

**PROGRAMMATIC AGREEMENT BETWEEN  
THE MOUNTAIN CITY-RUBY MOUNTAIN-JARBIDGE RANGER DISTRICT OF  
THE HUMBOLDT-TOIYABE NATIONAL FOREST  
AND  
THE NEVADA STATE HISTORIC PRESERVATION OFFICER  
REGARDING  
THE SOUTH SUGARLOAF FIRE REHABILITATION PROJECT  
ELKO COUNTY, NEVADA**

WHEREAS, the Mountain City-Ruby Mountain-Jarbidge Ranger District of the Humboldt-Toiyabe National Forest (HTNF) plans to implement landscape restoration projects associated with the South Sugarloaf Fire Rehabilitation Project (Undertaking) pursuant to the Organic Administration Act (16 U.S.C. 551); and

WHEREAS, the HTNF has determined that the implementation of these projects are 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 § 800; and

WHEREAS, the HTNF has determined that the effects of the Undertaking on historic properties from the multiple restoration activities (Attachment A) cannot be fully evaluated prior to the approval of the Undertaking and has developed this Programmatic Agreement (PA) establishing a process to assess and resolve adverse effects in accordance with 36 CFR § 800.14(b)(1)(ii); and

WHEREAS, the HTNF has defined the Undertaking's Area of Potential Effects (APE) as an area of approximately 145,000 acres of Forest Service-administered lands defined by the South Sugarloaf wildland fire boundary and illustrated in Attachment B; and

WHEREAS, the HTNF has consulted with the Nevada State Historic Preservation Officer (SHPO) pursuant to NHPA and 36 CFR Part 800 concerning the development of this PA; and

WHEREAS, the HTNF has consulted with the Duck Valley Shoshone-Paiute Tribe and the Inter-Tribal Council of Nevada (Tribes) regarding the Undertaking pursuant to 36 CFR Part 800; and

WHEREAS, in accordance with 36 CFR § 800.14(b), the HTNF has notified the Advisory Council on Historic Preservation (ACHP) of their intent to implement a PA with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii) ; and

WHEREAS, the HTNF, taking into consideration projected funding and workforce capacity, plans to implement the Undertaking over the course of at least three years; and

WHEREAS, the HTNF has notified the public of the Undertaking and has provided members of the public with an opportunity to express their views on the development of the PA and the Section 106 process pursuant to 36 CFR § 800.6(a)(4) and 36 CFR § 800.14(b)(2)(ii) d; and

NOW THEREFORE, the HTNF and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties.

### STIPULATIONS

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

- I. Standards and Guidelines
  - A. All cultural resources work performed under this PA will be directed by personnel who meet, at a minimum, the qualifications set forth in the Secretary of Interior's (SOI) *Professional Qualifications Standards* (48 FR 44738-39) for archaeologists.
  - B. The HTNF shall consult with Tribes to assist in identifying historic properties that may be of religious or cultural significance that should be incorporated into implementation monitoring or avoidance procedures recommended for project activities.
  - C. The HTNF shall ensure that all work undertaken to satisfy the terms of this PA meets the Secretary of the Interior's Standards for Archeology and Historic Preservation (48 FR 44716) (*Federal Register*, September 29, 1983), hereinafter referred to as Secretary's Standards, and is consistent with the Advisory Council on Historic Preservation's (ACHP) guidance on archaeology and all applicable NPS guidance for evaluating National Register properties. The HTNF will follow its defined conventions or standards for inventory corridors and survey intensity to identify historic properties that may be affected by this Undertaking.
  
- II. Exempt Projects
  - A. The HTNF, in consultation with the SHPO, has determined that some of the proposed projects for the Undertaking have little to no potential to affect historic properties. The HTNF will follow the process described in Attachment A.2 for these projects.
  - B. The HTNF, in consultation with the SHPO, has determined that some of the proposed projects for the Undertaking are located in areas with little or no potential to contain historic properties and thus do not require pedestrian identification efforts prior to the initiation of the project. The HTNF will follow the process described in Attachment A.3 for these projects.
  
- III. Area of Potential Effects for Projects

The HTNF has defined the following specific APEs for several types of projects under this PA to include the area within which there are potential direct physical, indirect physical, visual, atmospheric, audible, and cumulative effects to historic properties from activities associated with the Undertaking:

  - A. Seeding: The minimum APE for any ground-disturbing seeding activities is the boundary of the identified seeding areas.
  - B. Fence replacements: The APE for the replacement of existing fences will be a minimum of five (5) meters on either side of the fence centerline.

- C. Road storm proofing: The APE will be, at a minimum, the footprint of the existing road disturbance.
- D. Culvert replacements: The minimum APE for culvert replacement will be the footprint of the culvert plus fifteen (15) meters outward in all directions from the culvert edge.
- E. Livestock water developments: The minimum APE for livestock water developments footprint plus five (5) meters surrounding the perimeter of the existing development in all directions.
- F. Tree planting: The minimum APE for any tree planting activities is the boundary of the identified planting areas. Where the indirect APE includes historic properties for which setting, feeling, and/or association contribute to eligibility, additional analysis may be required and the HTNF will modify the APE accordingly.
- G. In-channel stream restoration: The minimum APE for restoration activities will be fifteen (15) meters outward in all directions from the footprint of the proposed structure placement or staging area.

The HTNF may modify the APE for the Undertaking or any type of project as needed or as requested by the SHPO without amending the PA proper. If this occurs, the SHPO will receive formal notification of the modified APE. Within thirty (30) calendar days of their receipt of the proposed modification, the SHPO may request the PA to be amended in accordance with the process outlined in Stipulation XI.

#### IV. Review Process for South Sugarloaf Fire Rehabilitation Non-Exempt Projects

##### A. Identification:

1. The HTNF shall ensure that a qualified archaeologist will conduct a cultural resources inventory for the project within the appropriate APE identified in Stipulation III above. The HTNF will follow its defined conventions or standards for survey intensity to identify historic properties that may be affected by this Undertaking. The implementation of studies may be phased by project for the Undertaking. The HTNF will undertake the cultural resources inventory in the APE of the project and will be completed prior to any surface disturbing activities and will follow the stipulations as outlined in this PA.
2. The HTNF shall make a good faith effort to consult with the Tribes to identify properties of traditional religious or cultural significance (Traditional Cultural Properties) to make determinations of their eligibility, and to ensure appropriate treatment when it is not possible to avoid adverse effects to historic properties.

B. Determinations of Eligibility:

1. The HTNF may evaluate all cultural resources located within a project's APE for eligibility to the National Register of Historic Places (NRHP) prior to the initiation of activities that may affect historic properties.
  - a) The HTNF shall submit its determination of NRHP eligibility for any newly identified or previously unevaluated cultural resources to the SHPO for consultation.
  - b) The SHPO will have thirty (30) calendar days from receipt to either concur with the HTNF's eligibility determinations (in whole or in part) or provide the HTNF with its comments. The HTNF will address comments from the SHPO, as appropriate. If the SHPO fails to respond within thirty (30) calendar days of receipt, HTNF will consider the determination final.
  - c) Once the SHPO concurs or fails to respond to HTNF's transmittal concerning HTNF's eligibility determinations, the determinations will be considered final.
2. The HTNF, in consultation with SHPO, shall consult with the Tribes to evaluate the eligibility of properties of traditional religious or cultural significance (Traditional Cultural Properties).
3. The HTNF shall base eligibility determinations on inventory information and consultation with the Tribes. As needed for further clarification of eligibility, the HTNF in consultation with the SHPO shall develop testing plans and consolidate all testing plans into one submission to the SHPO for review. A minimum amount of testing will be conducted to preserve as much of a cultural resource as possible, and will require obtaining an Archaeological Resources Protection Act (ARPA) permit from the HTNF and consultation with the Tribes.
4. If any consulting party disagrees regarding NRHP eligibility, the HTNF shall notify and consult with the SHPO. If the dispute cannot be resolved, the HTNF shall seek a formal determination of eligibility from the Keeper of the National Register. The Keeper's determination will be considered final.

C. Assessment of Effect

1. The HTNF may make a determination of No Historic Properties Affected if only previously evaluated historic properties or unevaluated cultural resources are identified within the project APE and the HTNF, through its SOI qualified archaeologist, redesigns or moves the individual project boundaries so as not to directly or indirectly affect these historic properties or unevaluated cultural resources. The HTNF will report these projects, and provide any cultural resources inventory reports completed and descriptions of project redesigns implemented, to the SHPO in the annual report per Stipulation VII.B.
2. To the extent practicable, the HTNF shall ensure that projects for this Undertaking avoid adverse effects to historic properties through project design, or redesign, relocation of facilities, or by other means.
3. The HTNF may make a determination of No Adverse Effect if adverse effects to known NRHP eligible or unevaluated cultural resources identified within

the APE are avoided through project redesign, flagging, or implementation monitoring by a qualified archaeologist.

- a) The HTNF shall submit its finding of No Adverse Effect to the SHPO for consultation.
  - b) The SHPO shall have thirty (30) calendar days from receipt to either concur with the HTNF's finding of No Adverse Effect (in whole or in part) or provide the HTNF with its comments. The HTNF will address comments from the SHPO, as appropriate. If the SHPO fails to respond within thirty (30) calendar days of receipt, the HTNF may consider the finding final.
  - c) Once the SHPO concurs or fails to respond to HTNF's submission concerning the effect of a project, the finding of effect may be considered final.
4. When the Forest Service Heritage Specialist (Forest Service HS) determines that adverse effects to an historic property(s) or unevaluated cultural resource cannot be feasibly or prudently avoided by modifying the APE, project redesign, flagging, or monitoring by an SOI qualified archaeologist, the project will fall outside the stipulations of this PA and the HTNF shall then initiate consultation pursuant to 36 CFR 800.5-6.
  5. The HTNF may, at its discretion, concurrently submit any HTNF determination of NRHP eligibility (Stipulation IV.B.1) and project finding of effect (Stipulation IV.C.3) for SHPO review under this PA. The review process outlined in Stipulation IV.C.3 will apply to these concurrent submissions.

V. Initiating Individual Projects

The HTNF may initiate projects for the Undertaking under any of the following conditions:

- A. The HTNF has determined that there are no cultural resources within the APE for the project; or
- B. The HTNF has determined that there are no previously identified historic properties in the APE for the project; or
- C. The HTNF has determined that there are previously identified historic properties or unevaluated cultural resources previously identified for prior surveys in the APE for the project, but the project will not pose an effect to those resources; or
- D. The HTNF, in consultation with the SHPO, has determined that there are cultural resources in the APE for the project but they have been determined ineligible for the NRHP; or
- E. The HTNF, in consultation with the SHPO, has determined that there are no historic properties adversely affected by the project.

VI. Monitoring and Observation

- A. The Forest Service HS will determine if on-site monitoring by a qualified archaeologist is necessary to ensure that inadvertent adverse effects do not occur during project implementation. Specific project categories where monitoring will be employed include, but are not limited to:

1. Fence Replacement. The Forest Service HS will recommend monitoring locations where the existing fence APE intersects known eligible or potentially eligible properties to ensure that inadvertent adverse effects do not occur during project implementation. The HTNF will submit summaries and the results of monitoring as part of the annual report to SHPO.
  2. Water Development Replacement. For all situations in which water developments occur where there is an eligible or potentially eligible historic property within the APE, a qualified archaeologist will monitor project implementation to ensure that inadvertent adverse effects do not occur. The HTNF will submit summaries and the results of monitoring as part of the annual report to SHPO.
- B. The SHPO may observe actions carried out pursuant to this PA. To the extent practicable, all such activities will be done so as to minimize the number of observers involved in the Undertaking.

VII. Reporting Procedures

- A. The HTNF will submit reports consistent with the procedures in Stipulation IV.B.1 and Stipulation IV.C.3 above, as appropriate for the project.
- B. Annual Report:  
The Annual Report will include at minimum, but not be limited to:
  1. A table of all exempt projects initiated or completed for the Undertaking during the year. The table will include the name of the project, a brief description of the projects activities, and a summary of the literature search conducted; and
  2. A summary of Tribal consultation efforts for all projects; and
  3. A table of all projects with findings of No Historic Properties Affected where SHPO review prior to the initiation of the project was not required. The table will be accompanied by a cultural resources inventory report for each project that is consistent with the standards identified in Stipulation I.C above, if such an inventory was conducted. These cultural resources inventory reports will include, but not be limited to:
    - a) Project location maps; and
    - b) GIS data (GIS polygon shapefile projected in UTM NAD 83) for the APE and the inventory areas (if different from the APE), and site locations; and
    - c) Any site records on Nevada IMACS forms for cultural resources not evaluated for their NRHP eligibility by the HTNF under Stipulation IV.B1 above.
  4. A summary of all monitoring undertaken in accord with Stipulation VI.A above. The summary will include a description of the nature of the monitoring required, the duration of the monitoring, and the results of the monitoring for each project.
- C. The HTNF shall submit annual reports with an accompanying letter summary to the SHPO on or before March 31 each calendar year.

VIII. Unanticipated Discoveries

- A. If any cultural resources of concern to the Tribes or historic properties are discovered or unanticipated effects on historic properties are encountered during the course of implementing any project covered under the terms of this PA, then all ground disturbing activities in the immediate vicinity of the discovery will cease until the Forest Service HS is notified and the SHPO and potentially affected Indian tribes are consulted, pursuant to the process described in 36 CFR § 800.13(b).
- B. The treatment of human remains and associated burial objects shall be consistent with the procedures outlined in Attachment C and in Section 10.4 of the regulations (43 CFR 10) implementing the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002d).

IX. Duration

This PA will expire if its terms are not carried out within five (5) years from the date of its execution. At least six (6) months prior to such time, the HTNF may consult with the SHPO to consider the terms of the PA and amend it in accordance with Stipulation XI below.

X. Dispute Resolution

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

- A. Forward all documentation relevant to the dispute, including the HTNF's proposed resolution, to the ACHP. The ACHP shall provide the HTNF 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, the HTNF 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. The HTNF 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, the HTNF may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the HTNF shall prepare a written response that takes into account any timely comments regarding the dispute from the SHPO, and provide them and the ACHP with a copy of such written response.
- C. The HTNF's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

XI. Amendments

This PA 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.

XII. Termination

If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment

per Stipulation XI, above. If within thirty (30) days (or another time period agreed to by both signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatory.

Upon termination, and prior to work continuing on the undertaking, the HTNF must either (a) execute an PA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The HTNF shall notify the SHPO as to the course of action it will pursue.

### XIII. Anti-deficiency Act

The HTNF's obligations under this PA are subject to the availability of appropriated funds, and the stipulations of this PA are subject to the provisions of the Anti-Deficiency Act. The HTNF shall make reasonable and good faith efforts to secure the necessary funds to implement this PA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs the HTNF's ability to implement the stipulations of this PA, the HTNF shall consult in accordance with the amendment and termination procedures found at Stipulations XI and XII of this PA.


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

This PA may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same agreement.

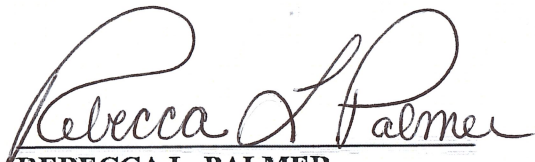
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**SIGNATORIES:**

  
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**BILL DUNKELBERGER**  
Humboldt-Toiyabe National Forest  
Forest Supervisor

Date 11/29/18

  
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**REBECCA L. PALMER**  
Nevada State Historic Preservation Officer

Date 11/29/18

## ATTACHMENT A: PROJECT DESCRIPTIONS AND EXEMPT PROJECTS

## SECTION A.1: PROJECT DESCRIPTIONS

Projects associated with this landscape restoration proposal include aerial seeding, fence replacement, culvert repair or replacement, storm proofing roads and motorized trails, repairing and replacing existing livestock water developments, tree planting, and in-channel stream restoration.

1. *Aerial Seeding*. Seeding initiatives include two projects. One project called “Fire Seeding” comprises five (5) separate units, involving approximately 10,300 acres. These units are located across the impacted fire area and are designed to improve habitat quality for sage-grouse and other wildlife, as well as to re-establish range forage. The five units will be seeded with an approved mix that includes native and desirable non-native plant species and will be broadcast by aircraft. This project is designated to be completed in year one of the project. The second seeding project, “Firebreak Seeding” consists of approximately 510 acres, including a 40-foot wide seeding along 52 miles of well-used road within the fire area to reduce and mitigate future wildfire risk. These greenstrips will be created through the seeding of fire-resistant plant species. Seed will be broadcast by aircraft. ATV harrows may be used within disturbed areas (previously affected by dozer or general road maintenance) to increase aerial seeding success. This project is also designated for completion within year one.
2. *Fences*. Fencing projects propose to replace up to 161 miles of existing damaged fence line in order to manage livestock cattle distribution to protect water quality and reduce effects to wildlife habitat. Burned fences will be replaced in the same footprint as existing fence and will be replaced in-kind (5-strand wildlife friendly barbed wire with smooth bottom wire). There will be no change in location of existing fence line and existing fence line access routes will be used or replacement work. There may be some motorized cross-country travel, but no new roads would be created. Damaged and destroyed wood fence posts will be replaced with metal t-posts. Existing metal t-posts will be used if not damaged. Fence replacements may occur in years one through three.
3. *Road Maintenance*. Road maintenance projects will include provisions for culvert repair and replacement, as well as storm proofing of roads and motorized trails. Up to 85 culverts are identified for repair or replacement. Repair includes repairing drainage inlets, installing inlets where needed to facilitate flow and debris orientation through the pipes, and installing energy-dispersing aprons on the outlets, where needed. Culverts will be assessed and any undersized (less than 100 year return interval) or failing culverts will be replaced in order to improve hydrologic stability. Culverts may be replaced with low water crossings. Repair and replacement work would occur within the existing disturbance footprint. This work would occur within years one through three.

Road storm proofing would be completed to protect water quality by reducing gully erosion in the road, reducing the delivery of road-generated stream channels and wet

meadows, and preventing ditch failure. This work is recommended for approximately 117 miles of road within the fire area. Storm proofing includes cleaning ditches and culvert inlets, repairing crowns, and installing drivable drainage structures (e.g. rolling dips). All work would occur within the existing road disturbance footprint and would be implemented over the next three years.

4. *Water Developments.* Many livestock water improvements were damaged in the fire. Repairs and replacements would help protect the water supply for livestock grazing and also protect riparian and wet meadow wildlife habitats. Up to 120 water developments including troughs and spring headboxes have been identified for replacement or repair. Minor repairs to pipelines within existing footprints may occur where needed to repair fire-caused damage and restore water flow to the trough. This work would be implemented over the next three years.
5. *Tree Planting.* Approximately 10 acres are recommended for tree planting as a component of environmental education and public outreach goals. Planting would be done in two areas: fire-damaged timber stands on Maggie Summit and within the Wildhorse Crossing Campground. This effort would involve collecting local native seeds (e.g. chokecherry, white fir, etc.) appropriate to the planting sites, growing nursery stock, and planting seedlings. All seed collection and planting would be done by hand. This project element could be completed over the next three years but is contingent upon the establishment of nursery stock prior to implementation.
6. *Stream Restoration.* In-channel stream restoration is recommended to stabilize stream channels to protect water quality and improve habitat qualifying for native aquatic species, including the federally-listed Lahontan cutthroat trout. Approximately 3.5 miles of stream channel would be affected by this project type, which would be implemented in the form of beaver-dam analog (BDA) or other post-assisted in-channel structures. The BDA work would involve installing peeler posts in the stream channel and weaving with willow to make a baffle to capture sediment. Post-assisted in-channel structures would involve using peeler posts to anchor deadwood into the stream channel. All work would be done by hand rather than with heavy equipment to reduce project impacts. Structure placement may occur over the next three years.

## SECTION A.2: EXEMPT PROJECTS WITH NO POTENTIAL TO CAUSE EFFECTS

The Forest Service Heritage Specialist (Forest Service HS) will review proposed projects to determine if they qualify as an undertaking in accord with 36 CFR 800.3(a)(1). If the Forest Service HS determines that the proposed project has no potential to pose an effect to cultural resources, assuming that historic properties could be present, the Forest Service HS will document this determination for the administrative record and include the project information in the annual report per Stipulation VII.B. An example of such a project includes:

Aerial seeding with no ground disturbance such as site preparation or harrowing.

### SECTION A.3: EXEMPT PROJECTS WITH LIMITED POTENTIAL TO AFFECT HISTORIC PROPERTIES

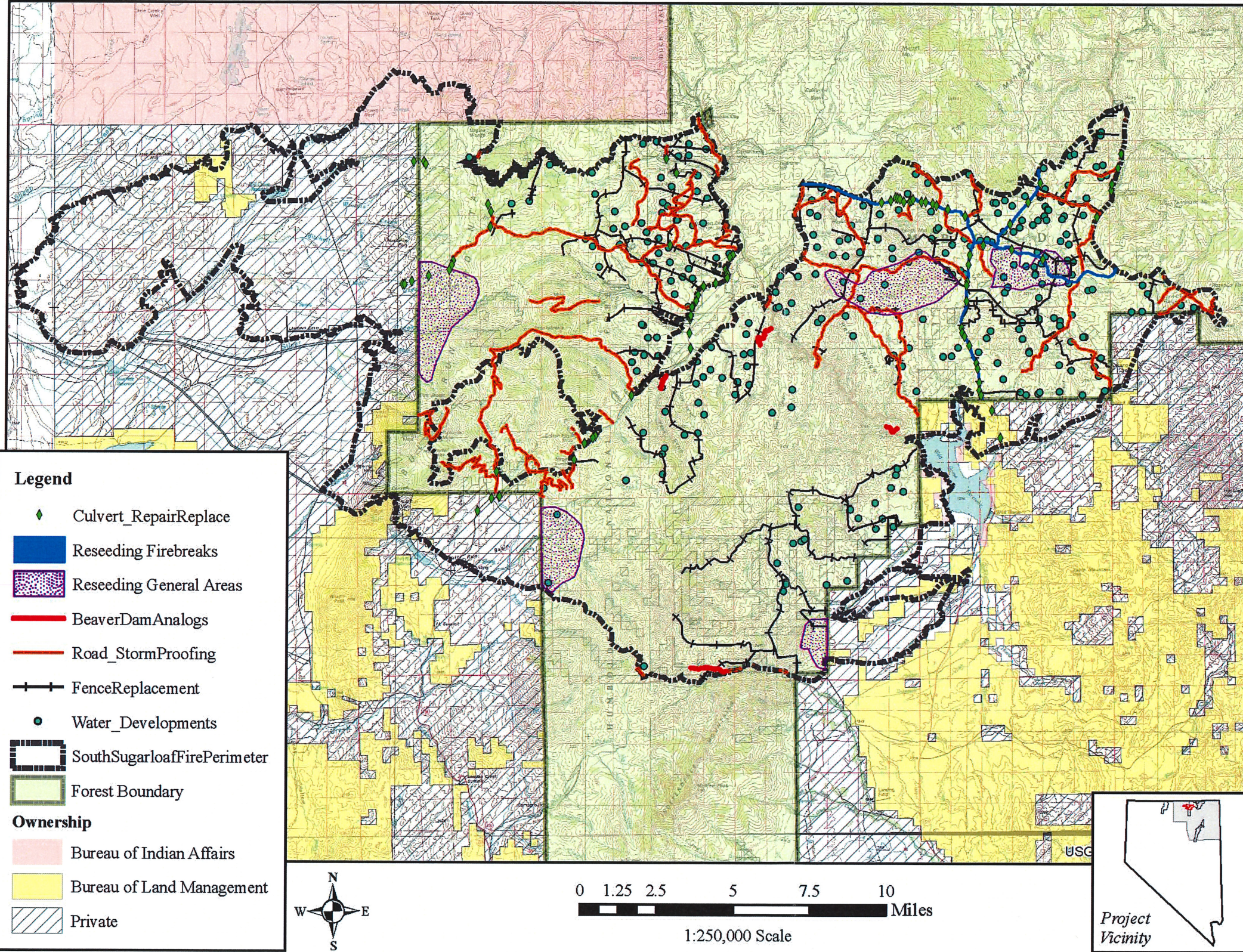
The HTNF, in consultation with the SHPO, has determined that the following list of project types have no potential to affect historic properties either due to the nature of the project or the previous disturbance within the APE for the project. HTNF will ensure that the following internal review process is implemented in conjunction with recommendations in Stipulation VI:

1. The Forest Service HS will review existing cultural resources information to determine the sensitivity of the project APE. This literature search may include, but is not limited to, data from previous cultural resources surveys, historical information from archival sources such as GLO maps, and site sensitivity models.
2. The Forest Service HS will also consult with Tribes, as appropriate, to identify historic properties that may be of religious or cultural significance in the project APE.
3. The Forest Service HS will summarize the findings of the literature search and Tribal consultation in a formal decision document that the Forest Service HS will incorporate into the administrative record for the project. The HTNF will include this documentation in the annual report to the SHPO (described in Stipulation VII.B).
4. Project Types, include but are not limited to the following:
  1. Maintaining or replacing existing facilities or improvements less than fifty (50) years in age where no new surface disturbance is proposed outside the boundaries of the previously disturbed areas.
  2. Maintaining or replacing existing facilities or improvements of unknown age where the feature lacks integrity due to fire effects.
  3. Road maintenance involving road bed and crown repair, culvert cleaning, or installation of rolling dips on regularly maintained roads where no new surface disturbance is proposed outside of the previously disturbed areas.
  4. Fence replacements where the posts will be replaced in the same location as the previous posts where there will be minimal new ground disturbance.
  5. ATV harrows within disturbed areas (previously affected by dozer or general road maintenance) to increase aerial seeding success. This activity will include seeding across the impacted fire area to improve habitat quality for sage-grouse and other wildlife, as well as to re-establish range forage.
  6. Water development feature replacements within the existing disturbed footprint where the feature is not an historic property and all staging and access are located on disturbed ground.

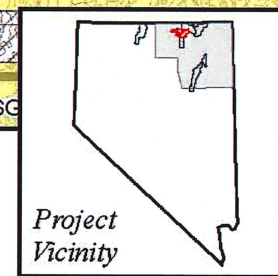
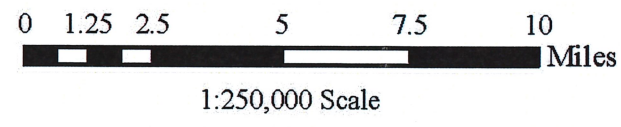
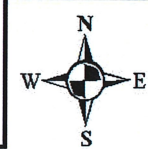
## ATTACHMENT B: AREA OF POTENTIAL EFFECT

The Area of Potential Effect (APE) for cultural resources is defined as the South Sugarloaf fire boundary, which includes approximately 145,000 acres of National Forest System (NFS) lands. The overall APE is shown in a map in Attachment B.

Attachment B - South Sugarloaf Fire Rehabilitation Project APE



- Legend**
- ◆ Culvert\_RepairReplace
  - Reseeding Firebreaks
  - Reseeding General Areas
  - BeaverDamAnalog
  - Road\_StormProofing
  - +— FenceReplacement
  - Water\_Developments
  - SouthSugarloafFirePerimeter
  - Forest Boundary
- Ownership**
- Bureau of Indian Affairs
  - Bureau of Land Management
  - Private



## ATTACHMENT C: UNANTICIPATED DISCOVERY OF HUMAN REMAINS

If human remains or remains thought to be human are identified during project activities and construction, the HTNF will ensure that employees or contractors comply with the following protocol in addition to the Inadvertent Discovery Plan described above.

***The Project Supervisor or Contractor will:***

- Ensure that employees or contractors do not take photographs of the human remains out of respect for Tribal concerns and of law enforcement forensic concerns.
- Be responsible for the security and protection of human remains during NAGPRA consultations, until disposition of the remains is determined.

***The Forest Heritage Program Manager (HPM) will:***

- Notify appropriate law enforcement authorities and/or the County coroner about the human remains.
- Work with law enforcement or the County coroner to determine the age and affiliation of the human remains.
- If law enforcement officials determine the human remains are not of recent age or criminal concern, the Forest HPM will consult with affiliated Indian Tribes, SHPO, and other consulting parties to fulfill the requirements of NAGPRA (43 CFR 10).

***The HTNF will:***

- Provide a specialist with expertise in human osteology and human remains to make an in-situ assessment of the remains, under the direction of the Forest HPM, to document the remains and to determine the cultural affiliation that would guide the development of a written action plan.
- Assist the Forest HPM in developing an Action Plan for the evaluation and disposition of the human remains that meets the requirements of NAGPRA (43 CFR 10) and 36 CFR 800.

***Resumption of Work:***

- Work in the immediate vicinity of the human remains may not resume until after the disposition of the human remains is determined and a written binding agreement is executed between the necessary parties in accordance with 43 CFR 10.4(e).
- Resumption of work will be a decision by the appropriate Line Officer. In most cases, this will be the District Ranger, but in the case where human remains are involved it is recommended that the Forest Supervisor make this decision upon the advice of the Forest HPM and the appropriate law enforcement officers.