manual 8110, *Identifying and Evaluating Cultural Resources*, Nevada BLM supplements to this agreement such as the *Guidelines* and *Architectural Guidelines*, and relevant written SHPO guidance.

2. Resources Extending Outside the APEs: Resources partially located within an APE but extending outside of the APE must be evaluated for their contribution to the eligibility of the resource or district as a whole. In other words, if the resource or district was previously determined eligible for the NRHP, is the portion of the resource located within the APE a contributing or noncontributing element to the overall eligibility of the resource? Contributing elements that straddle the APE boundary will be recorded and evaluated.

3. Resources Outside the APE: Resources entirely outside of an APE (those that will not be directly or indirectly affected by the undertaking) do not have to be recorded or evaluated. In other words, resources that may be either directly or indirectly affected by an undertaking need to be included within the boundaries of the APEs.

4. Architectural Resources: CRSs are qualified to record architectural resources using the standards and forms set forth in the *Architectural Guidelines*. Architectural resources must be inventoried by consultants who meet the *Secretary of Interior's Historic Preservation Professional Qualification Standards* (36CFR61, Appendix A [1983]) appropriate for the resource being evaluated, and they will use the standards and forms in the *Architectural Guidelines*. Given the fact that SHPO holds specific expertise in architectural resources, prior to authorizing architectural studies the appropriate BLM District will forward a consultant's resume to SHPO for review of the qualifications of persons proposing to conduct investigations of architectural resources to ensure that requirements of education and experience are met. BLM will not issue a Project Authorization to a consultant for architectural resource survey and reporting until SHPO approves their resume.

   (a) Above-Threshold Undertakings: If the undertaking is being reviewed by SHPO pursuant to Section II.A, BLM will determine eligibility of architectural resources in consultation with SHPO.

   (b) Under-Threshold Undertakings: If the undertaking is under-threshold, and BLM has access to a professionally qualified architectural historian, and the CRS agrees with the consultant's eligibility recommendations, then BLM can proceed with the undertaking without specific SHPO consultation on eligibility. If the CRS disagrees with the consultant's recommendations, BLM must consult with SHPO regarding eligibility before proceeding with the undertaking. If BLM does not have access to a professionally qualified architectural historian to provide recommendations on

eligibility, then BLM will determine eligibility of architectural resources in consultation with SHPO.

5. Provisions for evaluation extend to properties of religious and cultural significance to Indian tribes. The BLM Manager makes eligibility determinations based on consultation with affected Indian tribes and on recommendations made by CRSs. BLM also acknowledges that Indian tribes possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance. BLM's consultation process should follow the latest Manual and associated Handbook, as well as appropriate Information Memoranda and Information Bulletins relaying guidance on tribal consultation protocols from the Washington Office or NSO.

6. Disagreement on Eligibility:

   a. BLM's decision regarding eligibility may differ from recommendations provided by a permitted archaeologist or by a consulting party. BLM will not require a permitted archaeologist to amend the final report to conform to BLM's decision. As well, BLM will consider the recommendations of consulting parties in making eligibility determinations. BLM's decision, along with adequate justification, not the permitted archaeologists' or consulting party's recommendations, will form the basis for Section 106 compliance, including consultation with SHPO as appropriate.

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

   c. If BLM and SHPO cannot agree whether the eligibility criteria are met during consultation, or if the ACHP so requests, BLM will seek a formal determination of eligibility from the Keeper of the National Register (Keeper) pursuant to 36 CFR § 63.2. The Keeper's determination will be final.

   d. If an affected Indian tribe does not agree with a BLM determination that a property of religious and cultural significance is not eligible for the NRHP, the affected tribe may ask the ACHP to request that BLM seek a determination of eligibility from the Keeper, whose determination will be final.

C. Evaluating the Effect of an Undertaking on Historic Properties

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

1. Effect means alteration to the characteristics of a historic property qualifying it for inclusion in or eligible for the NRHP.

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

3. An undertaking's potential effects to properties of religious and cultural significance, as defined in BLM Manual 8120, and reasonable treatments for those effects can only be determined in consultation with the people who value the property. For Indian tribes and for Native American individuals, consultation will be guided by the latest BLM Manual and associated Handbook. BLM will also employ this consultation as a basis for determining and treating adverse effects to historic properties of religious and cultural significance.

D. No Historic Properties Affected (No Effect)

1. No Historic Properties Present: If, as a result of an adequate inventory (as defined in BLM Manual 8110 and this Protocol), BLM determines that there are no historic properties within the APEs, BLM may report these results to SHPO as an under-threshold undertaking per Section III.B of this Protocol, notify (via email or letter, as appropriate) any consulting parties or interested individuals listed on the CRINA, if any, and proceed with the undertaking.

2. No Historic Properties Affected: If BLM determines that identified historic properties will be avoided with the Standard Measures listed below and is in compliance with Sections II.A-E and V.B of this Protocol, BLM may determine that the undertaking will have no effect on historic properties, report these results to SHPO as an under-threshold undertaking per Section III.B of this Protocol, notify (via email or letter, as appropriate) any consulting parties or interested individuals listed in the CRINA, if any, and proceed with the undertaking without SHPO consultation. Documentation for the undertaking will include the basis for this determination.

   a. Avoiding through Standard Measures

   BLM will implement the following protection measures to the extent practicable for all undertakings managed under this Protocol. These Standard Measures are especially appropriate for undertakings such as small projects, fences, minerals exploration drilling, OHV events on developed roads, rights-of-way, wild horse gathers, wildlife guzzlers, interpretive and regulatory signs, materials pits, fire rehabilitation seedings, and vegetation treatments for wildlife habitat improvements (e.g., sage grouse) that are relatively easy to redesign or move to avoid direct effects to historic properties, indirect

effects to the feeling, association, or setting of historic properties, or for which effects are relatively temporary or ephemeral. It does not apply to undertakings that do not meet these requirements or where visual or other effects to setting cannot be avoided. BLM will not use this exemption for major federal actions requiring an EIS.

(1) Avoidance means that no activities, unless specifically identified in this Protocol, will occur within a property's identified boundaries, including any defined buffer zones. BLM may need to modify, redesign, or eliminate portions of undertakings to adequately avoid historic properties.

(2) The CRS will clearly delineate, or ensure that a permitted archaeologist or other cultural resource consultant clearly delineates all historic properties, including appropriate buffer zones, within an APE prior to implementing any undertaking-associated activities that have the potential to affect historic properties.

(a) Historic property boundaries will be delineated with coded flagging and/or other effective marking. BLM will prohibit activities within historic property boundaries except for travel on developed roads when the CRS recommends that such use is consistent with the terms and purposes of this Protocol. The CRS will ensure all flagging and other markings will be removed as soon as possible to avoid calling undue attention to cultural resources.

(b) The CRS will convey historic property location and boundary marking information to appropriate BLM administrators or employees responsible for implementation so those individuals will incorporate pertinent information into planning and implementation documents, and contracts (e.g., clauses or stipulations in permits).

(3) The CRS may establish buffer zones to ensure added protection where the CRS determines or has determined that such measures are necessary. The use of buffer zones in conjunction with other avoidance measures are particularly applicable where feeling, association or setting contributes to the property's eligibility, or where these may be important attributes of some types of historic properties (e.g., historic buildings or structures; National Historic Trails; properties important to Indian tribes). The CRS will determine the size of buffer zones on a case-by-case basis. BLM may consult landscape architects to determine appropriate viewsheds for historic resources. BLM will consult knowledgeable Native Americans when the use or size of protective buffers for Native American traditional or cultural properties needs to be determined.

(4) When any changes in proposed activities are necessary to avoid historic properties (e.g., project modifications, redesign, or elimination; removing old or confusing project markings or engineering stakes within resource boundaries; or revising maps or changing specifications), these changes will be completed prior to initiating any

undertaking activities.

(5) Monitoring may be used to enhance the effectiveness of protection measures in conjunction with other measures.

E. No Historic Properties Adversely Affected (No Adverse Effect)

No Adverse Effect Undertakings include but are not necessarily limited to the following:

1. Restoring, rehabilitating, stabilizing or otherwise altering a building, structure, or feature using means consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR § 68 and applicable guidelines). This finding may require qualified individuals with the technical expertise described in Section V.B.4 of this Protocol; or

2. Transferring, leasing, or selling a historic property with adequate and legally enforceable restrictions or conditions included in the transfer documents to ensure the long-term preservation of the property's historic significance. This undertaking will require SHPO consultation per Section II.A.7; or

3. Maintaining the integrity and existing character of the NRHP-eligible historic property such that the effects do not alter, directly or indirectly, any of the characteristics that qualify the property for inclusion in the NRHP; the integrity of the property's location, design, setting, materials, workmanship, feeling, or association are not significantly diminished.

4. Maintaining the integrity and existing character of NRHP-eligible historic landscapes through project modification such that any changes to the characteristics of the historic landscape can be seen but do not attract attention from the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant historic features of the characteristic historic landscape. BLM, in consultation with SHPO, will consider additional measures to treat visual effects to setting if this objective cannot be achieved. This finding may require qualified individuals with the technical expertise described in Section V.B.4 of this Protocol.

5. Hazards Abatements

    a. Hazards abatement where cultural resources are not involved.

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

    c. Abandoned Mine Hazard Abatement. Nevada Department of Minerals (NDOM), in cooperation with BLM, identifies and abates mine hazards on public lands in Nevada. Some of these mine hazards are over 50 years in age. When BLM and NDOM find

it necessary to close or barricade mine workings that present immediate health and safety concerns, BLM will ensure that the following measures are implemented:

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

(a) Prior to installing a temporary fence, ensure inspection of the fence location by a CRS or a District Archaeological Technician (DAT), and the fence moved, if necessary, to avoid effects on cultural resources.

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

(2) Permanent Closures: Permanent closures of abandoned mines over 50 years old, identified on a BLM list of proposed closures for a given fiscal year, can be done without prior BLM/SHPO consultation if, prior to any ground-disturbing activity, a qualified historical archaeologist:

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

(b) Records and conducts Class III inventory in areas from which fill will be taken and defines and documents the cultural attributes of this areas; and

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

(d) By means of a 7.5' USGS topographic map as well as global positioning system to determine and record UTM coordinates, locates and maps each shaft/adit as well as corners of all inventory areas from which fill removal is proposed; and

(e) Produces a copy of the resource assessment, photographs, and maps within 60 days of finishing the permanent closure. Each BLM District will provide a report to the SHPO on the federal fiscal year.

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

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

(b) Take digital photographs of the shafts/adits after closure and of any fill/borrow areas after removal or use, including overviews depicting setting within the landscape; and

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

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

(e) Ensure that the landscape is restored to the no adverse effect standard defined in Section V.E.4 within the historic landscape; and

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

(4) Qualifications

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

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

6. Trespass Abatement

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

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

disturbance.

7. Fences

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

      (1) The fence is placed so that it does not call attention to historic properties; and

      (2) The fence is constructed with methods that minimize surface disturbance; and

      (3) There will be no livestock grazing within the exclosure.

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

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

8. Sale of Subsurface Mineral Estate

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

9. Roads and Trails

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

   b. Continued use or reuse of a road or trail will not pose an adverse effect to historic

properties under the following circumstances:

(1) When a physical barrier along the traveled way (fences, boulder barriers, existing pavement) prevents further damage to cultural resources; or

(2) Where the roadway or railway was cut through or is situated below a resource through which it passes. BLM will document that continuous use of the road/trail will not further damage existing resources. BLM may document the absence of a site by field work in the form of surface observations and/or subsurface test excavation per Section II.D of this Protocol. These excavations may include shovel test, excavation units, or auger bores.

F. Historic Properties Adversely Affected (Adverse Effect)

Undertakings that cause adverse effects to historic properties are considered above-threshold and require SHPO consultation under Section III.A of this Protocol. Consultation on the resolution of adverse effects will include the appropriate Indian tribes and consulting parties, per the NPA Section 2.5.b.2, and as listed on the CRINA.

1. Mitigation for adverse effects can include some or all of the following:

   a. The implementation of a HPTP for a property that is significant because of the data that it contains, provided the plan reflects the ACHP's *Section 106 Archaeological Guidance* (January 1, 2009); and/or

   b. The implementation of a HPTP resulting in interpretation, public education, collection of oral histories, or other mitigation agreed to by BLM and SHPO.

2. BLM must treat effects to historic properties located within an APE but extending outside of the APE as if the property is completely within the APE.

3. BLM will negotiate a PA for phased or segmented undertakings that postpone the identification, evaluation, or agreed-upon treatment of historic properties until after the approval of the undertaking (see also Section II.C of this Protocol).

4. BLM will negotiate an MOA addressing adverse effects when BLM and SHPO agree that the adverse effects are known prior to the approval of the undertaking.

   a. The MOA establishes BLM-SHPO concurrence regarding the resolution of project-related adverse effects according to a HPTP, as well as other stipulations and measures that may be specified in the MOA. BLM must initiate consultation with SHPO regarding eligibility, effects, and resolution of adverse effects with sufficient lead time to allow for development of an MOA on a schedule meeting the undertaking's anticipated DR or ROD. BLM will also consult with Indian tribes and other consulting parties, as

appropriate. The MOA must be signed by the appropriate parties prior to BLM's issuance of a DR or ROD for the undertaking.

b. Draft PAs and MOAs should be made available for public comment.

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

G. Treatment Limitations

Where BLM's treatment options for historic properties on non-Federal lands may be limited due to land status or statutory authority, BLM will develop appropriate treatment actions in consultation with SHPO. BLM will inform SHPO of potential limitations to treatment as early as possible in the planning process.

H. Review Under 36 CFR § 800

Any District or Field Office may elect to consult on any undertaking under 36 CFR § 800. Any District or Field Office will consult using 36 CFR § 800 whenever the ACHP participates in consultation and when an undertaking meets BLM's definition of a major infrastructure project.

VI. UNANTICIPATED DISCOVERIES OR UNANTICIPATED EFFECTS

A. Discoveries With a Plan in Place

BLM may require discovery plans for undertakings involving land disturbance in areas known to contain buried sites or historic properties near the APEs. Pursuant to Section II of this Protocol, BLM will forward the proposed discovery plan to SHPO for review along with BLM's determination of effect for the undertaking. With SHPO concurrence, the discovery plan will govern how BLM will handle discoveries of cultural resources, unanticipated effects, or both. Unanticipated effects, for example, may occur to architectural resources located near the APEs of undertakings in which BLM permits blasting or other severe forms of earth disturbance, and these contingencies should be included in discovery plans as well.

B. Discoveries Without Prior Planning

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

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

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

    a. BLM may issue a NTP under any of the following conditions:

        (1) Evaluation of potentially eligible resource(s) results in a determination that the resource(s) are not eligible; or

        (2) Evaluation resulted in a determination that the resource(s) are eligible, an HPTP was developed to mitigate adverse effects, and the fieldwork phase of the treatment option has been completed; and

        (3) BLM has accepted a summary description of the fieldwork performed as defined in the HPTP and a reporting schedule for that work; and

(4) BLM provides a copy of the summary to SHPO; and

(5) SHPO reviews the summary and concurs or does not respond within two working days of receipt, after which BLM may assume concurrence and issue the NTP.

3. If BLM reviewed the undertaking under Section II.A of this Protocol, BLM will notify SHPO and consider SHPO's initial comments on the discovery.

   a. Within two working days of notification of SHPO, BLM will notify the proponent, tribes, and consulting parties as appropriate, of BLM's decision on eligibility and proposed treatment, if any, and solicit comments on BLM's proposed course of action.

4. If BLM reviewed the undertaking under Section II.C or II.E, BLM will notify SHPO and ACHP and consider SHPO's and ACHP's initial comments on the discovery.

   a. BLM will ask SHPO, ACHP, tribes, and consulting parties as appropriate, to provide BLM with comments within two working days of BLM's notification. Any timely comments offered by SHPO, ACHP, tribes, and consulting parties will be documented, considered in dealing with the discovery, and, subject to confidentiality requirements, be made available to consulting parties via letter or email; and

   b. BLM will notify SHPO, ACHP, tribes, and other interested persons of its decision regarding evaluation and treatment and shall ensure that treatment actions, if any, are implemented; and

   c. Potential treatment options may include data recovery under terms of an approved HPTP reflecting the ACHP's *Section 106 Archaeological Guidance* (January 1, 2009).

   d. BLM may issue a NTP under any of the conditions listed in Section VI.B.2.a of this Protocol.

   e. BLM will ensure that reports of treatment efforts for discovery situations are completed in a timely manner and conform to the stipulations of this Protocol. BLM will send final reports on the treatment effort to SHPO within 90 days after BLM has accepted the report.

C. Human Remains

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

VII. STAFFING AND OBTAINING SPECIALIZED CAPABILITIES

A. Staffing

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

2. When a BLM office hires new managers or CRSs, BLM will ensure that they receive orientation and training in BLM Manual procedures and procedures for operating under this Protocol within 90 days of their reporting date per the NPA, Section 6.b.16. It will be the responsibility of the BLM DPO to provide appropriate orientation and training to new managers and CRSs; the DPO will coordinate with SHPO to involve SHPO in training. BLM will review training needs during the annual review meeting. BLM will notify SHPO of newly trained staff. BLM may provide funding to SHPO to assist in this training.

3. BLM may utilize the services of qualified consultants for purposes of inventory, evaluation, treatment, and management of cultural resources. BLM will ensure that consultants, who may also be represented as permittees or as contractors, either working directly for BLM or for a land-use proponent, will meet the educational and experience requirements established in the Secretary of the Interior's Historic Preservation Professional Qualification Standards (36 CFR § 61, Appendix A [1983]). Persons working in the capacity of a consulting archaeologist must qualify according to standards established in BLM Manual 8150.12B2b and by Nevada BLM, including separate provisions for qualifications relating to prehistoric archaeology and historic period archaeology.

4. SHPO will invite the DPO to participate in training of new SHPO review and compliance personnel.

VIII. RELATIONSHIP TO OTHER AGREEMENTS AND OTHER AUTHORITIES

A. Termination of the NPA. In the event the NPA is suspended or terminated, existing project specific agreements (MOAs and PAs) remain in effect.

B. Using the Protocol in MOAs and PAs. BLM and SHPO may agree, by reference or by incorporation, to use procedures and related appendices of this Protocol in other plans, MOAs, and PAs. The procedures and related appendices include:

1. Notification or consultation with SHPO; and

2. Definition of an undertaking or the APE; and

3. Identification and evaluation of cultural resources, including definitions and determinations of resource types that are categorically not eligible; and

4. Reporting procedures and recording of cultural resources (*Guidelines* and *Architectural Guidelines*) and

5. Tribal involvement; and

6. Public participation; and

7. Professional qualifications; and

8. Unanticipated discoveries; and

9. Documentation standards for historical resources of local and state significance; and

10. Avoidance measures.

IX. ADMINISTRATIVE INTERACTION AND REPORTING REQUIREMENTS

The NSO, with input from the District Offices, will prepare a report to SHPO that describes the implemented actions taken in the previous federal fiscal year. This report will be due to SHPO in December of each year and will include the information outlined below.

A. Annual Report Contents

1. A table or spreadsheet that lists the CRINA documentations prepared per Sections IV and V and sent to SHPO.

2. A list of eligible properties including property type and the criteria under which each is eligible.

   a. Criteria are defined using the relevant Secretary of the Interior's significance criteria A, B, C and D, per 36 CFR § 60.4;

   b. Acceptable property types include archaeological, architectural, and those of cultural and religious importance.

      (1) Eligible archaeological resources will be categorized by prehistoric and historic site types;

      (2) Eligible architectural resources will be listed separately;

      (3) Properties of cultural and religious importance will be listed separately.

3. A list of properties determined ineligible, categorized by historic and prehistoric resources;

   a. Resource types include archaeological, architectural, and properties of cultural and religious importance.

      (1) Non-eligible archaeological resources will be categorized by prehistoric and historic site types;

      (2) Non-eligible architectural resources will be listed separately;

      (3) Properties of cultural and religious importance will be listed separately.

4. A list by District or Field Office of reports not submitted and a schedule for their completion and submission;

5. A list of proactive cultural resources projects and activities (i.e., Section 110 responsibilities), their nature, purpose and general location, and

6. The BLM federal fiscal year Annual Report on Cultural Resources.

B. Annual Report Schedule

The Annual Report for a federal fiscal year will be due to SHPO on December 31 following the end of that fiscal year. The DPO will ensure that the BLM-SHPO annual report is placed on BLM Nevada's website at http://www.blm.gov/nv/st/en/prog/more_programs.html or its successor within 30 days of the report's submittal to SHPO by BLM.

C. Backlog Reports

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

1. Undertakings initiated prior to the implementation of the Protocol dated June 4, 1999, can be cleared from a BLM office backlog by sending SHPO site records and maps, with project maps showing project boundary, APE, area inventoried, resource locations and a one page description of the project and how its associated cultural resource data were acquired.

2. Undertakings that are or were cancelled prior to report preparation can be cleared from a BLM office backlog by sending SHPO site records and maps. If available, the CRS will also forward project maps showing project boundary, APE, area inventoried, resource locations and a one-page description of the undertaking and how its associated cultural resource data were acquired to SHPO.

3. Under-threshold project reports submitted to SHPO that do not meet the standards as set forth in the *Guidelines* and/or *Architectural Guidelines*, including the digital submission of associated GIS data for incorporation into NVCRIS will be rejected by SHPO. Rejected reports will be reported to the DPO. The DPO will alert the District Office that a report has been rejected, and will encourage the District Office to resubmit a report that complies with the *Guidelines* and/or *Architectural Guidelines*. The DPO and SHPO may initiate a Program Review under Section XIII of this Protocol for District Offices that display chronic compliance issues.

4. Undertakings that are cancelled after initiation of an inventory but prior to completion of the inventory will be handled as specified under Section 3.14 of the *Guidelines*.

X. SHPO INVOLVEMENT IN RESOURCE MANAGEMENT PLANNING

BLM and SHPO agree to invite SHPO participation in the BLM land-use planning process. In order to allow broad and active participation by SHPO in BLM's planning activities, BLM and SHPO agree that:

A. Resource Management Planning

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

B. Project Planning

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

C. Informal Consultation

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

Field Tours: BLM District Offices will notify SHPO of public field tours relating to land use planning efforts (RMPs and RMP amendments) or to EIS planning efforts that may affect historic properties. BLM should also invite SHPO's participation in other projects or activities subject to land use planning efforts that involve very sensitive or controversial cultural resources issues.

PART 2: SECTION 110 AND OTHER ACTIVITIES

XI. COOPERATIVE ACTIVITIES

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

A. Data Sharing and Information Management

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

B. State BLM Supplemental Guidance

In addition to the procedures described in Bureau-wide directives and Manuals, Nevada BLM will be guided by procedural supplements (guidelines or handbooks) issued by the NSO. BLM will update these supplements as needed to conform to Bureau-wide directives, policies issued by the State Director, new laws, new regulations, and operational needs.

The *Guidelines* detail BLM archaeological recording and reporting standards, and are referenced in this Protocol as part of the Section 106 process. BLM architectural recording and reporting standards are detailed in the *Architectural Guidelines*, and are referenced in this Protocol as part of the Section 106 process. The latest archaeological and architectural *Guidelines* issued by the NSO will be in effect and applicable to this Protocol. BLM will make all changes or amendments to the two sets of *Guidelines* in consultation with SHPO.

C. Public Outreach, Site Stewardship, and Heritage Education

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

1. Historic Preservation and Archaeology Awareness Month: BLM and SHPO will participate in and support financially, as funding permits, *Historic Preservation and Archaeology Awareness Month* activities, including public presentations, field tours and

excavations, exhibits, archaeology fairs, posters, brochures, and educational activities.

2. Project Archaeology: BLM and SHPO will support *Project Archaeology* as a component of BLM's Heritage Education Program, by encouraging staff archaeologists to be trained and serve as facilitators in the program, with the goal of integrating the teaching of archaeological concepts and preservation ethics in Nevada schools statewide.

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

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

5. Site Stewardship:

   a. BLM is committed to supporting the Nevada Site Stewardship Program (NSSP) and will:

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

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

      (3) Where possible, BLM field offices will designate a CRS as the point of contact responsible for coordinating site stewardship activities.

   b. SHPO agrees to:

      (1) Coordinate the NSSP and related documentation; and

      (2) Maintain a roster of appropriately trained stewards; and

      (3) Coordinate with BLM to match stewards with resources to be monitored; and

      (4) Provide reporting data to BLM regarding site steward activities and accomplishments; and

(5) Coordinate with BLM to ensure that BLM has enrolled site stewards working on BLM managed lands as BLM volunteers prior to working as site stewards.

(6) SHPO may assist in the identification of cultural resources that are appropriate to steward based on their Section 106 reviews and/or information provided by the general public. SHPO will request that BLM include these resources in their monitoring plans.

D. Historic Context and Research Design Development

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

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

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

E. SHPO Planning

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

F. National Register Nominations

SHPO agrees to provide BLM with technical assistance in preparing NRHP nominations.

PART 3: PROGRAM REVIEW AND MONITORING

XII. PROGRAM REVIEW

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

The Preservation Board may choose to review a District Office's certification status to operate under terms of the NPA and Protocol. The State Director, a BLM Manager, ACHP, or SHPO may request that the Preservation Board initiate a review.

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

A. Review

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

1. A District or Field Office Manager, the DPO or the State Director may request reviews that would be organized or led by the DPO.

2. If SHPO documents a pattern of failure to comply with the terms of this Protocol, SHPO may ask the State Director for a program review of a District or Field Office's status and its capability for carrying out the terms of the NPA and this Protocol.

B. Levels of DPO Review

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

1. Annual Review. The DPO will assess annually each District Office's ability to implement the provisions of the Protocol. BLM will base the Annual Review primarily on information and data submitted for the Annual Report required in Section IX of this Protocol; however, other

data also may be considered.

2. Technical Review. The DPO will determine whether BLM offices are maintaining an appropriate level of technical capability and performance in particular program elements such as:

   a. Undertakings are receiving appropriate cultural resource consideration;

   b. Project documentation is completed and sent to SHPO in a timely manner;

   c. Cultural resources staff are making appropriate accurate professional judgments;

   d. Cultural resource identification, evaluation and treatment has occurred before undertakings proceed; and

   e. Follow-up monitoring, where required by avoidance stipulations, PA, MOA or HPTP specifications, is being completed.

   Every two years, one BLM District Office will receive a technical review.

3. Program Review. The DPO will determine whether BLM offices' Cultural Resource programs are fully functional in their ability to implement the Protocol. Program reviews are broad-based reviews, some of which take place at the District or Field Office. Review teams will consist of the DPO and representation from SHPO, as well as the ACHP and any other BLM staff that the NSO deems appropriate. A review team will have the ability to interview cultural resource staff, other resource staff and managers, have access to Cultural Resources Management records and maps, NEPA files, and other appropriate documentation. The team will be responsible for developing findings and generating a set of recommendations to be reviewed by the State Director. When the State Director accepts the report, the DPO will send the report to the appropriate District or Field Office Manager. Reporting will occur per terms of Section XII.B.4.

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

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

XIII. PROVISIONAL STATUS AND DECERTIFICATION FOR CAUSE

A. Action Plans

The DPO will inform the State Director if review by the DPO determines that there are compliance problems with a District or Field Office. The State Director may ask the DPO to prepare an Action Plan, in consultation with SHPO, that when implemented would bring that office into compliance with this Protocol. The DPO, in consultation with SHPO, may also recommend that the State Director place a District or Field Office on a provisional status based on findings from any of the reviews specified in Section XII of this Protocol.

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

B. Provisional Status

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

1. If not corrected beforehand, upon expiration of the Provisional Status term, BLM and SHPO will convene to determine whether the office has corrected the identified deficiencies. The DPO will convey their findings to the State Director. Should the State Director determine that such deficiencies remain uncorrected or the parties identify significant new deficiencies, the State Director will initiate the Decertification for Cause process.

C. Decertification for Cause

If the State Director determines that a BLM office remains out of compliance, he or she may decertify a BLM office from operating under the terms of this Protocol. A BLM office that is decertified from operating under this Protocol will comply with the regulations at 36 CFR § 800 until it is reinstated.

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

The District or Field Office Manager, the DPO or SHPO may request that the Preservation Board review a District or Field Office's certification status. The Preservation Board will respond under the terms of the NPA at Section 9.

XIV. BLM-SHPO DISPUTE RESOLUTION

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

A. Disputes Involving BLM and SHPO

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

2. If the objection is not resolved within this time frame, and BLM and SHPO have not agreed to extend the consultation period, the DPO will refer the objection to the Preservation Board, which will provide the State Director with its recommendations, per Section 3 of the NPA. If the State Director accepts the Board's recommendations, the State Director will promptly notify SHPO of such acceptance, provide a copy of the Board's recommendations, and afford SHPO 30 calendar days following receipt of the notification to comment on the recommendations. If SHPO concurs in the Board's recommendations within this time frame, the State Director and SHPO will proceed in accordance with the Board's recommendations to resolve the objection.

3. If either the State Director or SHPO rejects the Board's recommendations after a period of consideration not to exceed 30 days, the State Director will promptly notify the Board in writing of the rejection, and immediately thereafter submit the objection, including copies of all pertinent documentation, to the ACHP for comment in accordance with Section 5 of the NPA. Within 30 calendar days following receipt of any ACHP comments, the State Director will make a final decision regarding resolution of the objection and in writing notify the Board, SHPO and the ACHP of that decision. The objection will thereupon be resolved. In reaching a final decision regarding the objection, the State Director will take into account any comments received from the Board, SHPO, and the ACHP pursuant to this stipulation.

B. Disputes by a Member of the Public or a Federally-Recognized Indian Tribe or Individual

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

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

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

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

XV. DURATION, REVISIONS, AMENDMENTS, EXTENSIONS, AND TERMINATION OF THE PROTOCOL

A. Duration

This Protocol will remain in effect for 10 years from the date of execution of the 2012 revised NPA.

B. Revisions

This Protocol is intended to be responsive to changing circumstances. Therefore, BLM or SHPO may propose *revision* of this Protocol, whereupon the parties will consult to consider the proposed revision. "Revision" as used herein refers to the process of review and rewriting (including extension) of all or portions of the Protocol, including the addition, deletion, or modification of exempt undertakings. Revisions will only become effective upon written concurrence of the signatories. Changes that would affect the opportunity for public participation or tribal consultation will be subject to public notice and tribal consultation. A revision will go into effect when signed by all the signatories.

C. Amendments

BLM or SHPO may propose *amendments* of this Protocol at any time, whereupon BLM and SHPO will consult to consider such amendment. "Amendment" refers to the process of adding supplemental procedures or modifying current procedures for specific BLM programs when BLM and SHPO wish those procedures to be made explicit. Amendments do not alter the Section 106 process established through Protocol revisions. The amendment process culminates in the issuance of Protocol Amendments, which BLM will administratively append to the Protocol on their effective date. Changes that would affect the opportunity for public participation or tribal consultation will be subject to public notice and tribal consultation. Amendments to the Protocol will only become effective when signed by all the signatories. BLM will house Protocol Amendments in an appropriate and designated part of this Protocol.

D. Extensions

This Protocol and BLM's activities under this Protocol will be reviewed by BLM and SHPO on or about the ninth anniversary of the execution of the 2012 NPA. The purpose of such a review will be to determine whether the terms of this agreement have been satisfactorily implemented and whether the signatories can agree to *extend* this Protocol. An extension of the Protocol is a revision as defined in Part XV.A above, and an extension is executed by the procedures described therein.

E. Termination

BLM or SHPO may *terminate* this Protocol or any Protocol Amendment. The party proposing termination will notify in writing the other party of its intent to terminate and explain the reasons for proposing termination. Within seven calendar days following receipt of such notification, BLM and SHPO shall initiate a 90 day consultation period to seek alternatives to termination. Should such consultation result in agreement on an alternative to termination, BLM and SHPO will proceed in accordance with the terms of that agreement. Should such consultation fail, the party proposing termination may terminate this Protocol or any Protocol Amendment by providing the other party with written notice of such termination. Termination will render this Protocol or any affected Protocol Amendment to have no further force or effect, as appropriate.

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

XVI. LIST OF APPENDICES

A. Exemption from Inventory Requirements
B. Special Situations
C. Recording and Evaluating Historic Linear Resources
D. Grazing Permit Renewals
E. Fire Suppression Activity Damage
F. Mitigation Standards for Historical Resources of Local and State Significance
G. Navy Withdrawn Lands, Carson City District Office
H. Glossary of Terms

XVII. APPROVALS

BUREAU OF LAND MANAGEMENT

State Director, Nevada

12/22/14
Date

STATE HISTORIC PRESERVATION OFFICE

Nevada State Historic Preservation Officer

12/22/14
Date

APPENDIX A: EXEMPTIONS FROM INVENTORY REQUIREMENTS

1. Issuing permits, rights-of-way, or NEPA decisions where no new surface disturbance is authorized, such as power line/transmission line ROW renewals, communication site ROW renewals, road ROW renewals, pipeline ROW renewals, aerial seedings, the reintroduction of native or endemic species.

2. Maintaining, replacing or modifying existing projects, facilities, routes, or programs that do not disturb additional surface area, or historic properties; or where the ground has been previously disturbed to the extent that historic properties could not exist; or where the facility itself is not a historic property.

3. Conducting, or approving permits for, non-archaeological data collection and monitoring activities, not associated with proposed undertakings, which involve new surface disturbance less than 1 square meter. Such activities could include forage trend monitoring, stream gauges, weather gauges, research geophysical sensors, photo plots, traffic counters, animal traps, or other similar devices. The "less than 1 square meter" threshold is not cumulative for any given project; therefore multiple sub-meter disturbance zones up to a maximum of 25 may be exempted if they meet the other conditions of this exemption.

4. Classifying lands as to their cultural resource use, mineral character, vehicle use, waterpower and water storage values where the classification itself does not directly entail surface disturbance.

5. Issuing withdrawal continuations, modifications, extensions, terminations, or revocations where there would be no change in use or surface disturbance.

6. Issuing withdrawal terminations, modifications or revocations and classification cancellations and opening orders where the land would be opened to discretionary land laws and where each discretionary action would be subject to the NHPA Section 106 process.

7. Continuing Recreation and Public Purpose Act lands, small tract lands, or other land disposal classifications where the continuation conveys no additional rights.

8. Assigning land use authorization where the assignment conveys no additional rights and the assignee agrees to abide by any cultural resource stipulations in the original authorization.

9. BLM easement acquisitions that do not include historic properties.

10. Installing facilities, such as recreational, special designation, regulatory, or information signs, visitor registers, kiosks, cattle guards, gates, temporary corrals, or portable sanitation devices in previously disturbed areas outside of known historic properties.

11. Issuing or modifying regulations, orders, standards, notices, and field rules where no new surface disturbance is authorized or is not subject to NHPA review.

12. Decisions and enforcement actions (that do not involve cultural resources) to ensure compliance with laws, regulations, orders, lease stipulations, and all other requirements imposed as conditions of approval, when the original approval was subject to the NHPA Section 106 process.

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

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

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

16. Issuing recreation permits authorizing:

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

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

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

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

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

19. Existing range improvement projects such as spring boxes, pipelines, fences, and water troughs that cannot be assigned an original construction date suggesting that the features are at least 50 years in age, or lack integrity due to recent (post-1970) changes in character from continued maintenance activities, and where no new surface disturbance is proposed outside of the boundaries of the previously disturbed areas.

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

APPENDIX B: SPECIAL SITUATIONS

A. Emergency Situations

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

2. BLM will afford SHPO prior notification of the pending undertaking, unless BLM has:

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

   b. Developed a PA to resolve adverse effects from undertakings relating to the emergency situation, then

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

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

B. Lands Actions

1. Transfers

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

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

      BLM will notify SHPO of the land transfer by letter, and include maps that show the lands transferred.

b. Transfers to Non-Federal Entities: Where BLM considers lands for conveyance to non-federal entities, BLM will:

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

(2) Discourage selection of lands where adverse effects are likely, unless BLM determines after compliance with Section V.F of this Protocol, that the conveyance is in the public interest; and

(3) Comply with this Protocol if it decides to proceed with the conveyance.

2. Restrictive Covenants

BLM should use restrictive covenants that contain a "no surface occupancy" clause only when bonding for the necessary data recovery or treatment is not appropriate and BLM assumes responsibility for funding and completing the treatment or data recovery. Surface occupancy covenants should not contain an automatic sunset clause, and should remain in effect no longer than is necessary to complete the field portion of the data recovery or treatment.

3. Retention of Significant Resources

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

C. BLM Responsibilities on Non-Federal Lands

1. The intent of the National Historic Preservation Act is to consider the effects of federal decision making on historic properties regardless of the land status involved. Therefore, BLM will ensure that its actions and authorization are considered in terms of their effects on cultural resources located on non-federal as well as federal lands.

2. The determination of the extent of BLM's responsibility for identifying and treating adverse effects to non-federal historic properties is based on the independent evaluation of the following factors:

a. Would the project remain viable if the federal authorization were not provided?

b. How likely are historic properties in the APE?

c. The degree to which BLM authorizations affect the location of surface disturbing activities on non-Federal lands.

3. BLM will conduct, or cause to be conducted, an inventory and evaluation of cultural resources on non-federal lands within the APE by proposed land uses, whether the undertaking was initiated by BLM, or in response to a land use application.

4. BLM will consider the effects of its decision-making upon historic properties. It will either treat, or cause to be treated, adverse effects to non-federal historic properties that would result from land uses carried out by or authorized by BLM, or will consult with SHPO (and ACHP, as appropriate) based on an adverse effect determination.

5. When treatment involves data recovery, BLM will allocate adequate time for the analysis of artifacts, samples, and collections recovered from non-federal lands and for report preparation. Artifacts, samples, and collections recovered from non-federal lands remain the property of the non-federal landowner unless donated to the federal government, a state facility, or are otherwise subject to state law. BLM must receive complete and true copies of field notes, maps, records of analyses, photographs, other data, and reports for treatment work conducted on behalf of the federal government. BLM will make reports resulting from work on non-federal land available to the land owner.

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

D. Travel Management

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

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

Given the nature and anticipated effects of BLM decisions made to designate OHV routes or areas in RMPs and TMPs, BLM and SHPO agree that these decisions are undertakings subject to compliance with Section 106 of the NHPA. BLM will handle Section 106 compliance for these undertakings as follows:

1. Planning: Evaluations of routes or areas BLM will designate as closed to protect cultural resources will be based on existing inventory information and not postponed until BLM acquires additional information.

   BLM will use available cultural resource information to take into account potential effects on cultural resources when making route or area designations. This includes areas where BLM introduces, expands or intensifies use through OHV designation. It also includes any changes that result in expansion or deepening of an existing route, or creating a new route.

   Each RMP or TMP should include a process for prioritizing route or area inventory and monitoring efforts, and the implementation of treatment measures.

   BLM will give SHPO the opportunity to be a cooperating agency in the development of RMPs and TMPs.

2. Designation of the APE: The APE will include areas in which both direct and indirect effects are likely. If BLM expects route designation to affect only the area previously impacted along the route, the APE can be limited to the area previously impacted. If route designation will increase the APE by authorizing or allowing use outside of the area previously impacted, then BLM will inventory the new APE to an appropriate level (e.g., Class II, Class III, reconnaissance, no inventory required) detailed in the CRINA, and ensure effects are mitigated prior to implementing the TMP. Designated use areas adjacent to existing and future designated routes where various activities, including parking vehicles and camping, are authorized or allowed, will be included in the APE.

3. Inventory: BLM will base the decision to inventory on the nature of the use authorized by the designations and the likelihood that historic properties will be adversely affected by the designations. Inventory efforts will focus on proposed route designations that change OHV use or travel patterns in ways that could adversely affect cultural resources. BLM will document the decision relating to inventory using the CRINA.

   BLM need not inventory route or area closures to a Class III standard unless there is a reasonable expectation that the closure will shift OHV in ways that result in adverse effects on cultural resources. BLM will inventory areas expected to receive additional use that could adversely affect historic properties at an appropriate level as documented in the CRINA.

   Inventories are not required when designations would allow OHV use to continue on routes that have been effectively open or limited in use. Inventories are necessary when the route or right-of-way is expanded in ways that could adversely affect historic properties.

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

4. SHPO Consultation: If SHPO elects to become a cooperating agency in the development of a TMP, then SHPO consultation will occur during plan development. If not then BLM will consult SHPO prior to initiating a land use or travel management planning effort to ensure that appropriate identification, monitoring, and treatment options are developed and implemented during or after the effort.

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

6. Treatment/Monitoring: A CRS will be included in the team for monitoring the effects of OHV use and route or area designation actions. Specific projects undertaken to improve, or rehabilitate, routes or areas are subject to Section 106 review and may require inventory and SHPO consultation.

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

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

7. Plan Modification: A CRS will be included on any team working on periodic plan maintenance or on a plan amendment.

   Cultural resource monitoring and inventory information, gathered after a plan is approved, maintained, or amended, will be used to review and update the route network as necessary in any plan maintenance or plan amendment process.

8. Emergencies: Each TMP will follow the process described in 43 CFR § 8342 for closing routes or areas to avoid emergent impacts to cultural resources.

APPENDIX C:
RECORDING AND EVALUATING HISTORIC LINEAR RESOURCES

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

The evaluation of a linear resource is more challenging than that of a non-linear resource with manageable boundaries. The linear resource may possess varying states of preservation and integrity, and may pass through federal, state, county, and private lands, causing recordation and evaluation to be complex tasks. Surveys of linear resources should attempt to ascertain or reconstruct the nature, extent, and chronology of the resource, and the historical context to which it belongs. Recording linear features is often problematic because the full extent of the resource usually extends beyond the APE. BLM and SHPO should agree in advance whether the project should involve the recordation and evaluation of the entire resource or a portion of it. The investigator should prepare a historic context to evaluate the eligibility of the linear feature itself to the NRHP, and then evaluate whether the portions of the linear feature within the APE contribute (contributing element or segment) or does not contribute (non-contributing element or segment) to the eligibility of the linear feature.

A. Conducting Research for Historic Linear Resources

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

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

1. Is the general alignment present on historic maps, such as GLO plats or USGS maps? Is it a designated National Historic Trail or Trail Under Study by the National Park Service?

2. Does the resource possess artifacts of the period of significance?

3. Does the resource possess physical characteristics similar to other identified linear resources?

4. Does the resource have unique design and/or engineering elements?

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

To evaluate the feature, BLM will prepare a historic context using information found in records such as GLO records, State Board of Control/Engineers records, Highway Department records, Army Topographical Corps reports, USGS topographical maps, aerial photographs, and county records. General histories of Nevada and the region should be consulted to determine if the project or the individuals involved are historically significant. Newspapers may be checked to see if the construction event was widely reported at the time or if the feature was considered important in engineering or design, and local histories should be consulted to determine if the event or individuals were considered important by the local population. The investigator should also consult the transportation chapter of the *Nevada Comprehensive Preservation Plan* (1991) and any Certified Local Governments and local historical societies. References should be cited in the documentation, whether they yielded pertinent information or not. The results of the records search should be incorporated into the report.

B. Documenting Historic Linear Resources

Some specific considerations for documenting linear resources are:

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

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

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

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

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

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

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

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

3. Setting--Describe in detail the natural or physical environment through which the linear resource passes. Such information would include, but are not necessarily limited to, descriptions of natural features, landscape characteristics, slope, vegetation, and integrity of the viewshed from the linear resource. Provide an estimate of the proportion of the resource that has been destroyed or modified, where possible (see also Part C. below).

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

   a. Top Width--measure the linear feature at its highest point. For water systems such as ditches and canals, the top width should be measured at the crest of the berm(s) or wall(s). Record more than one width or range of widths, if appropriate. For example, a single water delivery system may be composed of a flume, earthen ditch, and concrete canal with different top widths. Clearly identify the elements being measured and the locations where measurements were taken.

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

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

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

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

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

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

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

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

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

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

APPENDIX D:
GRAZING PERMIT RENEWALS

BLM recognizes the potential for grazing to affect historic properties through: (1) earth disturbance caused by the concentration of livestock in areas that also contain historic properties; and (2) construction, maintenance, and placement of grazing facilities such as fences, pipelines, water troughs, and salt/mineral blocks. Grazing permit renewals are undertakings. Section 106 compliance for grazing permit renewals will be handled by the process described below.

BLM need not inventory entire allotments analyzed in grazing permit renewals to a Class III standard. Inventories are not required for areas where there is a low probability of finding historic properties, or where historic properties are not likely to be adversely affected by cattle use. BLM and SHPO recognize that most areas within grazing allotments receive disbursed, rather than concentrated, cattle use. In addition, in many cases grazing intensities were greater in the late 19th and early 20th centuries compared to the intensity of grazing intensity today. BLM will consider whether inventory is necessary in areas reasonably expected to receive intensive cattle use, as well as for proposed constructed facilities and maintenance of existing facilities through the CRINA process and as detailed below.

1. Issuing Grazing Permits:

   a. As a permit comes up for renewal, the CRS will discuss with the range staff the potential effects to historic properties from the planned grazing schedule to be used in the permit renewal. Using archaeological site maps and use pattern maps, areas of high grazing use that may cause prolonged concentrations of cattle in a relatively confined area will be compared to the known locations of concentrations of cultural resources and/or historic properties.

   b. When there are known or suspected grazing effects to historic properties in the areas identified in 1.a above, each of these areas, or a sample of these areas, will be field investigated at an appropriate level of inventory documented in the CRINA to determine if adverse effects are occurring. If a sample survey is used, the results of the initial survey will be used to determine the need for expanded surveys. If the effects are determined to be adverse, they will be:

      (1) Eliminated by amending the proposed grazing practices in the permit renewal;

      Or,

      (2) Reduced to a level of "no adverse effect" by amending the proposed grazing practices in the renewal, or by constructing range improvement projects such as exclosure fences as authorized in the proposed grazing permit renewal;

Or,

(3) Mitigated through measures specified in an HPTP and an MOA executed between BLM and SHPO.

c. If it is determined by the CRS, in consultation with the BLM range specialist, authorized officer, and SHPO (via the CRINA process described in Sections I.B.1 and V.A of this Protocol) that there are areas of known or expected high grazing intensity within the allotment in areas that have received little to no previous cultural inventories such that the presence of historic properties is not known, the CRS will conduct field visits to each of these areas or to a sample of these areas to determine if there are or may be adverse effects that may be reasonably traced to the grazing practices proposed in the permit subject to renewal. The level of field inventory (reconnaissance, Class II, or Class III) and amount of field inventory will be detailed through the standard CRINA process described in Sections I.B.1 and V.A. of this Protocol.

(1) Examples of appropriate Class II sample surveys may include:

(a) Specified number of random block acres within a given area; (e.g., five ten-acre blocks selected at random for a given area); and/or

(b) Specified number of non-random block acres (e.g., two-acre blocks surrounding a specified number of springs within a given area); and/or

(c) Specified number of linear miles to be surveyed (e.g., two linear miles along a specified section of stream).

(2) If adverse effects are occurring or will likely occur that can be reasonably traced to the grazing practices proposed to be authorized in the permit subject to renewal, the permit renewal will be amended to either:

(a) Eliminate the adverse effects by amending the proposed grazing practices in the permit renewal;

Or,

(b) Reduce the adverse effects to a level of "no adverse effect" by amending the proposed grazing practices in the renewal or by constructing range improvement projects such as exclosure fences as authorized in the proposed grazing permit renewal;

Or,

(c) Mitigate the adverse effects through measures specified in an HPTP and an MOA executed between BLM and SHPO.

d. If BLM determines that adverse effects are not occurring and will not occur as a result of the permit renewal, then SHPO consultation is not required prior to permit authorization, as described in Section II of this Protocol.

e. The permittee and BLM staff will be made aware that the standard stipulations in the permit give BLM the ability to expeditiously eliminate, reduce to the level of "no adverse effect", or mitigate any historic properties discovered after the permit is approved.

f. BLM will prepare a general letter to tribes informing them of plans and schedules for permit renewals in the upcoming fiscal year and inviting them to share their concerns, if any, with issuing or renewing the grazing permits identified in the letter.

2. Post-Permit Renewal Range Improvements and Projects: After a permit has been issued or renewed, range improvements or other surface disturbing projects that will concentrate grazing and could create adverse effects will be approved through the standard Section 106 and Native American consultation processes outlined in this Protocol.

APPENDIX E:
FIRE SUPPRESSION ACTIVITY DAMAGE

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

Fire suppression activity damage repair must consider the extent and nature of ground-disturbing suppression-related activities including (but not limited to) dozer lines, temporary fire camps, and actions such as dozer line rehabilitation. Providing accurate locations to the CRS, including GIS shape files derived from GPS mapping, may enhance the efficiency and accuracy of determinations of the need for inventory. Where possible, cultural resources inventory should precede rehabilitation efforts in order to avoid the possibility of increased damage to sites. Accomplishment of any necessary cultural resources inventory should not delay implementation of rehabilitation actions by incident equipment where such equipment must be removed for emergency actions.

For cultural resources, determinations of the need for and extent of inventory are made by a qualified CRS and are documented using the CRINA process in Sections I.B.1 and V.A. of this Protocol, based on known or expected site densities, modeling, sensitive areas, historical documentation, reconnaissance or observation during or after the fire, etc. To be implemented, this needs assessment form must be approved by the appropriate official of the incident management team, field office or agency.

Reporting requirements for such inventories will follow this Protocol. Results of inventory will be summarized for inclusion in a separate confidential appendix to the Fire Damage Assessment Report.

BLM will discuss, in consultation with SHPO, measures necessary to evaluate sites affected by suppression-related activities for eligibility to the NRHP, or to treat effects from suppression-related activities, per terms of this Protocol.

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

APPENDIX F:
MITIGATION STANDARDS FOR HISTORICAL RESOURCES OF LOCAL AND STATE SIGNIFICANCE

This appendix deals with treatment of historic, not prehistoric, resources and provides standards for historic resources eligible for inclusion in the NRHP at a state or local level of significance, not at a national level of significance. Should BLM propose to affect historic resources significant at the state or local level, the agency may propose treatment to mitigate the effect. In the past, BLM not only consulted with the SHPO but also sought advice from the National Park Service (NPS) on the kinds of treatment that would be required. NPS no longer requires HABS/HAER documentation on properties of local or state significance.
To assist in preparing a treatment plan and in estimating costs, this appendix provides standards for treatment of historic resources as agreed upon by BLM and SHPO.

A. Definition of Local and State Significance

Within the framework of the NRHP, the level of significance is defined as the geographic magnitude or scope of a property's historical significance and can be national, state, or local. Local significance is defined as the importance of a property to the history of its community, such as a town, city, or county. Likewise, state significance refers to the importance of a resource to the history of the state in which it is located.

B. Documentation Standards

In order to satisfy the documentation requirements for historic properties eligible for NRHP at the local or state level of significance, a report detailing the historical context and significance of the property and architectural and engineering documentation, including plans and photographs, must prepared and submitted. The requirements for these elements are as follows:

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

Title Page should include the title of the report, including the nature and location of the undertaking, the author of the report, the sponsoring institution, association, or agency, and the date the report was prepared.

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

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

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

Historical Narrative should provide a full description of the resource(s), a historical context against which significance is assessed, and a comprehensive history of the resource. This section should include a historic context. The thematic study units identified in the Nevada Comprehensive Preservation Plan (1991) should guide the historical context.

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

Photos and other documentation of the historic significance of the building, site, structure, or object will be conveyed through drawings, photographs, and other materials that comprise documentation. The appropriate level of documentation for properties eligible for the National Register at a local, regional, or state level of significance must include digital photographs of exterior and interior views of the resource. Please include a photo log and site plan detailing the date the photo was taken, its orientation, the name of the photographer, and the photo number.

Exterior photographs should be documented by at least six views including the front and one side; the rear and one side; the front elevation; environmental view showing the building as part of its larger landscape; major elements of the building, including doors, windows, additions, etc.; and details such as materials and hardware.

Interior photographs should yield information about the floor plan. Three or four views should be sufficient to document the significant elements of the interior, unless the resource is large or complex. Reproductions of historic photographs should be included, if available. Photocopies of existing drawings or plans (including scale) should be included, if available. If permission is required to reproduce historic photographs, plans, maps, or other materials, it is the responsibility of the researcher to obtain proper authorizations. Copies of permission forms must be submitted with the report. In addition, drawings, site plans, and sketch plans should be included. The site plan must include the resource's orientation in its natural landscape and include the scale and a north arrow. The sketch plan will show the layout and floor plan of the resource, including all

associated features. The sketch plan need not be a "measured drawing," but an approximate scale should be included.

C. Records Storage--Repositories

BLM will add one copy of each treatment report to the State's architectural resources inventory that will be available for public inspection at the SHPO office subject to BLM's prior determination whether to withhold information from the public about the location, character, or ownership.

BLM will send one copy, which will include the original digital photographs, to one of the following repositories, depending on the location of the resource being documented subject to BLM's determination whether to withhold information from the public about the location, character, or ownership.

1. The Nevada Historical Society, Reno

2. The Nevada State Museum and Historical Society, Las Vegas

3. The Northeastern Nevada Historical Society, Elko

4. The North Central Nevada Historical Society, Winnemucca

5. The Central Nevada Historical Society, Tonopah

There are four Certified Local Governments (CLGs) in the State of Nevada, which will receive one copy of the treatment documentation for any resources within their boundaries. The four CLGs are represented by the following organizations:

1. The Historical Resources Commission, City of Reno

2. The Historical Architecture Review Commission, Carson City Historic District

3. The Las Vegas Historical Commission, City of Las Vegas

4. The Comstock Historic District Commission, Virginia City

APPENDIX G:
NAVY WITHDRAWN LANDS, CARSON CITY DISTRICT OFFICE

A. This section addresses the Congressionally-mandated joint management area of the BLM and the Naval Air Station Fallon known collectively as 'Navy withdrawn lands' (Public Law 106-65, National Defense Authorization Act for Fiscal Year 2000, Military Lands Withdrawal Act [MWLA] of 1999). In 2004, BLM and SHPO agreed to an amendment to the Protocol affecting the means by which consultation would occur on projects in areas where this joint management situation exists; that agreement is incorporated here.

B. The Navy withdrawn lands described in the MWLA are:

1. Training ranges B-16, B-17, B-19, and B-20;

2. The Dixie Valley Training Area; and

3. Proposed and existing withdrawn lands comprising approximately 204, 953 acres in Churchill County, as shown on Map G-1.

C. Under the Protocol, BLM will consult with SHPO for those projects or programs involving another federal agency (Section II.A.1). Presently all Navy projects in the Navy withdrawn lands trigger the interagency consultation clause. BLM and SHPO agree to suspend the review clause for those Navy projects on Navy withdrawn lands.

D. BLM and SHPO concur that the B-20 Range is an area of low potential for containing historical properties and that no additional inventory efforts are necessary to identify historic properties at this location.

E. All Navy projects on Navy withdrawn lands will be incorporated into the BLM project system including assembling the annual report. Consultation for Navy projects on Navy withdrawn lands that exceed the review thresholds (II.A) will be conducted by BLM.

F. The Naval Air Station Fallon Programmatic Agreement (1996) is suspended only for the Navy withdrawn lands for the duration of the MWLA. Navy projects that occur on BLM lands outside of the withdrawn lands require SHPO review pursuant to Section II.A.1 of this Protocol.

G. Navy projects wholly within the withdrawn lands will be coordinated by the BLM/Navy Liaison. The Liaison can be reached at the BLM Carson City District Office.

APPENDIX H:

GLOSSARY OF TERMS

above-threshold undertakings: require SHPO and/or ACHP consultation under the NPA and this Protocol; collectively, the undertakings that fall within these parameters are listed in Section II.A-E of this Protocol.

action plan: is a plan to bring a BLM District or Field Office that has been placed on provisional status or decertified for cause into compliance with the Protocol.

adverse effect: occurs when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the NRHP in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.

amendment: is a process of adding supplemental procedures or modifying current procedures to the Protocol for specific BLM programs when BLM and SHPO wish those procedures to be made explicit.

annual review: is an annual, general assessment of a BLM District's ability to implement the provisions of the Protocol.

Archaeological Guidelines: *Guidelines and Standards for Archaeological Inventory*; Protocol establishes the *Archaeological Guidelines* as the document that details how archaeological sites will be recorded and reported on BLM-managed lands in Nevada.

Architectural Guidelines: *Guidelines for Recording and Reporting Architectural Resources in Nevada*; Protocol establishes the *Architectural Guidelines* as the document that details how architectural resources will be recorded and reported on BLM-managed lands in Nevada.

architectural resource: is an above-ground or engineered building, structure or object that retains its basic elements of shape, form, and use.

area of potential effect: is the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if such properties exist.

categorical "no historic properties affected": undertakings categorically determined to cause no effect to historic properties; See Protocol Section V.D.

categorical "no historic properties adversely affected": undertakings categorically determined to cause no adverse effect to historic properties; See Protocol Section V.E.

categorically ineligible cultural resources: are classes of cultural resources categorically determined to be not eligible for the National Register of Historic Places under any criteria; these cultural resources do not require further evaluation following recordation and reporting; See Protocol Section V.B.1-5.

categorically exempt undertakings: classes of projects, permits, and decisions categorically determined to cause no effect to historic properties; these do not require cultural resource inventory or reporting beyond a CRINA submission to SHPO; See Protocol Appendix A.

class I: existing information inventory: a study of published and unpublished documents, records, files, registers, and other sources, resulting in analysis and synthesis of all reasonably available data; Class I inventories encompass prehistoric, historic, and ethnological/sociological elements, and are in large part chronicles of past land uses; they may have major relevance to current land use decisions.

class II: probabilistic field survey; a statistically based sample survey designed to help characterize the probable density, diversity, and distribution of archaeological properties in a large area by interpreting the results of surveying limited and discontinuous portions of the target area.

class III: intensive field survey; a continuous, intensive survey of an entire target area, aimed at locating and recording all archaeological properties that have surface indications, by walking close-interval parallel transects until the area has been thoroughly examined; Class III methods vary geographically, conforming to the prevailing standards for the region involved.

consulting party: representatives of local governments, applicants, and certain individuals and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties, per the NPA (Preamble) and 36 CFR § 800.2(c)(3-5).

CRINA (Cultural Resource Inventory Needs Assessment): Section 106 planning document that establishes the Direct and Indirect Effects APEs, provides a summary of the known cultural resources present within the APEs, determines inventory needs, and lists the tribes, consulting parties and interested individuals to be consulted for specific undertakings; BLM-SHPO concurrence is established for these processes upon agreement of the CRINA contents by both parties *(Note: any required consultation on eligibility, effect, or treatment is by separate written consultation).*

decertification for cause: occurs when State Director determines that a BLM District or Field Office is out of compliance with the Protocol such that the District or Field Office can no longer utilize the Protocol to comply with Section 106 of the NHPA.

direct effect: physical effects to historic properties that diminish the integrity of location, design, setting, materials, workmanship, feeling, and/or association that contributes to the property's significance; affects may be adverse or not adverse.

extension: process of extending the Protocol beyond the 10th anniversary of the execution of the 2012 revised National Programmatic Agreement.

historic: the period of time that is after Native American contact with non-native groups.

historic context: statements that provide the basis for evaluating significance and integrity of cultural resources; they provide the foundations for decisions about survey and the identification, evaluation and treatment of historic properties; historic contexts detail background information about historic properties or property types, lists sets of relevant research questions, and detail the characteristics resources must possess in order to answer relevant research questions. See also Secretary of Interior Standards for Preservation Planning.

historic property: any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places.

indirect effect: indirect physical, visual, audible, or atmospheric effects to historic properties that diminish the integrity of location, design, setting, materials, workmanship, feeling, and/or association that contributes to the property's significance; effects may be adverse or not adverse.

inventory: a term used to refer to both a record of cultural resources known to occur within a defined geographic area, and the methods used in developing the record; depending on intended applications for the data, inventories may be based on (a) compilation and synthesis of previously recorded cultural resource data from archival, library, and other indirect sources; (b) systematic examinations of the land surface and natural exposures of the subsurface (survey) for indications of past human activity as represented by artificial modifications of the land and/or the presence of artifacts; and (c) the use of interviews and related means of locating and describing previously unrecorded or incompletely documented cultural resources, including those that may not be identifiable through physical examination.

isolate or isolated artifact: a single artifact that is spatially discrete from any other artifacts by a minimum distance of 30 meters; a single artifact broken into two or more pieces (e.g., broken historic-aged bottle or broken prehistoric ceramic vessel) may be recorded as an isolated artifact as long as no other artifacts or features are associated within 30m of the artifact.

isolated feature: a single feature unassociated with other features or artifact scatters (30 meters minimum distance) that are undateable (e.g., prospect pit, adit, shaft); features with unique construction, distinctive qualities, or that can be dated may be must be recorded on an appropriate form and evaluated for eligibility to the National Register.

Nevada Site Stewardship Program (NSSP): program that provides site monitoring assistance to land-managing agencies in Nevada; SHPO administers the NSSP in Nevada.

no adverse effect: are projects where the effects do not reach the thresholds identified in Section V.E of this Protocol.

no effect: avoiding cultural resources through the standard measures detailed in Section V.D.a of this Protocol.

NVCRIS (Nevada Cultural Resource Inventory System): GIS-based computer repository of inventory and sites recorded in Nevada; SHPO administers the NVCRIS database for Nevada.

phased or segmented undertakings: postpone the identification, evaluation or agreed-upon treatment of historic properties until after the approval of the undertaking through a Decision Record (DR) for an Environmental Assessment or Record of Decision (ROD) for an EIS.

prehistoric: the period of time that is prior to Native American contact with non-native groups.

program review: broad-based review of a BLM District or Field Office's ability to function and comply with the Protocol; usually involve field visits to the District or Field Office by the BLM and SHPO.

provisional status: occurs when the BLM State Director, through the recommendations of the Deputy Preservation Officer and SHPO, directs a BLM District or Field Office to implement an action plan to be able to continue to utilize the Protocol to comply with Section 106 of the NHPA.

reconnaissance survey: field survey that is less systematic, less intensive, or otherwise does not fully meet inventory standards; reconnaissance surveys may be useful for checking class I inventory or class II survey conclusions, or for developing recommendations about further survey needs in previously unsurveyed areas; other terms sometimes applied to similar kinds of survey include "judgmental," "intuitive," "opportunistic," and "purposive".

revision: process of review and/or rewriting all or portions of the Protocol, including the addition, deletion, or modification of exempt undertakings.

site: a place where human activity occurred and material remains were deposited; in BLM Nevada, a site is defined as any location containing two or more artifacts or features that are spaced no more than 30 meters apart.

survey: (see inventory).

unanticipated discovery: discovery of cultural or architectural resources after BLM-SHPO conclude the initial Section 106 process for an undertaking; See Protocol Section VI.

unassociated historic sites: cannot be definitively associated with a specific historic theme as defined in the *Nevada Comprehensive Preservation Plan* (1991). In addition, Unassociated Historic Artifact Scatters may not be depicted on the following documents: General Land Office (GLO) map; land status map; mineral survey records; Nevada State Museum records; State Water Engineer's records; 15 minute Quadrangle; or local city and county records.

unassociated prehistoric sites: contain twenty or less unmodified flakes and no tools found within a microenvironment in which there is no potential or low potential for the presence of buried artifacts and features; they also must not contain more than 10 obsidian flakes that may be used through further research to obtain chronological information through obsidian hydration analysis and/or mobility/trade information through sourcing analysis. These resources must not be associated with other historic properties within an identified Archaeological District.

undertaking: means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, equipment, license or approval. Undertakings are considered as a whole for Section 106 purposes, including decisions pertaining to inventory requirements, determinations of eligibility, and effect determinations.

under-threshold undertakings: culminate in no effect or no adverse effect determinations, and are not included in the class of undertakings requiring SHPO and/or ACHP consultation under Section II.A-E of this Protocol.