



PROGRAMMATIC AGREEMENT

BETWEEN

THE HUMBOLDT-TOIYABE NATIONAL FOREST AND THE NEVADA STATE  
HISTORIC PRESERVATION OFFICER,

REGARDING

NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE

FOR

THE EAST WALKER LANDSCAPE HABITAT IMPROVEMENT PROJECT, LYON, AND  
MINERAL COUNTIES, NEVADA.

WHEREAS, the Humboldt-Toiyabe National Forest, Bridgeport Ranger District (HTNF), is preparing a plan to conduct multiple, phased vegetation and fire management projects on +/- 42,000 acres of Forest Service-managed lands on the East Walker River watershed, Lyon and Mineral Counties (hereinafter referred to as the "undertaking" as defined in 36 C.F.R. § 800.16[y]); and

WHEREAS, the HTNF proposes to implement the undertaking to comply with all relevant Federal regulations, policies, and laws; and implementing these policies subject to the requirements of the National Environmental Policy Act of 1969 (NEPA); the HTNF is responsible for completing NEPA and ensuring that it is in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 C.F.R. § 800; and

WHEREAS, the HTNF has determined that vegetation management projects in the area of the undertaking (see Appendix D, East Walker project area) may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places (NRHP) and has consulted with the Nevada State Historic Preservation Officer (SHPO) pursuant to 36 CFR part 800, the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C 470f); and

WHEREAS, the HTNF has consulted with the Advisory Council on Historic Preservation (ACHP), pursuant to 36 CFR §800.14(b), to develop and execute this Programmatic PA (PA) and the ACHP has elected not to formally enter consultation on the development of this PA; and

WHEREAS, the HTNF is responsible for conducting Native American Tribal consultation on a government to government level and ensuring that it is in compliance with the *Forest Service National Resource Book on American Indian and Alaska Native Relations*, FS-600 (April 1997) and the tribes consulted were Bridgeport Paiute Tribe, the Yerington Paiute Tribe, the Washoe

Tribe, the Benton Paiute Tribe, the Bishop Paiute Tribe, and the Walker River Paiute Tribe for the purpose of identifying properties of traditional cultural, sacred and religious significance; and

WHEREAS, effects to historic properties in the Area of Potential Effect (APE) cannot be fully determined and the Parties desire to enter into this PA to set forth procedures to be followed in satisfaction of the HTNF's Section 106 responsibilities of the NHPA, for the undertaking in the APE; and

WHEREAS, the undertaking will be designed and implemented over 15 years using flexible, phased approaches, including but not limited to fire, prescribed fire, tree cutting and removal, commercial and public fuel wood sales, mastication, mowing, herbicide treatments, weed prevention and treatment, and aspen restoration; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(4) and 36 CFR § 800.14(b)(2)(ii), the HTNF has notified the public of the Undertaking through public notices and letters to interested parties, and has held a public meeting to provide an opportunity for members of the public to express their views on the undertaking, the development of the PA, and the NHPA process; and

WHEREAS, unless otherwise specified, duties of the HTNF as defined in this PA shall be carried out by the Bridgeport Ranger District; and

NOW THEREFORE, the signatories agree that implementation of the NEPA decision record shall be administered in accordance with the following stipulations to ensure that historic properties will be treated to avoid or mitigate effects to the extent practicable, regardless of surface ownership and to satisfy the HTNF's NHPA Section 106 responsibilities for all aspects of the undertaking.

#### I. UNDERTAKING DESCRIPTION

The Humboldt-Toiyabe National Forest proposes to use hand cutting (lop-and-scatter), pile-burning, commercial, and public fuel wood sales, and mechanical and herbicide treatments to treat various forested areas, including piñon-juniper woodlands in the 41,350-acre project area in Lyon and Mineral Counties. The purpose is to conserve the bi-state population of greater sage grouse habitat in the Mount Grant and Desert Creek-Fales population management units (PMUs). The expansion of piñon and juniper woodlands is isolating pockets of sage grouse habitat (mainly sagebrush steppe); one objective is restore connectivity. Sage grouse avoid trees where raptors may perch; a second objective is to remove these perches. Extensive wildland fire can destroy habitat; a third objective is to reduce fire severity and acreage loss to bi-state sage grouse habitat.

Over the past 100 years, piñon (*Pinus monophylla*) and juniper (*Juniperus* spp., mainly *osteosperma*) have encroached upon sagebrush flats and slopes that are essential habitat for the sage grouse. Reductions in sage grouse feed, migration corridors, and breeding habitat, and increased predation have resulted. Cheat grass (*Bromus tectorum*) is also impacting sage grouse habitat, particularly in high fire severity areas associated with expanding piñon and juniper woodlands. The treatments will assist in pushing back the expanding woodlands while conserving sagebrush steppe. Reduction of unmanaged fuel loads will decrease potential effects to resources, including heritage resources, from intensive burning conditions. Long-term effects to cultural resources may be lowered. With exceptions, many of the projects are undertakings that have the potential to affect historic properties, particularly fire-sensitive sites, and steps should be taken to avoid or minimize those effects.

Given variations in terrain, vegetation, treatment types and heritage resource types and densities, effects will vary by treatment unit. Staging areas for equipment parking and material storage may be necessary for project implementation. Removal of trees will be by a combination of lop-and-scatter, cut-and-pile-burn, commercial and public fuel wood gathering, and mastication. Other treatments could include herbicides and seeding of perennial shrubs and grasses.

Prescribed fire is limited to burning piles of hand-cut piñon-and-juniper. Not all lopped areas will be burnt. If desired, fire lines may be constructed using hand-tools, black lining, wet lining, or with the use of flappers to control prescribed fire and protect important resources. Alternatively, piles can be burnt during snowy or wet periods. Not all of the treatment locations, types of fuel reduction activities or access roads have been determined; therefore these activities will require flexibility regarding their proposed locations.

## II. PURPOSE AND INTENT

The purpose of this PA is to establish an understanding between the HTNF and SHPO regarding phased implementation of the Section 106 consultation process on the undertaking. The PA defines general and specific measures that HTNF will be undertake to ensure that HTNF's responsibilities under the National Historic Preservation Act are fulfilled for all aspects of the undertaking.

## III. AREA OF POTENTIAL EFFECT

The area of potential effect (APE) for the undertaking is defined as the +/- 42,000 acres considered for vegetation and fire management in the East Walker Landscape Habitat Improvement Project NEPA documents. The overall APE is shown on the maps in Appendix D.

However, not all acreage within the undertaking's APE will be affected by individual, phased treatment projects.

HTNF will define an individual project APE to include potential direct and indirect effects to cultural resources and properties of traditional religious and cultural importance from any activities associated with the undertaking without regard for land ownership.

Based on current data, there are no known historic properties outside of the direct APE that would have the characteristics that qualify them for listing in the NRHP that would be adversely affected by visual, audible, or atmospheric effects from the proposed projects. However, the APE for assessing indirect effects of a vegetation management project on known historic properties will be the project area plus one mile outward in all directions from the perimeter of each area, which would include some areas outside the undertaking APE.

The signatories may amend the undertaking APE or as requested by the tribes without amending the PA proper. All consulting parties will receive formal notification of the amended APE. Within thirty (30) calendar days of their receipt of the proposed amendment, any consulting party may request that the PA be amended in accord with the process outlined in Stipulation V.J. Following HTNF receipt of the request, the Signatories shall prepare an amendment document.

#### IV. ROLES AND RESPONSIBILITIES

The Forest Supervisor (FS) is the Forest Service Line Officer with the delegated authority to make and execute decisions on the HTNF. The FS is the "Agency Official" (36 CFR part 800.2(a)) responsible for implementing this PA. This includes but is not limited to: ensuring that signatories carry out their responsibilities; overseeing cultural resource work; assembling submissions to the SHPO including reports, determinations of eligibility and effect, and treatment plans; and for seeking SHPO concurrence with agency compliance decisions. For treatments resulting in No Effect or No Adverse Effect under this PA, the FS may delegate the authority downward to the District Ranger.

Bridgeport District Ranger (DR): As delegated from the FS, the DR is the line officer who makes and executes decisions on East Walker units with no effect or no adverse effect and is a signatory for correspondence with SHPO for that purpose; Through internal coordination and tracking, the Bridgeport District Ranger shall ensure that HPS are brought into the planning process for projects included within the undertaking area as early as possible so that the potential effects to cultural resources can be evaluated and that communication between specialists will continue through implementation and post-project monitoring, if warranted.

Historic Preservation Manager (HPM): The HPM is identified as the Forest Archaeologist of the HTNF. The HPM shall ensure that consultation between parties in this agreement and other interested parties and reporting standards meet the Forest Service handbook for Heritage Program Management (2309.12) and applicable laws and executive orders. The HPM may assume the role of HPS.

Historic Preservation Specialist (HPS): The HPS evaluates each unit to determine the area of potential effect; coordinates archaeological survey; reviews adequacy of cultural resources reports for the FS or DR; evaluates National Register eligibility of sites within each unit; determines level of effects; examines project design features, actions and processes to manage cultural resources within units; communicates with SHPO; and informs the FS and/or DR regarding project effects so that the effects are managed prior, during, and after implementation; prepares appropriate treatment and mitigation plans (HPTPs) in coordination with the project planning team; and oversees database management.

## V. STIPULATIONS

The HTNF shall ensure that the following stipulations are implemented during the course of vegetation management projects:

### A. Project Review and APE

1. The heritage program specialist (HPS) or heritage program manager (HPM) will evaluate the proposed vegetation management project. If the HPM or HPS determines that the proposed project is described in Appendix A, category I they will record this finding in the HTNF annual report files. No consultation with SHPO prior to initiation of the undertaking is required for these projects.
2. If the project is described in Appendix A, categories II or III, the HPS or HPM, in consultation with the SHPO, will determine the direct area of potential effect (APE) for the project as defined by topography, vegetation, access, and vegetation treatment needs. The HTNF will use relevant information to assess the project's potential to effect historic properties. The expected nature and severity of project effects may be based on the type and intensity of project types, including but not limited to mechanical vegetation treatments, prescribed burn (fuel loading and fire prescription), type and intensity of fuel wood use, and other associated ground disturbing activities. The APE for visual, audible, and atmospheric effects of a project is defined in Stipulation II.

### B. Identification of Cultural Resources

1. Prefield Research: A literature search for each project APE shall include but is not limited to a review of: Forest Service atlases, GIS records, previous field survey, and site records; NVCRIS and INFRA databases; cultural resources overviews; context development; local environmental, archaeological, and historical information (i.e., BLM GLO maps and county and state records); landscape sensitivity-predictive models; information from tribes; and information from persons familiar with the area of potential effect.
2. The HTNF will ensure that the required identification activities shall be completed for the APE regardless of the ownership (public or private) of the lands involved and the HTNF shall be responsible for gaining access to privately held lands.
3. If the HTNF proposes less than 100% class III (intensive,  $\leq 30$ -meter transects) survey of any portion of a project's APE that would otherwise be required under Appendix A.III, the HTNF shall provide a map of said portion and unit description to SHPO for review. If the SHPO concurs with this proposal or does not respond within fifteen working days of receipt, HTNF shall assume concurrence and initiate the inventory.
4. The HTNF shall ensure that appropriate tribes are consulted early in planning processes to identify cultural resources of traditional religious and cultural significance that may be affected by the project. During NEPA scoping and early tribal consultation for the East Walker project, tribes expressed concerns regarding traditional piñon nut gathering areas, graves, camps, and sacred locations. Appropriate tribes shall be afforded the opportunity for a field trip to view the unit. Measures to conserve piñon nut gathering areas may include leaving buffer zones of trees along roads and selective cutting areas to enhance growth and health of cone-bearing trees.
5. HTNF will evaluate whether historic properties identified in previous Class III inventories that are ten years old or older should be revisited to relocate such properties and re-evaluate condition and eligibility determinations, and obtain relevant information necessary for avoidance, treatment, or other mitigation.

#### C. National Register Evaluation

1. The HTNF will, in consultation with SHPO and other consulting parties, evaluate identified cultural resources for NRHP eligibility by a qualified professional pursuant to 36 CFR 800.4(b)(1)(c) whenever possible.
2. The HTNF shall consult with tribes, or identified affected tribal members, to evaluate the NRHP eligibility of resources of traditional religious and cultural importance. Based on information shared with the HTNF, the HTNF would determine the NRHP eligibility

of identified properties, and consult on these determinations with SHPO and the appropriate tribes.

3. HTNF may defer a NRHP evaluation if the project is designed to avoid all potential effects to a cultural resource in accord with Stipulation V.D.2. If such an evaluation is deferred, the cultural resource shall be treated as if it were eligible for the NRHP.
4. If the SHPO or any of the consulting parties disagrees regarding eligibility, and the dispute cannot be resolved, then the HTNF shall seek a formal determination of eligibility from the Keeper of the National Register. The Keeper's determination shall be considered final.

#### D. Treatment of Historic Properties

1. The HTNF, in consultation with the SHPO and other consulting parties, will determine the effect of the vegetation management project on historic properties identified within the APE.
2. The HTNF shall avoid effects to historic properties to the extent feasible through project design or redesign in accord with Appendix B.
3. The HTNF shall implement heat and flame protection measures to known fire-sensitive historic properties within the APE prior to project implementation to reduce the potential of adverse effects (Appendix B).
4. The HTNF shall consult with the tribes, or identified affected tribal members, to evaluate effects to properties of traditional religious and cultural importance. Based on information shared with the HTNF, the HTNF shall determine the appropriate treatment to avoid or minimize adverse effects to the extent practicable, and consult on these determinations with SHPO and the tribes.
5. Historic property boundaries will be flagged prior to project implementation in accord with Appendix B.
6. In the case that a fire-sensitive historic property cannot be protected in accord with Stipulation V.D.3 to eliminate or minimize an adverse effect, or a historic property cannot be avoided by project activities, then the historic property shall be mitigated in consultation with the SHPO and other consulting parties.
7. If HTNF, in consultation with SHPO, determines that a property cannot be avoided then HTNF will prepare an appropriate treatment and mitigation plan (HPTP).

- a. For properties eligible under criterion d: HPTP's shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 11716-37) and shall follow the guidance provided in the ACHP's Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites, dated June 17, 1999. In addition, the HPTP will be accompanied by the original National Register evaluation.
  - b. For properties eligible under NRHP criteria (a) through (c): mitigation other than data recovery may be considered in the treatment plan (e.g., Historic American Buildings Survey/Historic American Engineering Record recording, oral history, historic markers, exhibits, interpretive brochures or publications,-etc.). Where appropriate, treatment plans shall include provisions (content and number of copies) for a publication for the public.
8. The HTNF shall, in consultation with the SHPO, ensure that the fieldwork portions of any treatment plan (using HTNF staff or contractors and subcontractors) are completed prior to initiating any activities that may affect historic properties located within the area covered by the plan.
  9. The HTNF shall ensure that all records and materials resulting from identification and treatment efforts are curated in accordance with 36 CFR 79 in an approved curation facility in Nevada. As defined in the Native American Graves Protection and Repatriation Act (NAGPRA) materials will be handled in accordance with 43 CFR Part 10. All materials collected will be maintained in accordance with 36 CFR Part 79 or 43 CFR Part 10, until the final treatment report is complete and collections are curated and/or returned to their owners. HTNF will encourage private owners to donate collections from their lands to the federal repository housing the public records and materials.

#### E. Monitoring, Reporting and Timing

1. Any signatory may monitor actions carried out pursuant to this PA. To the extent practicable, monitoring activities should minimize the number of monitors involved in the undertaking.
2. Report formatting and site documentation shall be consistent with the Humboldt-Toiyabe Heritage Resources Guidelines, 1995 and the Intermountain Antiquities Computer System (IMACS) instructions. IMACS short form records may be used as appropriate.
3. The HTNF shall record standing historic structures on NARA form.

4. The HTNF will submit all reports resulting from model creation and testing, identification, evaluation, and treatment to the SHPO for comment prior to implementation of a project under this PA. The main body of inventory, testing and data recovery reports, minus archaeological site forms, shall be provided to tribes upon their written request.
5. If the SHPO, tribes, or other consulting parties fail to respond to HTNF within 30 days of receipt on any identification, evaluation, or mitigation document submitted under this PA, the HTNF shall presume concurrence with the findings and recommendations as detailed in the submission and proceed accordingly.
6. Documentation will be on file at the Bridgeport Ranger District office and made available, within the limitations of site confidentiality, to other consulting parties and interested members of the public.
7. The HTNF shall provide all final archaeological reports resulting from actions pursuant to this PA to the SHPO. All such reports shall be consistent with contemporary professional standards.
8. The HTNF shall provide an annual report to the SHPO for each year that the PA is in effect. This annual report shall contain, at a minimum, a numerical summary of the projects exempt from SHPO review in accord with Stipulation V.A.1.

F. Unanticipated discoveries.

Previously unidentified and unanticipated cultural resources discovered while conducting project activities shall be subject to the terms of this PA.

1. If a previously unidentified cultural resource is discovered, the project manager shall cease surface disturbing activities within 200 feet of that resource and notify the HPS. Within five (5) days of discovery, the HTNF HPS shall notify the SHPO that a discovery situation exists. Depending on the resource type, the HTNF HPS shall notify local tribes. Available information regarding the resource, including an eligibility determination, shall be provided to the SHPO as part of that notification. If the SHPO offers comments or does not respond within ten (10) days of the notification by the HTNF, the HTNF shall consider the SHPO's comments and determine that:
  - a. The discovered cultural resource is not eligible to the NRHP. The HTNF allow the activity to proceed; or
  - b. The discovered cultural resource is, or is likely to be eligible to the NRHP. In such cases, the HTNF also shall determine if the cultural resource:

- 1) was not affected and can be avoided using procedures outlined in Appendix B; or
  - 2) was affected by project activities prior to the resource's identification, and that the affect was of such a nature or magnitude to require mitigation; or
  - 3) the cultural resource would be affected if the approved activity was allowed to proceed.
- c. If the HTNF determines that the discovered resource is eligible but will not be affected, the HTNF shall notify the SHPO, tribes, and other consulting parties as appropriate immediately of its decision and the HTNF shall allow the activity to proceed.
- d. If the HTNF determines that project effects require mitigation, or if the historic property would be affected by the approved activity, the HTNF shall not allow the activity to proceed within 200 feet of the historic property until such time as appropriate mitigation actions have been conducted in accord with Stipulation V.D.
2. The HTNF shall ensure that the discovery of Native American remains will be managed in accordance with Native American Graves Protection and Repatriation Act of 1990 or relevant state statutes found at NRS 383.150-383.190.

#### G. Other Considerations

1. The HTNF shall ensure that all stipulations of this PA are carried out by its contractors, subcontractors, or other personnel involved with this undertaking.
2. The HTNF shall bear expenses relating to the identification and evaluation of all historic properties affected by the undertaking. Such costs shall include, but not be limited to, pre-field planning, fieldwork, post-fieldwork analysis, and report preparation.
2. The HTNF shall ensure that historic, architectural, and archaeological work conducted pursuant to this PA are carried out by or under the direct supervision of persons meeting qualifications set forth in the Draft Secretary of the Interior's Professional Qualification Standards dated June 20, 1997 (62FR33707-33723) and who have been permitted for such work by the signatories.
3. The HTNF shall ensure that all its personnel and all the personnel of its contractors and subcontractors are directed not to engage in the illegal collection of historic and

prehistoric materials. All parties shall cooperate with the HTNF to ensure compliance with the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470).

#### H Notices to Proceed

The HTNF, in consultation with the SHPO, may issue Notices to Proceed (NTP) for individual vegetation projects under any of the following conditions:

1. The HPS or HPM have determined that the vegetation project falls into Appendix A.I categories; or
2. The HTNF, in consultation with the SHPO and tribes, has determined that there are no cultural resources within the APE for the vegetation project; or
3. The HTNF, in consultation with the SHPO and tribes, has determined that there are historic properties present in the APE for the vegetation project, but the standard avoidance procedures in Appendix B can be successfully implemented prior to the initiation of the project; or
4. The HTNF, in consultation with the SHPO, tribes, and other consulting parties as appropriate, has implemented an adequate Treatment Plan for the project; and
  - a. The fieldwork phase of the treatment option has been completed; and
  - b. The HTNF has prepared and/or accepted a summary description of the fieldwork performed and a reporting schedule for that work; and
  - c. The HTNF shall provide a copy of the summary to SHPO; and
  - d. The SHPO shall review the summary and if the SHPO concurs or does not respond within two working days of receipt, HTNF shall assume concurrence and issue the NTP; and
  - e. The HTNF shall not begin any ground disturbing activities within the boundaries of any historic property until a NTP is issued for the vegetation project; and
  - f. A partial NTP may be issued for portions of the APE that are outside of the portion of the project that may affect historic properties.

#### I. Dispute Resolution

1. If any signatory to this PA, or other consulting party, objects to any activities proposed pursuant to terms of this PA, the HTNF shall consult with the objecting party and SHPO

to resolve the issue. If the HTNF determines that the objection cannot be resolved, the HTNF shall request the comments of the ACHP. The HTNF will take the advice of the ACHP into consideration when making their final decision.

2. The HTNF may continue all actions under this PA that are not in dispute.

#### J. Amendments

Any signatory to this PA may request that it be amended, whereupon the signatories will consult in accordance with 36 CFR 800.13 to consider such amendment. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

#### K. Termination

1. Any signatory to this PA may terminate the PA by providing thirty (30) days written notice to the other signatories, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.
2. In the event of termination, the HTNF will comply with 36 CFR 800.4 through 36 CFR 800.6 with regard to individual actions covered by this PA.

#### L. Execution

This PA becomes effective on the date of the last signatory signature below.

#### M. Duration

This PA shall remain in effect for fifteen (15) years from the date of its execution. If proposed actions in the APE are not completed prior to such time, the HTNF may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation V.J. The HTNF shall notify the signatories as to the course of action it will pursue.

#### N. USFS Conditions of Agreement

1. Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552) except where such disclosure would risk harm to historic properties or impede the use of tradition religious sites by practitioners (Section 304 of the National Historic Preservation Act of 1966, as amended and 36 CFR 800.11).
2. This instrument in no way restricts the Forest Service or SHPO from participating in similar activities with other public or private agencies, organizations, and individuals.

3. The Forest Service and the Nevada State Historic Preservation Officer and their respective agencies and offices will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.

5. The principal contacts for this instrument area:

Forest Service Project Contact	NV SHPO Contact
Fred Frampton, Forest Archaeologist	Rebecca Palmer, SHPO
Humboldt-Toiyabe National Forest Service 1200 Franklin Way Sparks, NV 89431	Department of Conservation and Natural Resources 901 S. Stewart Street, Suite 5004 Carson City, Nevada 89701
Phone: 775-352-1253	Phone: (775) 684-3443
FAX: 775-355-5399	FAX: (775) 684-3442
E-Mail: fframpton@fs.fed.us	E-Mail: rlpalmer@shpo.nv.gov

6. Nothing in this PA shall obligate either the Forest Service or the Nevada State Historic Preservation Officer to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the Forest Service and the Nevada State Historic Preservation Officer will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This PA does not provide such authority. Negotiation, execution and administration of each such agreement must comply with all applicable statutes and regulations.

7. This PA is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

8. By signature below, the signatory certifies that the individuals listed in this document as representatives of the signatory are authorized to act in their respective areas for matters related to this PA.

THE PARTIES HERETO have executed this instrument and by its execution and the implementation of its terms is evidence that HTNF has taken into account the effects of this undertaking on historic properties.

Signatories:

HUMBOLDT-TOIYABE NATIONAL FOREST

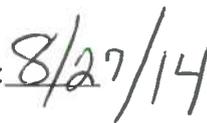
By:  \_\_\_\_\_

Date: 

Title: Forest Supervisor

NEVADA STATE HISTORIC PRESERVATION OFFICER

By:  \_\_\_\_\_

Date: 

Title: State Historic Preservation Officer

Concurring Parties (addendum, for tribal signatures)

## Appendix A:

I. Projects not likely to pose an effect to historic properties. These projects require review and written agreement by a HPS or HPM prior to implementation in accord with Stipulation V.A.1. No consultation with SHPO is required prior to project implementation.

- A. integrated pest management (pesticide and herbicide) that does not have the potential to affect access to, or use of, resources by Native Americans;
- B. personal use firewood and Christmas tree cutting permits that cover large areas and access is by foot and/or by vehicle using only pre-existing, open Forest system roads and where there are no known effects to traditional cultural and religious properties;
- C. felling of hazardous trees along roadways, within recreation areas, or other areas for health and safety reasons and where trees will not be dragged across the ground surface;
- D. Activities that involve less than one square meter of cumulative disturbance, unless within an identified historic property.
- E. slash disposal in previously disturbed areas where the slash is not dragged and is piled and removed by hand or burned;
- F. Branch pruning activities where selected trees are pruned to improve tree health and resiliency, reduce ladder fuels, and to create defensible space around structures (branches will be scattered near where cut or removed);
- G. Planting of seedlings where the planting hole is approximately 3-6 inches in diameter provided plantings are not on or within historic properties.
- H. Activities located on a slope of 30 degrees or greater, where no known unevaluated or historic properties are present, and appropriate historical documentation has been consulted in accord with Stipulation V.B.1.

II. Projects with the potential to affect historic properties where identification efforts can be limited in scale (class I survey, reconnaissance sample surveys, and documentary photographs) in accord with Stipulation V.B.3. See Appendix C for definitions of stand removal activities.

- A. Low-density piñon and juniper stand (phase 0 and 1) removal activities that do not involve ground or surface disturbance (e.g., timber stand improvement, pre-commercial thinning, non-disturbing wildlife structures); are implemented using hand tools, including chainsaws; do not have the potential to affect access to, or use of, resources by Native Americans; and removal by hand tools or chainsaws of immature piñon or juniper stands for sagebrush improvement (e.g. piñon and/or juniper that are less than 10 feet tall; too

small to support wickiup structures and not producing harvestable nuts); and access to the unit is on existing roads with no OHV use.

- B. In piñon-juniper phase class 0 or 1, mowing with a brush hog or similar rubber-tired equipment; mastication of immature piñon and juniper stands (trees generally less than 10 feet tall) removed for sagebrush improvement purposes, except where the HTNF's HPM or HSM identifies specific cultural resources susceptible to damage from mowers.

III. Projects with the potential to affect historic properties and Class III inventory is required for all or part of the project area. Consultation with SHPO is required for the following projects in accord with the provisions of this PA.

- A. Vegetation management projects with a high density of lithic scatters and the project is likely to affect the National Register characteristics of historic properties or potential historic properties.
- B. Vegetation management projects with a high density of lithic scatters where the project could have effects to the National Register characteristics of historic properties or potential historic properties.
- C. Cut-and-burn (pile burn) prescribed fire units or subunits.
- D. Projects where minimal disturbance is likely to occur overall but specific locations exist for ground-disturbing activities.
- E. For vegetation management projects where the following activities will occur:
  - 1. road construction, heavy maintenance or re-use of a previously abandoned corridor;
  - 2. off-road vehicle use and skid trails;
  - 3. mastication or mechanical treatments of piñon and juniper using a tracked vehicle;
  - 4. any pile-burning; and prescribed fires when flame lengths are expected to exceed one meter for a period of more than ten minutes;
  - 5. uprooting trees by any method;
  - 6. mechanical seeding projects.

## Appendix B: Standard Protection Measures and Avoidance Procedures

The following protection and avoidance measures shall be implemented as appropriate for vegetation projects located on the Bridgeport Ranger District managed under this PA.

Standard protective measures require that proposed ground-disturbing activities (hand lines, staging areas, skid trails, burn piles, landings, and access roads) shall avoid historic properties. Additionally, such activities shall not pedestal or in other ways isolate a historic property from its surroundings.

### A. Avoidance Procedures for fuel reduction projects (prescribed burns and mechanical treatments)

1. When any changes in proposed activities are necessary to protect historic properties (e.g., project modifications, redesign or elimination; or revising maps or changing specifications, etc.) these changes shall be completed prior to initiating any activities.
2. Monitoring by a qualified archaeologist during the prescribed burn or mechanical treatment may be used to enhance the effectiveness of protection measures.
3. Prescribed burns will be implemented in a controlled fashion under the proper weather conditions.
4. During a prescribed burn, there will be no active ignition by either hand or aerial in or within 20 meters of an historic property.

### B. Fuel reduction around historic properties

1. The establishment of a 60 ft (20m) buffer zone around fire sensitive historic properties may be employed as a means to lessen the likelihood that inadvertent effects from project implementation might occur.
2. Thinning of flammable materials may include removal or delimiting of the tree/brush. Trees will not be felled into the historic property boundary.
4. If trees are inadvertently felled so that they intrude into the boundary of an historic property, all portions of the tree within the boundaries shall be left in place until an evaluation can be made by a qualified archaeologist. If the historic property does not appear to be damaged, normal procedures for removing felled trees will include cutting the stump up and carrying out debris off-site by hand unless such activities could pose an effect to the historic property.

### C. Fuel reduction within historic properties (prescribed burning and mechanical thinning)

1. In order to reduce fuel loading within a historic property, trees may be de-limbed and above ground portions of brush removed, so long as this work is accomplished by hand and the debris is carried off the site manually. Skidding or dragging of the debris shall not take place. Subsurface portions of trees and brush shall not be disturbed. Large trees shall not be felled atop archaeological features. These activities will be monitored by a qualified archaeologist.
2. Pile-burning will not occur within historic property boundaries. If an exception becomes necessary, the HTNF HPS will consult with SHPO and tribes in accordance with section V.D. At a minimum, an archaeological monitor shall be present to ensure that archaeological deposits and features are protected.
3. Fire sensitive historic properties that cannot be avoided by pile-burning activities with methods described in A.1-2 will undergo heat and flame reduction protection measures prior to implementation to eliminate the risk of adverse effect. Such protection measures during prescribed pile-burning may include but are not limited to: historic property exclusion from the project area, hand line, black line, wet line, foam retardant, structural fire shelter, removing heavy fuels from site by hand, and the prevention of ignition of heavy fuels (flush cut and bury stumps).

#### D. Flagging of historic properties

1. Historic properties shall be delineated by flagging prior to implementing ground disturbing activities within the APE.
2. Linear historic properties and other historic properties with a large extent shall be flagged in the APE to protect the resource. HTNF, in consultation with SHPO, may design a project to cross historic properties in areas where their features or characteristics clearly lack integrity and do not contribute to the overall NRHP eligibility of the property.
3. Flagging using a standard color scheme (i.e. white and orange) will be used to demarcate historic properties throughout the project area.
4. Flagging will be removed from property boundaries after project implementation.

## Appendix C. Definitions, Vegetation Treatments, Notice of Proposed Action, East Walker Landscape Habitat Improvement Project.

**Cultural Resource:** An object or definite location of human activity, occupation, or use identifiable through field survey, historic documentation, or oral evidence that is at least 50 years of age. Cultural resources are prehistoric, historic, archaeological, or architectural sites, structures, places, objects and properties of traditional religious and cultural significance.

**Historic Properties:** 36 C.F.R. 800.16 defines historic properties as “any prehistoric or historic district, site building, structure, or object included in or eligible for inclusion in, the National Register of Historic Places. This term includes artifacts, records, and remains that are related to and located within such properties. This term includes properties of traditional, religious and cultural importance to an Indian Tribe.

**Qualified Professional:** Ethnographic, historic, architectural, and archaeological work conducted pursuant to this PA are carried out by or under the direct supervision of persons meeting qualifications set forth in the *Secretary of Interior’s Historic Preservation Professional Qualification Standards (Federal Register 1983, 48 (190): 44738-39* (currently available at [http://www.nps.gov/history/local-law/arch\\_stnds\\_9.htm](http://www.nps.gov/history/local-law/arch_stnds_9.htm))

**Fire-Sensitive Historic Properties:** Historic properties that have the potential to be adversely affected by fire. These include properties that contain combustible features, and/or contain dense natural combustibles that would create an intense heat sufficient to damage non-combustible features/artifacts.

**Vegetation Management Project:** Projects implemented for desired ecological or landscape conditions with factors that include density and/or types of vegetation present in a land unit. Stakeholders may have differing or conflicting values regarding desired methods and outcomes. The East Walker project units primarily manage piñon-juniper reduction in favor of increasing sagebrush steppe and riparian meadow habitat.

**Flapper:** A hand fire tool that controls fire by slapping out or beating down flames; it is not ground-disturbing.

**Piñon-Juniper Phases:** Refers to the density and characteristics of piñon-juniper woodlands.

Table C.1. Piñon-juniper density phases

Phase	Description
0	No trees present, or the trees present are $\leq 10$ per acre.
1	Small trees are present, but shrubs, grasses, and forbs dominate the vegetation that influences ecological processes (hydrology, nutrient cycles, and energy capture) on the site.

2	Trees co-dominate with shrubs, grasses, and forbs. All vegetation layers influence ecological processes. Trees grow fast (have pointed tops) and bigger trees may produce many berries or pine nuts. Late Phase 2 has more fuel, produces more heat during fire, and has weaker understory vegetation for site recovery.
3	Trees are the dominant vegetation and the primary plant layer influencing ecological processes on the site. Tree growth slow (tops become rounded) while seed production declines. When tree cover exceeds 60% of the total vegetation cover, most understory vegetation is dying or dead.
Pre-settlement	These trees can be identified on the landscape by their flattened, rounded, and or asymmetrical crowns, which stand well above the surrounding younger trees (typically shorter with conical crowns that display a pointed tip).

### **Description of Potential Treatments:**

**Lop & Scatter** – Hand crews would use chainsaws to fell trees within the treatment unit. Treatments may include complete removal (all live trees exceeding 1 foot in total height would be completely severed from the stump) or thinning (select trees would be removed from the stand). Trees would be left on site to decompose naturally. Depending on the size of the trees, limbs would be lopped and scattered into natural openings on the ground to facilitate decomposition.

**Cut and Pile Burn** – Hand crews would use chainsaws to fell trees within the treatment unit. Slash would be piled by hand and hand piles would be constructed in a tight, compact fashion. Pile diameter would be between 6 and 10 feet. Wherever possible, hand piles would be constructed on top of cut stumps and in openings created by removal of larger trees. Piles would be burned under favorable conditions once the slash has cured, typically the following fall/winter.

**Mastication** – Heavy equipment would be used to remove and masticate trees. Heavy equipment used may include wheeled or tracked vehicles. Complete removal of trees (all live trees exceeding 1 foot in total height would be completely severed from the stump) or thinning (select trees would be removed from the stand) may be used. Masticated material would either be spread and left on site to decompose naturally or removed from the site based on site conditions and resource concerns. Mastication would only be used in areas with < 30% slope.

**Prescribed Fire** – Prescribed fire would be used to reduce piñon-juniper densities and improve structural and age class diversity within sagebrush and mountain brush communities. Prescribed fire treatments would typically be used to treat piñon-juniper at mid-elevations and on slopes greater than 30%. Prescribed fire treatments may occur during any season of the year within established prescriptions. A prescribed burn plan written by a qualified burn boss would be followed.

Burned openings would typically range from 0.25 to 200 acres in size and would create a mosaic pattern across the landscape. Size of openings may vary depending on the vegetation community and intensity of the burn, some larger openings may be created due to the unpredictable nature of fire and weather conditions.

Prescribed fire treatments may include ground ignition (drip torches and or flares), aerial ignition (helicopter/helitorch and or Plastic Sphere Dispenser (PSD)), and management of naturally occurring wildfires for resource benefits. Ground support staging areas would occur on existing roads or in designated areas. Hand lines may be used on a limited basis to protect archaeological resources, private lands, or other high value resources. Firefighting resources would be present to ensure full containment of the prescribed fire within the Project Area.

The target areas for prescribed fire treatments include Phase 1, Phase 2, and limited areas of Phase 3 piñon-juniper stands. No ignition of pre-settlement trees (table C.1) would occur; however, pre-settlement trees adjacent to target areas may be scorched or killed. Prescribed fire would not be used in areas where the risk of cheat grass increase is high, particularly on steep south facing slopes that have lost herbaceous understory vegetation.

**Commercial and Personal Use Fuel wood Removal** – Personal use fuel wood removal permits and commercial fuel wood contracts would be issued to cut and remove piñon pine and juniper in designated areas. Slash would be piled by hand and burned under favorable conditions once the slash has cured.

**Seeding Native Species** – A native species mix appropriate for the site and collected locally when possible may be used if native recruitment is less than desired following treatment. Seeds would be certified “weed free” and seeding may occur through hand, mechanical, or aerial application.

**Potential Vegetation Treatments by Unit:**

See attached map for unit boundaries (Figure 3).

**West 1:** Most of this 603 acre unit is phase 0 and phase 1. Treatments may include lop & scatter, cut and pile burn, commercial and personal use fuel wood removal, and mastication.

**West 2:** The majority of this 1,626 acre unit is phase 2. Treatments may include lop & scatter, cut and pile burn, mastication, commercial and personal use fuel wood removal, and seeding.

**South 1:** Most of this 2,829 acre unit is phase 0 and phase 1. Treatments may include lop & scatter.

**South 2:** A majority of this 7,817 acre unit is phase 2 with some phase 3 in the southern portion. Treatments may include lop & scatter, cut and pile burn, mastication, prescribed fire, commercial and personal use fuel wood removal, and seeding.

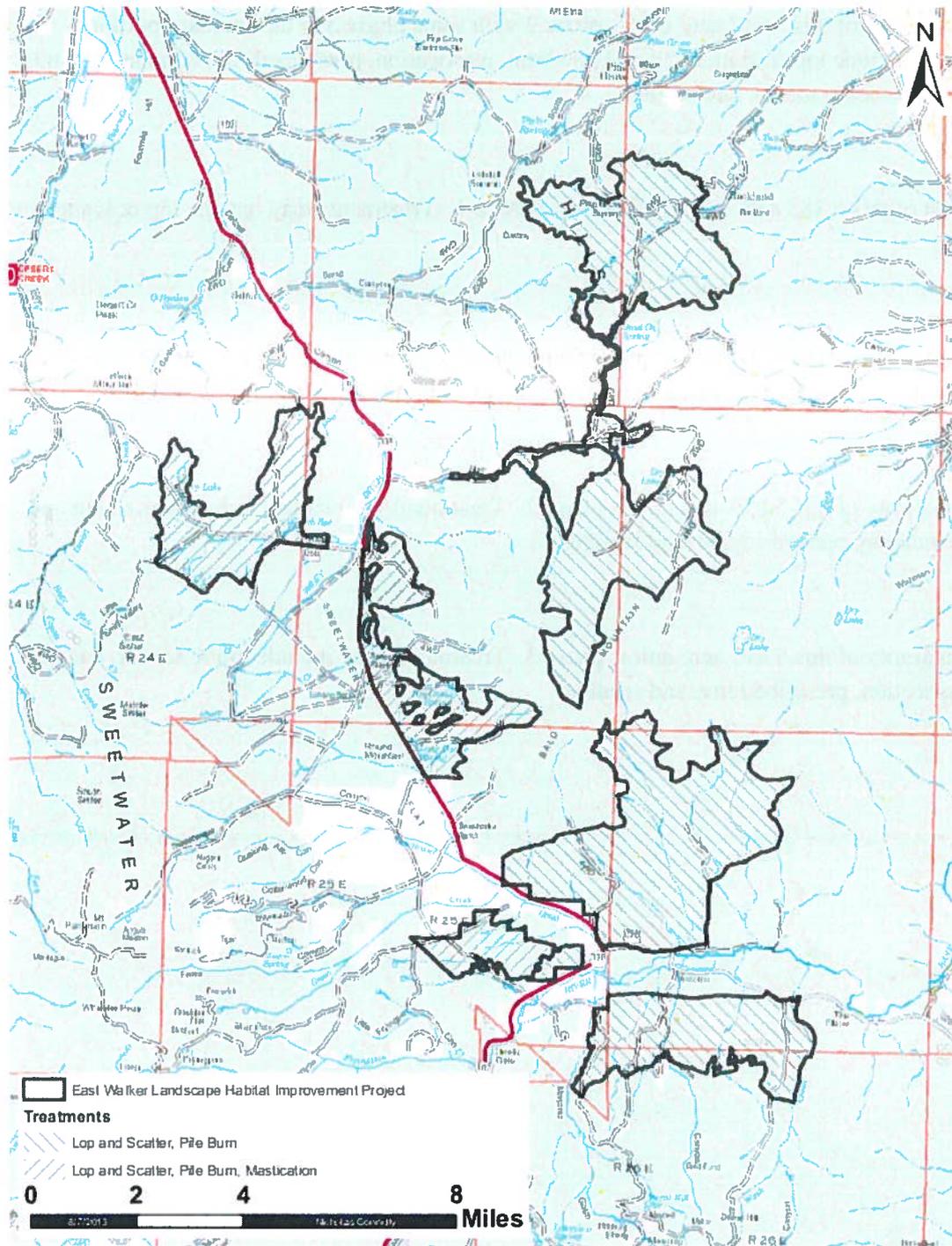
**North 1:** Most of this 6,185 acre unit is phase 0 and phase 1. Treatments may include lop & scatter and prescribed fire.

**North 2:** Most of this 10,816 acre unit is phase 0 and phase 1. Some phase 3 is present along the outer edges of the unit. Treatments may include lop & scatter, cut and pile burn, and prescribed fire.

**North 3:** A majority of this 5,659 acre unit is phase 2. Treatments may include lop & scatter, cut and pile burn, mastication, prescribed fire, and seeding.

**North 4:** A majority of this 5,815 acre unit is phase 3. Treatments may include lop & scatter, cut and pile burn, mastication, prescribed fire, and seeding.

Appendix D. Project Area Map.



Programmatic Agreement between HTNF and SHPO regarding  
The East Walker Landscape Habitat Improvement Project, Lyon And Mineral Counties, Nevada.