

**MEMORANDUM OF AGREEMENT
DE-GM58-20NA25534
BETWEEN THE
U.S. DEPARTMENT OF ENERGY
AND THE
NEVADA STATE HISTORIC PRESERVATION OFFICER
REGARDING
CORRECTIVE ACTION ACTIVITIES AND DEMOLITION OF
THE ENGINE MAINTENANCE ASSEMBLY AND DISASSEMBLY FACILITY AND
THE TEST CELL C HISTORIC DISTRICT,
MAJOR COMPONENTS OF
THE NUCLEAR ROCKET DEVELOPMENT STATION HISTORIC DISTRICT
LOCATED IN AREA 25 AT THE NEVADA NATIONAL SECURITY SITE
NYE COUNTY**

WHEREAS, the U.S. Department of Energy (DOE) plans to implement corrective action activities (under the Federal Facility Agreement and Consent Order, agreed to by the State of Nevada) and demolition of the Engine Maintenance Assembly and Disassembly Facility (E-MAD) and Test Cell C Historic District (TCCHD), major components of the Nuclear Rocket Development Station (NRDS) Historic District located in Area 25 of the Nevada National Security Site (NNSS) in Nye County, Nevada (the undertaking); and

WHEREAS, the DOE considers corrective actions and demolition of these resources to be an undertaking subject to review under Title 54 U.S.C. § 306108, commonly known as Section 106 of the National Historic Preservation Act (NHPA), Title 54 U.S.C. § 300101, et seq., and its implementing regulations at 36 C.F.R. Part 800; and

WHEREAS, the DOE has defined the undertaking's Area of Potential Effect (APE) as the 21-acre E-MAD facility and the 35.75-acre Test Cell C area where demolition and staging will occur and the unevaluated NRDS Historic District of which E-MAD and Test Cell C are elements. (Appendix A); and

WHEREAS, the DOE and the Nevada State Historic Preservation Officer (SHPO) agree that the E-MAD and the TCCHD are historic properties eligible for listing in the National Register of Historic Places (NRHP) and are contributing elements to the larger, unrecorded NRDS Historic District which has not been formally evaluated for NRHP eligibility, but is likely eligible under multiple criteria at the national level of significance (Appendix A); and

WHEREAS, the DOE in consultation with the SHPO have determined that the undertaking will have adverse effects on historic properties; and

WHEREAS, the DOE has notified the Advisory Council on Historic Preservation (ACHP) pursuant to 36 C.F.R. § 800.6(a)(1) of its determination of adverse effect and provided the ACHP with the documentation specified in 36 C.F.R. § 800.11(e) to facilitate its review, and the

ACHP has chosen not to participate in the consultation in correspondence dated February 4, 2020 pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

WHEREAS, the DOE has consulted with Native American tribal representatives from the Benton Paiute Tribe, the Big Pine Paiute Tribe of the Owens Valley, the Bishop Paiute Tribe, the Chemehuevi Indian Tribe, the Colorado River Indian Tribes, the Duckwater Shoshone Tribe, the Ely Shoshone Tribe, the Fort Independence Indian Reservation, the Kaibab Band of Paiutes, the Las Vegas Paiute Tribe, the Lone Pine Paiute-Shoshone Reservation, the Moapa Band of Paiutes, the Pahrump Paiute Tribe, the Paiute Indian Tribe of Utah, the Timbisha Shoshone Tribe, the Yomba Shoshone Tribe (referred to hereafter collectively as Tribes) and no comments were received; and

NOW THEREFORE, the DOE and the SHPO agree that the undertaking will be implemented in accordance with the following stipulations in this Memorandum of Agreement (MOA) in order to resolve the adverse effects of the undertaking on historic properties and to satisfy the Section 106 responsibilities of the DOE for all aspects of the undertaking.

STIPULATIONS

The DOE shall ensure the following measures are carried out.

I. Roles and Responsibilities

The Signatories agree that the DOE will be responsible for administering and implementing this MOA. This includes, but is not limited to, overseeing all cultural resources work; assembling all submissions to the SHPO including reports and supplementary documentation; and seeking the SHPO concurrence with all agency compliance decisions. The DOE must consult with American Indian Tribes whose aboriginal territories include portions of the undertaking or who have previously expressed interest in undertakings located on the NNSS, and with other stakeholders having an interest in the history of the NNSS.

II. Area of Potential Effects

The Area of Potential Effects include the E-MAD facility, the TCCHD, and the unevaluated NRDS Historic District (Appendix A). The DOE and the SHPO agree the E-MAD facility and the TCCHD are historic properties eligible for listing in the NRHP.

Although the larger, unrecorded NRDS Historic District has not been formally evaluated for NRHP eligibility, the DOE and the SHPO agree that it is likely eligible under multiple criteria at the national level of significance. The E-MAD facility and the TCCHD are considered contributing components to the NRDS Historic District.

III. Mitigation of Adverse Effects

A. Development of a Historic Context

1. The DOE will prepare a historic context that describes the NRDS and its support

functions. The NRDS facilities were built for the Rover nuclear rocket propulsion program. Built and operated between 1955 through 1973, the NRDS was the site of America's first and only field-testing complex for the joint Atomic Energy Commission and National Aeronautics and Space Agency nuclear propulsion rocket program for interplanetary space flight.

2. The historic context will describe the NRDS's origin, history, layout, and construction; its administrative and scientific; and its significance in the development of the NNSS (formerly the Nevada Test Site) and its accomplishments.
3. The historic context will be reported as part of the NRDS Historic District historical evaluation (Stipulation III.C).

B. Documentation of the NRDS Historic District

The DOE will identify, evaluate, and complete a current condition assessment for previously recorded elements, excluding E-MAD and TCC Historic District, which were updated and re-evaluated in 2019 as part of the mitigation to resolve direct, indirect, and cumulative effects to the NRDS Historic District (Appendix B).

1. The DOE will base the preliminary boundary of the NRDS historic district on archival research and the results of the field work. The DOE will adjust the boundary, if necessary, in consultation with the SHPO.
2. The DOE will document and evaluate for the NRHP the unrecorded components of the NRDS Historic District on Architectural Resource Assessment (ARA) forms. These include Engine Test Stand-1, the Control Point, the Support Facilities, and the NRDS infrastructure system (Appendix B).
 - a. The DOE will record any additional architectural or archaeological resources discovered within the boundary of the historic district on ARA forms or NNSS site recording forms, as appropriate.
 - b. The DOE will submit draft versions of the ARA or NNSS site forms as an appendix in the NRDS Historic District historical evaluation report submitted in accordance with Stipulation III.C.2 below.
3. The DOE will complete a current condition assessment for the previously recorded elements of the NRDS. These include R-MAD, Test Cell A, the Railroad Transport System, and the Radioactive Material Storage Facility (Appendix B). The DOE will record these resources on ARA forms or NNSS site forms, as appropriate.
 - a. The DOE will submit draft versions of the ARA or NNSS site forms as an appendix in the NRDS Historic District historical evaluation report submitted in accordance with Stipulation III.C.2 below.

C. NRDS Historic District NRHP Evaluation

1. The DOE will integrate the draft components completed under Stipulations III.A and III.B above into a final NRHP evaluation report.
2. The DOE will submit the draft report for the SHPO to review.
3. The SHPO will review and comment on the draft within thirty (30) calendar days of receipt. If the SHPO concurs with the adequacy of the document or does not respond within thirty (30) calendar days of receipt, the DOE will finalize the document.
4. The DOE will address any changes requested by the SHPO and then submit the draft final document to the SHPO for review and comment.

5. The SHPO will review and comment on the draft final within fifteen (15) calendar days of receipt. If the SHPO concurs with the adequacy of the draft final document or does not respond within fifteen (15) calendar days of receipt, the DOE will finalize the document.
6. The DOE will submit copies of the NRHP evaluation report, resource forms, photographs, image files, and databases, produced to fulfill the terms of this MOA to be archived with the Nuclear Testing Archive in Las Vegas.
7. The DOE will publish final NRDS Historic District NRHP evaluation report to the DOE Office of Scientific and Technical Information for access by the public at the following website: www.osti.gov.

D. Supplementary Photographic Documentation

1. The DOE will submit the existing supplementary collection of large format black and white photographic prints taken during the original 1996 HAER documentation of E-MAD (HAER-NV-25) that were not included in the original report to the Nuclear Testing Archive. The submission will include approximately 100 hard copies and high-quality electronic scans in TIF format, as well as a photolog with captions, and a set of photo keys/maps providing the orientation (view) of each photograph.
2. The DOE will submit the color digital images taken during the 2019 field recording of the E-MAD and the TCCHD to the SHPO. The submission will include high-quality TIF format images transferred to archival quality CDs or DVDs along with a photolog.

E. Conference Presentation and Publication

1. The DOE, in consultation with the SHPO, will prepare and provide a PowerPoint presentation and conference paper based on the 2019 recording of the E-MAD and the TCCHD to a suitable conference or symposium. Although several potential venues have been identified, an upcoming symposium – “Preserving the Space Race: Small Steps and Giant Leaps”—sponsored by the National Park Service National Center for Preservation Technology and Training (NCPTT) is the preferred symposium. The event originally scheduled for June 2020 has been postponed until further notice. The DOE will select and attend a new symposium within two (2) years of the execution of this MOA if the NCPTT symposium is canceled.

IV. Qualifications

The DOE will ensure that all actions prescribed by this MOA that involve the identification, evaluation, analysis, recordation, treatment, monitoring, and disposition of historic properties and that involve the reporting and documentation of such activities in the form of reports, forms, or other records, must be carried out by or under the supervision of a person or persons meeting, at a minimum, the Secretary of the Interior’s *Professional Qualifications Standards* for archaeology, history, or architectural history, as appropriate (48 F.R. 44738-44739).

V. Post Review Discoveries

If historic properties are discovered or if unanticipated effects on historic properties occur within the APE after demolition and removal activities have been initiated, then DOE personnel will implement the following procedure:

- A. The Project Manager will immediately cease all operations for that portion of the activity that has the potential to affect a historic property (with a buffer nominally ten [10] feet surrounding the discovery or affected historic property) and notify the DOE of the discovery or effect.
- B. The DOE will ensure that the cultural resource management subject matter expert (CRM SME) assesses the NRHP eligibility of the property and the potential of the activity to affect its qualifying characteristics. The CRM SME will report the findings to the DOE and develop a treatment plan to avoid or mitigate the effect(s) as appropriate.
- C. The DOE will consult with the SHPO on the discovery and the treatment plan within five (5) working days of the discovery. The SHPO will have five (5) working days to provide any comments on the discovery and DOE's determination of NRHP eligibility. If the SHPO concurs with this determination or does not respond within five (5) working days of receipt, the DOE will proceed with the proposed treatment plan developed in accord with Stipulation V.B.
- D. The DOE will notify the Tribes of discoveries that have the potential to adversely affect properties of religious or cultural significance, or cultural items as defined in the Native American Graves Protection and Repatriation Act. After reviewing such discoveries, the Tribes can request further consultation on the undertaking by notifying the DOE and the SHPO in writing.
- E. Once the fieldwork portion of the treatment plan is completed, the CRM SME will submit a summary of the fieldwork activities to the DOE.
- F. The DOE will submit this fieldwork summary to the SHPO.
- G. The SHPO will have five (5) working days to provide comment on the fieldwork summary. If the SHPO concurs with this determination or does not respond within five (5) working days of receipt, the DOE will advise the Project Manager to resume the activities that were halted to address the discovery situation.
- H. If the SHPO has comments regarding the fieldwork summary, then the DOE will have the CRM SME complete any additional activity to address these comments and resubmit the revised fieldwork summary to the SHPO for review and comment.
- I. The SHPO will have three (3) working days to provide comment on the revised fieldwork summary. If the SHPO concurs with this determination or does not respond within three (3) working days of receipt, the DOE will advise the Project Manager to resume the activities that were halted to address the discovery situation.

VI. Initiating Corrective Action and Demolition Activities

The start of corrective action and demolition activities at the E-MAD and the TCCHD will be contingent on the execution of this MOA by the DOE and the SHPO. In 2019, current condition documentation and recording of E-MAD and TCCHD was completed (Appendix C). To meet the terms of this MOA, no additional field activity is required at either location unless historic properties are discovered or if unanticipated effects on historic properties occur during the

demolition work (Stipulation V). Thus, the mitigation measures specified in Stipulation III may occur concurrent with the corrective action and demolition undertaking and the undertaking can be initiated as soon as funding for the mitigation stipulations is secured and site access scheduled.

VII. Dispute Resolution

Should any Signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, then the DOE and the SHPO must consult to resolve the objection. If the DOE determines that such objection cannot be resolved, then the DOE must:

- A. Forward all documentation relevant to the dispute to the ACHP including the DOE's proposed resolution. The ACHP will advise the DOE on how to resolve the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the DOE must prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and the SHPO and provide them with a copy of this written response. The DOE may then proceed according to its final decision.
- B. If the ACHP does not provide advice regarding the dispute within the thirty (30) day period, then the DOE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the DOE must prepare a written response that takes into account any timely comments regarding the dispute from the SHPO and provide the SHPO and the ACHP with a copy of the written response.
- C. The DOE's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. Amendments

This MOA or any portion may be amended at any time when such an amendment is agreed to in writing by all Signatories. The amendment will be effective on the date a copy signed by all the Signatories is filed with the ACHP.

IX. Legal Effect

This MOA shall not be construed to provide a private right or cause of action for or by any person or entity who is not a party to this MOA. This MOA in no way restricts either of the parties from participating in any activity with other public or private agencies, organizations, or individuals.

X. Funding

This MOA is neither a fiscal nor a funds obligation document. Nothing in this MOA authorizes or is intended to obligate the parties to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value. The details of the level of support to be furnished one party by the other with respect to funding will be developed in specific interagency agreements or other agreements, subject to availability of funds, and no provision herein shall be

interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. 1341. If compliance with the Anti-Deficiency Act alters or impairs the DOE's ability to implement the stipulations of this MOA, the DOE will consult with the SHPO in accordance with the amendment and termination procedures found at Stipulations VIII and XIV of this MOA.

XI. Freedom of Information Act

Subject to the Freedom of Information Act (5 U.S.C. 552), decisions on disclosure of DOE/NNSA information to the public regarding projects or programs referenced in this MOA shall be made by the DOE following consultation with the SHPO.

XII. Effective Date

This MOA shall become effective on the date when the last party to sign executes the MOA and sends notice to the other Signatories that it has done so.

XIII. Compliance with Applicable Laws and Regulations

All understandings herein are subject to, and will be carried out in accordance with, all applicable laws, regulations, and other legal requirements.

XIV. Termination

If any Signatory to this MOA determines that its terms will not or cannot be carried out, then that party will immediately consult with the other Signatories to attempt to develop an amendment per Stipulation VIII above. If within thirty (30) days, or other time period agreed to by all Signatories, an amendment cannot be negotiated, then any Signatory may terminate the MOA upon written notification to the other Signatories.

Once this MOA is terminated, prior to any work continuing on the undertaking, the DOE must either (a) execute an MOA pursuant to 36 C.F.R. § 800.6 or (b) request comment from the ACHP, take into account these comments, and provide a response to the ACHP pursuant to 36 C.F.R. § 800.7. The DOE must also notify the SHPO and any other consulting parties, as to the course of action it will pursue.

XV. Duration of the Agreement

The MOA shall remain in effect for a ten (10) year term from the effective date, unless terminated earlier in accordance with Stipulation XIV. This MOA will expire if its stipulations are not carried out within this time frame. Prior to such time, the DOE may consult with the SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII above.

EXECUTION of this MOA by the DOE and the SHPO and the implementation of its terms, constitutes evidence that the DOE has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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SIGNATORIES:

U.S. Department of Energy, National Nuclear Security Administration Nevada Field Office

David R.
Bowman

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Date: _____

David R. Bowman, Ph.D.
Nevada Field Office Manager

U.S. Department of Energy, Environmental Management Nevada Program

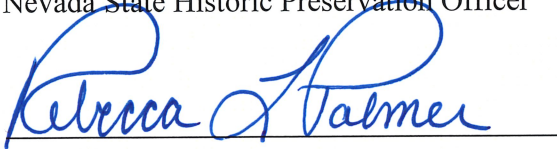
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Date: _____

Robert F. Boehlecke
Environmental Management Nevada Program Manager

Nevada State Historic Preservation Officer



Date: 12-16-2020

Rebecca Lynn Palmer
State Historic Preservation Officer

Appendix A. Map of the APE and List of Resources

Figure A-1. Map showing the entire APE with recorded and unrecorded elements.

Table A-1. List of Historic Properties and Unevaluated Resources in the APE.

This attachment contains information that may be exempt from Freedom of Information Act Requests.

Please consult the appropriate federal agency to obtain this information.

Table A-1. List of Historic Properties and Unevaluated Resources in the APE.

Name	SHPO Resource/ HAER	NRHP Eligibility Determination	Concurrence Date
NRDS Historic District		Unevaluated, likely eligible under multiple criteria	
E-MAD	B4845/ HAER NV-25	A, C, D	11/19/2019*
Test Cell C Historic District	D346/ HAER NV-30-A	A, C, D	1/3/2020*
R-MAD	26NY9277 HAER NV-29-A	A, C, Consideration G	2000
Test Cell A	26NY11260/ HAER NV-33	A, C	8/4/2000*
RMSF	26NY11769	A, C, Consideration G	1999
J&W Railroad	26NY14637	A	9/4/2012*
Control Point		Unevaluated	
ETS-1		Unevaluated	
Support Area		Unevaluated	
Infrastructure**		Unevaluated	

*SHPO concurrence letter on file at DRI

**Roads, water, sewer, power & communications

Appendix B. Mitigation Activities

Table B-1. Mitigation Activities for the NRDS Historic District and District Elements.

Name	SHPO Resource/ HAER	Mitigation Activities
NRDS Historic District		Prepare a historic context and integrate documentation of elements of the NRDS Historic District into a final NRHP evaluation report. Prepare a historic district resource form
E-MAD	B4845/ HAER NV-25	Submit the existing supplementary black and white photographic prints taken during the original 1996 HAER documentation to the Nuclear Testing Archive. Submit color images taken during the 2019 filed recording to the SHPO. Prepare a conference presentation*
Test Cell C Historic District	D346/ HAER NV-30-A	Submit color images taken during the 2019 filed recording to the SHPO Prepare a conference presentation*
R-MAD	26NY9277 HAER NV-29-A	Complete a current condition assessment and record on ARA form or other resource form, as appropriate.
Test Cell A	26NY11260/ HAER NV-33	Complete a current condition assessment and record on ARA form or other resource form, as appropriate.
RMSF	26NY11769	Complete a current condition assessment and record on ARA form or other resource form, as appropriate.
J&W Railroad	26NY14637	Complete a current condition assessment and record on ARA form or other resource form, as appropriate.
Control Point		Document and evaluate for the NRHP on an ARA form.
ETS-1		Document and evaluate for the NRHP on an ARA form.
Support Area		Document and evaluate for the NRHP on an ARA form.
Infrastructure		Document and evaluated for the NRHP on an ARA form.

*Prepare and provide a PowerPoint presentation and conference paper based on the 2019 recording of the E-MAD and Test Cell C Historic District.

Appendix C. Maps Illustrating Location and Principal and Accessory Resources of the E-MAD and Test Cell C Historic District

Figure C-1. Location of the E-MAD.

Figure C-2. Principal and accessory resources of the E-MAD.

Figure C-3. Location of the Test Cell C Historic District.

Figure C-4. Principal and accessory resources of the Test Cell C Historic District.

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