

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

**And**

**NEVADA STATE HISTORIC PRESERVATION OFFICER**

**Regarding**

**THE EXPANSION OF THE MINING PLAN OF OPERATIONS AT THE STORMY  
MINE CLAIM, WHITE PINE COUNTY, NEVADA**

**WHEREAS**, the Bureau of Land Management (BLM) plans to issue a permit for the proposed expansion of placer mining activities by Dig M Excavation Services, Inc. (Dig M) at the Stormy Mine Claim in the Osceola Mining District, White Pine County, Nevada and has determined that the action is an Undertaking subject to review under 54 U.S.C. § 306108 commonly known as Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations, 36 CFR Part 800; and

**WHEREAS**, the BLM has defined the Undertaking's Area of Potential Effect (APE) in Township 14 North, Range 67 East, Section 23 as 2.2 acres on the enclosed maps (Attachment A, Figures 1-3); and

**WHEREAS**, the BLM has determined that the Undertaking is located within the historic property 26WP6565, which is eligible under the Secretary of Interior's Significance Criteria A, B, and D for the National Register of Historic Places (NRHP); and

**WHEREAS**, the BLM, in consultation with the Nevada State Historic Preservation Officer (SHPO), has determined that the Undertaking will have an adverse effect on five (5) contributing elements of the historic property 26WP6565 under Criteria B and D, including three historic mining features (WP-526, WP-530, and WP-534) and two historic habitation features numbered (F-8 and F-13); and

**WHEREAS**, the BLM has consulted with the Ely Shoshone Tribe of Nevada, the Duckwater Shoshone Tribe, the Confederated Tribes of the Goshute Reservation, and the Yomba Shoshone Tribe and determined that the Undertaking will not pose an effect to any historic properties of religious and cultural importance to these Tribes; and

**WHEREAS**, the BLM has consulted with descendants of Boone Tilford regarding mitigation measures for the Tilford homestead (F-13), and they will be participating in the development of interpretive materials as outlined in the Historic Properties Treatment Plan (HPTP); and

**WHEREAS**, the BLM has not invited the Advisory Council on Historic Preservation (ACHP) to participate in consultation because the Undertaking does not meet the requirements for their participation (as specified in Component 5 of the 2012 National Programmatic Agreement among BLM, ACHP and National Conference of SHPOs); and

**NOW, THEREFORE**, the BLM and the SHPO agree that the following stipulations shall be implemented in order to take into account the effect of the Undertaking on 26WP6565.

The BLM shall ensure that the following measures are carried out:

## **STIPULATIONS**

### **I. IMPLEMENTATION OF THE HISTORIC PROPERTIES TREATMENT PLAN (HPTP)**

- A. Qualified cultural resource staff from the BLM (Ely District, Bristlecone Field Office) will conduct mitigation for all adversely affected features of 26WP6565 in accord with the detailed plan in the HPTP (Attachment B; BLM Report 8111 NV-04-18-2192).
- B. BLM shall prepare a summary of the fieldwork portion of the HPTP within ten (10) days of the completion of such activities. The summary will include, but not be limited to, the draft photographs and documentation of the data recovery completed.
- C. BLM will electronically submit a copy of the fieldwork summary, including any draft photographs, to the SHPO for review and comment.
- D. The SHPO will review the fieldwork summary within two (2) working days of receipt. If the SHPO does not respond within two (2) working days of receipt, the BLM may issue the Notice to Proceed (NTP) for the Undertaking.
- E. BLM will address any comments on the fieldwork summary provided by the SHPO and submit a revised fieldwork summary to the SHPO for review. Review of this document will be consistent with the process outlined in Stipulation I.D above.
- F. BLM will submit a draft layout and text for an interpretive sign to the SHPO for review within six (6) months of the execution of this MOA.
- G. The SHPO will review the draft layout and text within thirty (30) days of receipt. If the SHPO does not respond within thirty (30) days of receipt, the BLM may finalize the interpretive sign.
- H. BLM shall take into consideration any comments provided by the SHPO on the draft layout and text for an interpretive sign and shall revise as appropriate. BLM will submit a revised layout and text to the SHPO for review. Review of this revised layout and text will be consistent with the process outlined in Stipulation I.G above.
- I. BLM will submit a draft mitigation report to the SHPO for review within six (6) months from the completion of fieldwork under the HPTP. BLM shall ensure that the draft mitigation report is consistent with contemporary professional standards and the Department of Interior's Formal Standards for Final Reports of Data Recovery Programs (48 FR 44716-44740).

- J. The SHPO will review the draft mitigation report within thirty (30) days of receipt. If the SHPO does not respond within thirty (30) days of receipt, the BLM may finalize the mitigation report.
- K. BLM shall take into consideration any comments provided by the SHPO on a draft mitigation report and shall revise as appropriate. BLM will submit a revised mitigation report to the SHPO for review. Review of this revised document will be consistent with the process outlined in Stipulation I.G above.

## **II. DURATION**

This Memorandum of Agreement (MOA) will expire if its stipulations are not carried out within five (5) years from its date of execution. At such time, and prior to work continuing on the Undertaking, the BLM shall either (a) execute a new MOA pursuant to 36 C.F.R. Part 800.6, or (b) consult with the SHPO to reconsider the terms of the MOA and to extend it in accord with Stipulation V below. BLM shall notify the SHPO as to the course of action it will pursue.

## **III. UNANTICIPATED DISCOVERIES**

- A. If Dig M discovers unanticipated cultural resources during mining activities, Dig M will cease all work within fifty (50) meters of the discovery and Dig M will immediately contact the BLM Authorized Officer. The BLM will adequately record the unanticipated discovery, update the site form, and make a determination of NRHP eligibility. The BLM will forward the documentation and NRHP eligibility determinations to the SHPO for comment. The SHPO will have two (2) days to provide comment on the documentation. The BLM and the SHPO will consult on appropriate avoidance or mitigation for unanticipated cultural resources.
- B. If human remains are discovered during the undertaking, Dig M will cease all work within fifty (50) meters of the discovery and the BLM Authorized Officer will be contacted immediately. White Pine County law enforcement will be contacted to determine the age and association of the remains.
- C. If Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered during the undertaking, Dig M will cease all work within fifty (50) meters of the discovery and contact the BLM Authorized Officer immediately. The BLM will comply with the Native American Graves Protection and Repatriation Act (NAGPRA) and its implementing regulations at 43 CFR Part 10, Subpart B.

## **IV. DISPUTE RESOLUTION**

Should any signatory party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, BLM shall consult with such party to resolve the objection. If BLM determines that such objections cannot be resolved, the BLM will:

- A. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide BLM with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, BLM shall 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. BLM will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the SHPO to the MOA, and provide them and the ACHP with a copy of such written response.
- C. BLM'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.

## **V. AMENDMENTS**

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## **VI. TERMINATION**

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other party to attempt to develop an amendment per Stipulation V, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatory.


Once the MOA is terminated, and prior to work continuing on the Undertaking, BLM must either (a) execute an MOA pursuant to 36 CFR Part 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR Part 800.7. BLM shall notify the SHPO as to the course of action it will pursue.

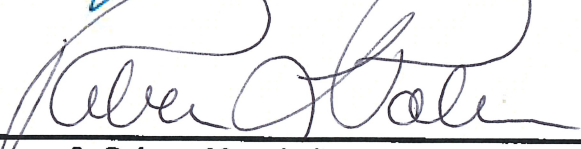
## **VII. COUNTERPART SIGNATURES**

This MOA will be signed in counterparts and each signature will be effective and binding as if the Signatories had signed the same document.

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

**SIGNATORIES:**

  
\_\_\_\_\_  
Mindy Seal, Bristlecone Field Manager, Ely District, Bureau of Land Management      Date 10/2/18

  
\_\_\_\_\_  
Rebecca L. Palmer, Nevada State Historic Preservation Officer      Date 11/19/18

ATTACHMENT A

FIGURES 1-3

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

Please consult the appropriate federal agency to obtain this information.

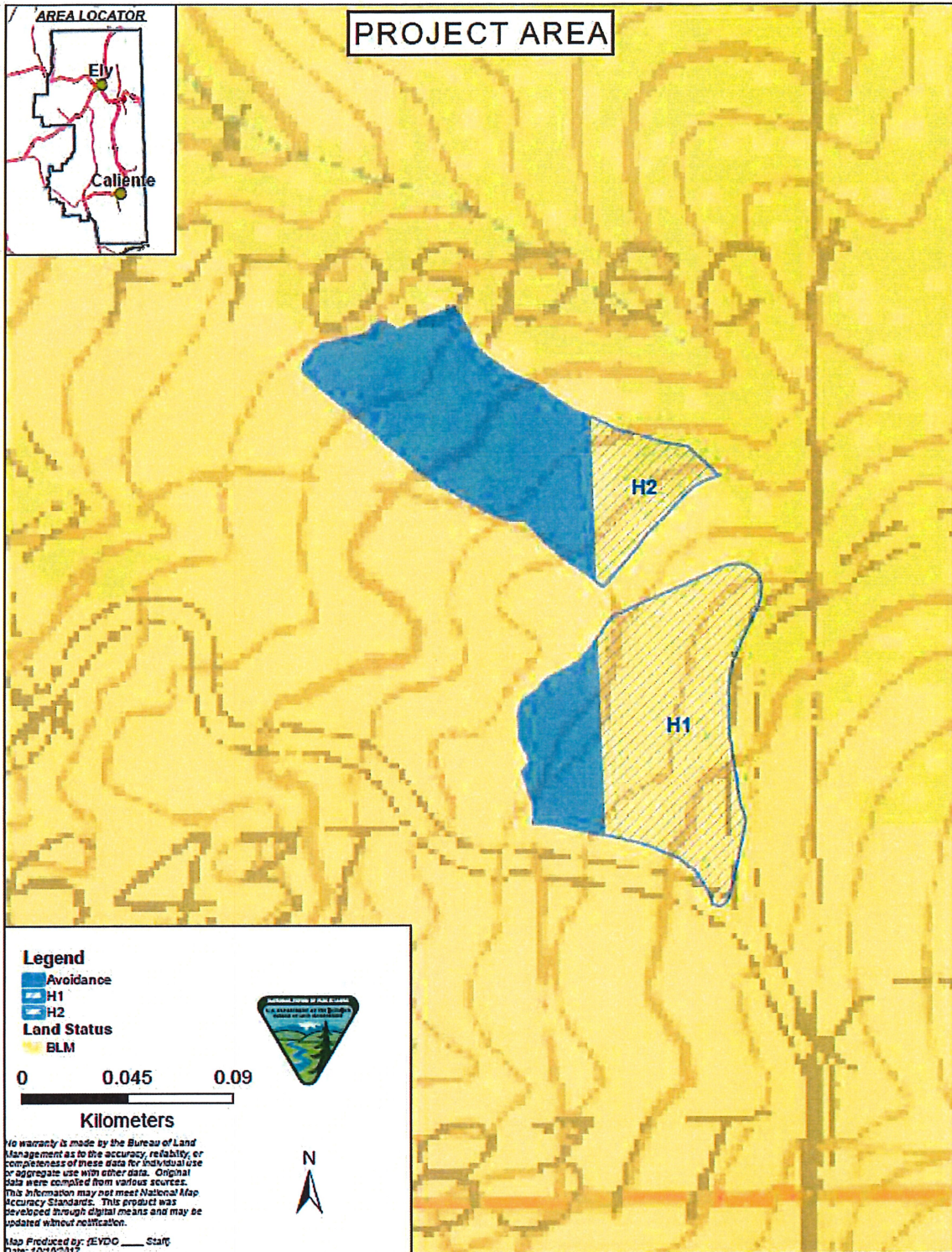


Figure 2: Project area detail



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