

PROGRAMMATIC AGREEMENT

AMONG

THE BLACK HILLS NATIONAL FOREST,

THE NEBRASKA NATIONAL FORESTS AND GRASSLANDS,

SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICER, AND

ADVISORY COUNCIL ON HISTORIC PRESERVATION

REGARDING

THE PROCESS FOR COMPLIANCE WITH SECTION 106

OF THE NATIONAL HISTORIC PRESERVATION ACT

FOR UNDERTAKINGS ADMINISTERED BY THE

BLACK HILLS NATIONAL FOREST AND THE NEBRASKA NATIONAL FORESTS AND

GRASSLANDS IN THE

STATE OF SOUTH DAKOTA

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PREAMBLE

WHEREAS, the Black Hills National Forest and the Nebraska National Forests and Grasslands (Forests), as federal public land stewards, are mandated to comply with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (54 U.S.C. 300101 et seq.), and the Section 106 implementing regulations, entitled "Protection of Historic Properties" (36 CFR §800); and

WHEREAS, the Forests have determined that routine land management activities (undertakings) may affect properties listed in or eligible for listing in the National Register of Historic Places (NRHP), hereafter referred to as historic properties (36 CFR §800.16(l)(1)); and

WHEREAS, the Forests have a multiple-use mission to manage public lands for a variety of resources, values, products, and uses and many of the programs they conduct involve repetitive activities and types of historic properties that are conducive to standardized approaches; and

WHEREAS, the Forests propose to develop a programmatic agreement (PA), in accordance with 36 CFR §800.14(b)(1), for expeditiously implementing projects subject to Section 106 of the NHPA that will satisfactorily take into account the effects of U.S. Forest Service undertakings—or undertakings where multiple federal agencies are involved and the Forest has been designated lead agency—on historic properties, provide for tribal consultation and public participation, minimize redundant documentation, and reduce the need for case-by-case review of routine activities when historic properties will not be affected or when standard protocols and treatments can be applied; and

WHEREAS, the majority of the undertakings reviewed under this agreement will be located on National Forest System (NFS) lands managed by the Black Hills National Forest or the Nebraska National Forests and Grasslands, on occasion project boundaries may extend beyond NFS lands to private, state, or local government lands; and

WHEREAS, by means of incorporation into this PA, the *Programmatic Agreement among the Black Hills National Forest and the South Dakota State Historic Preservation Officer Regarding Vegetation Management Projects Implemented in the State of South Dakota* (executed January 2018 and scheduled to expire January 2, 2025) will become redundant and it will be superseded once this agreement is formally executed; and

WHEREAS, by means of incorporation into this PA, the *Programmatic Agreement between the U.S.D.A Forest Service, Nebraska National Forests and Grasslands and South Dakota State Historic Preservation Officer Regarding Compliance with the National Historic Preservation Act on the Grasslands of South Dakota Managed by the Nebraska National Forests and Grasslands* (executed August 2014 and scheduled to expire December 31, 2019) will become redundant and it will be superseded once this agreement is formally executed; and

WHEREAS, the *Programmatic Agreement among the Black Hills National Forest, the South Dakota State Historic Preservation Officer, and the Wyoming State Historic Preservation Officer Regarding Implementation of the Mountain Pine Beetle Response Project* (executed November 2012) is scheduled to expire November 26, 2019. The Forest will not initiate a renewal with the South Dakota SHPO because the agreement will become redundant and it will be superseded by this agreement when formally executed; and

WHEREAS, the Forests have consulted with the South Dakota State Historic Preservation Officer (SHPO) pursuant to 36 CFR §800.14(b) of the regulations, and the SHPO agrees that a programmatic agreement is appropriate because the Forests conduct routine management activities on the lands they manage (36 CFR §800.14(b)(1)(iv)), and/or the effects of those activities on historic properties are similar, repetitive, or regional in scope (36 CFR §800.14(b)(1)(i)); and

WHEREAS, the Forests have determined that Indian tribes may attach religious and cultural significance to historic properties that may be affected by undertakings covered by this PA; and

WHEREAS, the Forests have invited the Cheyenne/Arapaho Tribes of Oklahoma, Cheyenne River Sioux Tribe, Crow Creek Sioux Tribe, Crow Nation, Eastern Shoshone Tribe, Flandreau Santee Sioux Tribe, Fort Peck Assiniboine and Sioux Tribes, Kiowa Tribe of Oklahoma, Lower Brule Sioux Tribe, Mandan, Hidatsa & Arikara Nation, Northern Arapaho Tribe, Northern Cheyenne Tribe, Oglala Sioux Tribe, Rosebud Sioux Tribe, Santee Sioux Nation, Sicangu Lakota Treaty Council Office, Sisseton-Wahpeton Sioux Tribe, Spirit Lake Sioux Tribe, Standing Rock Sioux Tribe, Turtle Mountain Band of Chippewa, and Yankton Sioux Tribe to participate in consultation on the development of this PA and has invited them to be Concurring Parties in accordance with 36 CFR §800.14(f); and

WHEREAS, the Cheyenne and Arapaho Tribes of Oklahoma, Flandreau Santee Sioux, and the Spirit Lake Nation responded and elected to participate as Concurring Parties; and

WHEREAS, in developing this PA, the Forests have provided the public with an opportunity to comment on the general scope and nature of the program via legal notices published in the Rapid City Journal newspaper and on the Black Hills National Forest's public website; and

WHEREAS, in developing this PA, the Forests have provided multiple parties with an opportunity to participate in the drafting of the document via invitations extended at a presentation to the National Forest Advisory Board on May 15, 2019. The Black Hills National Forest Advisory Board was established, consistent with the Federal Advisory Committee Act of 1972, to provide advice and recommendations to the Black Hills National Forest administration on a broad range of forest issues such as forest health, travel management, forest monitoring and evaluation, forest plan revisions or amendments, recreation fees, and site-specific projects having forest-wide implications; and

WHEREAS, the Association of National Grasslands has elected to participate as a Concurring Party; and

WHEREAS, in accordance with regulations at 36 CFR §800.14(b), the Forests have notified and invited the Advisory Council on Historic Preservation (ACHP) to participate in the development of this PA, and the ACHP has elected to participate as per their letter to the Black Hills National Forest dated August 9, 2017; and

NOW, THEREFORE, the Forests, the SHPO, and the ACHP agree that the Black Hills National Forest and Nebraska National Forests and Grasslands shall implement undertakings in accordance with the following stipulations in order to take into account their effect on historic properties.

STIPULATIONS

The Forests shall ensure the following measures are carried out:

I. OBJECTIVES

This PA is intended to modify the Section 106 compliance process when appropriate circumstances permit a decrease in review mandates. When extraordinary circumstances exist, complex issues warrant, or when the standard measures contained in the appropriate appendix to the PA cannot or will not be implemented, the Forests shall revert to standard procedures as prescribed by 36 CFR §800. When the Forests consult on projects not excluded under activities listed in Appendix B, the Forests will inform consulting parties whether they have chosen to follow the terms of this PA or if consultation is being conducted under 36 CFR §800.

All Black Hills National Forest and Nebraska National Forests and Grasslands undertakings in South Dakota shall be reviewed under the process outlined in this agreement, unless the Forests have determined to utilize the standard process under 36 CFR §800 Part B. The Section 106 review and consultation process for undertakings processed under this PA begins at Stipulation IV.A.

Detailed procedures for specific classes of undertakings (e.g., rangeland management, vegetation management, etc.) are described in the appendices beginning in Appendix F. The purposes of the appendices specific to certain classes of undertakings are to programmatically agree to procedures that take into account the unique nature of a class of undertakings based on extensive experience of the agency with similar projects.

II. STANDARDS

A. Definitions

The definitions provided at 36 CFR §800.16 and in Appendix A of this agreement are applicable throughout this PA.

B. Personnel

1. Qualifications

- a. Agency personnel responsible for managing cultural resources shall meet qualification standards established by the Office of Personnel Management pursuant to NHPA, Section 112(a)(1)(B). Heritage Professionals (see definition in Appendix A) serve in a staff or advisory capacity and provide professional recommendations and services to assist agency officials in meeting their Heritage Program responsibilities. Only Heritage Professionals may review and recommend approval of work done by archaeological technicians, paraprofessionals, contractors, and volunteers.
- b. The Forests will also strive to ensure that contractors shall meet the Secretary of Interior Standards for Archaeology and Historic Preservation. Reports by any cultural resource consultant or contractor must be reviewed and accepted by a Heritage Professional prior to submittal to consulting parties under line officer signature
- c. Archaeological Technicians (see definition in Appendix A) may participate in all facets of Heritage Program work under the direct supervision of a Heritage Professional. Agency reports prepared by Archaeological Technicians and paraprofessionals must be reviewed, accepted, and signed by a Heritage Professional prior to submittal to the consulting parties under line officer signature.

2. Training

- a. The Forest Heritage Program Leader, or Regional Heritage Program Leader, will conduct staff training as follows:
 - i. Heritage Professionals, Archaeological Technicians, paraprofessionals, and Line Officers will receive training on the terms of this agreement within 90 days of its execution.
 - ii. New Heritage Professionals, Archaeological Technicians, paraprofessionals, and Line Officers will receive training on the terms of this agreement within

30 days of being hired. New Heritage Professionals at a GS-9 grade or higher who have not received training on this agreement must follow the procedures required of a GS-7 Archaeological Technician until they receive training on this agreement.

- iii. In addition to the temporal requirements cited in the previous two paragraphs, the Forest Heritage Program Leader, or Regional Heritage Program Leader, shall schedule and complete additional training sessions as circumstances warrant.
- b. The Forest Heritage Program Leader, or Regional Heritage Program Leader, may also at their discretion invite professionals external to the agency (e.g., SHPO or ACHP staff) to provide training on the terms of this agreement.
- c. All training sessions completed under this stipulation shall be documented and reported in the Annual Report (Stipulation VIII).

C. Documentation

- 1. Inventory reports and site records shall comply with 36 CFR §800.11, *Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines*, and conform to every reasonable extent with state guidelines established in the document entitled "*South Dakota State Historic Preservation Office Guidelines for Compliance with the National Historic Preservation Act and South Dakota Codified Law 1-19A-11 .1*"
- 2. Site documentation standards for prospecting pits can be found in Appendix C.

D. Curation

Archaeological materials collected and records produced under this PA shall be curated in accordance with *Curation of Federally-Owned and Administered Archeological Collections*, 36 CFR §79, and the provisions of NAGPRA, 43 CFR §10, as applicable. To the extent reasonably possible, the Forests will work with the Archaeological Research Center (ARC) in Rapid City to curate, support, and maintain archaeological collections (artifacts, associated field notes, reports, site records, and other documents) obtained from Forest lands within the State of South Dakota. Following submission and acceptance of project reports to the SHPO, the Forests shall continue to track and manage all archaeological collections obtained from lands managed by the Forests.

E. Lead Agency

Where either of the Forests act as lead agency on behalf of another federal agency or agencies pursuant to 36 CFR §800.2(a)(2), the Forests may use the provisions of this PA

provided that the other federal agency or agencies agree in writing. Otherwise, the Forests and other agencies shall comply with 36 CFR §800 in lieu of compliance with this PA.

III. TRIBAL CONSULTATION AND PUBLIC INVOLVEMENT

A. Tribal Consultation

The timing, frequency, and response schedules for consultation with American Indian tribes shall, unless otherwise stated, be identical with that prescribed for the SHPO throughout this document. The Forests shall utilize the ACHP's 2008 "Consultation with Indian Tribes in the Section 106 Review Process: A Handbook", as a reference for compliance with Section 106 Tribal consultation mandates. The Forests shall also reference, where applicable, the ACHP's 2013 "Role of the Tribal Historic Preservation Officer in the Section 106 Process", as a reference for compliance with Section 106 Tribal consultation mandates.

B. Public Involvement

1. Unless an undertaking is excluded under Appendix B, the Forests shall seek and consider the views of the public in a manner that reflects the nature and complexity of each undertaking and its potential effects on historic properties and the likely interest of the public in the effects on historic properties.
2. Where possible, the Forests shall use their procedures for public involvement under the National Environmental Policy Act of 1969 (NEPA) to solicit information and concerns about potential historic properties from members of the public as permitted under 36 CFR §800.2(d)(3). The Forests will ensure that an appropriate level of public involvement is provided. The Forests will also ensure that any NEPA-related correspondence (i.e., scoping letters) also informs the public about their opportunity to consult under Section 106 of the NHPA.
3. In circumstances where the Forests do not utilize the NEPA scoping process to solicit public input on Forest undertakings under Section 106 (e.g., some NEPA Categorical Exclusions do not require public scoping), the Forests shall utilize social media or the appropriate section of its external website to invite public comment.

IV. UNDERTAKING REVIEW & CONSULTATION

A. Undertakings Excluded from Further Review

The Forests have determined that undertakings listed in Appendix B have minimal potential to affect historic properties and shall be excluded from further review and consultation under the terms of this PA. The Heritage Professional will assess each

undertaking to determine if it qualifies as excluded pursuant to the inventory in Appendix B. No inventory report and no consultation shall be required for excluded undertakings. Excluded undertakings shall be listed in the Annual Report (Stipulation VIII). A Forest may, however, at the discretion of the Heritage Professional, submit an otherwise excluded undertaking for review under this PA or 36 CFR §800.

B. Identify Area of Potential Effect

The criteria for determining the Area of Potential Effect (APE) for individual undertakings will be determined by the Heritage Professional. The Forests shall consider potential direct, indirect, and cumulative effects to historic properties and their associated setting, where setting is an important aspect of integrity. No consultation on the delineation of the APE is required.

C. Conduct Literature Review

Heritage Professionals shall, prior to initiating fieldwork or effects analysis, conduct literature searches for the APE as required by State guidelines. They shall also review the Forests' own cultural resources files. Searches will include reviews of aerial photographs, General Land Office records, resource management plans, and relevant historic documents, where available.

D. Process When Previous Survey is Adequate

1. If an undertaking's APE contains areas covered by previous inventories that have been reviewed by the SHPO and meet current guidelines for reporting standards, the Heritage Professional shall determine if re-inventory is appropriate based on the current undertaking's potential for effects, the quality of the previous field survey and documentation, or some type of changed conditions that may render the previous investigations inadequate.
2. If the Heritage Professional determines that no new inventory is necessary because previous inventory was adequate per Stipulation IV.D.1, and no historic properties and/or unevaluated cultural resources exist within the APE, the Heritage Professional documents a finding of **No Historic Properties Affected** (pursuant to 36 CFR §800.4(d)(1)) and lists the undertaking in the Annual Report. The finding will be internally communicated to project planners as appropriate.
3. If the Heritage Professional determines that no new inventory is necessary but previously recorded unevaluated cultural resources do exist in the APE, the Forests shall prepare an inventory report and follow the process at Stipulation IV.G.
4. If the Heritage Professional determines that no new inventory is necessary but previously recorded historic properties exist within the APE, and there are no

unevaluated properties, the Forests shall proceed according to the following protocol:

- a. If historic properties are avoided, or the project can be adequately modified to eliminate any effects to historic properties, the Heritage Professional may document a finding of **No Historic Properties Affected** (pursuant to 36 CFR §800.4(d)(1)), in which case no report is necessary and no concurrence from the SHPO is required prior to implementing the undertaking. The undertaking shall be documented internally and listed in the Annual Report (Stipulation VIII). The finding will be internally communicated to project planners as appropriate.
 - b. The Heritage Professional may document a finding of **No Adverse Effect** (pursuant to 36 CFR §800.5(b)) when the undertaking does not meet the criteria of Stipulation IV.D.4.a, but treatments can be prescribed to ensure consistency with the Secretary's Standards for the Treatment of Historic Properties (36 CFR §68) and applicable guidelines, to avoid adverse effects. No concurrence from the SHPO is required. Prior to implementing an undertaking, the Forests shall send an inventory report to the SHPO and consulting tribes documenting a finding of **No Adverse Effect**.
 - c. If the project cannot be modified to avoid adverse effects, an inventory report shall be written and will include a finding of **Adverse Effect** (pursuant to 36 CFR §800.5(d)(2)). The SHPO and other consulting parties will have 30 days from the date of receipt of complete information to comment. If SHPO concurs with an Adverse Effect determination, the Forests will initiate consultation under 36 CFR §800.6.
5. If previously completed inventories within the APE exist but have not been reviewed by the SHPO, and these inventories meet current inventory standards, the Forests shall incorporate the un-reviewed results of the previous inventory into a new inventory report. If the un-reviewed report(s) includes previously unreported properties, the Forests shall determine NRHP significance and follow consultation procedures in Stipulation IV.G as appropriate.

E. Conduct New Field Inventory as Appropriate

1. When it is determined that a new field inventory within the APE of an undertaking is warranted, all inventories will be carried out under the direction of the Heritage Professional. Field inventory strategies for certain classes of undertakings shall conform, where applicable, to the specific appendices attached to this PA.
2. If conditions in the project area present a serious threat to human safety, thereby hindering the ability of Heritage personnel to safely enter the APE to locate and mark historic properties, procedures in Appendix H will apply.

3. A phased approach to the identification and evaluation of historic properties is allowed per 36 CFR §800.4(b)(2) and 36 CFR §800.5(a)(3). See Stipulation IV.H if an undertaking requires a phased approach.

F. Consultation Process When No Cultural Resources Are Found during Field Inventory

When no cultural resources are identified within the APE as a result of new field inventory, no concurrence from the SHPO is required. Prior to implementing an undertaking, the Forests shall send an inventory report to the SHPO and consulting tribes documenting a finding of **No Historic Properties Affected**.

G. Consultation Process When Cultural Resources Are Found in the Area of Potential Effect

When new, or previously recorded but unevaluated, cultural resources are identified within the APE the Forests shall follow the Section 106 process in the 36 CFR §800 implementing regulations:

1. Evaluate cultural resources for the NRHP following 36 CFR §800.4(c). If the Forests determine that completing a NRHP evaluation involves an unusual set of circumstances for a particular cultural site, the Forests will first communicate with the SHPO to discuss the situation and the potential justification for delaying the NRHP evaluation. The two parties will agree in writing (email is acceptable) to the specific stipulations that would govern the deferment.
2. Conduct an assessment of adverse effects following 36 CFR §800.5.
3. Resolve adverse effects, if any are found, following 36 CFR §800.6.
4. If there is failure to resolve adverse effects, follow 36 CFR §800.7.
5. Conduct consultation on the above pursuant to the 36 CFR §800 implementing regulations.

H. Phased Process

1. The Section 106 implementing regulations found at 36 CFR §800.4(b)(2) allow for phasing identification and evaluation efforts when undertakings include corridors or large land areas, or where access to properties is restricted. Additionally, 36 CFR §800.5(a)(3) allows for a phased approach to assessing adverse effects. When phasing these steps of the Section 106 process, effects on historic properties cannot be fully determined prior to approval of an undertaking (36 CFR §800.14(b)(1)(ii)). This PA provides the Forests with the authority to proceed with a phased analysis when such situations are encountered.

2. The following actions will be completed, prior to issuance of a decision, under a phased analysis as part of the Forests' environmental analysis under NEPA, regardless of the NEPA document used (e.g., Environmental Impact Statement – Record of Decision, Environmental Analysis – Decision Notice, or Categorical Exclusion – Decision Memo):
 - a. The Forests will notify the SHPO, tribes, and other consulting parties of the intent to use a phased approach to comply with Section 106. This notification will happen early in the NEPA analysis and prior to the deciding official (Regional Forester, Forest Supervisor, or District Ranger) signing a Record of Decision, Decision Notice, or Decision Memo.
 - b. The Heritage Professional will provide input into the NEPA analysis and will use this information as a basis for estimating potential effects the proposed activities may have on historic properties. The NEPA record/document will contain specific language requiring the Forests to inventory for and assess effects to historic properties once location-specific plans and project prescriptions are developed. The NEPA record/document will also reference this agreement and condition the decision on completion of inventory and compliance with the applicable provisions of this PA.
3. After the Forests have identified specific undertakings that will be implemented under the NEPA documents cited in the previous paragraphs, the Forests shall complete the identification of historic properties and determinations of effect on historic properties by following the processes outlined in Stipulation IV, as appropriate.

I. Project Inspections Where Presence of Historic Properties is in Question

Where no known historic properties exist in the APE following an intensive inventory, but uncertainty remains regarding the possible presence of historic properties because of observation limitations, or information implying the presence of cultural resources from the literature review or other sources (e.g., oral history), field monitoring during the implementation phase may be stipulated by the Heritage Professional to ensure that unidentified historic properties, if present, are documented and appropriately managed/mitigated. If any historic properties are identified, the provisions in Stipulation V shall be followed.

V. POST REVIEW DISCOVERIES

A. Undertaking Incomplete at Time of Post-Review Discovery

1. If the undertaking is incomplete at the time a post-review discovery is identified, all activities within 30 meters of the visible property shall cease and the following actions shall be taken to avoid or minimize harm to the property:
 - a. Flag a buffer zone around the find spot.
 - b. Keep workers, press, and curiosity seekers away from the find spot.
 - c. Prohibit photography of the find unless requested by an agency investigative official.
 - d. Tarp the find spot (applicable only in the event the discovery may include human skeletal remains).
 - e. Have an individual stay at the location to prevent further disturbance until a law enforcement officer arrives (applicable only in the event the discovery may include human skeletal remains).
2. The Forests shall notify within 48 hours, usually by email or phone, the SHPO and any tribal governments that may attach religious and/or cultural significance to the affected property, and inform them there is a post-review discovery.
3. Within ten (10) business days after discovery, the Forests shall submit the following to the SHPO and any consulting tribes:
 - a. An agency determination of the NRHP eligibility for the property identified.
 - b. An agency determination of effect on the property identified.
 - c. The agency shall request SHPO concurrence and tribal input regarding the agency's determination of adverse effect – if such a determination is made.
4. The SHPO and tribes shall respond with recommendations within five (5) business days of receiving the documentation and determinations. The Forests shall take their recommendations into account and shall then carry out appropriate responses.
5. The ACHP shall be notified if the agency determines, with SHPO concurrence, that effects qualify as adverse. The parties shall then proceed pursuant to mandates found at 36 CFR §800.6.

B. Undertaking Concluded at Time of Post-Review Discovery

If the undertaking has already been concluded when an effect to a known historic property or previously unrecorded cultural resource has been discovered, within 30 calendar days of the discovery the Forests shall initiate consultation with the SHPO and appropriate consulting parties. The Forests shall provide a report documenting the properties identified, the NRHP determination of eligibility (where applicable), the nature and scope of effects to the property, and any recommendations to resolve adverse effects, if applicable.

1. The SHPO and tribes shall respond with recommendations within 30 business days of receiving the documentation and determinations. The Forests shall take their recommendations into account and shall then carry out appropriate responses.
2. The ACHP shall be notified if the agency determines, with SHPO concurrence, that effects to the historic property qualify as adverse. The parties shall then consult to determine a course of action.

VI. DISCOVERY AND TREATMENT OF HUMAN REMAINS

The treatment and disposition of any inadvertently discovered human remains within the APE will be managed in a manner consistent with NAGPRA implementing regulations (43 CFR §10) and, where applicable, the ACHP's Feb. 23, 2007, Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects. The following initial actions shall be taken:

A. Initial USFS Notification

Any discovery of human remains must be immediately reported to the responsible agency official by telephone followed by written confirmation of the discovery to the responsible agency official.

B. Cessation of Activity

If the inadvertent discovery occurred in connection with an on-going activity, all activity must cease within 30 meters of the inadvertent discovery and the appropriate steps must be taken to protect the human remains, the surrounding context, and any associated cultural items from any further disturbance.

C. Notification of Law Enforcement Personnel

The agency official will notify the Forest's law enforcement personnel who will in turn notify the appropriate local or state law enforcement agencies.

D. Determination of Ethnicity

The law enforcement agency that has jurisdiction in the case, in consultation with the County Coroner, shall make a good-faith effort to determine the race or ethnicity of the individual(s) burials encountered. It may be necessary to obtain the expertise of a forensic anthropologist and/or qualified archaeologist to identify potential cultural affiliation.

E. Course of Action for Non-Native American Ancestry

If a qualified professional determines that the human remains are not indicative of Native American ancestry, in the absence of other applicable federal law or agency directive, the Forests shall follow the ACHP's "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" which prescribes that the federal agency follows a course of action guided by eight principles. If the ACHP policy statement does not address specific circumstances encountered, the Forests may use state burial laws found at South Dakota Codified Law Chapters 34-27-25, 34-27-28, and 34-27-31 as guidelines.

F. Course of Action for Native American Ancestry

1. Tribal Notification. If a qualified professional determines that—on the basis of archaeological context, age, cultural associations, or biological traits—the human remains may be of Native American ancestry, the Forests shall notify the appropriate tribal authorities as soon as possible, usually by phone, that there is an inadvertent discovery involving human remains. Procedures prescribed in the Native American Graves Protection and Repatriation Act shall be followed.
2. State notification. Should the Forests seek the assistance of a qualified professional familiar with physical or forensic anthropology, they shall consider contacting the State of South Dakota burial coordinator employed by the Archaeological Research Center in Rapid City. The decision regarding how much information to share with State of South Dakota personnel will be made after meaningful consultation with tribal authorities or potential descendants, if any have been identified, prior to the need for professional assistance.

VII. EMERGENCY PROTOCOLS

Should the Forests find it necessary to implement an undertaking that is either (1) in response to an emergency declared by the President, a tribal government, or the Governor of a State, or (2) an undertaking authorized by an agency official that is in response to an immediate threat to life or property, the Forests shall, pursuant to 36 CFR §800.12 and prior to the undertaking, notify the SHPO and any Indian tribe that may attach religious and cultural significance to historic properties likely to be affected and afford them an

opportunity to comment within seven (7) business days of the notification. If the agency official determines that circumstances do not permit seven (7) business days for comment, the agency official shall notify the SHPO, and the Indian tribe and invite any comments within the time available.

This section applies only to undertakings that will be implemented within 90 days after the emergency has been formally declared, or after the immediate threat to life and property has been identified by the agency official. Forests may request an extension period of the applicability from the ACHP prior to the expiration of the 90 days.

Pursuant to 36 CFR §800.12(d), immediate rescue and salvage operations conducted to preserve life or property are exempt from the provisions of Section 106 of the NHPA.

VIII. SUBMISSION OF ANNUAL REPORT

Each Forest shall submit to the SHPO—and the ACHP and any tribes upon request—an annual report by April 1 that lists all of the decisions made at the Forest level without SHPO review during the previous federal fiscal year (October 1 to September 30) as per stipulations in this PA. The Annual Reports will utilize the format template provided in Appendix D.

IX. CONFIDENTIALITY OF CULTURAL RESOURCES DATA

To the extent consistent with disclosure prohibitions found in Section 304 of the NHPA, Section 9(a) of the ARPA, and Exemption 3 of the Freedom of Information Act (FOIA), the nature and location of cultural properties will be treated as confidential.

X. DISPUTE RESOLUTION

Should any Signatory or Concurring Party to this PA object at any time to any actions or manner in which the terms of this PA are implemented, the Forests shall consult with such party to resolve the objection. If the Forests determine that such objection cannot be resolved, the following protocol will apply:

- A. The Forests shall forward all documentation relevant to the dispute, including the Forest's proposed resolution, to the ACHP. The ACHP shall provide the Forests 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 Forests shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, Signatories and Concurring Parties, and provide them with a copy of this written response. The Forests 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 Forest that has jurisdiction may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Forests shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories and Concurring Parties to the PA, and provide them and the ACHP with a copy of such written response.
- C. The Forest'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

Any Signatory to this PA may at any time propose amendments to the main body of the PA, whereupon all Signatories and Concurring Parties to this PA shall consult to consider such 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.

Each appendix to this PA may be individually amended through written consultation of the parties without requiring amendment of the PA, unless the Signatories through such consultation decide otherwise. The process for adding new appendices is articulated in Appendix E.

XII. PARTICIPATION OF INDIVIDUAL RANGER DISTRICTS

The participation in this agreement of each of the six South Dakota Ranger Districts is independent of one another. Those units include:

- | | |
|----------------------------------|--|
| • Hell Canyon Ranger District | Black Hills National Forest |
| • Mystic Ranger District | Black Hills National Forest |
| • Northern Hills Ranger District | Black Hills National Forest |
| • Fall River Ranger District | Nebraska National Forests and Grasslands |
| • Fort Pierre Ranger District | Nebraska National Forests and Grasslands |
| • Wall Ranger District | Nebraska National Forests and Grasslands |

A. Independent District Review

The Forest Supervisor of each U.S. Forest Service unit shall monitor compliance with the terms of this agreement by individual Ranger Districts and may upon his or her own initiative, request a review of a Ranger District's compliance with the terms of this PA. The Forest Supervisor with authority over the unit in question will notify the appropriate District Ranger and all Signatory parties that a review will be conducted. The Signatory parties will then work collectively to identify potential concerns and develop a plan of review.

Alternatively, upon written request from the SHPO or the ACHP, the appropriate Forest Supervisor shall initiate the same type of review with a shared objective of identifying potential noncompliance issues and working toward the appropriate remediation. Tribal leaders and Concurring Parties may also request a review of this nature through the Forest Supervisor, SHPO, or ACHP.

B. Independent District Remediation and Suspension

Because the participation of each Ranger District is independent of one another, any Ranger District may be placed in remediation or suspension without affecting participation of the others. The following procedure will be used to remediate or suspend a Ranger District:

1. When the Ranger District review identifies a problem requiring corrective action, or the appropriate Forest Supervisor receives written notification from the SHPO or ACHP of a problem requiring corrective action, the Forest Supervisor and the SHPO will meet to develop remedial steps to correct the problem. Remediation may be appropriate for a variety of noncompliance reasons, for example, if the Ranger District can no longer demonstrate it has the professional capability or resources needed to carry out these policies and procedures, or the Ranger District is not in conformance with the stipulations in this PA. Remedial steps will include an appropriate timeframe for successful resolution. These steps will be formalized, signed by the appropriate Forest Supervisor, SHPO, and ACHP, and shared with the appropriate District Ranger.
2. Failure to complete the remedial steps within the time frame described in the previous paragraph will result in the Forest Supervisor suspending the Ranger District from the PA. Suspension from the agreement requires the affected Ranger District to comply with standard compliance procedures outlined in 36 CFR §800 with regard to all undertakings.

Suspension of a Ranger District may be lifted by the appropriate Forest Supervisor, in consultation with the SHPO and ACHP, after the Ranger District has corrected the deficiency that led to the suspension.

C. Lack of Agreement

In the event the SHPO, the ACHP, or either of the Forest Supervisors cannot reach agreement on any of the steps outlined in Stipulations XII.A-B, any party may invoke the Dispute Resolution process articulated in Stipulation X. Termination procedures found in Stipulation XIII may be used as a last resort when all attempts to resolve a dispute fail.

XIII. TERMINATION

A. Initial Notification

Any Signatory to this PA may initiate termination by providing written notice to the other Signatories of their intent. After notification by the initiating Signatory, the remaining Signatories shall have ninety (90) calendar days to consult to seek agreement on amendments or any other actions that would address the issues and avoid termination. If within ninety (90) calendar days (or another time period agreed to by all Signatories) an amendment cannot be reached, any Signatory may terminate the PA upon written notification to the other Signatories. In the event of termination, the Forests shall refer to regulations at 36 CFR §800 to address any outstanding potential effects to historic properties.

B. Post Termination Protocol

Once the PA is terminated, the Forests shall comply with 36 CFR §800, Subpart B, for each individual undertaking until it executes a new PA pursuant to 36 CFR §800.14(b).

XIV. DURATION OF AGREEMENT

This PA shall remain in effect for ten (10) years after the date of execution hereof. The Forests, SHPO, ACHP and any Concurring Parties shall re-evaluate the need for this PA before the first ten years have expired. The Forests shall ensure the PA will be amended to accommodate any changes to the terms or to extend the PA. All Signatories will be consulted during the renewal and/or amendment process (Stipulation XI).

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SIGNATURES

Execution and implementation of this PA evidences that the Black Hills National Forest and the Nebraska National Forests and Grasslands have taken into account the effects of individual undertakings on historic properties from its on-going management, pursuant to the terms of this PA, and have afforded the ACHP an opportunity to comment.

The effective date of this PA is the date of the last Signatory signature affixed to these pages.

Signatories:

Mark E. Van Every 12/4/19
Mark E. Van Every, Forest Supervisor Date
Black Hills National Forest

Jack Isaacs 12/5/19
Jack Isaacs, Forest Supervisor Date
Nebraska National Forests and Grasslands

Jay D. Vogt 12-10-2019
Jay Vogt, State Historic Preservation Officer Date
State of South Dakota

Aimee Jorjani 12/20/19
Aimee Jorjani, Chairman Date
Advisory Council on Historic Preservation

Concurring Parties:

Reggie Wassana, Governor
Cheyenne/Arapaho Tribes of Oklahoma

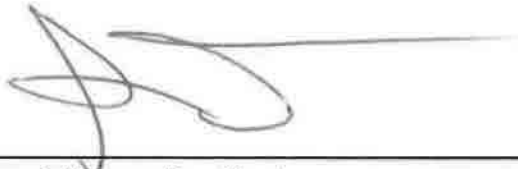
Date

Anthony Reider, President
Flandreau Santee Sioux Tribe

Date

Peggy Cavanaugh, Chairwoman
Spirit Lake Sioux Tribe

Date



12/10/19

Frank Tomac, President
Association of National Grasslands

Date

APPENDIX A

DEFINITIONS OF TERMS AND ACRONYMS USED IN THE AGREEMENT

Archaeological Technician: A Forest Service employee who meets the Office of Personnel Management basic requirements of a social science aid and technician series (Series 0102) and who qualifies at the grade series (GS) of 05 or higher.

Avoidance: Avoidance means that no activities associated with an undertaking that may affect historic properties shall occur within a historic property's boundaries or viewshed where setting is an important element to the site's significance. Portions of undertakings may need to be modified, re-designed, or eliminated to avoid historic properties.

Branch Pruning: Under this prescription selected trees are pruned to remove dwarf mistletoe "witch's brooms" to improve tree health and resiliency, reduce ladder fuels, and to create defensible space around structures. Slash would either be hand-piled for chipping and/or bucked up by hand, and loaded onto rubber-tired vehicles to be hauled to designated burn piles for burning. All vehicles used will be one-ton or smaller with rubber tires. Any chippers utilized will be restricted to those which are equipped with rubber tires and are small enough to be pulled by a one-ton vehicle.

Buck up by hand: The process of cutting long poles/logs into shorter lengths with the use of hand saws or chainsaws. The remaining chunks or log sections will be left to deteriorate in place or hand piled for later burning.

Cable Commercial/Noncommercial Timber Harvest: In contrast to ground-based methods of timber harvest where a vehicle is moved to the logs and subsequently pulls them to the landing, cable systems use a stationary machine, or yarder, that pulls the logs to the landing by means of steel cables. Cable systems are commonly employed on steep slopes and over soft or wet ground which would pose problems for ground-based equipment.

CERCLA: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) is a United States federal law designed to clean up sites contaminated with hazardous substances and pollutants (often referred to as "Superfund" sites).

Concurring Party: A consulting party that participates in the development of the agreement and is asked to show their approval of the end product through concurring party status. Concurring parties do not have the right to amend or terminate the agreement (36 CFR §800.6(c)(1)).

Consultation: The process of seeking, discussing, and considering the views of other participants, and where feasible, seeking agreement with them regarding matters arising in the Section 106 process (36 CFR § 800.16(f)).

Crowned-and-Ditched Roads: Transportation corridors that have been constructed on top of the native ground surface by the addition of aggregate of any type. Surfaces may be dirt, gravel, or paved. Ditches may have been excavated below the natural surface at some locations, but more frequently ditches are simply a byproduct of elevating the road surface above the natural contour and they are not recessed into the adjacent ground.

Cultural Resources: An object or definite location of human activity, occupation, or use identifiable through field survey, historical documentation, or oral evidence. Cultural resources are prehistoric, historic, archaeological, or architectural sites, structures, places, or objects and traditional cultural properties. In this document, cultural resources include the entire spectrum of resources for which the Heritage Program is responsible, from artifacts to cultural landscapes, without regard to eligibility for listing on the National Register of Historic Places (Forest Service Manual 2360.5).

Cut and Chip: Actions consisting of contractors, or other parties formally designated as such by the Forests, who walk to stands from developed roads and utilize chain saws to thin out stands of oak brush, aspen and conifers. Small trees or brush are cut by hand, dropped to the ground, and subsequently sent through a mechanical chipper. The chips are distributed across the ground surface where they are left. All vehicles used will be one-ton or smaller with rubber tires. Any chippers utilized will be restricted to those which are equipped with rubber tires and are small enough to be pulled by a one-ton vehicle.

Cut and Chunk: Actions consisting of contractors, or other parties formally designated as such by the Forests, who cut the trunk of a tree into sections normally 24 inches or less in length and leave the sections laying directly on the ground with the intent that the bark will dehydrate faster, thereby eliminating the pine beetle's primary food source.

Cut, Hand-Pile, and Burn: Actions consisting of employees, contractors, or other parties formally designated as such by the Forests who cut the trunk of a tree into sections small enough to be transported by hand, then hand-pile the sections in open areas with the intent of burning the dried pile at a later date when the chance of wildfire is minimal. A common intent is to eliminate pine beetles inhabiting the tree.

Cut, Mechanical-Pile, and Burn: Actions consisting of employees, contractors, or other parties formally designated as such by the Forests who cut the trunk of a tree into sections of varying lengths, piling the sections in open areas using mechanical equipment, then burning the dried pile during a period when the chance of wildfire is minimal. A common intent is to eliminate pine beetles inhabiting the tree.

Facilities Management: The continuing processes of investigation, evaluation, planning, and implementation of actions to provide for cost-effective, safe, and functionally efficient buildings and related improvements for conducting the mission of the Forest Service.

Feller-Bunchers: A motorized vehicle with an attachment that can rapidly cut and gather several trees before felling them. A feller-buncher consists of a standard heavy equipment base with a tree-grabbing device furnished with a chain-saw, circular saw or a shear - a pinching device designed to cut small trees off at the base. The machine then places the cut tree on a stack suitable for a skidder or forwarder, or other means of transport (yarding) for further processing (e.g., de-limbing, bucking, loading, or chipping) (definition by Wikipedia).

Fell: To cut down.

Fuel: Any living or dead material that will burn.

Ground-Based Commercial/Noncommercial Timber Harvest: Methods of cutting and transporting logs where the majority of the operations are conducted on the ground surface by mechanical or hand-powered means. Ground-based operations are often less expensive than cable or aerial methods of timber harvest.

Hay (verb): Actions consisting of employees, permittees, or other parties cutting plant material such as grass to convert into forage using equipment such as rakes and balers with the intent of reducing fuel load or modifying vegetative structure and/or composition.

Hazard Tree: Any tree that may fail due to mortality or a structural defect or changed stand conditions and, as a result, may cause property damage or personal injury. Every tree will eventually fail; therefore, knowledge of tree species, environmental characteristics, and local weather conditions and patterns are essential when evaluating potentially hazardous trees. A defective tree is hazardous only when its failure could result in damage to something of value, for example, fences, water developments, pipelines, powerlines, and campground improvements such as picnic tables, outhouses, fire grates, and U.S. Forest Service administrative structures.

Helicopter Commercial/Noncommercial Timber Harvest: Helicopter logging enables logs to be transported to the landing regardless of terrain and ground conditions, however, production costs are extremely high.

Heritage Professional: A Forest Service staff or advisory position with education and expertise in archaeology, history, cultural resource management, or related disciplines. Heritage professionals are in the GS-170-History, GS-190-General Anthropology, and GS-193-Archaeology job series. They provide professional recommendations and services to help land managers meet their Heritage Program responsibilities (Forest Service Manual, 2360.5).

Heritage Program. The comprehensive Forest Service program of responsibilities related to historic preservation. The purpose of the Heritage Program is to manage prehistoric and historic cultural resources for the benefit of the public through preservation, public use, and research (Forest Service Manual, 2360.5).

Insecticide Spray: Chemical pesticides will be used on individual trees and on small stands of trees. Employees walk from developed roads to the infected trees and apply the chemical by hand. No trees are removed under this activity.

Intensive Field Inventory: Also termed a “Level III” inventory in the State of South Dakota. A type of cultural resource inventory that provides cultural resource professionals and managers with a record of all cultural resources, which can be identified from surface indications, for a specific area. Intensive survey describes the distribution of cultural resources in an area, determines the number, location and condition of cultural resources, determines the types of cultural resources actually present within the area, permits classification of individual cultural resources, and records the physical extent of specific cultural resources. The data from the inventory shall be compiled in a report that is used to assess effects of the undertaking. It may include treatment plans for historic properties if necessary.

Level I: See “Literature Search” below.

Level II: Non-intensive sample survey that focusses on high probability areas.

Level III: See “Intensive Field Inventory” above.

Landings: Any place where round timber is stacked or assembled for further transport.

Line Officer: Forest Service leadership staff that have decision-making authority and may include district rangers, deputy forest supervisors, and forest supervisors. Line Officers are agency officials, as described at 36 CFR §800.2(a).

Literature Search: A review of existing information about a specific area to ascertain historic properties potentially affected by an undertaking, including any data concerning the likelihood that unidentified historic properties exist in the Area of Potential Effects (36 CFR §800.4(a)), can include Forest records, SHPO files, GLO plats, historic documents, and published sources. Also referred to as a file search, records review, or Level I survey.

Manual treatments: Include, but are not limited to, chainsaw thinning, hand bucking and piling, and spraying of insecticides.

Masticator: A specialized cutting head on a piece of equipment used to turn stumps, wood, or other organic material into mulch.

Mechanical Treatments: Mechanical treatments include, but are not limited to, the use of heavy mechanized equipment to fell and remove trees. Equipment types used will vary from project to project but can include, among other things, feller-bunchers or other large-wheeled or track vehicles, skidders to push felled trees into large piles, backhoes, masticators, and all-terrain vehicles.

Mow: Actions consisting of employees, permittees, or other parties cutting grass with mowers or swathers with the intent of reducing fuel load or modifying vegetative structure and/or composition.

National Environmental Policy Act of 1969 (NEPA): NEPA is federal law which guides the decision-making process for public lands in the United States. NEPA requires that all federal agencies involve the interested public in their decision-making, consider reasonable alternatives to proposed actions, and prepare environmental documents which disclose the impacts of proposed actions and alternatives.

National Register of Historic Places (NRHP): The official federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and/or culture maintained by the Keeper of the National Register, National Park Service.

Paraprofessional: Forest Service employees who have primary responsibilities in other Forest Service resource programs and are assigned Heritage Program work as collateral duties on an as-needed basis. Paraprofessionals must have completed an in-house training and certification program. They may conduct field surveys under the direct supervision of a heritage professional or archaeological technician. A heritage professional must assign specific duties, approve reports, and accept professional responsibility for the paraprofessionals' work.

Prairie Restoration: Actions consisting of conservation efforts to restore prairie lands to their natural state by replanting native grasses through the use of herbicides, mowing, and sowing (broadcasting seed or drilling to depths of 0.5 inches).

Prescribed Burn: Activity in which fire is applied generally to most or all of an area within well-defined boundaries for reduction of fuel hazard as a resource management treatment or both.

Prescribed Burn Fire Intensity (Low): Fire ignited under the forest canopy that is intended to focus on consumption of surface fuels but not the overstory vegetation. Low intensity prescribed burns have little effect on soil heating or on vegetation. They will leave the soil covered with partially charred organic material.

Prescribed Burn Fire Intensity (Moderate): Fire ignited under the forest canopy that is intended to focus on consumption of surface fuels but not the overstory vegetation. Moderate intensity prescribed burns cause moderate soil heating, but do not visibly alter the underlying mineral soil. Litter is consumed and duff is charred or consumed. Any remaining fuel is deeply charred.

Prescribed Burn Fire Intensity (High): In a high intensity prescribed fire the understory plants are charred or consumed, fine dead twigs on the surface are consumed, logs are charred, and trees with some canopy cover are killed. Soil heating can occur where there are high concentrations of large fuels on the surface that burn for a long duration. This type of prescribed fire only takes place at a small scale on portions of larger burns where the rest

would be low or moderate intensity. It is utilized when one of the objectives is to open the canopy in specific areas.

Project Implementation: For the purposes of this agreement, project implementation means the actual construction, timber sale or other ground disturbing action of the undertaking. Contracting, planning, and landline surveys in preparation of the project are not considered part of the project implementation.

Recreation Residences: Residential structures constructed by private parties on National Forest System lands under special-use permit pursuant to stipulations in the 1915 Term Occupancy Act. The structures are privately owned, but the exteriors are subject to NHPA mandates and Forest Service management plans.

Road Maintenance Levels: Road maintenance levels are defined in Forest Service Handbook 7709.59, Section 62.32:

1. Roads closed to vehicular traffic,
2. Roads open for use by high clearance vehicles,
3. Roads maintained for standard passenger cars,
4. Roads maintained to provide comfort and convenience at moderate travel speeds, and
5. Roads that provide a high degree of user comfort and convenience, typically double lane, paved roads.

Road Prism: Area associated with roadway and road construction, from road surface to top of cut and/or toe of fill.

Semiochemical Treatments: Pheromones distasteful to beetles are placed in the trees to discourage beetles from accessing specific stands of trees.

Signatory: A consulting party that assumes responsibility in an agreement document. Signatories may terminate the agreement. Signatories on this agreement are the Forests, the SHPO, and the ACHP.

Slash: Branches and other woody material left in an area after tree cutting.

Stand: A continuous group of trees sufficiently uniform in age-class distribution, composition, and structure, and growing in a group of sufficiently uniform quality to be a distinguishable unit.

Staging Area: An area in which vehicles or equipment may be parked or driven repeatedly, or supplies may be stored, resulting in ground disturbance.

Traditional Cultural Property: A Traditional Cultural Property is a cultural resource that is eligible for inclusion in the National Register of Historic Places because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community.

Understory Removal: Under this prescription non-commercial conifer regeneration would be cut from the understories of existing conifer stands and small saw timber stands to reduce ladder fuels, break up the continuity of fuels, and improve stand health and resiliency. This treatment is proposed along with the commercial treatment sanitation/salvage. Slash would either be hand-piled for chipping and/or bucked up by hand, and loaded onto rubber-tired vehicles to be hauled to designated burn piles for burning. All vehicles used will be one-ton or smaller with rubber tires. Any chippers utilized will be restricted to those which are equipped with rubber tires and are small enough to be pulled by a one-ton vehicle.

Wildland Fire Use: Wildland fire use (WFO) is the management of naturally ignited (e.g., lightning) wildland fires to accomplish specific resource objectives within a pre-defined area. WFO is often a long-duration event which can last weeks or months and may involve temporary inconveniences regarding smoke, travel, and potential closure of public use areas. For this reason, WFO occurs primarily in remote and undeveloped areas.

Windthrow: The uprooting and/or overthrowing of a tree caused by the wind.

APPENDIX B

ACTIONS EXCLUDED FROM FURTHER REVIEW

Undertakings listed in this appendix have minimal potential to affect historic properties and are excluded from further review and consultation under the terms of this PA. Proposed undertakings will be reviewed by a Heritage Professional to determine if they can be excluded from any further review and consultation. If an undertaking is found to be exempt from further review there is no requirement to conduct field inventory or write an inventory report. The undertaking will be listed in the Annual Report.

The presence of an undertaking on this list does not automatically exclude a given project from consultation. If the Heritage Professional determines that an undertaking has the potential to affect historic properties, the undertaking shall not be considered excluded and shall be subject to the provisions of this PA or 36 CFR §800, as appropriate.

The Heritage Professional should be aware that in the case of properties of religious and cultural significance to American Indian tribes, avoiding or limiting visual and auditory impacts to a property may be necessary to preserve the qualities that make the property eligible for the National Register of Historic Places. Any decision to exclude a project from case-by-case review must carefully consider the potential for visual effects, assuming any historic properties are present.

An activity listed under one disciplinary heading in Appendix B does not mean the same activity cannot qualify as an excluded action when undertaken by a different discipline for a different purpose. For example, the erection of buck-and-pole fence is listed under Road Maintenance in Appendix B, Section IX.P.1, yet under the stipulations of this appendix it is fully acceptable for other disciplines to prescribe the construction of buck-and-pole fence for purposes other than road maintenance.

Excluded undertakings include the following:

I. GENERAL

- A.** Activities located on steep slopes greater than 25% where no known cultural resources are present with no potential for sites such as rock art, rock shelters, or historic mining sites, and where appropriate historical documentation has been consulted.
- B.** Activities where the APE is entirely within an obviously disturbed context (e.g., gravel pit), and the disturbance is such that the presence of historic properties is highly unlikely.

- C. Activities that involve minimal ground disturbance, defined as less than one cubic meter of cumulative ground disturbance (e.g., the installation of an apiary, weather station, etc.).
- D. Manual removal of trash and vehicles that are less than 50 years old.
- E. Maintenance or replacement in-kind and in-place of modern constructed features less than 50 years of age that involves no new or additional ground disturbance (e.g., maintenance or replacement of cattle guards, gates, fences, stock tanks, guardrails, barriers, traffic control devices, light fixtures, curbs, sidewalks, etc.).
- F. Research activities involving no destructive actions (demolition or dismantling are destructive actions) or ground disturbance.

II. SAFETY HAZARDS AND LAW ENFORCEMENT ACTIVITIES

- A. Removal of illicit narcotics equipment from federal land during law enforcement operations, excluding the removal of buildings or structures that are 50 years of age or older or will become 50 years of age within five years.
- B. Non-discretionary actions undertaken by the Forest to enforce the law.
- C. Installation of law enforcement detection devices such as trail cameras within cultural resource sites, but not affixed to historic structures, for ARPA investigations and/or to prevent site vandalism.
- D. Removal of hazardous materials or surfaces such as asbestos and lead paint, and replacing them with nontoxic materials that resemble the historic surfaces as closely as possible. This applies only to the removal of the toxic material itself, not the area being worked on; e.g., one may not replace an entire window to complete lead paint abatement.
- E. Filling, barricading, or screening of abandoned mine shafts, drifts, adits, and stopes where such features are either not historic (< 50 years of age), have been determined not eligible for the National Register, or have been determined to be non-contributing components to an otherwise National Register eligible/listed site. Closure methods are limited to reversible actions such as bat gate (except cupola type), rebar shaft grate, gates, lugs, fencing, or polyurethane foam (PUF) shaft-plug methods where installation avoids portal structural features as much as practicable.

III. NON-DISTURBING ADMINISTRATIVE ACTIONS

- A. Resources Natural Areas (RNAs) protect some of the finest examples of natural ecosystems for the purposes of scientific study and education and for maintenance of

biological diversity. RNAs are permanently protected and maintained in natural conditions for the purposes of conserving biological diversity, conducting non-manipulative research, and monitoring and fostering education. The administrative action taken by the Forest to designate an RNA has no potential to affect historic properties and is exempt from consultation.

- B. Mineral Withdrawals remove specific areas of public lands from the application of the General Mining Law of 1872 and they prevent the filing of new mining claims and largely halt new mining exploration, drilling, and mine development. The administrative action taken by the Forest to complete a mineral withdrawal has no potential to affect historic properties and is exempt from consultation.
- C. Land-use planning activities that do not authorize specific undertakings (e.g., Wilderness Plans and Forest Plan Revisions).
- D. Issuance, granting, or renewal of permits, easements, or rights-of-way that do not authorize surface or resource disturbance and do not have the potential to affect access to or use of resources by American Indians based on the nature of the undertaking or prior or current consultation with American Indian tribes.
- E. Area or road closures implemented for emergency purposes.

IV. RANGE MANAGEMENT ACTIVITIES

- A. Installation of temporary electric fences where small-diameter posts such as T-posts or rebar can be driven into the ground without digging post holes.
- B. Maintenance or replacement of existing fence lines, fence posts, gates, or corner posts. All fence posts or corner posts that need to be replaced will be relocated within the existing fence corridor which is defined as a linear polygon that follows the existing fenceline and is no wider than 24" (12" either side of the existing posts being replaced).
- C. Maintenance of existing range improvements, such as buried water pipeline, within existing footprints provided that any areas of disturbance are limited to those areas that have already been impacted.
- D. Maintenance of hydrologic dugouts—within the existing footprint—to include the removal of silt/sediment from the water catchment area. This exclusion is limited to sediment accumulations and excludes disturbance to built dam grades. The project proposal shall include a statement designating a specific location where the removed sediment shall be deposited and the Heritage Professional shall consider the potential effects of that associated action in their review.

- E. The deposition of organic-rich sediments removed during stock pond maintenance over the face of the dam or to the margins of the dam.
- F. Embankment repair of existing stock dams where the following stipulations apply:
 - 1. For all practices, ground disturbance must be confined to areas previously disturbed by the construction of the existing embankment.
 - 2. Borrow material for embankment repairs is limited to previously disturbed side slopes and pool area.
 - 3. **Dam embankment repair is not an activity that is excluded from consultation if the objective is to elevate the dam grade with the intent of raising of the water level in the dam – an undertaking that may also necessitate the raising of the primary spillway pipe or cutting of a new emergency spillway.**
- G. Pipe installation or replacement of a primary spillway pipe in an existing dam embankment – provided the existing materials are less than 50 years of age or have been previously determined not eligible for the NRHP. Disturbance must be confined to the area associated with the original construction of the existing embankment.
- H. Repair of an existing emergency spillway that includes filling eroded areas, filling gullies, and flattening or other modification of a previously excavated, non-natural spillway. All disturbance must be confined to the area associated with the original construction of the existing spillway. The project proposal shall include a statement designating a specific location where the fill will be obtained (i.e., borrow pit) and the Heritage Professional shall consider the potential effects of that associated action in their review.
- I. Repair of the side slopes and top of the embankment to restore the original grade (frequently 3:1 front and back slopes), the recommended amount of freeboard (typically 3.5 feet), and the original top of the embankment (typically 12-feet wide). This exemption also permits the construction of a wave or splash berm and the repair or construction of wing dikes—provided all new construction is limited to areas of the dam that have previously been disturbed by dam construction or maintenance. Examples of embankment slope and top repair include repair of wave erosion, repair of erosion caused by livestock, repair of animal burrows, tree removal, repair embankment settlement, repair embankment sliding, and debris removal (such as automobile bodies, tires, metal, rocks, wood, etc.). Disturbance must be confined to the area associated with the original construction of the existing embankment.
- J. Placement of water tanks in existing, dried-out dugouts.
- K. Installation of above-ground water pipelines where no ground disturbance occurs.

- L. Routine mowing or haying of grasslands.
- M. Re-seeding a grassland area with native grasses for prairie restoration purposes.

V. LANDS AND RECREATION SPECIAL USE PERMITS

- A. Land acquisitions, easement acquisitions, or transfers of administrative control to the Forests.
- B. Conversion of an existing authorization from one federal authority to another federal authority (e.g., a road permit under the authority of the Federal Land Policy and Management Act to an easement under the authority of the Federal Highway Act) where no new surface disturbance is authorized.
- C. Placement of geophysical seismic monitoring equipment on the surfaced portion or within the prism (area clearly associated with road construction, from road surface to top of cut and/or toe of fill) of a regularly maintained road.
- D. Conducting or approving permits for non-archaeological data collection and monitoring activities which involve no more than one square meter of *cumulative* surface disturbance. Such activities could include forage trend monitoring, stream gauges, weather gauges, research sensors, photo plots, traffic counters, animal traps, or similar devices.
- E. Renewing existing linear permits (roads, pipelines, utility lines, underground cables, etc.), when no new surface disturbance is authorized. Does not include modifications to any existing structures or facilities.
- F. Authorizing new utility lines to be added to existing overhead transmission lines when there is no change in pole configuration and no new surface disturbance. To qualify, however, the Heritage Professional will also need to analyze potential effects due to the mechanical equipment that will be used as well as proposed staging areas and access routes.
- G. Utility pole replacement or installation by utility companies within previously disturbed locations. The project proposal shall include a statement describing associated vehicular access routes and staging areas, and the Heritage Professional shall consider the potential effects of all associated actions in their review.
- H. Standard maintenance of utility line corridors within previously disturbed locations. The project proposal shall include a statement describing associated vehicular access routes, staging areas, and any proposed vegetation management activities (i.e., clearing of vegetation under utility lines). The Heritage Professional shall consider the potential effects of all associated actions in their review.

- I. Issuing permits for new equipment at an existing communication site with an approved communication site plan where the new use does not entail any new ground disturbance or additional height to towers.
- J. Maintenance to an existing electronic communication site that involves no ground disturbance or impacts to known historic properties and does not add to nor change the configuration of the existing facility.
- K. Renewing existing site permits (e.g., communication sites, recreation residences, camps, businesses) when no new surface disturbance is authorized. Does not include modifications to any existing structures or facilities.
- L. Issuance of permits, (including road-use permits), easements, rights of way, or leases that do not have the potential to affect access to, or use of, resources utilized by American Indians. Road maintenance and resurfacing under the permit can be authorized only where work is confined to previously maintained surfaces, ditches, culverts, and cut-and-fill slopes provided there are no known unevaluated cultural resources or historic properties that would be affected because maintenance activities would be limited to disturbed contexts.
- M. Issuance of permits for recreational activities which are spatially limited to National Forest System roads and trails listed on the Forest's annual Motor Vehicle Use Map (a publicly available map referred to by the acronym "MVUM").
- N. Issuance of recreation permits for streams in addition to trails and roads listed on the Forests MVUM. The Heritage Professional shall also consider in their review the potential effects of associated spectator areas, staging areas, or pit/support areas, including portable toilets and refreshment areas.
- O. Issuance of road-use permits for commercial hauling or permits for off-highway vehicle events over authorized roads or trails as indicated on the Forests' annually-updated Motor Vehicle Use Map.
- P. Issuance of personal firewood permits that allow individuals to cut firewood for personal use where motorized vehicle use is limited to authorized roads. Exceptions to the motor-vehicle prohibition are indicated on the Forests' annually-updated Motor Vehicle Use Map. The Forests permit motor-vehicle use at specific locations where the public can drive up to 300 feet from an existing road for recreational or game-retrieval purposes. The excluded areas have all been consulted on at one time or another.
- Q. Issuance of Christmas tree permits that allow individuals to cut seedlings or small saplings for personal use where motorized vehicle use is limited to authorized roads.

- R. Issuance of permits for winter activities that occur on or near historic properties where historic properties are subsurface and are protected by an adequate surface covering of snow deep enough to ensure protection of the resource, as determined by the line officer in consultation with the Heritage Professional, taking into consideration the types of historic properties in the area, the types of activities to occur, and temperature. Activities of this nature include snow machining, cross country skiing, trail grooming, fat-tire bicycling, and snowshoeing.
- S. Issuance of public permits to transplant small trees up to six feet in height where all work will be accomplished with hand tools and motorized vehicle use is limited to authorized roads.
- T. Issuance of permits for activities that occur under the authority of a special-use authorization with minimal ground disturbance, such as most commercial filming or apiary permits.

VI. BEETLE MANAGEMENT PROGRAMS

- A. Protective chemical spraying of individual trees and small stands of trees.
- B. Individual tree sanitation activities where individual trees are felled, peeled, piled and removed by hand. No heavy machinery is used.
- C. Trap tree activities where live saw-timber-sized trees are felled to serve as “trap trees” within areas where beetle populations have increased past endemic levels. One year later the trees are either debarked to kill the beetles that have hatched, or piled by hand and burned in designated, previously disturbed burn areas. No heavy machinery is used.
- D. Lethal trap tree activities, where trees are felled using a chainsaw, then chemical pesticide is applied along the entire length of the tree. No trees are removed and no heavy machinery is used.
- E. Trap out beetle (also called aggregate beetle) activities where funnel traps with attractive pheromones are hand-placed in trees. Traps are placed by hand and removed by hand. Occasionally a metal fence post may be driven into the ground to support the trap.
- F. Disaggregate beetle activities, where pheromones are placed in the trees.

VII. WILDLIFE AND AQUATIC ENHANCEMENTS

- A. Introduction of desirable animal species in suitable habitats in ways that do not involve ground disturbance.

B. Fish and wildlife habitat improvements involving no new ground disturbance. Examples include:

- Maintenance of wildlife water developments/guzzlers, such as fence/gate repair or water collector apron repair/replacement.
- Removal of small ponderosa pine from meadows using hand/power tools.
- Fence or gate maintenance that constitute riparian/spring enclosures.
- Activities that maintain or acquire instream flows or supplemental releases to improve aquatic habitat conditions.
- Activities aimed at controlling or eradicating aquatic non-plant or non-fish invasive species such as plants, invertebrates, and pathogens.
- Administrative Closures, such as the Cave Closure Order, that restrict human entry in caves.
- Beaver reintroductions.
- Capping of vertical pipes or the placement of vent covers on vault toilet vent pipes.
- Placement of escape ramps in watering tanks for small mammals to get out.

C. Wildlife and aquatic structure maintenance/management (raptor nest platforms, duck boxes, bird boxes, bat boxes, etc.) if ground disturbance is limited to no more than one square meter of *cumulative* surface disturbance.

D. Installation of bat gates in mine openings under the following conditions:

1. When the resource has been determined not eligible for the National Register – or the specific component containing the opening has been determined non-contributing to an otherwise National Register eligible site.
2. When the resource has been determined eligible for the National Register, the installation is permitted if closure methods are limited to reversible actions such as bat gate (except cupola type), rebar shaft grate, gates, lugs, fencing, or polyurethane foam (PUF) shaft plug methods.

VIII. DEVELOPED RECREATION SITES

- A.** Placement or replacement of visitor information kiosks, bulletin boards or information signs, portable sanitation devices, or visitor registers where the proposed location of the facility has been previously disturbed and is not located within a known historic property.
- B.** Routine maintenance such as repair of signage, hand removal of fallen trees, hand brushing of trail corridors, mowing, and facilities repair (e.g. fire ring replacement, water bar cleanout, water spigot replacement, picnic tables, etc.).

- C. Construction of water bars and check dams along non-motorized trails where project activities will occur within the existing trail corridor and limited to hand tools.
- D. Replacement of pit or vault toilets within the same disturbed foot print, provided that the toilet to be replaced is not older than 45 years old.
- E. Felling of hazardous trees within developed and dispersed recreation areas, adjacent to recreation residences, or in other areas frequented for recreation purposes, for health and safety reasons. Individual trees are to be felled and removed by hand or left in place.

IX. ROAD MAINTENANCE, TRAIL MAINTENANCE, AND TRAVEL MANAGEMENT

- A. Maintenance and resurfacing of existing crowned-and-ditched gravel or paved roads where maintenance activities are limited to the existing road prism.
- B. Within an eligible historic property or unevaluated cultural resource maintenance is allowed on segments of roads:
 1. That have previously been damaged to the extent that the likelihood of NRHP-significant deposits in the road prism no longer retain integrity sufficient to qualify as a contributing component to the historic property.
 2. Where the road surface is currently limited to exposed bedrock with no measurable stratified sediments.
 3. That have previously been determined to be non-contributing components to an otherwise National Register eligible or listed site.
 4. Where sufficient testing conducted by a Heritage Professional, or an archaeological technician working under a Heritage Professional, within the road prism has demonstrated that a given segment has little or no potential to yield undisturbed cultural deposits.
 5. Where geotextile fabric and gravel or similar aggregates were previously placed to protect historic properties.
- C. Any road maintenance that qualifies under Stipulation IX.B in the previous section shall be limited to the road prism only. Other maintenance activities outside the direct road prism (e.g., "ditch pulling" culvert work, maintenance of rolling dips, wing ditches, sumps, etc.) is prohibited without proper Heritage review and consultation.
- D. The administrative action of reducing the maintenance level of a road (rated as 1 through 5) and therefore the designated maintenance activities, provided it doesn't

involve any ground disturbing activities to do so.

- E. The administrative action of changing the use designation of a trail from motorized to non-motorized use.
- F. Felling and removal of hazard and windthrow trees from road prisms and trails where deemed necessary for health, safety, or administrative reasons (e.g., blocked access), provided trees are felled into and removed from within the existing road or trail prisms (area clearly associated with road construction from road surface to top of cut and/or toe), and provided ground disturbance is not allowed off previously disturbed areas associated with road or trail prisms.
- G. Installation or replacement of signposts and monuments such as National Forest boundary monuments situated next to highways or formally designated roads and trails when either (1) no new ground disturbance is involved, or (2) the collective total ground disturbance involves no more than one square meters of cumulative surface disturbance,
- H. Work within the disturbed perimeter of existing material borrow pits.
- I. Routine trail maintenance limited to brushing and maintenance of existing tread with hand tools.
- J. Issuance of road-use permits for commercial hauling over existing crowned-and-ditched roads.
- K. Maintenance or replacement of non-historic culverts (less than 50 years) including placement of rip-rap at inlet and outlets of existing culverts where there are no unevaluated cultural resources or historic properties and where the feature itself is not a historic property.
- L. Stockpiling of road maintenance related materials on existing roads, turnouts, or other disturbed areas where there are no unevaluated cultural resources or historic properties.
- M. Installation of roadside safety features such as guardrails adjacent to existing forest roads in previously disturbed areas where the road and its features are not historic properties.
- N. Reconstruction or repair of snow fences where no new ground disturbance is involved.
- O. Designation of snowmobile routes.

- P. Actions taken for temporary or permanent road closures that do not involve ground disturbance on authorized or unauthorized roads and trails. Examples include:

1. Placing buck and pole fence enclosures to block access.
2. Placement of boulders or felled trees to block access.
3. Placement of Carsonite posts/markers.
4. Placement of slash and/or brush to block access.

X. SOIL AND WATER

- A. Removal of log jams and debris jams from streams or drainages using hand labor or small mechanical devices where motorized vehicle use is limited to authorized roads.
- B. Non-disturbing broadcast seeding and mulching to promote vegetation establishment.
- C. Installation of stream monitoring equipment outside of the active stream channel provided it does not involve ground disturbance.
- D. Installation of stream monitoring equipment that includes ground disturbance provided that disturbance is limited to areas within the active stream channel.

XI. FUELS AND VEGETATION MANAGEMENT TREATMENTS

- A. Sanitation activities where individual trees and brush are felled by hand or by chainsaw, peeled, piled, removed by hand, or bucked up by hand and left to naturally deteriorate. No heavy machinery is used, and activities occur outside of known historic properties boundaries and/or buffer zones as appropriate.
- B. Slash disposal in previously disturbed areas where the slash is piled by hand and burned.
- C. Branch pruning activities where selected trees are pruned with hand saws or chainsaws to improve tree health and resiliency, reduce ladder fuels, and to create defensible space around structures. Slash is either hand piled for chipping or bucked up by hand, loaded onto rubber-tired vehicles and hauled away. This excludes the use of large tracked vehicles.
- D. Understory removal of non-commercial timber using chainsaws to reduce ladder fuels, break up the continuity of fuels, and to improve stand health and resiliency. Slash is either hand piled for chipping or burning, bucked up by hand and left to naturally deteriorate, or loaded onto rubber-tired vehicles and hauled away. Motorized vehicle

activities occur outside of known historic property boundaries and/or buffer zones as appropriate. This activity excludes the use of large tracked vehicles.

- E.** Application of pesticides that do not have the potential to affect access to or use of plants or other natural resources traditionally used by Native Americans.
- F.** Insecticide spraying on individual trees and on small stands of trees. Employees walk from developed roads to the infected trees and apply the chemical by hand. No trees are removed under this activity.
- G.** Semiochemical treatments where pheromones distasteful to beetles are placed in the trees to discourage beetles from accessing specific stands of trees.
- H.** Trap-tree activities where green saw-timber size (9" or greater) trees are felled to serve as "trap trees" within areas where beetle populations have increased past endemic levels. Roughly one year later the trees are either debarked to kill the beetles that have hatched or piled by hand and burned in designated, previously disturbed burn areas. No heavy machinery is used.
- I.** Lethal trap tree activities, where trees are felled using a chainsaw, then chemical pesticide is applied along the entire length of the tree. No trees are removed and no heavy machinery is used.
- J.** Aggregate (also called trap-out) beetle activities, where funnel traps with attractive pheromones are hand-placed in trees. Traps are placed by hand and removed by hand. Occasionally a metal fence post will be driven into the ground to support the trap.
- K.** Mowing to create fire lines/breaks.
- L.** Aspen enhancement projects where non-commercial ponderosa pine will be cut from the understories of existing aspen stands using chainsaws to reduce ladder fuels, break up the continuity of fuels, and to improve the health and resiliency of existing aspen stands. Slash is either hand piled for chipping or bucked up by hand, loaded onto rubber-tired vehicles and hauled away. Motorized vehicle activities occur outside of known historic properties boundary and/or buffer zones as appropriate.
- M.** Boundary treatments where dead standing trees, down trees, and slash within 300 ft. of the National Forest/private-land boundary are cleared with chainsaws, understory ladder fuels are removed, and lower branches on retained trees pruned to create a fuel break that would both increase the controllability of a potential wildfire from burning onto private land and/or from private land onto the Forest. Slash is either hand piled for chipping or bucked up by hand, loaded onto rubber-tired vehicles and hauled away. This excludes the use of large tracked vehicles.

- N. Creation of defensible space within 300 ft. of the National Forest/private-land boundary around homes and structures through the removal of trees, brush, and other vegetation using chainsaws and hand tools, where such activities do not affect the integrity of the setting of historic properties. Slash is either hand piled for chipping or bucked up by hand, loaded onto rubber-tired vehicles and hauled away. This excludes the use of large tracked vehicles.
- O. Activities designed to reduce hazardous fuels on private lands, funded in whole or in part using Forest Service grants, including educational and training efforts, hand treatments, mowing, chipping, pile burning, use of hand-held mechanized equipment, and all fuels treatments at private residences.
- P. After consultation with a Heritage Professional to ensure no historic properties are present, creation of hand lines for prescribed burns where chainsaws and hand tools are used, and where duff and vegetation are cleared to mineral soil.
- Q. Logging activities may be implemented over snow cover on or around historic properties when a minimum 18 inches of compacted snow or ice exists throughout the duration of undertaking activities to prevent surface and subsurface impacts. All concentrated work areas (e.g., landings, skid trails, turnarounds, and processing equipment areas) shall be identified prior to snow accumulation and located outside the boundaries of historic property.
- R. Tree planting by hand or with hand tools where **both** of the following criteria are met:
 - 1. The project area has previously received intensive archaeological field survey.
 - 2. No seedlings are planted within the boundaries of eligible or potentially eligible (unevaluated) cultural sites. Should tree planting within site boundaries be planned or preferred, the Forest will consult as per stipulations in the main body of this PA and the undertaking will no longer qualify as excluded.
- S. Non-disturbing broadcast seeding and mulching for establishment of vegetation.
- T. Removal of non-native, invasive plant species using hand tools where such activities would not affect the integrity of historic properties if present.
- U. Post-sale chipping operations utilizing existing landings or in place skid trails in areas previously surveyed for historic properties.
- V. Weed Treatments using non-motorized application or motorized when ground is dry or frozen.

- W. Seed drilling during Prairie Restoration, includes broadcast seeding or drilling to depths of 0.5 inches).
- X. Harvest of special forest products (e.g., teepee poles, willow stems, pine boughs, and medicinal plants) when all collection can be accomplished using hand tools and without driving vehicles where not permitted on the Forests' Motor Vehicle Use Map. The majority of these requests originate with American Indians for the intent of using them for traditional practices.

XII. BURNED AREA EMERGENCY RESPONSE (BAER) RESTORATION AND REHABILITATION (POST-BAER)

- A. Seeding or seeding with fertilizers in order to establish vegetation in burned areas.
- B. Mulch/slash spreading to provide surface cover; application is by means of hand, ground- or aerial-based operations, or in slurry with seed.
- C. Log erosion barriers where trees are felled by hand on the contour and then anchored in place.
- D. Geotextile fabrics/geowebbing applications, where engineered materials (commonly called erosion control blankets) are used for temporary erosion control or slope stabilization.

XIII. MINERALS

- A. Approval of non-ground disturbing oil and gas exploration activities, when vehicular activities are restricted to existing roadways.
- B. Modifications to, or variances from, activities authorized in an approved mineral or exploration plan of operations that do not involve additional surface disturbance and will not affect historic properties.
- C. Approval of previously approved Mining Plans of Operations that would add another user, or the sale or transfer of an approved operation to other individuals that would not change the terms of the Plan of Operations or affect historic properties.

XIV. RECREATION RESIDENCES AND FACILITIES MANAGEMENT

A. Not Eligible and/or Non-contributing Structures

Maintenance activities planned for recreation residences or the Forest's administrative structures that have been determined not eligible for the NRHP with SHPO concurrence

shall be excluded from review where the viewshed of nearby eligible residences will not be adversely impacted.

B. Eligible and/or Contributing Structures

1. Exterior Structural Elements

- a. Repair or replacement of siding, trim, or hardware, when done in-kind to match historic material, design, and color.
- b. Repair of window frames or shutters by patching, splicing, consolidating, or otherwise reinforcing or replacing in-kind those parts that are either extensively deteriorated or are missing. The same historic configuration of panes shall be retained.
- c. Replacement of window frames to match historic material and design. The same historic configuration of panes shall be retained.
- d. Replacement of glass, when done in-kind to match historic form and design. Window panes may be double or triple glazed as long as the glazing is clear and replacement does not alter the historic window form. This excludes the use of tinted glass, use of which requires consultation.
- e. Maintenance of features, such as frames, hoodmolds, paneled or decorated jambs and moldings, through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and reapplication of protective coating systems using historic color and texture.
- f. Repair or replacement of exterior doors, when done in-kind to match historic material and form.
- g. Replacement of existing shingles with a fire-resistant shingle material that does not significantly alter the historic integrity of the building. Repair should be as compatible as possible with the design, character of the building, and setting. Adequate anchorage for roofing material to guard against wind damage and moisture penetration should be provided.
- h. Repair or replacement of roof sheeting, flashing, fascias, and eaves where the work does not alter the historic integrity or form of the building. Repair or replacement of flashing, fascias, and eaves must be in-kind.
- i. Repair or replacement of chimneys, when done in-kind, to match historic materials and form. Spark-arresting chimney caps may be added to chimneys, where such caps harmonize with historic materials and form.

- j. Excavation work within two feet of existing footings and foundations.

2. Exterior Surfaces

- a. Painting, staining, or oiling (collectively “painting”) interior or exterior surfaces, when the new paint matches the existing or historic color. If the existing paint color is not desirable and the historic color is not known, the color should be in keeping with historic color schemes for nearby or similar structures. Damaged or deteriorated paint may be removed to the next sound layer by hand-scraping or hand-sanding. Use of abrasive methods, such as sandblasting, is not covered by this treatment.
- b. Replacement or installation of caulking and weather-stripping around windows, doors, walls, and roofs.
- c. Replacement or repair of chinking, provided the color and texture match the remainder of the chinking used in the structure.
- d. Removal of hazardous materials or surfaces such as asbestos and lead paint, and replacing them with nontoxic materials that resemble the historic surfaces as closely as possible. This applies only to the removal of the toxic material itself, not the area being worked on; e.g., one may not replace an entire window to complete lead paint abatement.

3. Interior Maintenance

The application of these interior stipulations is limited to NRHP-eligible or unevaluated historic structures that are owned by the agency – such as administrative buildings. Interior stipulations do not apply to cases where the Forests’ administrative buildings are leased or the structures are privately owned, for example, recreation residences.

- a. If the existing paint color is not desirable and the historic color is unknown, the color should be in keeping with historic color schemes for similar structures. Damaged or deteriorated paint may be removed to the next sound layer by hand-scraping or hand-sanding. Use of abrasive methods, such as sandblasting, is not covered by this treatment.
- b. Where existing materials clearly are not the original and are not in-character with the original, non-historic and out-of-character materials may be removed and replaced with materials that match or are more compatible with original fabric, design, color, etc. of historic structures.

- c. Replacement of glass, when done in-kind to match historic form and design. Window panes may be double or triple glazed as long as the glazing is clear and replacement does not alter the historic window form. This excludes tinted glass, the use of which requires consultation.
- d. Replacement of entire architectural feature(s) such as a door or window, regardless of replacement type and fabric, does not qualify as an exempt undertaking.
- e. Repair or replacement of floor coverings, when done in-kind to match historic material and design.
- f. Replacing in kind only those portions of interior features such as ceilings and staircases that are extensively deteriorated or missing parts and provided the replacement matches the old in material, design, color, and texture.
- g. Installation of grab-bars and minor interior modifications for handicapped accessibility.
- h. Replacement of modern appliances and fixtures (e.g., ranges, refrigerators, and bathroom fixtures). When associated historic cabinetry is intact, and the interior, in general, retains its historic appearance, the cabinetry will be retained.
- i. Installation of mechanical equipment that does not affect the visual integrity, interior fabric, or historical integrity of the building.
- j. Removal, upgrading, or in-kind replacement of electrical wiring, provided interior walls will not be removed to expose the wiring. If electrical upgrades necessitate the removal of interior walls or sections of walls, this stipulation does not apply.
- k. Repair, replacement, removal, or upgrading of interior water and plumbing systems when historic features, such as hand pumps, are left in place. Historic plumbing fixtures will be retained and used. If plumbing upgrades necessitate the removal of interior floors, walls, or sections of floors and walls, this stipulation does not apply.
- l. Replacement or application of caulking and/or weather-stripping around windows, doors, ceilings, kitchen sinks, toilets, etc.
- m. Features within historic properties may be retained but rendered inoperable in order that they continue to be a contributing feature to a historic property (for example, gas lights, plumbing fixtures, cannons, etc.).
- n. Removal of hazardous materials or surfaces such as asbestos and lead paint, and replacing them with nontoxic materials that resemble the original in color and texture. If removal necessitates the destruction of interior walls or sections of

walls, this stipulation does not apply.

- o. Installation of dry insulation, provided interior walls will not be removed to expose the wiring. If insulation upgrades necessitate the removal of interior walls or sections of walls, this stipulation does not apply
- p. Installation of fire or smoke detectors or burglar alarms, provided the work does not affect the visual integrity or interior fabric of the building.
- q. Installation of security systems or security devices, such as dead bolts, door locks, and window latches.
- r. Installation of skirting over a structure's crawl space, if constructed with materials and painted a color to match or compliment the historic integrity of the structure.
- s. Installation of temporary door or window covers to secure structures from vandalism during the off-season or after visitor hours.
- t. Installation of handrails and guardrails to meet building code if not attached to significant detailing and designed in a compatible manner that does not detract from the historic character.

4. Utility Systems

- a. Installation of mechanical equipment that does not affect the visual integrity or exterior fabric of the building.
- b. Repair, replacement, removal, or upgrading of water and plumbing systems when they are on the exterior of the building, and if historic features, such as hand pumps, are left in place. Historic plumbing fixtures should be retained and used if possible.
- c. Replacement of metal water tanks with ones of fiberglass, when the color and texture of the existing or historic tank are replicated or when landscaping camouflages the replacement tank. Redwood tanks with plastic inserts are also feasible. Construction of a structure around a tank to control temperature is allowed when landscaping camouflages the change.
- d. Replacement of and enlarging liquid propane gas systems, if tanks are screened with landscaping materials.
- e. Replacement of communications equipment, when the same size, shape, and general configuration are retained or reduced, excluding large antenna and communications dishes.

- f. Replacement of lightning rod wiring with new copper wire.
5. Associated Features
- a. Replacement of signs in-kind.
 - b. Ongoing maintenance using hand and power tools of immediately surrounding landscaping, including such modifications as removing hazardous vegetation, adding vegetation that blends with the historic landscape, or adding rocks to define paths, where not otherwise prohibited, so long as historic landscape characteristics are maintained.
 - c. Repair or replacement of driveways and walkways done in-kind to match existing or historic materials and design.
 - d. Repair or replacement of decks and porches done in-kind to match existing or historic materials and design.
 - e. Repair or replacement of fencing done in kind to match existing or historic material and design. Where replacement is necessary, the new fencing shall be limited to the existing location.
 - f. Repair or replacement of outbuildings in-kind to match existing or historic materials and design.
 - g. Addition of completely removable hand rails or accessibility ramps which complement the historic materials and style of the structure itself.
 - h. Repair, replacement, or addition of exterior lighting that blends with the landscaping and style of the building.
 - i. Installation of skirting over a structure's crawl space, if constructed or painted a color to match or blend with the structure.
 - j. Removal of vegetation or hazard trees in order to reduce the threat of wildfires or falling timber, so long as removal is done by hand without the use of heavy equipment.
6. Ground Disturbing Activities
- a. Excavations for repair or replacement of building footings or foundation work within 24 inches of existing footings and foundations.

- b. Installation, repair, or replacement of utilities, such as sewer, water, or storm drains, electrical, gas, or leach lines, and septic tanks, where excavation activities are restricted to specific areas no more than 24 inches either side of pre-existing utilities.
- c. Tree planting or removal in areas that have been previously disturbed by these activities, including nursery beds and arboreta, provided historic landscaping is maintained.

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APPENDIX C

RECORDATION OF PROSPECT PITS, TRENCHES, AND OTHER FINDS

This section addresses the protocol for recording prospector pits or trenches that are found in large numbers throughout the Black Hills National Forest, in particular. The Signatories have agreed that these features, under specific circumstances, are exempt from the normal mandate to record cultural features and/or artifacts. This section also addresses a class of cultural materials encountered on the Forests (to include prospector pits/trenches) that Heritage personnel have been internally documenting as “Other Finds” because they constitute insignificant cultural items that qualify as neither cultural sites nor isolated finds.

Prospector pits/trenches are typically relatively small excavations dug by hard-rock miners for the purposes of mineralogical exploration or to establish and maintain ownership of a mining claim. They constitute one of the most common archaeological features associated with mining in the Black Hills National Forest. Prospector pits/trenches are typically difficult to date because they frequently lack diagnostic indicators. Without a historic context, prospector pits/trenches cannot contribute to National Register significance.

Under terms of this programmatic agreement, prospector pits/trenches and other finds are considered neither archaeological sites nor isolated finds. Consequently, these items need not be recorded. Pursuant to the following stipulations, prospector pits/trenches are considered not eligible for the NRHP.

A. Prospector pits/trenches that shall be documented as Other Finds may:

1. Consist of excavated pits and associated waste rock piles.
2. Have a single locus or multiple loci.
3. Date throughout the historic period.
4. Be associated with generalized mining activities.
5. In terms of size, prospector pits/trenches under this protocol may be of any size.
6. Be considered “other finds” not eligible for the NRHP.

B. Prospector pits/trenches that meet one or more of the following criteria may not be documented as Other Finds and shall be fully recorded:

1. Contain subsurface cultural deposits (excluding excavated pits and associated waste rock piles).
2. Be associated with or contain any mining features other than prospector pits/trenches and associated waste rock piles (excluding intrusive features less than 45 years of age).
3. Be associated with or contain features that suggest functions other than mineral prospecting (excluding intrusive features less than 45 years of age).
4. Be associated with prehistoric quarrying or date to the prehistoric period.
5. Be of modern, post-1960s derivation.
6. Be associated with specific mines or mining complexes, or specific persons, households, or other specific entities or events.
7. Contain more than 10 individual objects of an historic nature (>50 years). Trash that post-dates 1960 is considered modern and intrusive and not historic. The presence of modern trash discarded in prospector pits/trenches does not disqualify application of this strategy.
8. Include prehistoric lithic quarries. Quarry holes for commonly used prehistoric lithic materials, such as chert, basalt, obsidian, or quartzite, are excluded from this exempted category.

C. Other Finds

In addition to previously and newly recorded cultural resources a large number of other finds are often documented within proposed project areas. Examples include, but are not limited to, mining prospect activities, modern features, and isolated historic artifacts resulting from the area's continual use over the past 135 years. This historic activity has led to a large number of cultural items and/or features that do not warrant recordation as an archaeological site or isolated find due to their relative insignificance or lack of material remains, features, or association. The categories listed below constitute the most common items that qualify as other finds.

1. Utility lines (i.e., power lines, towers, telephone lines, fiber optic cable, etc.).
2. Pipelines (i.e., water, gas, etc. This does not include early historic pipelines).

3. Isolated and working stock dams, troughs, spring boxes, and associated windmills (This does not include those with specific associations that could make them eligible, for example, CCC spring developments).
4. Elevation, bench, and section markers (i.e., all survey or cadastral markers not associated with significant events such as the original survey of the Black Hills National Forest).
5. Car banks (i.e., the use of abandoned cars, farm machinery, appliances, etc. to stabilize riverbanks, stream banks, or drainages).
6. Rip-rap (i.e., the use of cobbles, rock, or wood to stabilize riverbanks, stream banks, or drainages).
7. Isolated abandoned motorized vehicles, appliances, and mobile homes.
8. Fences and enclosures (i.e., barbed wire, chain link, buck-and-pole, or other types of pasture fence). This does not include corrals, roundup or load-out facilities.
9. Unnamed two-track roads (i.e., ranch roads, seismic roads, etc.). This will require standard historic research to determine if the roads are named. Named roads need to be formally recorded; generally, unnamed roads do not need to be recorded. Discuss in the report the historic research conducted (i.e. GLO check, county records, historic maps, etc.).
10. Recent trash (i.e., highway trash, etc.).
11. Active mines with features that are not historic in nature.
12. Natural lithic outcrops with no evidence of cultural use.
13. Temporary slash piles and isolated woodpiles associated with logging activity.
14. Prospector pits/trenches associated with mineral exploration or mining with no associated features, cribbing, and/or 10 or less associated historic artifacts.
15. Roads that have been reconstructed within the last 50 years.
16. Ten or less historic artifacts in one localized area with no unique characteristics that would qualify as significant in nature.

APPENDIX D

ANNUAL REPORT FORMAT

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**BLACK HILLS NATIONAL FOREST/NEBRASKA NATIONAL FORESTS AND GRASSLANDS
ANNUAL REPORT FOR FEDERAL FISCAL YEAR _____**

In accordance with Stipulation VIII found in:

**Programmatic Agreement among the Black Hills National Forest,
Nebraska National Forests and Grasslands,
South Dakota State Historic Preservation Officer,
and Advisory Council on Historic Preservation
Regarding the Process for Compliance with Section 106
of the National Historic Preservation Act
for Undertakings Administered by the Two U.S. Forest Service Units
in the State of South Dakota**

The Black Hills National Forest and Nebraska National Forests and Grasslands (Forests) shall use the following format to report annual accomplishment data to the South Dakota SHPO by April 1 of each year. The categories reported coincide with the U.S. Forest Service Heritage database of record (NRM) and will be taken directly from that database. Where applicable, the Forests shall also submit a narrative at the end of the tables explaining anything found in the tabular data that is unusual or noteworthy.

Table 1. Summary of PA Training Completed Pursuant to Stipulation II.B.2

Training Type (classroom, webcast, etc.)	Names of Attendees	Date & Duration	Instructor(s) Name and Affiliation

Table 2. Summary of Projects Excluded from Case-by-Case Review Pursuant to Stipulation IV.A and Appendix B

Appendix B Stipulation No.	Number of Undertakings	Comments
TOTALS	0	

Table 3. Summary of Projects Where Previous Survey Was Adequate and No Historic Properties Exist Pursuant to Stipulation IV.D.2

Undertaking USFS ID	Undertaking Name	Comments

Table 4. Summary of Projects Where Previous Survey Was Adequate, Historic Properties Exist, and the Forest Has Made a Determination of No Historic Properties Affected Pursuant to Stipulation IV.D.4.a

Undertaking USFS ID	Undertaking Name	Comments

Additional Remarks:

APPENDIX E

GUIDELINES FOR THE DEVELOPMENT OF NEW APPENDICES SPECIFIC TO CLASSES OF UNDERTAKINGS

Identification, evaluation, and management procedures for certain classes of undertakings (e.g. vegetation management, livestock grazing) shall be guided by appendices that contain specific procedures for inventory, reporting, and review. This appendix outlines the protocol that shall be used for the development of new appendices.

I. PRINCIPLES

Undertaking appendices should be straightforward, easy to implement, sufficiently specific, and suitably detailed to minimize interpretive complications regarding the activities addressed.

II. CONTENTS AND FORMAT

Undertaking appendices should conform in format to the existing appendices and may contain the following information:

- A. *Title* that specifies the subject (undertaking).
- B. *Description* that describes the class of undertaking to which the appendix applies.
- C. *Management Protocol*, which may include steps, measures, or additional procedural details that differ from the process outlined in the body of the PA.
- D. *Standard Inventory Strategy*, which may include:
 - 1. Discussion, description, and reasons for APE determination.
 - 2. Sample inventory criteria or models to be used for that class of undertaking.
- E. *Additional Stipulations*, which may include:
 - 1. Recommended site protection measures.
 - 2. Monitoring recommendations.

III. DEVELOPMENT OF NEW APPENDICES

New appendices may be developed and included in this agreement by the following procedures.

- A.** The Forests will provide the SHPO, ACHP, and any concurring party to the original PA with written notification of their intent to add an appendix to this agreement and seek their initial advice.
- B.** Appendices shall be prepared according to the principles and content listed herein (Section II above).
- C.** Interested parties shall be consulted and afforded an opportunity to provide input in the development and review of draft appendices. Interested parties may include, as appropriate, Indian tribes, organizations or individuals that have asked to be included, and organizations or individuals that may be directly affected by actions stipulated in the appendices.
- D.** When a draft appendix has been completed, the Forests shall submit the appendix to the SHPO, ACHP, and Concurring Parties for review.
- E.** The SHPO, ACHP, and Concurring Parties shall be afforded thirty (30) calendar days to review and comment on the draft appendix.
- F.** The protocol shall be added to the agreement and implemented by the Forests if the SHPO and ACHP accept and certify the appendix by signing an amendment to this agreement.
- G.** Appendices may be amended by agreement of the Signatories as described in Stipulation XI of the main body of the PA.

APPENDIX F

RANGELAND MANAGEMENT ACTIVITIES

I. DESCRIPTION

The Forest Service administers the Rangeland Management Program as authorized by the Multiple Use Sustained Yield Act (P.L. 86-517, 74 Stat. 215; 16 U.S.C. 528), the Forest and Rangeland Renewable Resources Planning Act (P.L. 93-378, 88 Stat. 476, as amended: 16 U.S.C. 1601), and the Public Rangelands Improvement Act (92 Stat. 1803, 43 U.S.C. 1752-1753, 1901-1908). This appendix applies to allotment management plans and range permit issuance or reissuance.

Rangeland and livestock management improvements including but not limited to water developments, fence construction (except as noted in Appendix B), and livestock handling facilities shall be considered undertakings in accordance with Section 106 of the NHPA and shall comply with provisions of this PA or with 36 CFR §800.4 through §800.6.

II. MANAGEMENT PROTOCOL

Consideration of cultural resources as they are potentially affected by rangeland activities will be accomplished during the planning stages of individual projects. Inventory, where prescribed by the Heritage Professional, will focus on those areas determined to be most at risk from grazing activities and associated improvements. Historic properties that could potentially be affected by livestock grazing and other rangeland activities may be monitored as necessary to identify any long-term effects and to better evaluate suitable treatment/protective measures.

III. STANDARD INVENTORY STRATEGY

Allotment boundaries shall be considered the Area of Potential Effects. Because these areas are usually extremely large, the focus of analysis will be limited to livestock congregation areas and their intersection with areas known or likely to contain cultural resources.

The Heritage Professional shall contact the appropriate Rangeland Management Staff to define areas where livestock tend to congregate. Congregation areas should be defined based upon the number of livestock in the allotment, the duration of grazing, and the likelihood of soil and other resource impacts. The Heritage Professional shall then determine additional inventory needs, if any, based upon the specific environmental and cultural setting of each analysis area using the following strategy:

- A.** The Rangeland Management Staff will help to define areas within the analysis boundary where livestock tend to congregate. Standard predictive variables may include, but are not limited to, the following:
 - 1. Adjacent to existing livestock management improvements such as water tanks, fences, and handling structures.
 - 2. Unimproved areas where livestock congregate to drink.
 - 3. Near salting areas.
- B.** The Heritage Professional will define areas most likely to contain cultural resources, based on standard archaeological modeling variables such as nearness to water, slope and elevation, and presence of known sites. Standard predictive variables may include, but are not limited to, the following:
 - 1. Within ¼ mile of permanent water.
 - 2. On slopes less than 15%.
 - 3. On topographic prominences, such as ridge tops, saddles, and high points.
 - 4. Near ecotonal boundaries.
- C.** The intersection of the two variables in Sections III.A and III.B shall be the focus of analysis and additional field inventory, if the Heritage Professional determines it is necessary, will occur there.
- D.** The Heritage Professional may determine that no additional inventory is required, if:
 - 1. The areas identified in Section III.C have been adequately inventoried to current standard, or;
 - 2. There are no intersecting areas identified in Section III.C.

IV. ADDITIONAL STIPULATIONS

The Forest will ensure that the following measures are carried out during the course of rangeland and livestock management activities:

A. Monitoring

If damage or potential damage is noted on newly recorded or previously identified historic properties within livestock congregation areas, but the cause, degree, or extent is unclear, the site will be monitored periodically to help determine whether or not protective measures are needed. Any prescribed monitoring of sites and effects

analyses will be discussed in the inventory report that will be submitted to SHPO and other consulting parties for review.

B. Standard Site Protective Measures

The appropriate protective measures prescribed by the Heritage Professional shall be reported in the Forest's inventory report to SHPO and other consulting parties. Protective measures may include improved rangeland condition or retention of higher vegetative structure, avoidance, long-term studies, or other actions, such as fencing, changes in time/timing, or frequency/duration of livestock use. If fencing is used as a protective measure, the Heritage Professional and Rangeland Management Staff will determine the appropriate acreage and location to be fenced, and the most appropriate and effective type of fencing to be employed. The inventory report will describe protective measures and the schedule for implementation.

APPENDIX G

VEGETATION MANAGEMENT ACTIVITIES

I. DESCRIPTION

The Forests regularly conduct a variety of vegetative management activities, usually associated with hazardous fuel reduction, commercial timber sales, insect and disease outbreaks, and protection of homes along the Wildland-Urban Interface. Vegetation management activities are often accomplished through prescribed burning or mechanical and/or hand removal of vegetation. These undertakings may have the potential to adversely affect historic properties.

II. MANAGEMENT PROTOCOL

The Forests' Vegetation Management Program encompasses two general project planning processes: 1) individual, stand-alone projects; and 2) broad-scale analysis areas.

- A. *Procedures for specific projects analyzed under the NEPA process as stand-alone undertakings.* For specific projects which define treatment units, treatment locations, types of treatments, and all other associated activities, the Forests will adhere to applicable procedures specified in the main body of this PA, particularly Section IV.
- B. *Procedures for broad-scale analysis area where discrete vegetation management activities are not specifically defined.* Under these circumstances, where it is not possible to complete Section 106 mandates for all aspects of the undertaking prior to signing a NEPA decision document, the Forests will apply the procedures for a phased analysis pursuant to protocols found in Stipulation IV.H of the main body of this PA.

III. STANDARD INVENTORY STRATEGY

The APE shall be defined by the Heritage Professional on a project-by-project basis pursuant to Stipulation IV.B of the main body of this PA, governed by the type and intensity of proposed activities.

A. General

1. In all cases, field observations will also be used to identify areas of high or low site potential that cannot be specifically recognized without field investigations. Inventory strategies may be altered as needed based upon these observations.
2. All areas of known high-site density within the APE will be intensively (<30 meter transect spacing) inventoried.

3. For prescribed burning activities, all historic properties or unevaluated cultural resources susceptible to burning identified within the APE will be visited and protective measures will be prescribed. This plan will be a part of the inventory report.

B. Strategy for areas where prescribed fire is planned

1. Open grass and sagebrush settings where short duration and a low and/or moderate level of fire intensity is anticipated.
 - a. Previously recorded NRHP eligible and unevaluated properties will be inspected prior to the prescribed burn. A primary objective will be to identify any subsurface features which may be exposed to the surface, such as a fire hearth, which could be affected by a low intensity/low duration fire.
 - b. Inventory will be conducted through each burn unit to look for wood features, exposed archaeological features, rock art panels, or other features which could be affected by the prescribed fire. The inventory will provide for a visual inspection of the open burn unit where the presence or absence of standing wood features can be confidently documented.
 - c. Inventory transects will also be used to inspect stream cut-banks, road cuts and other open locations where there is potential for exposed sub-surface deposits or features.
 - d. All areas where machine-constructed fire lines are planned will be intensively inventoried. Fire lines that are created by mowing are exempt per Appendix B, Stipulation XI. K.
2. Forested settings where short duration and a low and/or moderate level of fire intensity is anticipated.
 - a. Previously recorded eligible and unevaluated properties will be inspected prior to the prescribed burn. A primary concern will be to identify any subsurface features which may be exposed to the surface, such as a fire hearth, and which could be affected by a low intensity/low duration fire.
 - b. Intensive inventory coverage will be implemented using a GIS model according to the following criteria, and identified areas with these characteristics will be inventoried:
 - 1) Forested areas with a slope of less than 15% and within 0.25 miles of permanent water sources (i.e. streams, creeks etc.).

- 2) Geological features such as saddles, terraces, benches, overhangs, escarpment edges, and high points.
 - 3) Those areas regardless of slope and cover where toolstone-bearing formations are exposed or contain known stone quarry sites.
 - 4) Stream terraces or benches.
 - 5) Rock shelters.
 - 6) Mines.
 - 7) Prominent rock faces which contain or are likely to contain Native American rock art.
 - 8) Historic structures (eligible or unevaluated) identified during the literature search.
- c. All areas where machine-constructed fire lines are planned will be intensively inventoried.
- 3. Burn Units (Open and Forested) where long duration, moderate and/or high level of fire intensity is anticipated.
 - a. A complete Level III (intensive) inventory will be conducted over all areas where planned intensity levels would be considered moderate or high and of a long duration.
 - b. All areas where machine-constructed fire lines are planned will be intensively inventoried. Fire lines that are created by mowing are exempt per Appendix B, Stipulation XI. K.

C. Strategy for areas where mechanical vegetative management activities are planned

- 1. Open Canopy and Sagebrush Settings
 - a. Areas of open canopy or sagebrush within the APE will be subject to Level III (intensive) inventory.
 - b. Inventory transects will also be used to inspect stream cut-banks, road cuts and other open locations where there is potential for exposed sub-surface deposits or features.

2. Forested Settings

A Level II (focused sample) inventory strategy will be implemented using a model according to the following criteria:

- a. Forested areas with a slope of less than 15% and within .0.25 miles of permanent water (i.e. streams, creeks etc.).
- b. Geological features such as saddles, terraces, benches, overhangs, escarpment edges, and high points.
- c. Those areas regardless of slope and cover where toolstone bearing formations are exposed or contain known stone quarry sites.
- d. Stream terraces or benches.
- e. Rock shelters.
- f. Mines.
- g. Prominent rock faces which contain or are likely to contain Native American rock art.
- h. Historic structures identified during the literature search.
- i. Areas in aspen stands near trails, meadows, and other features where aspen art (dendroglyphs) is likely to occur.

IV. ADDITIONAL STIPULATIONS

A. Standard Site Protective Measures

Appropriate treatment will be prescribed for historic properties identified within the APE (e.g., avoidance). The inventory report will describe any protective measures prescribed. Consultation protocols shall follow specifications in Stipulation IV of the main body of this PA. The use of fire protections (black lines, foam, protective fabric) or other treatment measures will require consultation with SHPO and other consulting parties prior to implementation.

B. Treatments within Historic Property Boundaries

It has been common practice to prohibit any type of vegetation treatment within the boundaries of historic properties or unevaluated cultural resources in order to eliminate the potential for adverse effects to the resources. The practice has resulted

in a tendency for vegetation (primary concern is arboreal species) to proliferate within the boundaries of these significant properties. Over time, due to the absence of management treatments, root systems significantly disrupt the subsurface while fuels can accumulate in alarming quantities on the ground surface. Tree throws can also be responsible for considerable surface/subsurface disturbance. In an effort to minimize these threats to site integrity, the following criteria shall apply:

1. Sanitation activities may be permitted within the boundaries of historic properties or unevaluated cultural resources where individual trees and brush are felled by hand or by chainsaw, moved outside the site boundaries by hand, or cut up and left in place to naturally deteriorate. A Heritage Professional shall determine in advance if it is appropriate to require that a Heritage Professional or Archaeological Technician be present on site to ensure that none of the sanitation methods used pose any additional threat to historic properties (e.g., the dropping of trees on a historic structure).
2. In cases where it may be beneficial to use mechanical equipment—including tracked equipment—to remove brush or woody material from within the boundaries of a historic property, a Heritage Professional will first analyze how the best sanitation practices may be conducted with no effect on known cultural features or artifacts. Certain areas of the site, for example, may exhibit no surface features/artifacts and mechanical access to the interior of the site could be routed through those areas with no threat to the resource. Alternatively, it may be possible to install a protective barrier that would isolate the ground surface from the equipment's tracks or wheels. No dragging of trees or limbs across the ground surface for removal will be permitted within site boundaries.

Should this stipulation be employed, a Heritage Professional shall be present on site during the entire time mechanical equipment is operating within site boundaries.

3. Under certain conditions where fuels are light and cultural feature/artifact distributions are equally light—and of a type that are not easily damaged by heat—it may be advantageous to permit prescribed fire within site boundaries. The primary objective would be to minimize fuels while they are still small in quantity and before they become a greater fire hazard in the future. Under these circumstances, a Heritage Professional shall determine in advance if it is appropriate to require that a Heritage Professional or Archaeological Technician be present on site during ignition.

APPENDIX H

HAZARD TREE ENVIRONMENTS

Mountain Pine Beetle infestations and other natural processes frequently result in areas with substantial occurrences of tree mortality. The subsequent increase in fuel loading significantly increases the potential for severe wildfires. Numerous county officials, communities, organizations, and individual members of the public have voiced their concern about the threat, advocating that the Forest reduce fuel loads and the potential for large-scale wildfire, particularly in the wildland-urban interface. The dead trees also represent a potentially severe threat to human safety as they decay and collapse. The Forest may find it necessary to treat some of these mortality stands to reduce fuel loads and/or the potential for human injury and fatality.

The hazards standing dead trees pose to people and infrastructure can safely be reduced if operators conducting mechanical treatments are restricted to the use of heavy equipment with metal cages. Individuals, however, conducting pedestrian survey are, under certain circumstances, subject to the risk of injury or mortality. Consequently, there is a need to minimize the risk to human safety when conducting cultural resource surveys and assessments. This section outlines the procedure that shall be followed to minimize those risks.

The Heritage Professional will work with a Line Officer where it is determined that there is a potential danger of falling trees, to conduct a risk assessment for each proposed activity within the APE by utilizing the *“Work Activity Supplement to Hazard Tree Environments Guidelines and Procedures”* provided in Attachment 1 of this appendix and completing a *“Risk Management Safety Analysis and Matrix”* as included in Attachment 2.

I. Risk Assessments with Acceptable Levels

Pedestrian surveys will be conducted (where needed) in areas of the APE where the results of the *“Risk Management Safety Analysis and Matrix”* produced a risk level determined to be *Acceptable*. In these cases, inventory, reporting, and consultation requirements will follow the procedures in Stipulations III and IV in the main body of this PA as applicable.

II. Risk Assessments with Unacceptable Levels

No pedestrian surveys will be conducted in areas of the APE where the results of the *“Risk Management Safety Analysis and Matrix”* produced a risk level determined to be *Unacceptable*. In these cases where no field inventory can safely be conducted all projects/actions will adhere to the following stipulations regardless of the type of activity proposed:

- A. The Heritage Professional will conduct a Level I literature review for all actions planned within the APE as per Stipulation IV.C in the main body of this PA.
- B. If the Level I literature review reveals that field survey is needed in areas where the risk level is determined to be *Unacceptable*, the field survey shall be deferred until such time that the dead trees have been felled or removed by mechanical means as part of project implementation.
 - 1. The Forest will forward the literature review and the risk assessment forms with a signed "*Line Officer Work Activity Review*" form (Attachment 3 of this appendix) to the Forest's Heritage Resources Program Manager, SHPO, and other consulting parties. The report shall clearly identify areas of the APE for which field survey has been deferred until after project implementation due to *Unacceptable* risk levels.
 - 2. If the risk level is determined to be *Unacceptable* for cultural resources field survey, it is assumed that the risk to human safety is equally unacceptable for personnel associated with other disciplines normally required for project planning and/or implementation, e.g., timber sale planners, natural resource field investigations, tree painters, sale layout personnel, etc. If practitioners of other disciplines, however, determine that the risk to human safety is acceptable, but cultural resources crews determine the risk is unacceptable, crews shall not be coerced into operating under unsafe circumstances.

III. Risk Assessments with Variable Levels

- A. Where risk levels in the APE vary between *Unacceptable* and *Acceptable*, the Forest shall clearly identify which areas of the APE can be safely entered for purposes of conducting field survey and which areas cannot currently be entered. The Forest will conduct field survey in the portions of the APE where risk levels are determined to be *Acceptable* as per Stipulation I of this appendix. The results of the field survey and the Forest's recommendations will be forwarded to the SHPO concurrently with the Level I inventory report. The new data, combined with pre-existing data where they exist, will help the Forest analyze the potential for unknown historic properties in the area where field survey will be deferred due to unacceptable risk factors.
- B. Where previously identified historic properties or unevaluated cultural resources exist in portions of the APE where risk levels are *Acceptable*, the Forest shall follow procedures in Stipulations IV in the main body of this PA.
- C. Where previously identified historic properties or unevaluated cultural resources exist in portions of the APE where risk levels are *Unacceptable*, the Forest shall determine whether or not treatments can be prescribed to eliminate the potential for adverse effects during project implementation.

- D. If treatments cannot be identified to eliminate the potential for adverse effects to historic properties or unevaluated resources during project implementation, the Forest shall follow the procedures in Stipulation IV.D.4.c of the main body of this PA.
- E. If treatments can be identified to eliminate the potential for adverse effects to historic properties or unevaluated resources, the Forest shall prescribe them as a condition of project implementation. This may require extensive communication with personnel associated with project implementation. Extensive use of maps may be required.
- F. Historic structures and associated features may be relatively easy to identify and protect during implementation as a result of their more visible components. Cultural sites and features with a less-visible footprint on the landscape may require more strenuous efforts to identify and protect. Geographic features such as streams, drainages, saddles, terraces, roads and trails, fencelines, topographic features, etc., should be used where possible to describe, demarcate, and convey boundaries and descriptions of historic properties to the appropriate implementing individuals.
- G. Where appropriate safety can be maintained, Heritage Resources staff may accompany project personnel into the field in properly equipped vehicles in an effort to delineate areas that should be avoided or protected.
- H. Where field survey has been postponed due to intolerable risk levels, the Forest will complete survey of the deferred areas within two months after a sufficient number of dead trees has been removed to ensure that an *Acceptable* risk level has been achieved. The only exception to the two-month stipulation will be in cases where snow has covered the surface of the un-surveyed area(s). In such situations, field survey will be conducted as soon as the snow has melted and the ground surface is visible.
- I. An inventory report will be written and submitted to the SHPO as per stipulations in Stipulation V. The post-activity report will reference the initial report which was submitted for the same project.
- J. If post-activity damage to a historic property or unevaluated cultural resource is identified as a result of the post-activity field survey, the Forest shall follow procedures in Stipulation V of the main body of this PA as appropriate.

Attachment 1

Work Activity Supplement to Hazard Tree Environments: Guidelines and Procedures

Introduction

Given the growing safety complexities of Bark Beetle Incident, this Supplement has been prepared to provide additional details for implementation of the Theater-Wide Guidelines and Procedures issued to Forest Service units on June 24, 2010 and are to be followed by all units within bark beetle impacted areas.

There is considerable diversity in the types of resources being ordered and assigned to mitigation work activities. There is overlap in governing policies and guidelines when emergency response resources are being utilized for non-emergency project work activities. Where this occurs, every effort will be made to stay within the policy parameters associated with emergency preparedness and availability. These supplemental guidelines and procedures are based on current agency health/safety and fire management policies.

Basis

The hazard tree work environment requires us to look beyond traditional approaches for assuring the health and safety of our employees. When and where appropriate, the introduction and use of risk management tools can be valuable in complimenting a Job Hazard Analysis in assessing the hazards, risks, and consequences of employee exposure. It can also be useful for aiding decision makers in defining the conditions of how work will be accomplished; and whether or not a work activity should even be initiated. Some key principles of assessing risk include:

- Situational awareness at all times during the work activity.
- Assessing the existing and potential hazards.
- Assessing the risk in relation to the known and unknown hazards.
- Identifying options and risk mitigations.
- Evaluating risk versus the benefits of accomplishing work activities.
- Identifying decision/trigger points for ceasing the work activity.
- Having monitoring standards to assess unforeseen changes in the work area environment as well as those human factors associated with our employees engaged in the work activity.

Line Officer Work Activity Review

A Line Officer Work Activity Review (Attachment 3) will be used to verify that a comprehensive review of all work activities in bark beetle impacted areas has been done to assure that the

continued safety and health of our employees has been fully addressed. Local Line Officer leadership must demonstrate an integral role in defining work objectives, tools and methods of the work to be performed, and weighing the benefits of work against employee exposure and risk. As specified in (3) of the Theater-wide Guidelines and Procedures, a Job Hazard Analysis (JHA) is the approved process for identifying hazards and appropriate mitigations. A risk management/assessment process will not be used in lieu of the JHA, however the field is encouraged to supplement their JHA process with risk management tools where this additional assessment would assist in better defining hazards and potential consequences.

A sample copy of a Risk Management Safety Analysis form and Risk Management Matrix (Attachment 2) is provided. These are basic examples of the many risk management tools and methodologies that are available and when used together, can assist further in assessing risk and associated consequences.

Work Activity Categories

The following categories are not all inclusive of those being performed by our employees or partners, however they represent key work activities associated within the bark beetle theater. Further reference must be made to the FSH 6709.11 Health and Safety Code Handbook for requirements associated with other activities not specified here.

1. Field Surveys, Measurements, Inventories

All critical steps (1-11) identified in the June 24, 2010 Safety Guidelines and Procedures will be understood and followed by all field going employees performing any type of resource survey, assessment, inventory, and measurement work activity.

2. Contract/Permit/Agreement Administration

- a. All critical steps (1-11) identified in the June 24, 2010 Safety Guidelines and Procedures and will be understood and followed by all field going employees in the administration of contracts, permits, and agreements.
- b. Should a decision be made to disengage from a work area noted above, an employee will communicate with the contract/permit/agreement holder's on-site representative the basis for disengaging.

3. Tree Felling

- a. **Occasional** - Associated but not the primary work activity (includes cruising/scaling measurements)
 - i. All critical steps (1-11) identified in the June 24, 2010 Safety Guidelines and Procedures will be understood and followed.

- ii. A Line Officer Work Activity Review will be completed prior to initiating the work activity that includes occasional tree felling and each time the work activity location changes.
 - iii. Regional Supplement 6709.11-2008-2 (June 5, 2008) Chapter 20 – Work Projects and Activities speaks to the Regional standards for chainsaw training and certification that will be followed by saw operators.
- b. **Extended** -Primary work activity is extensive/extended felling of trees (hazard or silvicultural)
 - i. Each Forest will have prioritized their extended tree felling work activities and identified the recommended resources to accomplish the work. These projects include but are not limited to recreation, trail and road-side hazard tree removal.
 - ii. All critical steps (1-11) identified in the June 24, 2010 Safety Guidelines and Procedures will be understood and followed.
 - iii. Avoid felling operations when the feller or spotter is exposed to falling hazards from 360 degrees within the work area. Conduct operations with a starting point from a safe area and work into the stand.
 - iv. A Line Officer Work Activity Review will be completed prior to initiating this work activity and each time the work activity location changes.
 - v. Fire Resources (on and off-Forest)

To ensure crew integrity for readiness and fatigue management, the following work standards will be applied unless altered by the Line Officer Review process.

- a. Tours will be limited to eight days which includes two days of travel.
- b. The duty day will not exceed 12 hours including travel.
- c. A minimum of 1 day off will occur between subsequent hazard tree felling assignments. Consideration will be given to allowing the day off to be taken locally in lieu of returning to the crew's home unit with an evaluation of transfer of risk from felling to driving.
- d. If a fire assignment should occur during a hazard tree felling assignment, the crew(s) will return to their home unit following the fire assignment for the appropriate days off. The crew will then be re-ordered if needed.

Briefing and Monitoring

A comprehensive safety briefing package in conjunction with a face-to-face meeting will be provided and conducted with all in-coming resources. This briefing will provide a two-way communication opportunity for resources to become fully aware of the specific hazards associated with their assignment, the local policies, local weather sources, and emergency evacuation procedures. Additionally, all in-coming resources must be fully engaged in leadership expectations for management of exposure and risk, and their role in managing their personal health and safety while assigned.

IMO Safety Officers, work supervisors, and Line Officers will monitor the application of all safety related principles through frequent visits to work areas to provide input into safety issues and concerns. Work supervisors and Line Officers will also manage the fatigue of all their employees through monitoring of consecutive days worked and days off.

Documentation Process

Signed copies of the Line Officer Work Activity Review, and all supporting documentation including any risk assessments processes for each project will be scanned at the local unit and electronically sent to the Planning Section Chief in the Rocky Mountain (R2) Regional Office.

Attachment 2

Risk Management Safety Analysis

This form is not to be used in place of a Job Hazard Analysis, rather it is to be used as a tool to assess risk and associated consequences.

Risk Management Action Plan Safety Analysis (ICS 215A Modified)				Estimated Project Dates		Project			
Project Objective(s):									
Pre-mitigation				Location	Mitigation(s)	Post-mitigation			
Hazards	Likelihood*	Severity*	Risk Level*			Likelihood**	Severity**	Risk Level**	Acceptable Yes/No**
Prepared By:						Date:			
Considered By: District Ranger						Date:			
*Use Risk Assessment Matrix shown on following page **If “unacceptable”, project will not be implemented as planned									

Risk Management Matrix

		Severity				
		1 Negligible	2 Minor	3 Major	4 Hazardous	5 Catastrophic
Likelihood/Probability	5 Frequent	6	7	8	9	10
	4 Occasional	5	6	7	8 Unacceptable	9
	3 Remote	4	5	Acceptable with Mitigation	7	8
	2 Improbable	3	4 Acceptable	5	6	7
	1 Extremely Improbable	2	3	4	5	6

Severity - Levels of Consequences:

- 5 - Catastrophic** - Equipment Destruction, multiple fatalities, Stress on Operations
- 4 - Hazardous** - Physical Distress, Serious Injury, Major Equip Damage, Operations Overload
- 3 - Major** - Serious Injury, Serious Accident, Serious Reduction in Safety Margins
- 2 - Minor** - Nuisance, Use of Emergency Procedures, Minor Incident
- 1 - Negligible** - Little Consequence

Likelihood/Probability of Occurrence:

- 5 - Frequent** - Likely to Occur Many Times
- 4 - Occasional** - Likely to Occur Sometimes
- 3 - Remote** - Unlikely, but possible to Occur
- 2 - Improbable** - Very Unlikely to Occur
- 1 - Extremely Improbable** - Almost Inconceivable that the Event Will Occur

Risk Level:

- Red (8 to 10) - Unacceptable/Intolerable
- Yellow (6-7) - Acceptable/Tolerable with Mitigations
- Green (2-5) - Acceptable/Tolerable



Attachment 3



Line Officer Work Activity Review

Project Name: _____

Project Location (Forest & District): _____

Project description/work activity to be performed:

Is this project a District and/or Forest priority? Yes _____ No _____

Basis:

What work accomplishment methods have been evaluated?

If this is a tree felling work activity, what is the recommended method?

Mechanical _____ (with administration)

Hand: Occasional _____ Extended _____

Basis:

Has a Job Hazard Analysis been completed? Yes _____ No _____

Was a risk assessment process used to supplement the JHA? Yes: _____ No _____

If yes, please describe the risk assessment process used for this project to allow engagement with mitigations if needed?

Under what conditions will the assigned resources be directed to disengage from the project?

How will this project be monitored for safe work practices, implementation of safety procedures, emergency evacuation procedures, communications and span of control?

Line Officer Review

I have reviewed the need for this work activity, the basis for the selected method and resource, and concur that the Job Hazard Analysis plus any supplemental risk assessment process has appropriately identified the hazards and recommended mitigation measures to be taken. This document(s) will be provided and reviewed as a part of the in-brief for those resources assigned.

Name: _____ Date: _____
District Ranger/Line Officer

APPENDIX I

WILDLAND FIRE MANAGEMENT ACTIVITIES

I. DESCRIPTION

Wildland fire is any non-structure fire, other than prescribed fire, that occurs in the wildland and is considered an emergency situation as stipulated in 36 CFR §800.12. Wildland fire includes unplanned and unwanted wildland fire and wildland fire for resource benefit (an unplanned wildfire managed to accomplish resource objectives based on the Land/Resource Management Plan objectives). The consideration of cultural resources for wildland fire management activities shall follow procedures outlined in this appendix. Wildland fire is not the same as prescribed fire. Prescribed fire management activities are discussed in Appendix G – Vegetation Management Activities.

Wildland fire management activities are comprised of the following three categories:

A. Programmatic Planning

Programmatic planning involves activities conducted at the program level and produces Land/Resource Management Plans (LRMP) and Fire Management Plans (FMP) that provide the foundation for implementation of an Appropriate Management Response (AMR) to every wildland fire. The LRMP identifies the resource management objectives and wildland fire management strategies including areas/conditions when fires may be managed for resource benefit. The FMP translates the programmatic direction from the LRMP into operational implementation activities and information including: fire management units, fire management strategies, tactics and AMR options for areas/conditions as identified in the LRMP, and descriptions and maps of values to be protected.

A Heritage Professional will participate on interdisciplinary teams developing LRMPs or other planning documents that address fire management activities. These planning activities include development of AMR options for all wildland fire and identifying areas where fire may be managed for resource benefit. The Heritage Professional will also ensure that public scoping for these planning efforts shall include appropriate Indian tribes and other interested parties.

B. Decision Making

Once an unplanned ignition occurs, a decision will be made to manage the fire utilizing the AMR direction given in the LRMP and FMP. A full spectrum of options may be considered, ranging from aggressive suppression to off-site monitoring. Fires may only be managed for resource benefit if that management option has been

authorized in the LRMP and implementation criteria have been established in the FMP.

Wildland fire has the potential to affect historic properties through damage or destruction, so it is important to consider historic properties that are susceptible to the effects of fire during wildland fire planning activities as well as identifying potential protection measures in advance. The information developed by the Heritage Professional during the programmatic planning phase along with any new information regarding the potential effects to cultural resources are to be incorporated in the decision process for determining if a fire will be managed to achieve resource objectives as well as selection of AMR options for wildland fire.

C. Implementation

Two main options may be implemented:

1. If direction in the programmatic planning documents supports suppression, initial actions will usually consist of prompt and decisive control commiserate with firefighter and public safety and cost effectiveness. If initial or subsequent actions fail, control objectives may be modified and the tactical options that comprise the AMR may also change.
2. If program planning documents direct fire management activities to achieve resource objectives, a full range of strategies and tactics (as discussed in Section I.B above) may be engaged. The information developed by the Heritage Professional during the programmatic planning phase along with any new information regarding the potential effects to cultural resources are to be incorporated in the implementation of protective measures as possible.

Decision support from the Heritage Professional will continue as needed to evaluate the effectiveness of measures intended to protect cultural resources. Additional decision support documentation used in wildland fire management implementation may include a decision document created in the Wildland Fire Decision Support System (WFDSS), short-term or long-term plans, a variety of data, and input from various resource specialists.

II. MANAGEMENT PROTOCOL

Direction in this appendix is intended to ensure that a Heritage Professional is consulted and engaged in the planning, decision-making and implementation aspects of all wildland fire management activities that may impact cultural resources.

Existing information is used for programmatic planning purposes. If the existing inventory coverage is not adequate, the Heritage Professional will identify areas on the

forest that are MOST LIKELY to contain cultural resources. These areas will be mapped as “High Probability” for containing cultural resources. The criteria for the Heritage Professional to determine which areas are MOST LIKELY to contain cultural resources are described in Section IV.A.5 of this appendix. Based on these criteria, the Heritage Professional will make recommendations to the agency official.

Additional decision support information for the agency official may include:

- The significance of known historic properties or areas of potential cultural resources that may be impacted as a result of different strategies or AMR options.
- The potential for and consequences of damaging or destroying historic properties.
- Acceptable protection measures to prevent damage to historic properties.

The agency official is also responsible for decisions regarding:

- The commitment of personnel and resources to conduct additional cultural resource inventories.
- Whether to manage the fire for resource benefit or suppression.
- The type and extent of measures to protect historic properties.

III. STANDARD INVENTORY STRATEGY

Opportunities to conduct field survey during the course of an active wildland fire will always be limited. Where time, safety, and fire management support exist, the Forest shall prioritize survey strategies to optimize available time and resources. For example, an archaeologist assigned to a dozer may be able to stay sufficiently far ahead of the dozer as to conduct selective survey in an effort to identify cultural materials that are highly susceptible to damage due to fire or dozer disturbance (see next Stipulation IV.A.3).

IV. ADDITIONAL STIPULATIONS

The Forest will ensure that the following analytical measures are carried out:

A. Programmatic Planning Phase

1. The Forest shall consult with appropriate American Indian tribes in developing historic property maps, with an emphasis on the potential effects of fire on TCPs, sacred sites, and cultural landscapes.
2. Any site-specific or area-specific treatments shall be identified, including protective measures that should be employed for specific historic properties, if

appropriate. Identification of deleterious treatments should also be identified; e.g. areas where bulldozer line should be avoided if possible due to the presence of buried prehistoric sites.

3. The Heritage Professional will identify high-risk historic properties that fall into one or more of the following categories:
 - a. Sites with wooden structures, features, or other flammable architectural elements that contribute to the overall significance of the site.
 - b. Sites containing rock art, aspen art, or other images that contribute to the overall significance of the site, and are susceptible to damage by fire.
 - c. Prehistoric and historic cemeteries.
 - d. Prehistoric artifact scatters located in unstable geomorphic settings.
 - e. Prehistoric sites that are shallowly buried, and contain hearths, datable charcoal, or other fire-sensitive deposits.
 - f. Peeled, scarred, or blazed tree sites.
 - g. Rockshelter sites.
 - h. Traditional Cultural Properties (TCPs), cultural landscapes, or sacred sites where appropriate Tribes indicate that fire would have a deleterious effect.
 - i. Existing and proposed National Register Districts.
4. The Heritage Professional will identify low-risk historic properties that fall into one or more of the following categories:
 - a. Sites that contain deeply buried cultural deposits.
 - b. Prehistoric artifact scatters located in stable geomorphic settings.
 - c. Sites with non-flammable surface features.
 - d. Historic earthworks.
 - e. Sites that are determined not eligible for the NRHP.
5. The Heritage Professional will define areas MOST LIKELY to contain cultural resources, based on standard literature review, archaeological modeling

variables, professional knowledge of the area, and the criteria below

- a. Forested areas with a slope of less than 15% and within 0.25 miles from permanent water (i.e. streams, creeks etc.).
- b. Geological features such as saddles, terraces, benches, overhangs, escarpment edges, and high points.
- c. Those areas regardless of slope and cover where toolstone-bearing formations are exposed or contain known stone quarry sites.
- d. Stream terraces or benches.
- e. Rock shelters.
- f. Mines.
- g. Prominent rock faces which contain or are likely to contain Native American rock art.
- h. Historic structures identified during the literature search process (Stipulation IV.C in main body of PA).
- i. Areas in aspen stands near trails, meadows, and other features where aspen art is likely to occur.

B. Decision-Making Phase

Once an ignition is determined to have the potential to be a managed wildland fire or the initial suppression actions on a wildland fire have been unsuccessful and historic properties are threatened, the Heritage Professional will assess risks to identified historic properties and areas where properties are likely based upon predictive modeling. The Heritage Professional then makes one or more of the following recommendations to the agency official:

1. The fire should be allowed to proceed as a managed wildland fire;
2. Preferred appropriate management response options to protect historic properties or unidentified cultural resources from wildland fire;
3. Site-specific implementation of protection measures that should be undertaken to prevent damage or loss from wild fire or fire suppression actions

C. Implementation

1. The Heritage Professional shall be informed and involved in the revalidation of managed wildland fire conditions to ensure that the risks to historic properties and their protective needs have not changed as a result of the fire's behavior.
2. If it becomes necessary to employ ground-disturbing fire control measures during the management of a wildland fire, the Heritage Professional may recommend appropriate actions to help protect cultural resources, which may include:
 - a. Assigning a professional archaeologist to accompany bulldozer and/or hand line crews during fire line construction.
 - b. Flagging or otherwise marking known cultural resources for avoidance.
3. The Forest shall keep the SHPO informed of any loss of or damage to historic properties resulting from wildland fire management activities via letter if there is no urgency or email or telephone if timing is important.

D. Conduct Post-Fire Assessment

Regarding post-fire assessment, follow procedures as defined in Appendix J, Burned Area Emergency Response (BAER) Activities.

V. STANDARD SITE PROTECTIVE MEASURES

Options for protecting historic properties during a wildfire:

- A. Fire lines or breaks may be constructed outside of site boundaries to protect *at risk* historic properties.
- B. Fuels may be removed and fire lines or breaks may be constructed within sites using hand tools, so long as ground disturbance is minimized, and features are avoided, as specified by a Heritage Professional.
- C. Fire-resistant fabric or other protective materials or equipment (e.g., sprinkler systems) may be utilized to protect *at risk* historic properties such as structures, rock art, and aspen art or other dendroglyphs.
- D. Fire retardant foam and other wetting agents may be utilized to protect *at risk* historic properties and in the construction and use of fire lines.
- E. Surface fuels (e.g., stumps or partially buried logs) within the boundaries of *at risk* historic properties may be covered with dirt, fire shelter fabric, foam or other wetting

agents, or other protective materials to prevent fire from burning into subsurface components and to reduce the duration of heating underneath or near heavy fuels.

- F. Trees that may impact *at risk* historic properties should they fall on site features can be directionally felled away from properties prior to ignition, or prevented from burning by wrapping in fire shelter fabric or treating with fire retardant or wetting agents.

APPENDIX J

BURNED AREA EMERGENCY RESPONSE ACTIVITIES

I. DESCRIPTION

Burned Area Emergency Response (BAER) undertakings are actions associated with fire rehabilitation and recovery. Activities typically take place in a rapid sequence of events in order to protect life and property as well as resource values in the burned areas.

II. MANAGEMENT PROTOCOL

Safety Concerns. The intensity of some fires may create major safety concerns, especially in the timbered portions of the burned areas. Specific safety rules are usually implemented to reduce the safety hazard while working in burned areas. While these safety rules can reduce the hazard, it is believed that the best way to prevent danger to personnel is to reduce the amount of time actually spent in the intensively burned areas. Therefore, determinations of actual inventory areas will be made on a case-by-case basis and will usually be limited to those areas that will have the greatest ground disturbance and those areas that can be inventoried safely.

III. STANDARD INVENTORY STRATEGY

The standard inventory strategy for BAER activities is designed to provide as complete an examination as possible within limitations imposed by visibility, accessibility, time, and budget constraints. Within burned areas, these limitations include topography, vegetation remaining in riparian areas, ground surface visibility, and hazardous conditions created by the fire.

- A.** When conducting archaeological field survey as part of BAER investigations, maximum transect interval is 30 meters. Transect spacing should provide an intensity of coverage appropriate to the roughness of terrain, density of vegetation cover, degree of slope, constraints on observation, difficulty of access, and expected archaeological sensitivity.
- B.** In general, only those areas that include planned, ground-disturbing BAER activities will be inventoried for cultural resources. Additional inventory may be prescribed in areas where increased vandalism to historic properties is anticipated due to newly exposed features and artifacts.
 - 1. Additional inventory may be conducted within the burned area at the discretion of the Heritage Professional and the BAER Team.
 - 2. Additional inventory, if any, should focus on areas that have been moderately-to-intensely burned and have a high likelihood of unrecorded historic properties.

IV. ADDITIONAL STIPULATIONS

Consideration of historic properties (includes unevaluated properties throughout Section IV) during BAER is twofold. First, deteriorated watersheds resulting from wildfires may place historic properties at risk due to erosion, increased visibility, storm runoff, and debris flows. Treatments to protect historic properties may be required as a part of the BAER process. Second, potential effects of BAER treatment activities for other resource values at risk will require consideration of historic properties prior to implementation. The Forest will ensure that the following measures are carried out during the course of BAER investigations:

A. Historic Properties

1. When ground and safety conditions permit, known historic properties will be visited, and an assessment will be made by the Heritage Professional to determine site conditions and identify needed treatments.
 - a. BAER treatments will be conducted on historic properties only when it is determined that an urgent need exists. An urgent need is a situation where “unacceptable degradation” of a historic property will occur without treatment. This degradation must be *highly likely to occur within the year* and must constitute an adverse effect to the historic property according to criteria established in the National Historic Preservation Act implementing regulations found at 36 CFR §800.5(a)(1).
 - b. Consultation timing and protocols for proposed BAER treatments will follow terms found in Stipulation IV of the main body of the PA. Should “unacceptable degradation” on a historic property be anticipated as a result of post-fire effects, and prompt action is required to minimize the risk, protocols found in Stipulation VII of the main body of the PA may be applied.
2. The Heritage Professional shall identify any previously recorded historic properties and flag them for avoidance during BAER activities, where appropriate.
3. Timber sale administrators, inspectors, and operators shall be notified of heritage concerns, where appropriate.
4. When appropriate, the Heritage Professional shall monitor historic properties during BAER project implementation. If effects are observed, the Forest shall follow procedures in Stipulation V in the main body of the PA. Due to the time-critical nature of some projects conducted for BAER, the Forest may negotiate new timelines during their consultation with SHPO.

B. Undertakings Associated With BAER Activities

1. Proposed BAER treatments for resource protection must give consideration to historic property values prior to project implementation. Although BAER treatments are considered “emergency undertakings” according to the provisions of the National Historic Preservation Act implementing regulations (36 CFR §800.12(d)), a reasonable effort shall be made to inventory ground-disturbing project areas for previously unknown historic properties. Impacts to historic properties shall be avoided whenever possible.
2. The terms of this appendix apply to all Forest undertakings conducted in connection with BAER activities on National Forest System lands. When BAER activities are conducted by the Forest on lands under the jurisdiction of other federal agencies, that agency may at its discretion require the Forest to comply with 36 CFR §§800.4 through 800.6 rather than follow terms of this agreement.