

1 PROGRAMMATIC AGREEMENT  
2 AMONG  
3 THE BUREAU OF LAND MANAGEMENT,  
4 THE ARIZONA STATE HISTORIC PRESERVATION OFFICER, AND  
5 ADVISORY COUNCIL ON HISTORIC PRESERVATION  
6 REGARDING THE EFFECTS OF  
7 VEGETATION MANAGEMENT AND RANGELAND MANAGEMENT ACTIVITIES IN  
8 ARIZONA  
9

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9 **RECITALS**

- 10 1. **WHEREAS**, the regulations that implement Section 106 of the National Historic  
11 Preservation Act (NHPA), found at 54 United States Code (U.S.C.) §§ 300101 to 307108,  
12 as amended (hereafter referred to as Section 106), allow an agency official to develop  
13 alternate procedures to implement Section 106 through the use of programmatic  
14 agreements (36 Code of Federal Regulations (C.F.R.) § 800.14(b)) for when effects on  
15 historic properties are similar and repetitive or regional in scope, and where routine  
16 management activities are undertaken at federal installations, facilities, or other land-  
17 management units. The purpose of this Programmatic Agreement (Agreement) is to  
18 develop alternate procedures for routine vegetation and rangeland management activities  
19 on federal, state, tribal, municipal, county, and private lands throughout Arizona; and  
20  
21 2. **WHEREAS**, decisions to fund, authorize, permit or license land management activities  
22 constitute undertakings as defined in 36 C.F.R. § 800.16(y) that may have the potential to  
23 affect historic properties and are therefore subject to review pursuant to 36 C.F.R. Part  
24 800, the regulations implementing Section 106; and  
25  
26 3. **WHEREAS**, historic properties (defined in 36 C.F.R. § 800.16 (l)(1)) are prehistoric and  
27 historical sites, buildings, structures, districts, and/or objects that are listed in or eligible  
28 for listing in the National Register of Historic Places (NRHP, National Register)  
29 including artifacts, records, and material remains that are related to and located within  
30 such properties. The term also includes properties of traditional, religious, and cultural  
31 importance to an Indian tribe and that meet the National Register criteria; and  
32  
33 4. **WHEREAS**, this Agreement may be used by a single agency or multiple agencies  
34 collaborating on a single undertaking to satisfy their Section 106 responsibilities; and  
35  
36 5. **WHEREAS**, the lead federal agency shall be determined on a case-by-case basis for each  
37 individual undertaking conducted under this Agreement when multiple federal agencies  
38 are involved (see Stipulation IV Designating the Lead Federal Agency and Its  
39 Responsibilities). In the case where there is one federal agency involved, that agency is  
40 the lead federal agency; and  
41  
42 6. **WHEREAS**, participating federal agencies recognize that the lead federal agency for an  
43 undertaking is responsible for compliance with Section 106 (see Stipulation IV  
44 Designating the Lead Federal Agency and Its Responsibilities); and  
45

- 1       7. **WHEREAS**, this Agreement does not supersede other agreements, or other established  
2       agency standards, without approval by the relevant parties to those agreements. The lead  
3       agency must notify the State Historic Preservation Officer (SHPO) as to which agreement  
4       is being used; and  
5
- 6       8. **WHEREAS**, the area of potential effects (APE) shall be defined for each individual  
7       undertaking by the lead federal agency as per Stipulations IV (Designating the Lead  
8       Federal Agency and Its Responsibilities) and VI (Defining the Area of Potential Effects)  
9       of this Agreement; and  
10
- 11      9. **WHEREAS**, the Bureau of Land Management (BLM) is the lead federal agency only in  
12      the development and administration of this Agreement and BLM is a signatory to this  
13      Agreement but is not responsible for the implementation of Section 106 unless identified  
14      as the lead federal agency for a specific undertaking; and  
15
- 16      10. **WHEREAS**, the BLM has consulted with the SHPO regarding the development of this  
17      Agreement, and the SHPO is authorized to enter this Agreement pursuant to Sections 101  
18      and 106 of the NHPA, as amended and pursuant to 36 C.F.R. § 800.2(c)(1)(i) and  
19      800.6(b)(1)(i) in order to fulfill its role of advising and assisting federal agencies in  
20      carrying out their responsibilities; therefore, SHPO is a signatory to this Agreement; and  
21
- 22      11. **WHEREAS**, the BLM has coordinated development of this Agreement with federal  
23      land-managing agencies including the Southwest Region 3 of the U.S. Forest Service  
24      (USFS), Bureau of Reclamation (Reclamation), Department of Defense (DOD), and the  
25      National Park Service (NPS); and  
26
- 27      12. **WHEREAS**, the BLM has coordinated development of this Agreement with state land-  
28      managing agencies including the Arizona State Land Department (ASLD), Arizona  
29      Game and Fish Department (AGFD), Arizona Department of Transportation (ADOT),  
30      and Arizona State Parks and Trails (ASPT); and  
31
- 32      13. **WHEREAS**, the USFS, Reclamation, DOD, NPS, ASLD, AGFD, ADOT, Arizona  
33      Department of Forestry and Fire Management (ADFFM), and ASPT are invited  
34      signatories to this Agreement because undertakings may occur on their agency's lands;  
35      and  
36
- 37      14. **WHEREAS**, the BLM has coordinated with agencies that may fund conservation  
38      activities (activities) under this Agreement including the Bureau of Indian Affairs (BIA),  
39      U.S. Fish and Wildlife Service (USFWS), Natural Resources Conservation Service  
40      (NRCS), ADFFM, and Arizona Association of Conservation Districts (AACD). BIA,  
41      NRCS, AACD, ADFFM, and USFWS are invited signatories to this Agreement; and  
42
- 43      15. **WHEREAS**, the BLM has consulted on the development of this Agreement with all  
44      Arizona counties and certified local governments. Pima County has requested to be an  
45      invited signatory. Mohave County, the City of Phoenix Archaeology Office, and the City

1 of Phoenix Historic Preservation Office have requested to be concurring parties to this  
2 Agreement; and  
3

4 16. **WHEREAS**, the BLM has consulted, and shall continue to consult, with the federally-  
5 recognized tribes that may attach religious or cultural significance to historic properties  
6 affected by an undertaking including Ak-Chin Indian Community, Chemehuevi Indian  
7 Tribe of the Chemehuevi Reservation, Cocopah Tribe of Arizona, Colorado River Indian  
8 Tribes, Fort McDowell Yavapai Nation, Fort Mojave Indian Tribe, Fort Sill Apache  
9 Tribe of Oklahoma, Gila River Indian Community, Havasupai Tribe of the Havasupai  
10 Reservation, Hopi Tribe of Arizona, Hualapai Indian Tribe of the Hualapai Indian  
11 Reservation, Pueblo of Jemez, Kaibab Band of Paiute Indians of the Kaibab Indian  
12 Reservation, Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony,  
13 Mescalero Apache Tribe of the Mescalero Reservation, Moapa Band of Paiute Indians of  
14 the Moapa River Indian Reservation, Navajo Nation, Paiute Indian Tribe of Utah, Pascua  
15 Yaqui Tribe of Arizona, Pueblo of Acoma, Quechan Tribe of the Fort Yuma Indian  
16 Reservation, Salt River Pima-Maricopa Indian Community of the Salt River Reservation,  
17 San Carlos Apache Tribe of the San Carlos Reservation, San Juan Southern Paiute Tribe  
18 of Arizona, Tohono O’odham Nation of Arizona, Tonto Apache Tribe of Arizona, Ute  
19 Mountain Tribe of the Ute Mountain Reservation, White Mountain Apache of the Fort  
20 Apache Reservation, Yavapai-Apache Nation of the Camp Verde Indian Reservation,  
21 Yavapai-Prescott Indian Tribe, and the Zuni Tribe of the Zuni Reservation (collectively,  
22 Tribes); and  
23

24 17. **WHEREAS**, for projects occurring on tribal lands of the Colorado River Indian Tribes,  
25 Gila River Indian Community, Hopi Tribe, Hualapai Indian Tribe, Navajo Nation, Pasqua  
26 Yaqui Tribe, San Carlos Apache Tribe, Salt River Pima-Maricopa Indian Community,  
27 Tohono O’odham Nation, and/or White Mountain Apache Tribe, consultation shall occur  
28 with the Tribal Historic Preservation Officer (THPO) as appropriate; and  
29

30 18. **WHEREAS**, Tribes are concurring parties to this Agreement. A tribe can, at any time  
31 after this Agreement is implemented, request to be an invited signatory in accordance  
32 with Stipulation XV (Additional Signatories) for projects occurring on tribal land; and  
33

34 19. **WHEREAS**, nothing in this Agreement shall affect any individual agency’s decision-  
35 making responsibilities under applicable tribal, state, and federal law, and the lead federal  
36 agency for individual undertakings shall follow consultation protocols to ensure relevant  
37 land-managing agencies responsibilities are considered; and  
38

39 20. **WHEREAS**, for undertakings involving federal land, federal and tribal land managers  
40 shall follow the Native American Graves Protection and Repatriation Act (NAGPRA), 43  
41 C.F.R. § 10, regarding the discovery and treatment of human remains. For undertakings  
42 involving state and private lands, the agencies shall follow the procedures found in  
43 Arizona Revised Statutes (A.R.S.) § 41-844 for state land and A.R.S. § 41-865 for private  
44 land; and  
45

- 1       21. **WHEREAS**, for purposes of this Agreement, signatories and invited signatories to this  
2       Agreement, collectively, shall be identified as Signatories; and  
3
- 4       22. **WHEREAS**, all time periods in this Agreement are calendar days unless otherwise  
5       specified; and  
6
- 7       23. **WHEREAS**, no provision of this Agreement shall be construed by any of the signatories  
8       to this Agreement as abridging or debilitating any sovereign powers or rights of the  
9       Tribes; or interfering with the government-to-government relationship between the  
10      United States and Tribes; and  
11
- 12      24. **WHEREAS**, the BLM has invited the Advisory Council on Historic Preservation  
13      (ACHP) to participate in this Agreement, and ACHP has agreed to participate and is a  
14      signatory to this Agreement; and  
15
- 16      25. **WHEREAS**, the Parties to this Agreement share a common desire to develop a  
17      programmatic approach for implementing Section 106 of the NHPA that takes into  
18      account the effects of federal undertakings on historic properties, addresses meaningful  
19      tribal consultation, as well as public participation, minimizes redundancy, and reduces the  
20      need for case-by-case review of routine administrative, conservation, and land  
21      management activities when historic properties will not be affected or when standard  
22      protocols and treatments can be applied; and  
23
- 24      26. **WHEREAS**, additional parties may participate in this Agreement after its execution,  
25      pursuant to Stipulation XV (Additional Signatories); and  
26
- 27      27. **WHEREAS**, the lead federal agency shall ensure that public involvement reflects the  
28      nature and complexity of the undertaking and its effect on historic properties in  
29      accordance with 36 C.F.R. § 800.2(d); and  
30
- 31      28. **WHEREAS**, for the purposes of this Agreement, “Consulting Parties” collectively refers  
32      to the Signatories, concurring parties, and all Tribes regardless of their decision to sign  
33      this Agreement as a concurring party; and  
34
- 35      29. **NOW, THEREFORE**, the BLM, ACHP, and SHPO agree that undertakings conducted  
36      under this Agreement shall be implemented in accordance with the following stipulations  
37      in order to take into account the effects of the undertaking on historic properties.

1 **STIPULATIONS**

2 The Consulting Parties to this Agreement agree that the following Stipulations shall be carried  
3 out for undertakings conducted under this Agreement.

4  
5 **I. DEFINITIONS**

6 All definitions in this Agreement follow 36 C.F.R. § 800.16 and as otherwise  
7 identified in Appendix A.  
8

9 **II. PROFESSIONAL QUALIFICATIONS**

10 A. All actions conducted under this Agreement that involve the identification,  
11 evaluation, analysis, recording, treatment, monitoring or disposition of historic  
12 properties, or that involve the reporting or documentation of such actions in the  
13 form of reports, forms, or other records, shall meet professional standards under  
14 regulations (Section 112; 36 C.F.R. § 800.2 (a)(1)) set forth in the Secretary of the  
15 Interior's (SOI) Professional Qualification Standards (48 Federal Register 44738-  
16 44739). Undertakings occurring on state, county, or private land shall meet the  
17 requirements of the Arizona Antiquities Act permit. Undertakings occurring on  
18 tribal land shall be conducted in accordance with each individual Tribe's  
19 permitting policy.  
20

21 B. The participating Agencies acknowledge that Indian Tribes “possess special  
22 expertise in assessing the eligibility of historic properties that may possess  
23 religious and cultural significance to them” (36 C.F.R. 800.4 (c)(1)). Participating  
24 Agencies acknowledge and respect traditional knowledge and traditional  
25 education systems on their own terms and recognize that inclusion of individuals  
26 with this knowledge is a vital component for the identification, evaluation,  
27 analysis, recording, treatment, or monitoring of historic properties.  
28

29 C. Others providing archeological assistance may assist in cultural resources  
30 investigations as dictated by relevant land management agency policy. The lead  
31 federal agency under this Agreement must conform to the policy of the  
32 appropriate land-managing agency. Additionally, all work must be done under the  
33 direct supervision of a SOI-qualified archaeologist or Office of Personnel  
34 Management's (OPM) 0193 Supervisory Archaeologist series. (See Appendix A  
35 for definition of direct supervision.)  
36

37 **III. COORDINATION AMONG ALL CONSULTING PARTIES**

38 A. Unless otherwise requested, electronic mail shall serve as the official  
39 correspondence method for all communications regarding this Agreement and the  
40 undertakings covered by this Agreement. If a Consulting Party wishes to opt out  
41 of electronic communication, they may submit notification of their  
42 communication preference to the BLM.  
43

44 B. Agency communication protocols are provided in Appendix I.  
45

1       **IV.     DESIGNATING THE LEAD FEDERAL AGENCY AND ITS**  
2       **RESPONSIBILITIES**

3       This Stipulation applies to undertakings that involve more than one federal agency, as  
4       follows:

5  
6       A. When an undertaking subject to review under Section 106 of the NHPA is carried  
7       out by more than one federal agency, the Section 106 regulations allow for some  
8       or all of those agencies to designate one lead federal agency [36 C.F.R. §  
9       800.2(a)(2)]. For undertakings conducted under this Agreement, the protocol for  
10      designating the lead agency provided in Appendix B shall be followed.

11  
12     B. The lead federal agency shall have the following responsibilities:

- 13  
14       1. Determine the scope of the undertaking and identify Consulting Parties.  
15  
16       2. Determine whether the undertaking meets the criteria for exempted or  
17       screened undertakings in accordance with this Agreement.  
18  
19       3. Coordinate with relevant agencies on the level of effort for inventories,  
20       description of the undertaking, definition of the APE, and all determinations  
21       of NRHP eligibility and findings of effect related to Section 106 review.  
22       Communication may occur informally through emails and telephone calls and  
23       shall be documented to the project file.  
24  
25       4. Coordinate with participating agencies to ensure appropriate government-to-  
26       government consultation with Tribes is conducted, beginning as early in  
27       project planning as possible.  
28  
29       5. Maintain records for consultation and the annual report (Stipulation XIV  
30       Annual Report and Meeting).  
31

32     **V.     CONSULTATION PROCESS**

33     Throughout the duration of this Agreement, the lead federal agency for each  
34     undertaking shall seek, discuss, and consider the views of Consulting Parties, and  
35     shall, where feasible, seek agreement with them when making decisions under the  
36     Stipulations of this Agreement (36 C.F.R. § 800.16(f)).

37  
38     A. The lead federal agency shall submit documentation relating to undertakings  
39     under this Agreement to Consulting Parties following the provisions of this  
40     Agreement. Unless otherwise agreed, or specified within a Stipulation to this  
41     Agreement, those parties shall have thirty (30) days from receipt of the request to  
42     review the submitted documentation and provide response, comment, or request  
43     additional time.  
44

45     B. If the Consulting Parties have not responded to the submitted documentation  
46     within thirty (30) days of receipt, the lead federal agency shall make at least one



1 attempt to follow-up with them, via electronic mail and/or telephone, to verify a  
2 Consulting Party does not have any input with regard to the issue under  
3 consideration. If, after this effort, there has been no response from a Consulting  
4 Party, the lead federal agency shall proceed to the next step in the relevant process  
5 under this Agreement.  
6

7 C. If a Consulting Party requires additional time for consultation, a request for  
8 extension shall be made in writing within the original review period specified for  
9 the consultation. The lead federal agency shall attempt to accommodate such  
10 requests, provided they do not adversely affect other scheduled planning efforts.  
11

12 D. The lead federal agency shall consider all comments submitted during the review  
13 period and shall consult with the appropriate Consulting Parties to resolve  
14 disagreements. If comments cannot be incorporated into the document, the lead  
15 agency shall provide a written response outlining the Agency's position.  
16

17 1. If comments received from a Consulting Party require only minor editorial  
18 corrections, such as spelling, grammatical, formatting, and punctuation errors,  
19 the lead federal agency shall execute the changes and complete the  
20 consultation.  
21

22 2. If substantive changes are required, the lead federal agency shall provide draft  
23 copies of the revised documents to the Consulting Parties with a request for  
24 second review and comment. Consulting Parties shall have 14 days to provide  
25 comments on the revised draft.  
26

27 3. Following the completion of consultation with appropriate Consulting Parties,  
28 the lead federal agency shall provide copies of the final document to the  
29 Consulting Parties, along with copies of comments received during  
30 consultation and a summary of the lead agency's responses to those  
31 comments.  
32

## 33 VI. DEFINING THE AREA OF POTENTIAL EFFECTS

34 A. The lead federal agency, in coordination with SHPO/THPO and Tribes, shall  
35 determine the APE based on the potential of the undertaking to alter directly,  
36 indirectly, or cumulatively any of the characteristics of a historic property that  
37 make the property eligible for, or qualify the property for inclusion in, the  
38 National Register.  
39

40 B. If the APE is located within or adjacent to Traditional Cultural Properties (TCP),  
41 National Historic Landmarks, National Historic Trails, or other classes of historic  
42 properties, for which integrity of setting, location, feeling, and/or association  
43 contribute to NRHP eligibility, then those properties shall be taken into  
44 consideration when determining the APE.  
45

1       **VII. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES**

2       A. Guidelines for Identification and Documentation of Historic Properties.

- 3
- 4           1. Each land managing agency's site recording criteria shall be followed. The
- 5           criteria utilized shall be explicitly stated in the inventory report.
- 6
- 7           2. For private land, Arizona State Museum (ASM) site recording criteria shall be
- 8           followed.
- 9
- 10          3. Documentation shall follow each agency's reporting standards (e.g., Inventory
- 11          Standards & Accounting form, Survey Report Summary Form for negative
- 12          surveys, and technical reports).
- 13
- 14          4. Phased identification and evaluation of Historic Properties follows Stipulation
- 15          VIII (Phased Identification and Evaluation).
- 16

17       B. Guidelines for Determining Appropriate Level of Inventory

- 18
- 19           1. Depending on the scope of the undertaking, the land managing agency may
- 20           consider the need for full (Class III) or sample (Class II) inventory (see
- 21           Appendix A for definitions and Appendix H.B for survey strategies).
- 22
- 23           2. When a lead federal agency proposes to perform 100% survey of the APE, no
- 24           consultation with the SHPO regarding the level of inventory or extent of
- 25           survey shall be required.
- 26
- 27           3. Based upon existing inventory information (i.e. Class I inventory), the agency
- 28           may determine that further inventory shall not be necessary for all or a portion
- 29           of the APE if a 100% inventory has previously been performed and if the
- 30           fieldwork/documentation are consistent with current professional standards
- 31           (see SHPO Guidance Point No. 5: *SHPO Position on Relying on Old*
- 32           *Archaeological Survey Data*).
- 33
- 34           4. When less than 100% inventory is proposed (excluding conditions of
- 35           Appendix H.C.3. for previously disturbed areas), the lead federal agency shall
- 36           coordinate the alternative inventory strategy with the SHPO, Tribes, the
- 37           appropriate land managing agency(ies), and other applicable entities.
- 38
- 39           5. If appropriate, alternative inventory strategies may be considered in
- 40           coordination with the SHPO, Tribes, the appropriate land managing
- 41           agency(ies), and other applicable entities. Alternative strategies include, but
- 42           are not limited to, remote sensing such as aerial photography (including
- 43           alternate light source, drone, and satellite imagery), predictive modeling, and
- 44           geophysical survey technologies (magnetometry, electrical resistivity, ground-
- 45           penetrating radar, and Lidar).
- 46

1 C. Determinations of Eligibility  
2

- 3 1. Prehistoric and historical sites, buildings, structures, districts and objects  
4 (property types as defined in National Register Bulletin 15) and TCPs (as  
5 defined by National Register Bulletin 38) shall be evaluated for National  
6 Register eligibility. The lead agency, in consultation with SHPO/THPO,  
7 Tribes, and relevant land managing agencies, makes the determination of  
8 eligibility.  
9
- 10 2. The lead federal agency shall ensure that cultural resources and TCPs within  
11 the APE are evaluated for eligibility for inclusion in the National Register by  
12 applying the National Register criteria (36 C.F.R. § 63) in consultation with  
13 the SHPO/THPO, and any Indian tribe that attaches religious and/or cultural  
14 significance to the properties. Unevaluated properties will be treated as  
15 eligible for the purposes of Section 106 (36 C.F.R. § 800.4); the eligibility of  
16 TCPs must be determined in consultation among the lead federal agency, the  
17 land managing agency, Tribes, and SHPO/THPO.  
18
- 19 3. Participating agencies, the SHPO/THPO, and Tribes agree that certain classes  
20 of properties may be determined eligible for the National Register in  
21 accordance with Appendix C without additional consultation.  
22
- 23 4. If not in Appendix C, the lead federal agency shall coordinate with the other  
24 land managing agency(ies) to obtain agreement on determinations of  
25 eligibility prior to consultation with SHPO/THPO and Tribes.  
26
- 27 5. If the lead federal agency and SHPO/THPO and Tribes cannot agree on the  
28 eligibility of a property, a formal determination of eligibility shall be obtained  
29 from the Keeper of the National Register, whose decision shall be final.  
30

31 **VIII. PHASED IDENTIFICATION AND EVALUATION**

- 32 A. A phased identification may be used when a large-scale project is to be  
33 implemented in phases spanning more than one fiscal year and it is not reasonably  
34 possible to complete the Section 106 compliance for all aspects of the undertaking  
35 prior to reaching a National Environmental Policy Act decision or issuing a  
36 project authorization. In a phased approach, the lead federal agency, in  
37 coordination with consulting parties, may seek final project authorization prior to  
38 completion of the identification of historic properties and evaluation of  
39 significance in the entire project area, provided that all of the following  
40 requirements are met:  
41
- 42 1. Justification has been provided to the SHPO in an initial Section 106  
43 consultation report as to why completion of the identification and evaluation  
44 of properties within the entire APE is not feasible. The report should also  
45 clearly state the process and time frames for completing that work and that the

1 identification and protection requirements of this protocol shall be completed  
2 prior to the authorization of on-the-ground work in each phase of the project;  
3

- 4 2. The initial consultation shall also address the expected nature and distribution  
5 of properties in the entire project area and anticipated effects shall be  
6 discussed and considered in the initial project-wide Section 106 compliance  
7 report;  
8  
9 3. Each subsequent phase of the project shall have a completed Section 106  
10 compliance report concurrence on the Determinations of Eligibility and  
11 project effects from SHPO/THPO prior to the authorization of on-the-ground  
12 work; and  
13  
14 4. The protection measures in Appendices G.D. and H.E. shall be sufficient to  
15 protect properties in the entire project area.  
16  
17 5. Protection measures that are not listed in Appendices G and H should be  
18 consulted on with SHPO/THPO prior to implementation.  
19

- 20 B. If the lead federal agency subsequently determines that adverse effects on historic  
21 properties in any phase of the project cannot be avoided, they shall consult with  
22 the SHPO/THPO, Tribes, and other Consulting Parties in accordance with this  
23 Agreement and shall amend its decision, if necessary, to disclose the effects.  
24

## 25 **IX. ASSESSMENT OF EFFECTS**

26 A qualified archaeologist (as defined in Appendix A) shall make recommendations of  
27 effects for the lead federal agency's consideration. In making its finding of effect, as  
28 follows, the lead federal agency, in coordination with the appropriate land manager,  
29 shall consider the direct, indirect, and cumulative effects of the undertaking (e.g  
30 physical, visual, auditory, atmospheric effects), to historic properties. Under 36  
31 C.F.R. § 800.4, if the lead federal agency finds there are historic properties that may  
32 be affected by the undertaking, the lead federal agency shall make a finding of effect:  
33

### 34 **A. No Historic Properties Affected**

35 For all undertakings not screened under Appendix E or exempted under Appendix  
36 D, if the lead federal agency determines that either there are no historic properties  
37 within the APE or historic properties are present but will not be affected by the  
38 undertaking, the lead federal agency shall issue a finding of No Historic  
39 Properties Affected pursuant to 36 C.F.R. § 800.4(d)(1). The lead federal agency  
40 shall document the finding to the project file and for the annual report, as required  
41 under Stipulation XIV (Annual Report and Meeting).  
42

### 43 **B. No Adverse Effect**

44 The lead federal agency shall consult with Consulting Parties pursuant to 36  
45 C.F.R. § 800.5(c) for any undertaking where the activity may affect historic  
46 properties, but the effects would not alter a characteristic that would qualify the

1 property for listing in the NRHP. The lead federal agency shall request that any  
2 comments be submitted within 10 business days of receipt of consultation.  
3

4 C. No Adverse Effect with Protection / Mitigation Measures (Conditional No  
5 Adverse Effect)

6 For those undertakings where historic properties may be affected, but where those  
7 effects can be avoided or lessened, the lead federal agency shall apply the Criteria  
8 of Adverse Effect in accordance with 36 C.F.R. § 800.5(a) and take protective  
9 measures to ensure that the historic property is not adversely affected by applying  
10 the protective measures listed in Appendices G and H. The lead federal agency  
11 shall consult with Consulting Parties and shall request that any comments be  
12 submitted within 10 business days of receipt of consultation. Upon concurrence,  
13 or having not received objections, the undertaking shall not be subject to further  
14 review under this Agreement.  
15

16 D. Adverse Effect

17 If the lead federal agency applies the criteria of adverse effect in 36 C.F.R. §  
18 800.5(a)(1) and determines that the effects of the undertaking to historic  
19 properties cannot be avoided or minimized by applying the protection measures  
20 listed in Appendices G and H, it shall issue a finding of Adverse Effect and  
21 consult further to resolve the adverse effect in accordance with Stipulation IX.E  
22 (Assessment of Effects).  
23

24 E. Resolution of Adverse Effects

25 1. Standard Measures for Resolving Adverse Effects

26 a. Adverse effects on certain types of historic properties may be resolved  
27 by following the process in Appendix F (Standard Measures for  
28 Resolving Adverse Effects) as an alternative to preparing a  
29 Memorandum of Agreement (MOA) or project-specific Programmatic  
30 Agreement (PA). For undertakings that require resolution of adverse  
31 effects that cannot be resolved using the standard measures, the lead  
32 agency shall notify the ACHP of the finding of adverse effect and  
33 invite them to participate in a MOA or project-specific PA.  
34

35 b. The lead federal agency shall propose the applicable standard  
36 measures for resolving adverse effects, as provided in Appendix F, and  
37 request comments from SHPO/THPO, and other appropriate  
38 Consulting Parties to the undertaking. The lead federal agency shall  
39 provide the SHPO/THPO and the Consulting Parties to the  
40 undertaking with information on the undertaking, each property and its  
41 significance, the adverse effect to the property, and a justification for  
42 resolving adverse effects, as proposed, under Appendix F to this  
43 Agreement.  
44

45 c. Where the lead federal agency, SHPO/THPO, and other appropriate  
46 Consulting Parties agree in writing that resolving adverse effects under

1 Appendix F is warranted, and any Consulting Party with a role in  
2 authorizing the undertaking concurs in writing, the Section 106  
3 process is completed and the lead federal agency shall ensure that a  
4 Historic Property Treatment Plan (HPTP) for resolving the adverse  
5 effects is prepared in accordance with Appendix F.  
6

- 7 d. The Consulting Parties shall have 30 days to provide comments.  
8
- 9 e. Any Consulting Party to the undertaking may object to the lead federal  
10 agency's decision regarding the proposal to resolve the adverse effects  
11 of the undertaking through standard measures. The lead federal  
12 agency, in consultation with SHPO/THPO and other applicable  
13 Consulting Parties, shall consider the objection. Should the lead  
14 federal agency determine that resolving the adverse effects of the  
15 undertaking under Appendix F is not warranted, the lead federal  
16 agency shall then prepare a MOA or project-specific PA in accordance  
17 with Stipulation IX.E.2(a) (Assessment of Effects).  
18
- 19 f. The lead federal agency shall provide draft copies of the HPTP to  
20 SHPO/THPO, as applicable, and the other Consulting Parties to the  
21 undertaking for review and comment. The Consulting Parties shall  
22 have 30 days to provide comments.  
23
- 24 g. After treatment measures to resolve adverse effects outlined in the  
25 HPTP have been implemented, the lead federal agency shall ensure  
26 that a preliminary report of findings is completed and shall submit the  
27 report to all Consulting Parties to the undertaking for review and  
28 comment. The specific requirements for the preliminary report of  
29 findings, as well as the review process and time frames, shall be  
30 stipulated in the HPTP. The lead federal agency shall not authorize the  
31 start of construction until consultation on the preliminary report of  
32 findings has been approved by SHPO/THPO and other Consulting  
33 Parties to the undertaking or no objections have been received.  
34
- 35 h. The lead federal agency may authorize the start of construction if,  
36 upon review of a preliminary report of findings, either the  
37 SHPO/THPO and other Consulting Parties to the undertaking agree  
38 that the HPTP was adequately implemented or no objections have been  
39 received.  
40
- 41 i. The lead federal agency shall ensure that a draft report is prepared and  
42 submitted to SHPO/THPO and other applicable Consulting Parties to  
43 the undertaking for review and comment within a timeframe specified  
44 in the HPTP. All comments shall be considered prior to finalizing the  
45 draft report, and a final report shall be distributed to SHPO/THPO and  
46 all other applicable Consulting Parties.

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2. MOA or Project-Specific PA

- a. When the lead federal agency determines resolution of an adverse effect under Appendix F is not warranted, or is not agreed to, the lead federal agency shall, in consultation with the SHPO/THPO and other applicable Consulting Parties, prepare an MOA in accordance with 36 C.F.R. § 800.6 or a project-specific PA in accordance with 36 C.F.R. § 800.14(b). The lead federal agency shall invite ACHP to participate, if not already participating. The process for preparing and reviewing the MOA or project-specific PA shall be negotiated among the Consulting Parties to the undertaking.
- b. The MOA or project-specific PA shall be executed upon its filing with the ACHP.

**X. POST REVIEW DISCOVERIES**

A. Cultural Resources

The lead federal agency shall follow the procedures in 36 C.F.R. § 800.13 for post-review discoveries if potential historic properties are discovered or if unanticipated effects on known historic properties are found after the agency has completed Section 106 consultation for the undertaking.

- 1. If a post review discovery is made during implementation of an undertaking conducted under this Agreement, all activities within a 50-foot-radius of the discovery shall cease, and the lead federal agency shall take steps to protect the discovery, and promptly report the discovery to SHPO/THPO, Tribes, and appropriate land managing agencies, municipalities, or private land owner.
- 2. The lead federal agency, in coordination with the appropriate land managing agency shall identify actions to resolve adverse effects, notify the SHPO/THPO, any Tribes that might attach religious and cultural significance to the affected property, if appropriate, and the Council within 48 hours of the discovery. The notification shall describe the assessment of National Register eligibility of the property and, if necessary, propose treatment to resolve adverse effects to the Register-eligible property. The SHPO/THPO, Tribe(s), if appropriate, and the Council shall respond within 48 hours of the notification. The agency official shall take into account their recommendations regarding National Register eligibility and proposed treatment, then carry out appropriate treatment. The lead federal agency shall provide SHPO/THPO, Tribes, and Council a report of the actions when they are completed.
- 3. If there is no agreement among the parties, the protocol in Stipulation XX (Dispute Resolution) will be followed.

1  
2 B. Human Remains  
3

- 4 1. If human remains and associated cultural items are encountered on federal  
5 or tribal lands, the land manager shall follow the regulations at 43 C.F.R. §  
6 10. A NAGPRA Plan of Action shall be implemented.  
7  
8 2. If human remains, funerary objects, sacred ceremonial objects or objects  
9 of national or tribal patrimony are discovered on state, county, municipal,  
10 or private lands, either through archaeological excavation or during  
11 construction, and a Burial Agreement is in place, the lead federal agency  
12 shall require the person in charge to immediately cease all activity within a  
13 100-foot radius of the discovery, take steps to protect the discovery, and  
14 immediately notify SHPO/THPO, Tribes, appropriate land owner(s), and  
15 the Director of the ASM. The requirements of A.R.S. § 41-844 for  
16 discoveries on state land and A.R.S. § 41-865 for discoveries on private  
17 land shall also be followed.  
18

19 **XI. PERMITTING REQUIREMENTS**

20 Archaeological investigations shall be conducted in accordance with a permit issued  
21 by the land management agencies, or the ASM for projects on state, county, and  
22 municipal land.  
23

24 **XII. CURATION**

25 Any collections of archaeological materials and associated records which results from  
26 activities undertaken as part of this Agreement shall be curated in accordance with  
27 federal laws and regulations, including 36 C.F.R. § 79, or with the ASM curation  
28 policy for collections from state and private lands.  
29

30 **XIII. EMERGENCY ACTIONS**

31 A. Emergency actions are those actions deemed necessary by a participating agency  
32 as an immediate and direct response to an emergency situation, which is a disaster  
33 or emergency declared by the President, tribal government, or the governor of the  
34 state, or other immediate threats to life or property. Emergency actions under this  
35 Agreement are only those implemented within thirty (30) days from the initiation  
36 of the emergency situation and shall follow 36 C.F.R. § 800.12.  
37

38 B. Local emergencies (i.e. outside the definition of 36 C.F.R. § 800.12) may be  
39 identified by any local government (state agency, county, or municipality) and  
40 reviewed by the relevant land manager in consultation with SHPO/THPO and  
41 Tribes on a case-by-case basis. Immediate rescue and salvage operations  
42 specifically including human and animal life, as well as wildland fire suppression  
43 activities conducted to preserve life or property, and implemented within thirty  
44 (30) days from the initiation of the emergency situation, are exempt from these  
45 and all other provisions of this Agreement and shall follow 36 C.F.R. § 800.12 for  
46 consultation.



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**XIV. ANNUAL REPORT AND MEETING**

- A. Participating agencies shall annually compile a report of the undertakings for which they are the designated lead federal agency. Information in the report shall include, but is not limited to, a list of agencies involved in each undertaking, a summary of actions taken (including all findings and determinations), a list of all exempted and screened undertakings, and inadvertent effects or post-review discoveries.
  
- B. Participating agencies shall submit the report to all Consulting Parties to this Agreement no later than January 31 for each year the Agreement is in effect. The Consulting Parties shall have 30 days to review and provide comments regarding the effectiveness of this Agreement. Any Consulting Party can request a meeting with relevant participating agencies to address concerns. All communications shall be via email unless otherwise requested.

**XV. ADDITIONAL SIGNATORIES**

Any Consulting Party can request to become an invited signatory after execution of this Agreement. The process for becoming an invited signatory is to send a request in writing to the BLM Arizona State Office to join this Agreement. Following the procedures in Stipulation XVI (Amendments), the BLM will then prepare a signature page and send it to the party for their signature. The party shall then return the signed signature page to BLM, and BLM shall incorporate it into the Agreement as an amendment.

**XVI. AMENDMENTS**

Any signatory or invited signatory to this Agreement may request that it be amended. The signatory or invited signatory that requests the change shall seek input from the Consulting Parties for a period of 30 days. Any amendment to this Agreement must be signed by SHPO and all other Signatories. The party that proposed the amendment shall provide electronic copies of the amendment to all Consulting Parties.

**XVII. ADDITIONAL PROTOCOLS, SCREENED UNDERTAKINGS, OR EXEMPTIONS**

Consulting parties may propose additional Protocols, Screened Undertakings, or Exemptions by notifying the signatories, in writing, of the details of the new proposal. The Signatories to this Agreement shall respond within 30 days with their response to the proposal. If agreement is reached on the new proposals, the party that proposed the new Protocol, Screened Undertaking, or Exemption shall distribute it to all consulting parties and the BLM will add it as an attachment to this Agreement without formal amendment.

**XVIII. WITHDRAWAL FROM THE AGREEMENT**

- A. Any Signatory or concurring party to this Agreement may withdraw from the Agreement after first providing the other Signatories thirty (30) day written notice

1 explaining the reasons for withdrawal and providing them an opportunity to  
2 consult regarding amendment of this Agreement to prevent withdrawal.

- 3  
4 B. Withdrawal from this Agreement by a federal or state land-managing agency shall  
5 require the lead federal agency to comply with 36 C.F.R. Part 800 with respect to  
6 all undertakings on or affecting lands within that agency's jurisdiction, in lieu of  
7 this Agreement. Withdrawal from this Agreement by a federal or state land-  
8 managing agency or a participating tribe does not terminate the Agreement.  
9

10 **XIX. TERMINATION**

- 11 A. If any signatory, or invited signatory determines that it wants to terminate this  
12 Agreement, they shall provide a thirty (30) day written notification to the  
13 signatories to explain the reasons for proposing termination and shall consult with  
14 the signatories to seek an amendment to the Agreement.  
15  
16 B. Should such consultation result in an amendment to this Agreement avoiding  
17 termination, the signatories shall proceed to amend the Agreement in accordance  
18 with Stipulation XVI (Amendments) and carry out its provisions as amended.  
19  
20 C. Should BLM, ACHP, or SHPO terminate this Agreement, either individually or  
21 collectively, the Agreement shall be terminated in its entirety. Upon termination  
22 of this Agreement in its entirety, all consultation shall comply with 36 C.F.R. Part  
23 800, subpart B or other relevant agreements with respect to individual  
24 undertakings that would otherwise be reviewed under this Agreement.  
25

26 **XX. DISPUTE RESOLUTION**

27 Should any signatory or concurring party to this Agreement object at any time to any  
28 actions proposed or the manner in which the terms of this Agreement are  
29 implemented, the affected agency shall consult with the SHPO/THPO to resolve the  
30 objection. If within 30 days the affected agency determines that such objection cannot  
31 be resolved, the affected agency shall:  
32

- 33 A. Forward all documentation relevant to the dispute, including the affected agency's  
34 proposed resolution, to the ACHP. The ACHP shall provide the affected agency  
35 with its advice on their solution to the objection within thirty (30) days of  
36 receiving adequate documentation. Prior to reaching a final decision on the  
37 dispute, the affected agency shall prepare a written response that takes into  
38 account any timely advice or comments regarding the dispute from the ACHP,  
39 SHPO, and other consulting parties, and provide them with a copy of this written  
40 response. The affected agency shall then proceed according to its final decision.  
41  
42 B. If the ACHP does not provide its advice regarding the dispute within the thirty  
43 (30) day period, the affected agency may make a final decision on the dispute and  
44 proceed accordingly. Prior to reaching such a final decision, the affected agency  
45 shall prepare a written response that takes into account any timely comments

1 regarding the dispute from the SHPO and other consulting parties to this  
2 Agreement and provide them and the ACHP with a copy of such written response.

3  
4 C. The affected agency's responsibility to carry out all other actions subject to the  
5 terms of this Agreement that are not the subject of the dispute remain unchanged.  
6

7 **XXI. CONFIDENTIALITY**

8 Pursuant to this Stipulation, all Consulting Parties agree to appropriately safeguard  
9 and control the distribution of any confidential information they may receive as a  
10 result of their participation in this Agreement. Such safeguarded information,  
11 including private property information, is exempt from disclosure under the Freedom  
12 of Information Act (FOIA) (5 U.S.C. § 552) and Section 1619 of the Farm Bill,  
13 codified as 7 U.S.C. 8791(b)(2)(A).

14  
15 Information concerning the nature and location of any historic property (historic or  
16 prehistoric) or archaeological resource may be considered sensitive and protected  
17 from release under the provisions of the FOIA (5 U.S.C. § 552, as amended by Public  
18 Law No. 104-231, 110 Stat. 3048), Section 9 of the Archaeological Resources  
19 Protection Act (16 U.S.C. § 470hh), Section 304 of the NHPA (54 U.S.C. § 307103),  
20 and A.R.S. 39-125.  
21

22 **XXII. DURATION**

23 This Agreement shall remain in effect for a period of 10 years after the date it takes  
24 effect, unless terminated prior to that time. At least one year prior to the expiration  
25 date, BLM shall inform the Signatories and shall consult to determine if the  
26 Agreement should be allowed to expire or whether it should be extended. This  
27 Agreement may be extended for an additional term, the length of which is to be  
28 agreed to by the Signatories. The extension shall be codified through an amendment  
29 to this Agreement in accordance with Stipulation XVI (Amendments). Where there is  
30 no agreement by all the Signatories, the Agreement shall not be extended and shall be  
31 terminated.  
32

33 **XXIII. ANTI-DEFICIENCY ACT**

34 The Federal Government's obligations under this Agreement are subject to the  
35 availability of appropriated funds, and the stipulations of this Agreement are subject  
36 to the provision of the Anti-Deficiency Act, 31 U.S.C. § 1341. The Federal  
37 Government shall make reasonable and good faith efforts to secure the necessary  
38 funds to implement this Agreement in its entirety.  
39

40 **XXIV. COUNTERPART SIGNATURES**

41 This Agreement may be executed in counterparts, each separately and together  
42 constituting one and the same document. Execution and delivery of this Agreement  
43 by facsimile or electronic mail shall be sufficient for all purposes and shall be binding  
44 on any party to this Agreement.  
45

1       **The Execution of this Agreement by the BLM, the SHPO, and the ACHP and the**  
2       **implementation of its terms are evidence that the BLM has taken into account the**  
3       **effects of the undertaking on historic properties and has afforded the ACHP an**  
4       **opportunity to comment.**

5

DRAFT

1 SECTION 106 PROGRAMMATIC AGREEMENT  
2 AMONG  
3 THE BUREAU OF LAND MANAGEMENT-ARIZONA STATE OFFICE,  
4 THE ARIZONA STATE HISTORIC PRESERVATION OFFICER, AND  
5 ADVISORY COUNCIL ON HISTORIC PRESERVATION  
6 REGARDING THE EFFECTS OF  
7 VEGETATION MANAGEMENT AND RANGELAND MANAGEMENT ACTIVITIES IN  
8 ARIZONA  
9

10  
11  
12  
13 **SIGNATORIES**

14 **Bureau of Land Management - Arizona State Office**  
15 **State Historic Preservation Officer**  
16 **Advisory Council on Historic Preservation**  
17

18  
19 **INVITED SIGNATORIES**  
20

21  
22 **CONCURRING PARTIES**  
23

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1	APPENDICES
2	APPENDIX A: DEFINITIONS
3	APPENDIX B: DESIGNATING THE LEAD AGENCY
4	APPENDIX C: ELIGIBLE PROPERTIES
5	APPENDIX D: EXEMPTED UNDERTAKINGS
6	APPENDIX E: SCREENED UNDERTAKINGS
7	APPENDIX F: STANDARD MEASURES FOR RESOLVING ADVERSE EFFECTS
8	APPENDIX G: RANGELAND MANAGEMENT PROTOCOL
9	APPENDIX H: VEGETATION MANAGEMENT PROTOCOL
10	APPENDIX I: AGENCY COMMUNICATION PROTOCOLS
11	APPENDIX J: LINKS TO POLICY, REGULATIONS, AND STATUTORY
12	REFERENCES
13	

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1 **APPENDIX A: DEFINITIONS**

2 Appendix A includes the definitions that pertain to this Agreement. New definitions can be  
3 added without amending the Agreement.

- 4
- 5 1. **Activities:** as used in this Agreement, activities include, but are not limited to, activities  
6 associated with the management of vegetation communities, wildlife habitat, watershed  
7 management, runoff and erosion control, grazing, and infrastructure improvements associated  
8 with rangeland, habitat and fuels management projects.  
9
  - 10 2. **Adverse Effect:** occurs when an undertaking may alter, directly or indirectly, any of the  
11 characteristics that qualify a historic property for inclusion in the National Register in a  
12 manner that would diminish the integrity of the property's location, design, setting, materials,  
13 workmanship, feeling, or association (see criteria of adverse effect at 36 C.F.R. §  
14 800.5(a)(1)).  
15
  - 16 3. **Advisory Council on Historic Preservation (ACHP):** is an independent federal agency  
17 established pursuant to section 201 of NHPA. Under Section 106 of the NHPA, the ACHP  
18 must be afforded an opportunity to comment on federal, federally assisted, or federally  
19 licensed undertakings that may affect historic properties.  
20
  - 21 4. **Archaeological Site:** generally means any material remains of past human life or activities in  
22 history or prehistory, which are of archaeological interest including, but not be limited to:  
23 pottery, basketry, bottles, weapons, projectiles, tools, structures or portions of structures, pit  
24 houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any  
25 portion or piece of any of the foregoing items that are of human design, manufacture,  
26 possession, or use. Specific archaeological site definitions shall follow appropriate land-  
27 managing agency, or ASM, guidelines.  
28
  - 29 5. **Area of Potential Effects (APE):** means the geographic area(s) within which an undertaking  
30 may cause changes in the character or use of historic properties, if any such properties exist.  
31 The APE is influenced by the scale and nature of an undertaking and may be different for  
32 different kinds of effects caused by the undertaking (36 C.F.R. § 800.16(d)). The APE must  
33 include all areas of direct, indirect, and reasonably foreseeable cumulative effects including,  
34 but not limited to, staging areas, temporary construction easements, access roads, utility  
35 corridors, etc.  
36
  - 37 6. **Association:** an aspect of integrity, association is the direct link between an important  
38 historic event or person and a historic property. A property retains association if it is the  
39 place where the event or activity occurred and is sufficiently intact to convey that  
40 relationship to an observer. Like feeling, association requires the presence of physical  
41 features that convey a property's historic character.  
42
  - 43 7. **AZSITE:** Arizona's online cultural resources database.  
44

- 1 8. **Character-Defining Feature:** a prominent or distinctive aspect, quality, or characteristic of  
2 a cultural landscape that contributes significantly to its physical character. Land use patterns,  
3 vegetation, furnishings, decorative details and materials may be such features. (NPS 1996)  
4
- 5 9. **Class I Inventory:** background research consisting of archival research/a literature review  
6 and site files check that is sufficient to identify past survey coverage and generate  
7 expectations about the types and frequencies of cultural resources that might be expected  
8 during field survey. This research should include a one- mile buffer zone surrounding the  
9 survey area for block survey parcels (half-mile in highly urbanized areas), and a half-mile-  
10 buffer either side of a linear survey corridor (measured from the center line).  
11
- 12 10. **Class II “Sample” Inventory:** background research and a sample field survey; the sampling  
13 strategy must be agreed to by the lead federal agency in consultation with the SHPO/THPO  
14 and Tribes prior to fieldwork and discussed in the report. In survey methodology, sampling is  
15 the examination of a subset (a statistical sample) of the entire APE to estimate characteristics  
16 of the larger area.  
17
- 18 11. **Class III Inventory:** background research and an intensive field survey (generally 100%)  
19 meeting current agency and/or ASM standards.  
20
- 21 12. **Concurring Parties:** are those interested parties who may be asked to sign a MOA or PA but  
22 do not have the rights to amend or terminate the MOA or PA.  
23
- 24 13. **Consultation:** the process of seeking, discussing, and considering the views of other  
25 participants, and, where feasible, seeking agreement with them regarding matters arising in  
26 the section 106 process (36 C.F.R. § 800.16).  
27
- 28 14. **Consulting Parties:** have consultative roles in the Section 106 process and include the State  
29 Historic Preservation Officer; Tribal Historic Preservation Officer(s); Indian Tribes; land  
30 managing agencies, local governments; applicants for federal assistance, permits, licenses or  
31 other approvals; and, any party with a legal or demonstrated interest, such as private land  
32 owners or lessees, to the undertaking, or concern with the undertaking’s effect on historic  
33 properties (36 C.F.R. § 800.2(c)).  
34
- 35 15. **Coordination:** communication (emails and/or phone calls) among Consulting Parties to  
36 increase cooperation among the parties and increase the effectiveness of defining their  
37 responsibilities when formal consultation is not necessary.  
38
- 39 16. **Cultural or Ethnographic Landscape:** a geographic area that contains a variety of cultural  
40 and natural resources that culturally affiliated groups define as possessing cultural value. The  
41 cultural/ethnographic landscape has prominent or distinctive aspects, qualities, or  
42 characteristics that contribute significantly to its physical character. Small plant communities,  
43 animals, subsistence and ceremonial grounds are often components of the ethnographic  
44 landscape.  
45



- 1 17. **Cultural Resources**: are prehistoric and historic districts, sites, buildings, structures, objects,  
2 cultural landscapes, sacred sites, and traditional cultural properties. Within the broad range of  
3 cultural resources are those that have recognized significance, which are called historic  
4 properties, as defined below.  
5
- 6 18. **Cultural Resources Inventory**: refers to the study of an area to identify the cultural  
7 resources that are, or may be, present. This term is inclusive of Class I, Class II and Class III  
8 Inventories, as defined above.  
9
- 10 19. **Design**: an aspect of integrity, design is the combination of elements that create the form,  
11 plan, space, structure, and style of a property. It results from conscious decisions made  
12 during the original conception and planning of a property (or its significant alteration) and  
13 applies to activities as diverse as community planning, engineering, architecture, and  
14 landscape architecture. Design includes such elements as organization of space, proportion,  
15 scale, technology, ornamentation, and materials. A property's design reflects historic  
16 functions and technologies as well as aesthetics. It includes such considerations as the  
17 structural system; massing; arrangement of spaces; pattern of fenestration; textures and  
18 colors of surface materials; type, amount, and style of ornamental detailing; and arrangement  
19 and type of plantings in a designed landscape. Design can also apply to districts, whether  
20 they are important primarily for historic association, architectural value, information  
21 potential, or a combination thereof. For districts significant primarily for historic association  
22 or architectural value, design concerns more than just the individual buildings or structures  
23 located within the boundaries. It also applies to the way in which buildings, sites, or  
24 structures are related: for example, spatial relationships between major features; visual  
25 rhythms in a streetscape or landscape plantings; the layout and materials of walkways and  
26 roads; and the relationship of other features, such as statues, water fountains, and  
27 archeological sites.  
28
- 29 20. **Direct Supervision**: for purposes of this Agreement, direct supervision means the activities  
30 of a field survey team must be overseen by a crew chief, field/project director or principal  
31 investigator listed on the relevant permit and/or meeting the SOI Standards for Archaeology  
32 or the OPM's 0193 classification for Supervisory Archaeologist.  
33
- 34 21. **Effect**: alterations to an historic property that results when an undertaking changes the  
35 characteristics of a property that qualify it for inclusion in the National Register (36 C.F.R. §  
36 800.16(i)). Direct and indirect effects may include physical, visual, atmospheric, and auditory  
37 effects.  
38
- 39 22. **Emergency or Disaster**: a disaster or emergency under Section 106 is one declared by the  
40 President, tribal government, or the governor of a state and that poses an immediate threat to  
41 life (human or animal) or property (36 C.F.R. § 800.12(a)). Local emergencies, as described  
42 in Stipulation XIII (Emergency Actions) are declared by state agencies, county governments,  
43 municipal governments and, on a case by case basis, by the landowner.  
44
- 45 23. **Feeling**: an aspect of integrity, feeling is a property's expression of the aesthetic or historic  
46 sense of a particular period of time. It results from the presence of physical features that,

1 taken together, convey the property's historic character. For example, a rural historic district  
2 retaining original design, materials, workmanship, and setting will relate the feeling of  
3 agricultural life in the 19th century. A grouping of prehistoric petroglyphs, unmarred by  
4 graffiti and intrusions and located on its original isolated bluff, can evoke a sense of tribal  
5 spiritual life.  
6

7 24. **Fence:** applies to barriers typically installed to control the movement of animals, humans  
8 and/or vehicles. They are constructed of upright posts with horizontal boards, rails, pickets or  
9 wire, or also to iron structures with open work of horizontal or vertical bars.  
10

11 25. **Fire Management:** all activities related to wildfires including planned and unplanned  
12 ignitions, initial attack and fire suppression activities such as digging lines, dozer lines, hand  
13 lines, road improvements, mastication, black lining fuel breaks and the use of prescribed or  
14 managed fire for fuel and habitat management activities.  
15

16 26. **Fire Sensitive Sites:**

- 17 • Historic sites with standing or downed wooden structures or other flammable features or  
18 artifacts
  - 19 • Rock art sites (depending on rock type, exposure, fuel type, and fuel loading)
  - 20 • Cliff dwellings
  - 21 • Prehistoric sites with flammable architectural elements and other flammable features or  
22 artifacts
  - 23 • Prehistoric sites with exposed building stone of soft or porous material such as volcanic  
24 tuff
  - 25 • Culturally modified trees, including aspen art and peeled/scarred trees
  - 26 • Certain traditional cultural properties (based on consultation with Tribes)
- 27

28 27. **Historic Property:** any prehistoric or historic district, site, building, structure, or object  
29 included in, or eligible for inclusion in, the National Register. This term includes artifacts,  
30 records, and remains that are related to and located within such properties. The phrase  
31 "eligible for inclusion in the National Register" means properties formally determined as  
32 such by the Secretary of the Interior or by lead federal agency in consultation with  
33 SHPO/THPO. Properties that have been determined eligible for inclusion are accorded the  
34 same protections as properties listed in the National Register (36 C.F.R. § 800.16(1)(1)).  
35

36 28. **Historic Period:** for purposes of this Agreement, it shall be defined as the time period when  
37 Europeans first entered an area or made recorded observation of the area. In the southwest  
38 that is usually around 1540, up to 50 years from present.  
39

40 29. **Invited Signatory:** an agency with specific duties in this Agreement with the same rights as  
41 Signatories to terminate or amend the Agreement.  
42

43 30. **Lead Federal Agency:** the agency responsible for ensuring compliance under Section 106.  
44

45 31. **Limited Ground Disturbance:** ground-disturbance limited to the original construction  
46 footprint, or not to exceed to 2 feet in any direction, or as listed in Appendix E (Screened

1 Undertakings) that have little potential to alter, directly or indirectly, any of the  
2 characteristics that qualify a historic property for inclusion in the National Register.  
3

4 32. **Location:** an aspect of integrity, location is the place where the historic property was  
5 constructed or the place where the historic event occurred. The relationship between the  
6 property and its location is often important to understanding why the property was created or  
7 why something happened. The actual location of a historic property, complemented by its  
8 setting, is particularly important in recapturing the sense of historic events and persons.  
9 Except in rare cases, the relationship between a property and its historic associations is  
10 destroyed if the property is moved.  
11

12 33. **Materials:** an aspect of integrity, materials are the physical elements that were combined or  
13 deposited during a particular period of time and in a particular pattern or configuration to  
14 form a historic property. The choice and combination of materials reveal the preferences of  
15 those who created the property and indicate the availability of particular types of materials  
16 and technologies. Indigenous materials are often the focus of regional building traditions and  
17 thereby help define an area's sense of time and place. A property must retain the key exterior  
18 materials dating from the period of its historic significance. If the property has been  
19 rehabilitated, the historic materials and significant features must have been preserved. The  
20 property must also be an actual historic resource, not a recreation; a recent structure  
21 fabricated to look historic is not eligible. Likewise, a property whose historic features and  
22 materials have been lost and then reconstructed is usually not eligible.  
23

24 34. **National Register of Historic Places (National Register):** is the official list of districts,  
25 sites, buildings, structures, and objects significant in American history, architecture,  
26 archaeology, engineering, and culture maintained by the Keeper of the National Register on  
27 behalf of the SOI (36 C.F.R. Part 60).  
28

29 35. **Negative Survey:** a cultural resources inventory survey in which no cultural resources,  
30 excluding isolated occurrences are identified, and a finding of "No Historic Properties  
31 Affected" is appropriate, following Arizona SHPO Guidance Point No. 10: *SHPO Guidance*  
32 *for Use and Submittal of the Survey Report Summary Form*.  
33

34 36. **No Adverse Effect:** occurs when an undertaking will not alter, directly or indirectly, any of  
35 the characteristics that qualify a historic property for inclusion in the National Register in a  
36 manner that would diminish the integrity of the property's location, design, setting, materials,  
37 workmanship, feeling, or association.  
38

39 37. **No Historic Properties Affected:** means there are no cultural resources in the APE, or there  
40 are cultural resources in the APE but none are determined to be National Register eligible, or  
41 there are historic properties in the APE but they will be avoided by the undertaking.  
42

43 38. **Predictive Modeling:** is an application of statistical sampling techniques, based on known  
44 scientific data that projects or extrapolates the number, classes, distribution, and frequencies  
45 of properties. Predictive models can be used in land use planning, during the early stages of  
46 planning for an undertaking, for targeting field survey, or other management purposes.

- 1 39. **Prescribed Fire:** is a planned fire used for vegetation management in accordance to the  
2 applicable laws, policies, and regulations to meet specific objectives.  
3
- 4 40. **Producer:** an owner, operator, manager, landlord, or tenant who produces food, fiber, or  
5 plant materials - typically a farmer, rancher, dairy farmer, nurseryman, or private forester.  
6
- 7 41. **Property Type:** building, sites, structures, districts, and objects that are listed or eligible for  
8 inclusion in the National Register.  
9
- 10 42. **Qualified Archaeologist:** a professional archaeologist who meets the Secretary of the  
11 Interior's Standards for Professional Qualifications (48 Federal Register 44716, September  
12 29, 1983) or the OPM 0193 Supervisory Archaeologist series. For projects on state, county,  
13 and municipal land, the qualified archaeologist must also be listed as a Principal Investigator  
14 on an Arizona Antiquities Act permit.  
15
- 16 43. **Rangeland Management:** any activity or program on or relating to the management of lands  
17 used primarily as watersheds, for the grazing of animals, for recreation, and as habitat for  
18 wildlife. These activities include, but are not limited to, restoring or harvesting vegetation,  
19 managing livestock grazing activities; range improvements such as providing reliable water  
20 for livestock and wildlife; reducing or stabilizing soil erosion problems; and reducing or  
21 controlling excess runoff.  
22
- 23 44. **Setting:** an aspect of integrity, setting is the physical environment of a historic property.  
24 Whereas location refers to the specific place where a property was built or an event occurred,  
25 setting refers to the *character* of the place in which the property played its historical role. It  
26 involves *how*, not just where, the property is situated and its relationship to surrounding  
27 features and open space. Setting often reflects the basic physical conditions under which a  
28 property was built and the functions it was intended to serve. In addition, the way in which a  
29 property is positioned in its environment can reflect the designer's concept of nature and  
30 aesthetic preferences. The physical features that constitute the setting of a historic property  
31 can be either natural or manmade, including such elements as:
- 32 • Topographic features (a gorge or the crest of a hill);
  - 33 • Vegetation;
  - 34 • Simple manmade features (paths or fences); and
  - 35 • Relationships between buildings and other features or open space
- 36 These features and their relationships should be examined not only within the exact  
37 boundaries of the property, but also between the property and its *surroundings*. This is  
38 particularly important for districts.
- 39 45. **Signatories or Signatory:** per 36 C.F.R. § 800.6, parties who assume obligations under this  
40 Agreement. Signatories can agree to amend this Agreement. The term includes full and  
41 invited signatories but does not include others who sign this Agreement as concurring parties.  
42

- 1 46. **Significance**: is the term used to indicate a cultural resource's eligibility for the National  
2 Register according to the criteria in 36 C.F.R. § 60.4.  
3
- 4 47. **Slope**: the steepness of the terrain. Normally documented using percent slope.  
5
- 6 48. **State Historic Preservation Officer (SHPO)**: is the official appointed or designated by the  
7 Governor pursuant to Section 101(b)(1) of NHPA to administer the State Historic  
8 Preservation Program (36 C.F.R. § 800.16(v)).  
9
- 10 49. **Structures**: a property type that is not designed to shelter human activity but to perform  
11 other necessary functions (e.g., bridges, dams, canals, roads, railroads, fences, wells, roads,  
12 pipelines, storage tanks, troughs, dams, gully treatments).  
13
- 14 50. **Supervisory Archaeologist**: a professional archaeologist that is listed on the cultural  
15 resources permit to be in direct charge of fieldwork and is in the field during cultural  
16 resources investigations. Meets the SOI Standards for Archaeology or the OPM 0193  
17 classification for Supervisory Archaeologist.  
18
- 19 51. **Traditional Cultural Property (TCP)**: as defined in National Register Bulletin 38, is a  
20 property that is listed in, or is eligible for inclusion in the National Register because of its  
21 association with cultural practices or beliefs of a living community that are: (1) rooted in that  
22 community's history; and (2) important in maintaining the continuing cultural identity of the  
23 community.  
24
- 25 52. **Tribal Historic Preservation Officer (THPO)**: is an individual designated by an Indian  
26 Tribe to administer the tribal historic preservation program, through appointment by the  
27 tribe's chief governing authority or as a tribal ordinance may otherwise provide (NHPA  
28 Section 101(d)(2)(B)). On tribal lands, a THPO, representing the Tribe, may assume the  
29 duties of the SHPO, in whole or in part, as certified by the NPS (36 C.F.R. § 800.16(w)).  
30
- 31 53. **Tribal Lands**: means all lands within the exterior boundaries of any Indian reservation and  
32 all dependent Indian communities (36 C.F.R. § 800.16(x)). Within the scope of this  
33 Agreement, the NHPA definition is identical to the NAGPRA definition, 25 U.S.C. §  
34 3001(15).  
35
- 36 54. **Undertaking**: is a project, activity, or program funded in whole or in part under the direct or  
37 indirect jurisdiction of a federal agency including: (1) those carried out by or on behalf of the  
38 agency; (2) those carried out with federal financial assistance; (3) and, those requiring a  
39 federal permit, license, or approval (36 C.F.R. § 800.16(y)).  
40
- 41 55. **Vegetation Management**: vegetation treatment methods include prescribed fire treatments,  
42 hand thinning treatments, mechanical thinning treatments, chemical thinning treatments,  
43 biological treatments, wood cutting permits, and planting.  
44
- 45 56. **Workmanship**: an aspect of integrity, workmanship is the physical evidence of the crafts of  
46 a particular culture or people during any given period in history or prehistory. It is the

1 evidence of artisans' labor and skill in constructing or altering a building, structure, object, or  
2 site. Workmanship can apply to the property as a whole or to its individual components. It  
3 can be expressed in vernacular methods of construction and plain finishes or in highly  
4 sophisticated configurations and ornamental detailing. It can be based on common traditions  
5 or innovative period techniques. Workmanship is important because it can furnish evidence  
6 of the technology of a craft, illustrate the aesthetic principles of a historic or prehistoric  
7 period, and reveal individual, local, regional, or national applications of both technological  
8 practices and aesthetic principles. Examples of workmanship in historic buildings include  
9 tooling, carving, painting, graining, turning, and joinery. Examples of workmanship in  
10 prehistoric contexts include Paleo-Indian Clovis projectile points; Archaic period beveled  
11 adzes; Hopewellian birdstone pipes; copper earspools and worked bone pendants; and  
12 Iroquoian effigy pipes.  
13  
14

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1 **APPENDIX B: DESIGNATING THE LEAD AGENCY**

2 Once an agency determines it has an undertaking with the potential to affect historic properties, it  
3 should also determine whether other federal agencies are likely to be responsible for carrying out  
4 the undertaking, providing funding, or issuing licenses, permits, approvals, or assistance. The  
5 federal agencies involved shall collectively designate the lead federal agency for each individual  
6 undertaking or undertakings grouped together under this Agreement. There can be co-leads.

7  
8 A. Circumstances when agencies should consider designating a lead federal agency for  
9 Section 106 review:

- 10  
11 1. A federal agency must obtain approval by another federal agency (e.g., a project  
12 requires a permit, right-of-way, or easement from another federal agency);  
13  
14 2. One agency's project crosses or impacts another agency's property (e.g., range  
15 management activities such as a waterline or fence line crosses land managed by  
16 more than one federal agency);  
17  
18 3. One agency's project involves funding from another federal agency;  
19  
20 4. Where multiple federal agencies, with varying responsibilities in approving or  
21 assisting an undertaking, conducting independent Section 106 reviews would impose  
22 significant workloads, and confusion, on Consulting Parties as well as duplication of  
23 efforts (e.g., many large scale, multi-jurisdictional vegetation management projects).

24  
25 B. In general, the lead federal agency should be the agency with the greater degree of  
26 involvement in the undertaking. An agency generally has a greater degree of involvement  
27 in the following order:

- 28  
29 1. The agency manages the land where most of the undertaking, or its effects, take  
30 place;  
31  
32 2. The agency provides all, or a significant amount of financial assistance for the  
33 undertaking; or  
34  
35 3. The agency has broader control over how the undertaking may be designed or  
36 located.

37  
38 C. Resolving disputes regarding which federal agency should be designated as the lead  
39 federal agency for a Section 106 review;

- 40  
41 1. To resolve disputes involving the identification of a lead federal agency, the federal  
42 agencies shall schedule a conference call or in-person meeting with SHPO/THPO to  
43 discuss the undertaking and each agency's Section 106 responsibilities;  
44

- 1 2. If agreement on designation of lead federal agency cannot be reached, then each  
2 agency remains individually responsible for complying with Section 106 for the  
3 undertaking;  
4
- 5 3. No agency can be forced to take over as lead or accept another agency as lead federal  
6 agency for it;  
7
- 8 4. Making changes to the lead federal agency for a Section 106 review:  
9
  - 10 a. If a federal agency decides it no longer wants an agency to continue as lead on  
11 its behalf, it must notify that agency, Tribes, SHPO/THPO, and other  
12 Consulting Parties that it is going to individually be responsible for its Section  
13 106 obligations;  
14
  - 15 b. If a lead federal agency chooses to stop being the lead agency in the Section  
16 106 review for an undertaking, it must notify the non-lead federal agencies,  
17 Tribes, SHPO/THPO, and other Consulting Parties that it will no longer be  
18 representing other federal agencies. The federal agencies may designate a new  
19 lead federal agency, or otherwise each agency remains responsible for their  
20 own individual Section 106 reviews.  
21

22 D. Documenting and formalizing the designation of a lead federal agency for a Section 106  
23 review.

- 24
- 25 1. Develop an appropriate written document memorializing which federal agency is the  
26 lead federal agency for Section 106 review for the undertaking;  
27
- 28 2. The document should outline how the agencies intend to coordinate information  
29 sharing, including the treatment of any confidential information, and other tasks;  
30
- 31 3. The document should outline any work that non-lead federal agencies may have  
32 during the Section 106 review (e.g., any work to identify and evaluate historic  
33 properties, host consultation meetings, reviewing reports, or providing other  
34 administrative support);  
35
- 36 4. The document should outline how the lead federal agency will involve non-lead  
37 agencies by describing agency roles and responsibilities, communication protocols,  
38 points of contact;  
39
- 40 5. Notify all Consulting Parties of this lead federal agency arrangement in writing; and  
41
- 42 6. The document should include provisions for dispute resolution among the agencies to  
43 address situations where agencies may disagree on the steps taken to comply with  
44 Section 106, such as level of consultation or outreach efforts.  
45



1 **APPENDIX C: ELIGIBLE PROPERTIES**

2 List of cultural resources automatically considered eligible for purpose of this Agreement:

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29

A. For eligibility determinations under this Agreement, the following types of cultural resources, provided they are 50 years old or older and retain some aspect(s) of integrity (i.e., association, design, feeling, location, materials, setting, workmanship), may be automatically considered eligible for the National Register without further SHPO/THPO consultation or concurrence:

1. Archaeological sites with clear evidence for the presence of architecture (pueblos, pit houses, teepee rings, sweat lodges, etc.);
2. A prehistoric site that contains a diverse artifact assemblage with temporally or culturally diagnostic materials and has the ability to yield additional information important in prehistory;
3. Historic or prehistoric sites with clearly visible evidence of human remains and/or funerary objects;
4. Rock art sites (e.g., petroglyphs or pictographs);
5. Intaglios, geoglyphs, and other ground figures.

B. The list may be expanded to include other properties in consultation with SHPO/THPO, Tribes, and signatories to this Agreement.

C. Unevaluated archeological sites and other cultural resources may be treated as eligible for purposes of Section 106.

1 **APPENDIX D: EXEMPTED UNDERTAKINGS**

2 Signatories agree that the following activities have no or limited ground disturbance and  
3 therefore have no or limited potential to adversely affect historic properties; therefore, no further  
4 review is necessary:

- 5
- 6 1. Maintenance of existing structural range improvements less than 50 years old (e.g., cattle  
7 guards, gates, fences, signs, storage tanks, troughs, earthen berms, dams) that do not  
8 involve additional ground disturbance beyond the original footprint. Minor routine or  
9 preventive operation and maintenance activities on facilities and other range  
10 improvement structures that do not affect historic structures or previously undisturbed  
11 ground.
- 12
- 13 2. Planning, vegetation or wildlife monitoring activities, enhancements, or practices that do  
14 not involve ground disturbance.
- 15
- 16 3. Pond/canal/ditch cleaning/repair/replacement or lining projects limited to activities  
17 occurring within the previously disturbed construction area and disposal of spoil on an  
18 existing spoil bank.
- 19
- 20 4. Replacement of gas, water, or electric lines associated with range or wildlife facilities  
21 within the same footprint.
- 22
- 23 5. Stocking native fish.
- 24
- 25 6. Hand planting of tree seedlings or native plants involving minimal excavation of less than  
26 6 inches.
- 27
- 28 7. Routine maintenance of existing designated trails using hand-held tools (e.g., rakes or  
29 hoes, shovels, hand-held saws, chainsaws and pruning tools) and no new ground  
30 disturbance beyond the existing footprint.
- 31
- 32 8. Activities, such as removal of log jams and debris, limited to within active stream beds,  
33 not including terraces, cut banks, etc. Activities must be completed by hand.
- 34
- 35 9. Aerial or hand broadcast seeding with no ground disturbance.
- 36
- 37 10. Gathering of fuelwood, using existing access roads only, under authorization of a  
38 personal use fuelwood permit.
- 39
- 40 11. Installing bear feeding stations (for the purpose of capture and relocation of nuisance  
41 bears), bird nesting platforms, and temporary animal traps.
- 42
- 43 12. Fishery habitat management activities confined to stream beds or below the high-water  
44 mark within lakes, ponds, and reservoirs (such as willow plantings or placement of fish  
45 habitat).
- 46

- 1 13. Establishing long-term study plots for range monitoring or botanical research projects  
2 that do not include ground disturbance.  
3
- 4 14. Inventory, data and information collection including the collection of samples; land use  
5 and land cover, geologic, mineralogic and resource evaluation activities; cadastral and  
6 geophysical surveys (that do not include ground disturbance); and the approval of permits  
7 for such activities.  
8
- 9 15. Placing monitoring stations or stream gauges in active stream beds and the repair and  
10 maintenance of them.  
11
- 12 16. Traditional tribal collecting activities provided the activities are on federal land. Permits  
13 are required on state trust land.  
14
- 15 17. Actions already allowed under an existing permit, like routine maintenance, will not  
16 require a new Section 106 review unless otherwise stated.  
17

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1 **APPENDIX E: SCREENED UNDERTAKINGS**

2 Signatories agree that the following activities have limited ground disturbance and therefore have  
3 limited potential to adversely affect historic properties. Screening by a qualified archeologist is  
4 necessary to determine if any known historic properties are present within the proposed activity  
5 area and/or if the APE for the proposed activity has been previously inventoried to current  
6 standards. If there is existing inventory that is up to current standards, or the proposed activity  
7 has limited potential to adversely affect a historic property, an activity on the screened list maybe  
8 be exempted from further review. If the screening requirements are not met, the project will  
9 follow the provisions in Stipulation V. (Consultation Process).

10  
11 Screened undertakings on this list do not require formal consultation if the criteria for exemption  
12 are met; however, the lead federal agency using these screened undertakings is responsible for  
13 documenting how the criteria of exemption are met and informing the applicable consulting  
14 parties. The undertaking will be listed in the annual report as required by Stipulation XIV  
15 (Annual Report and Meeting). The list of screened undertakings is below:

- 16  
17 1. Activities, enhancements and practices applied by aerial application of chemical or  
18 biological agents (does not include sprayers attached to vehicles). The screening is for  
19 assessing whether the aerial application would affect areas of traditional collection or is  
20 within TCPs; required consultation is with Tribes only.  
21
- 22 2. Herbicide application on foot or by all-terrain vehicle (ATV)-mounted equipment,  
23 provided application does not occur within an archaeological habitation site; see  
24 Appendix H.E.3.  
25
- 26 3. All types of new fence construction (ex. wild horse and burro, pronghorn, elk fences,  
27 snow fences, barbed wire and T-post fences, and small enclosures) and associated corner  
28 braces. The screening is to determine whether the new fence construction and associated  
29 activities would affect historic properties. If not previously surveyed to current standards,  
30 a survey may be required.  
31
- 32 4. Installation of above-ground pipeline may be placed provided there is no ground  
33 disturbance. The screening is to determine whether there are known historic sites in the  
34 area that could be affected and that should be avoided.  
35
- 36 5. Activities that involve less than 1 square meter of cumulative ground disturbance, unless  
37 within known sites, including geotechnical boring.  
38
- 39 6. Activities where previous natural or human disturbance has modified the landscape so  
40 extensively that the likelihood of finding historic properties is negligible (for example,  
41 vertical expansion of existing pits, parking lots, and areas of heavy vehicle disturbance).  
42
- 43 7. Road and trail maintenance within existing road or trail prisms that have been previously  
44 surveyed and have no known historic properties. This does not include reconstruction, re-  
45 alignment, installation or replacement existing culvert, road or trails or new road or trail  
46 construction.

- 1  
2 8. Installation and repair of signposts and monuments unless within known sites.  
3
- 4 9. Inventory activities (e.g. auguring soil holes, vegetation sampling, etc.) that will not  
5 involve subsurface disturbance except individual auger or hand excavations that do not  
6 exceed 1 square foot and that are at least 8 feet apart. The screening is to determine  
7 whether there are known sensitive sites in the area that could be affected and that should  
8 be avoided.  
9
- 10 10. Conservation activities, enhancements, and practices implemented in areas of agricultural  
11 development and within the existing depth of tillage documented by historic record or  
12 producer's signed statement. If actions will exceed the historic tillage depth, then a  
13 standard consultation will be required.  
14
- 15 11. Routine operations, repairs, modification, and maintenance, or the demolition of any  
16 building or structure less than 50 years old.  
17
- 18 12. Activities involving construction, repair, and improvements to a building or structure.  
19 The screening is to determine whether the building or structure is less than fifty (50)  
20 years old and not in an archaeological site or historic district.  
21
- 22 13. Tenant-type maintenance of historic buildings, i.e., routine maintenance and repair of  
23 historic buildings entailing no structural change, or any change of color, form, function,  
24 design, workmanship, or materials. The screening is to ensure the activity will not have  
25 an adverse effect.  
26
- 27 14. Permitted activities or acquisition of easements, rights-of-way, and leases that do not  
28 authorize surface disturbance or have the potential to affect historic structures or  
29 traditional cultural properties.  
30
- 31 15. Seismic activities on the surface of regularly maintained roads (e.g., within existing road  
32 prism) that do not affect known sites. The screening is to determine whether there are  
33 known sites in the area and if additional survey may be required depending on the  
34 activity being proposed.  
35
- 36 16. Hand cutting of vegetation where slash is lopped and scattered but not dragged, piled, or  
37 burned within known site boundaries. The screening is to determine whether there are  
38 known sites that need to be avoided.  
39
- 40 17. Broadcast seeding equipment attached to a rubber-tired or rubber-tracked vehicle. Follow  
41 best management practices for herbicide in Appendix H.3. The screening is to determine  
42 whether there are known sites that should be avoided.  
43
- 44 18. Vegetation removal where the trees or brush is removed using minimally soil surface  
45 disturbing treatment methods, such as shearing, chipping, grinding or shredding tools  
46 attached to a rubber-tired or rubber tracked vehicle in areas where the target woody

1 species canopy does not exceed 40%, and there is at least 20% ground cover from any  
2 combination of live basal vegetation, litter and/or gravel cover. Work will not be  
3 performed during times when soil moisture and temperature exceeds the level at which  
4 rutting will occur. Operators will be instructed to avoid rocky or other areas in which  
5 structures may occur. See Appendix H.B for details on determining these metrics.  
6

7 19. Repair/replacement of water bars, culverts and other existing trail infrastructure. The  
8 screening is to determine whether these are within or near known sites that should be  
9 avoided or if additional inventory is needed.  
10

11 20. Removal of recent (less than 50 years old) structures and materials (including abandoned  
12 automobiles, dumps, fences and buildings) and reclamation of the site as long as the  
13 reclamation does not expand previous surface disturbance and is not within a historic  
14 property. The screening is to determine whether the building or structure that is less than  
15 fifty (50) years old and not in an archaeological site or historic district.  
16

17 21. New wells may be drilled within a 10-foot radius of an existing well provided that the  
18 new well or excavated soils are not placed within a known historic property.  
19

1 **APPENDIX F: STANDARD MEASURES FOR RESOLVING ADVERSE EFFECTS**

2 Avoidance of effects on historic properties is advocated as the first protection measure. The lead  
3 federal agency shall propose and carry out standard measures for resolving adverse effects on  
4 specific categories of historic properties in consultation with SHPO/THPO, Tribes, and other  
5 Consulting Parties.

6  
7 The following standard measures will apply:

8  
9 A. Development of a Historic Properties Treatment Plan which shall include, but is not  
10 limited to, the following:

- 11 1. Discussion of the National Register significance, eligibility, and integrity of a  
12 property within an appropriate historic context.
  - 13 2. Research design and questions that are directly pertinent to those data sets that qualify  
14 the property for inclusion in the National Register under relevant criteria.
  - 15 3. Results of previous research relevant to the property type.
  - 16 4. Proposed data needs and proposed methods and techniques to acquire the data,  
17 including any special studies.
  - 18 5. Field methods and techniques that will cost-effectively address the property's  
19 structure and content in the context of the defined research questions and the  
20 property's stratigraphic and geomorphic context.
  - 21 6. Assumptions about the number and types of features expected and a proposed  
22 sampling strategy.
  - 23 7. Site-specific maps portraying the proposed data recovery (i.e., proposed trench or test  
24 unit placement).
  - 25 8. Laboratory processing and analyses, with justification of their relevance to the  
26 property and its research values.
  - 27 9. Methods and techniques used in artifact, data, and other record management.
  - 28 10. Provisions for ongoing tribal consultation, monitoring, and coordination, if tribal  
29 values or concerns are known or suspected.
  - 30 11. Provisions for tribal perspectives in the preparation of research designs, data recovery  
31 plans and reports.
  - 32 12. Qualifications of key personnel.
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1 13. Disposition, including curation, of recovered materials and records resulting from  
2 implementation of the data recovery plan.

3  
4 14. All required permits.

5  
6 15. Report preparation schedule.

7  
8 16. A Monitoring and Discovery Plan including provisions and procedures for evaluating  
9 and treating discoveries of unexpected finds shall be developed when necessary.

10  
11 17. Plan for public involvement on educational or interpretive programs, focusing on the  
12 community or communities that may have interest in the results.

13  
14 18. Plan for tribal community involvement and educational or interpretive programs,  
15 focusing on the community or communities that may have interest in the results.

16  
17 B. Historic Americans Buildings Survey/Historic American Engineering Record  
18 (HABS/HAER) documentation.

19  
20 C. Standards and Guidelines

21 1. All archaeological data recovery will be conducted following:

22  
23 a. Archaeology and Historic Preservation: SOI's Standards and Guidelines,  
24 September 1983, U.S. Department of the Interior, NPS (48 Federal Register  
25 44716, as updated) or its successor regulation;

26  
27 b. Arizona Antiquities Act standards, for archaeological investigations on state,  
28 county, and municipal lands in Arizona.

29  
30 2. All HABS/HAER documentation will be completed by professional architect or  
31 architectural historian per the Secretary of the Interior's professional qualifications  
32 standards, and include the following:

33  
34 a. The SOI's Standards for Architectural and Engineering Documentation;

35  
36 b. SOI's Standards for the Treatment of Historic Properties, July 1997, U.S.  
37 Department of the Interior, NPS (36 C.F.R. Part 68) or its successor  
38 regulation.

39  
40 c. SOI's Standards.

41



1 **APPENDIX G: RANGELAND MANAGEMENT PROTOCOL**

2 Range management activities, authorizations and approvals, or funding of range management  
3 activities are considered undertakings subject to Section 106 review and analysis as defined in 36  
4 C.F.R. 800.16(y). The effects on historic properties will vary depending on the type of range  
5 management activity, historic property types, and site density where management activities are  
6 implemented. Participating agencies to this Agreement will follow this protocol to identify  
7 historic properties, to provide for the protection of historic properties, and to avoid and minimize  
8 adverse effects that may occur from implementation of range management activities.  
9

10 Range management activities covered under this protocol only apply to federal undertakings  
11 (federal license or permit required or implemented using federal funding). These range  
12 management activities include grazing permit and lease renewals that include planned ground  
13 disturbing activities; installation, maintenance and decommissioning of fencing, storage tanks  
14 and troughs, erosion control structures, corrals and holding pens, water pipelines, wildlife  
15 guzzlers, cattle guards, and wells; water haul sites (drinkers); dirt tank construction and cleaning;  
16 road maintenance (including culverts, ditches, signage, plating); and re-seeding or planting.  
17

18 Additional range management activities may be considered for addition to the protocol following  
19 the procedures outlined in Stipulation XVII (Additional Protocols, Screened Undertakings, or  
20 Exemptions) of this Agreement.  
21

22 A. Cultural Resource Compliance for Grazing Permit and Lease Renewals

23 This section addresses Section 106 compliance for grazing and permit renewals. The  
24 regulations that implement Section 106 of the NHPA (36 C.F.R. § 800) do not  
25 require a federal agency to conduct a 100% survey of the area of potential effects.  
26 Rather, the identification efforts should be conditioned by where effects are likely to  
27 occur and the likely impact of these effects on unevaluated, eligible, or listed  
28 properties. The following guidelines will be used to determine survey strategies  
29 under this protocol.  
30

31 B. Level of Identification Efforts

- 32
- 33 1. The lead federal agency shall verify whether the proposed activity is covered  
34 under the Exempted or Screened Undertakings (Appendix D and E). If the  
35 proposed activity qualifies as an exempted or screened undertaking, the lead  
36 federal agency shall follow that process.  
37
  - 38 2. The level of need and extent of new field surveys or inspections for grazing  
39 impacts will be determined through consultation with applicable landowners,  
40 permittee, or lease holder as needed. In making the decision on the level of  
41 survey to be conducted, the archaeologist will consider the following and  
42 document the decision in the inventory report:  
43
    - 44 a. Grazing history.
    - 45 b. Proposed changes in grazing management practices.
    - 46 c. Known incidents of or high potential for damage to sites.

- d. Presence of grazing-sensitive sites.
- e. Presence of areas where cattle congregate.
- f. Amount of the allotment previously surveyed for cultural resources.
- g. Site density.
- h. Information provided by employees, permittees, or other users.

The lead federal agency will review existing information to assess the project's potential to affect historic properties and ascertain the expected nature and distribution of historic properties that may be affected. Sources of information may include, but are not limited to published and unpublished documents and reports, land managing agency cultural resource inventory records, institutional site files (including ASM's Archaeological Records Office, grazing allotment management plans, and others), State and National Registers, statewide AZSITE cultural resources online database, tribal knowledge, and other information sources. Pursuant to SHPO Guidance Point No. 5: *SHPO Position on Relying on Old Archaeological Survey Data*, previous surveys should be evaluated to determine if they meet current standards; field visits may be necessary to assess the adequacy of the previous information.

If there are no known historic properties in areas that are being heavily impacted by livestock (e.g. areas where livestock are likely to congregate such as water sources, salt and mineral licks, and shade areas) and the land management agency determines that the areas hold little to no potential for the presence of historic properties, then no further inventory work need be done.

If impacts will occur in areas that are likely to contain historic properties and there has been no previous field survey, the land management agency shall conduct additional survey of the areas being impacted.

#### C. Agreed-Upon Standard Site Protection Measures

Routine and repetitive range management activities tend to have similar effects that can be anticipated based upon previous implementation of similar practices. Routine and repetitive activities include installation, maintenance, and decommission of fencing, storage tanks and troughs, erosion control structures, corrals and holding pens, water pipelines, wildlife guzzlers, cattle guards, wells, water haul sites (drinkers), dirt tank construction and cleaning, road maintenance (including culverts, ditches, signage, plating), and re-seeding or planting.

When historic properties are identified as being impacted by range management activities, and the characteristics that make these properties eligible for the National Register are being affected, the land managing agency shall implement protection measures to minimize and mitigate effects to historic properties.

The agencies may draw from the following mitigation measures to ensure that effects on historic properties are avoided or minimized. Once the mitigation measures are applied, the project can move forward without further consultation.

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D. Mitigation Measures

1. Fencing or enclosure of livestock from individual sensitive historic properties or areas containing multiple sensitive historic properties being impacted by grazing
2. Relocation of existing range management facilities and salting locations sufficient to ensure the protection of historic properties being impacted by concentrated grazing use
3. Relocation or redesign of proposed range management activities and ground-disturbing management practices to avoid direct and indirect impacts to historic properties
4. Periodic monitoring to assess site conditions and to ensure that protection measures are effective
5. Other mitigation measures involving data recovery, for example, will be developed and implemented in consultation with the SHPO/THPO also see Stipulation IX. The appropriate Tribes will be consulted if the mitigation is invasive or if it affects a TCP or other property of concern for them

E. The protection measures used to minimize and mitigate impacts to historic properties should be documented in the project file.

1 **APPENDIX H: VEGETATION MANAGEMENT PROTOCOL**

2 Authorizations and approvals or funding of vegetation management treatments are considered  
3 undertakings subject to Section 106 review and analysis as defined in 36 C.F.R. § 800.16 (y).  
4 The effects on historic properties will vary depending on the type of vegetation activity, and the  
5 historic property types and site density where management activities are implemented.  
6 Consulting parties to this Agreement will follow this protocol to identify historic properties and  
7 provide for the protection of historic properties to avoid and minimize adverse effects that may  
8 occur from implementation of vegetation management treatments.

9  
10 Vegetation management treatments covered under this protocol consist of prescribed fire, hand  
11 thinning, mechanical thinning, chemical thinning, and the use of grazing animals.

12  
13 Vegetation management using goats or other grazing animals to reduce woody vegetation cover,  
14 control noxious weeds, reduce fuel loads for fire breaks, and similar targeted vegetation control  
15 activities are low impact activities, and may or may not be surveyed at the discretion of the lead  
16 agency archeologist without prior SHPO/THPO consultation.

17  
18 New activities may be considered for addition to the protocol following the procedures outlined  
19 in Stipulation XVI (Amendments) of this Agreement.

20  
21 A. Pre-field Existing Information Research

22 Consulting Parties to this Agreement will review all reasonable existing information to  
23 assess the project's potential to affect historic properties and ascertain the expected nature  
24 and distribution of historic properties that may be affected. Sources of information may  
25 include, but are not limited to, published and unpublished documents and reports, land  
26 managing agency cultural resource inventory records, institutional site files (including  
27 Arizona State Museum Archaeological Records Office and others), State and National  
28 Registers, statewide AZSITE cultural resources online database, tribal knowledge, and  
29 other information sources.

30  
31 B. Survey Strategies

32 A federal agency is not expected to conduct a 100% survey of the APE. Rather, the  
33 identification efforts should be conditioned by where effects are likely to occur and the  
34 likely impact of these effects on listed or eligible properties. The following guidelines  
35 will be used to determine survey strategies under this protocol.

36  
37 The magnitude (severity) and nature of impacts, based on:

- 38 a. type and intensity of mechanical treatment
- 39 b. type and intensity of prescribed fire, including fuel loading and fire prescription
- 40 c. associated activities

41  
42 The expected nature and distribution of historic properties, based on:

- 43 a. local knowledge and expertise from agency archeologists
- 44 b. local knowledge and expertise of landowners and lessees
- 45 c. cultural geographic information system (GIS) survey and site layers or hard copy  
46 survey and site atlases/maps

- 1 d. previous cultural heritage reports and site forms
- 2 e. cultural resources overviews and planning assessments
- 3 f. information obtained through tribal consultation or public input
- 4 g. information provided by other resource specialists or private landowners familiar
- 5 with the project area
- 6 h. topographic maps, aerial photographs, digital ortho-photo quadrangles
- 7 i. other available GIS layers and including soils, vegetation type, slope, water
- 8 j. determination of known/expected fire-sensitive sites
- 9

10 C. Mechanical Equipment Exemption

11 Mechanical removal of brush and other vegetation may not require survey if the ground  
12 cover and canopy cover meet the following criteria as determined by a natural resource  
13 professional in coordination with a professional archeologist:

- 14
- 15 1. The target woody species (such as Juniper, Pine, Mesquite, chaparral species, etc.)  
16 canopy cover does not exceed 40 percent and at least 20 percent of the soil surface is  
17 covered by any combination of live basal vegetation, litter, rock, or gravel (i.e. –  
18 bare ground is < 80 percent).
  - 19 a. Determination of ground cover and canopy cover will be determined by  
20 pedestrian survey or a combination of pedestrian survey and use of a cover  
21 estimation tool capable of estimating tree and shrub canopy cover as well as the  
22 percentage of the soil surface (ground) not covered by litter, live basal  
23 vegetation, gravel, or rock cover (i.e. - bare ground), such as the Rangeland  
24 Analysis Platform (RAP) tool.
  - 25 b. When using pedestrian surveys alone a minimum of one pedestrian survey will  
26 be conducted for each major ecological site found in the project area. If either  
27 the target woody species canopy cover or ground cover appears to vary  
28 substantially within the ecological site area additional surveys will be conducted  
29 to represent these areas. No individual survey will represent more than 640  
30 acres.
  - 31 c. When supplementing pedestrian survey with the RAP or similar tool, the  
32 analysis areas should, to the extent possible, correspond to ecological sites. If  
33 either the target woody species canopy cover or ground cover appears to vary  
34 substantially within the ecological site area additional analysis will be  
35 conducted to represent these areas. No analysis area will exceed 640 acres. A  
36 minimum of one pedestrian survey will be conducted for each project area and  
37 at least ten percent of the project area will be represented by pedestrian surveys.
- 38
- 39
- 40 2. Work will not be performed during times when soil moisture and temperature  
41 exceeds the level at which rutting will occur.
- 42
- 43 3. Work may be performed on frozen ground, provided Appendix H.B. is met.
- 44
- 45 4. Operators will be instructed to avoid rocky or other areas in which structures may  
46 occur.

1  
2 5. Documentation will be added to the project file in an annual report.  
3

4 D. Field Survey

5 In most cases, the lead federal agency will be able to determine the level of survey  
6 needed based on the following guidance. Where not specifically required below, the lead  
7 federal agency is encouraged to discuss sampling survey designs with SHPO. The  
8 following will guide the identification of areas selected for survey and the level of survey  
9 coverage:

- 10
- 11 1. Areas previously surveyed to current standard (SHPO Guidance Point No. 5: *SHPO*  
12 *Position on Relying on Old Archaeological Survey Data*) do not have to be  
13 resurveyed.
  - 14
  - 15 2. Activities conducted on slopes greater than 40% can be excluded from survey at the  
16 discretion of the lead federal agency without prior SHPO consultation.  
17
  - 18 3. For activities conducted within areas that were previously disturbed by chaining, disking,  
19 plowing, windrowing, crushing, or other extensive ground disturbing treatments, a  
20 sample survey strategy may be approved by the lead federal agency without prior  
21 consultation with the SHPO/THPO or Tribes. The nature, degree and extent of previous  
22 ground disturbing activities and the likelihood of finding cultural resources or locations  
23 within the treated areas that remain undisturbed shall be considered when making the  
24 decision to survey at less than 100%. This information will be documented and discussed  
25 in the survey report.  
26
  - 27 4. Hand thinning (See Appendix E.15.: Screened Undertakings).  
28
  - 29 5. Prescribed fire. At a minimum, surveys for prescribed burn areas will include survey of  
30 locations likely to contain fire-sensitive sites, based on pre-field existing information  
31 research, expected fire behavior, and other relevant data. Additional survey may be  
32 conducted at the land managing agency's discretion. The survey strategy shall identify  
33 the types of sites that are considered fire-sensitive for each proposed project conducted  
34 under this Agreement using the procedures described in Stipulation VII (Identification  
35 and Evaluation or Historic Properties). This should include both known fire-sensitive  
36 sites and other sites considered fire-sensitive for the specific project (refer to the Fire  
37 Sensitive Sites section below) based on fuel loading, site characteristics, and expected  
38 fire behavior. If existing inventories indicate the presence or likelihood of fire-sensitive  
39 properties throughout the area of potential effect, the area will be surveyed 100% or a  
40 proposed sample survey strategy will be submitted to the SHPO for review.  
41
  - 42 6. Any areas of intensive ground disturbance will receive 100% survey, except as noted in  
43 Appendix H.C.1-3, including but not limited to:  
44 a. intensive mechanical treatments – machine piling, windrowing, mechanical  
45 crushing, skid trails where identified (cutting units where skid trails are not  
46 defined).

- 1           b. hand and mechanical fire line construction (conducted as part of a prescribed
- 2           fire).
- 3           c. staging areas, constructed safety zones.

4  
5           For other mechanical vegetation treatments that are considered to have a low potential to  
6           adversely affect historic properties, a sample survey strategy may be approved by the lead  
7           federal agency in coordination with the SHPO/THPO and land managing agency. Sample  
8           surveys may be used where existing inventories indicate the site density in the APE is  
9           lower than the average site density for the regional area (e.g. based on existing data and  
10          local knowledge of the area) and the level of impact is such that the lead federal agency  
11          determines that it is unlikely that any historic properties that may be present outside the  
12          surveyed areas will be adversely affected by the activity. Information concerning the  
13          nature of the undertaking, site density, and evaluation of potential effects that led to this  
14          determination will be discussed in the survey report.

15  
16          If existing inventories do not indicate the site density is lower than the regional average,  
17          or if the lead federal agency determines that the undertaking will result in intensive  
18          ground disturbance, the areas will be surveyed at 100%, except for the provisions in  
19          paragraphs 1-3 above, or a proposed sample survey strategy will be submitted to the  
20          SHPO for review.

#### 21 22          E. Fire-Sensitive Sites

23          Cultural resources affected by fire fall into two categories. The first consists of sites  
24          vulnerable to the effects of even low-temperature fires and/or light fuel loads, such as sites  
25          that contain organic materials, exposed wooden architecture, etc. The second group includes  
26          sites that generally have less risk for fire effects, including prehistoric and historic sites with  
27          deeply buried cultural deposits, prehistoric and historic artifact scatters, and prehistoric and  
28          historic sites with non-flammable surface features. However, depending on field conditions  
29          as well as specific site characteristics and expected fire behavior, the site types listed below  
30          may be fire-sensitive in certain fuels reduction projects.

#### 31 32          1. Known Fire-Sensitive Sites

- 33           a. Historic sites with standing or downed wooden structures or other flammable
- 34           features or artifacts.
- 35           b. Rock art sites (depending on rock type, exposure, fuel type, and fuel loading)
- 36           c. Cliff dwellings.
- 37           d. Prehistoric sites with flammable architectural elements and other flammable
- 38           features or artifacts.
- 39           e. Prehistoric sites with exposed building stone of soft or porous material such as
- 40           volcanic tuff.
- 41           f. Culturally modified trees, including aspen art and peeled/scarred trees.
- 42           g. Certain traditional cultural properties (based on consultation with Tribes).

#### 43 44          2. Other Project-Specific Fire-Sensitive Sites:

- 45           a. Other sites based on local field conditions and land managing agency specific
- 46           concerns.

- 1           b. Other sites based on consultation with SHPO/THPO staff.
- 2           c. Other sites based on consultation with fire management staff, fire behavior
- 3           specialists, or fire effects researchers.

4

5       F. Agreed-Upon Standard Site Protection Measures

6

- 7           1. Various combinations of the following protection measures may be approved by the
- 8           lead federal agency to protect sites for projects listed in this protocol without
- 9           additional SHPO/THPO consultation.
- 10
- 11          2. Prescribed Burning
- 12           a. Protect fire-sensitive sites with one or more of the following measures:
- 13           i. Exclude from project area
- 14           ii. Hand line
- 15           iii. Black line
- 16           iv. Wet line
- 17           v. Foam retardant
- 18           vi. Structural fire shelter
- 19           vii. Remove heavy fuels from site by hand
- 20           viii. Prevent in-situ heavy fuels that cannot be removed from ignition (e.g.,
- 21           flush-cut & bury stumps)
- 22           ix. Implement the same protective measures for future maintenance burns
- 23           x. Protect selected other sites from burning (optional)
- 24           xi. Allow burning over non fire-sensitive sites provided no ignition points are
- 25           within site boundaries
- 26           xii. No staging of equipment within site boundaries
- 27           xiii. No slash piles within site boundaries
- 28
- 29          b. Allow construction of safety zones and additional lines in areas surveyed at 100%
- 30          and with archaeological monitoring, as appropriate, to assure historic properties
- 31          are avoided.
- 32
- 33          3. Thinning, Hand and Mechanical Treatments
- 34           a. No treatments or ground disturbance within site boundaries, or
- 35
- 36           b. Allow treatments within site boundaries, provided:
- 37           i. Cutting is accomplished using hand tools only
- 38           ii. Large diameter trees are felled away from all features
- 39           iii. No dragging of logs, trees, or thinned material across or within site boundaries
- 40           iv. All features and artifact concentrations are recorded and avoided
- 41           v. Use of vehicles is prohibited during wet ground conditions
- 42           vi. Periodic monitoring is used to assess impacts and, if impacts are noted,
- 43           fuelwood cutting will be prohibited in the area
- 44           vii. No use of vehicles or other mechanized equipment within site boundaries
- 45           except on existing roads during dry surface conditions or if there is at least
- 46           two feet of snowpack and the ground is frozen (no digging in of equipment)



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- viii. No staging of equipment within site boundaries
- ix. No slash piles within site boundaries

- c. The lead federal agency may approve additional measures to further protect sites in consultation with land managing agencies and SHPO/THPO.

4. Herbicide Application Best Management Practices

- a. No application within the reported boundaries of prehistoric habitation sites.
- b. ATV use under dry surface conditions only and at speeds no greater than 10 miles per hour.

DRAFT

1 **APPENDIX I: AGENCY COMMUNICATION PROTOCOLS**

2 All participating agency contact information may be found at the Government to Government  
3 Consultation Toolkit website: <https://sites.google.com/view/az-consultation-toolkit/home>. Also  
4 see Appendix K: Links to Policy, Regulations, and Statute References for more information.  
5 Participating agencies will be required to maintain the contact and protocol information for the  
6 duration of this Agreement.

7  
8 ADOT

9 Protocol: Letter to District Office and cc: Environmental Department.

10  
11 ASLD

12 General Process: Any projects involving state land require consultation with the Cultural  
13 Resources Section and the Grazing Unit. Projects will require the lessee to apply for an ASLD  
14 Range Improvement or Land Treatment permit. Projects involving a grazing lease will not  
15 require a separate right-of-entry permit.

16  
17 Protocol: Coordinate with the appropriate Range Resource Area Manager, and complete the  
18 online application: <https://land.az.gov/moving-paper-electronic-applications>.

19  
20 BLM

21 General Process: Projects involving BLM Public Lands will involve BLM decisions, rights-of-  
22 ways, permits, or other authorizations requiring individual review and analysis under the  
23 National Environmental Policy Act. Accordingly, the BLM requests advanced coordination with  
24 local field offices for projects initiated among other agencies.

25  
26 Protocol: Letter addressed to Field Office Manager cc: to Field Office Cultural Specialist.

27  
28 SHPO

29 Letters addressed to Kathryn Leonard, State Historic Preservation Officer.  
30 Submit initial consultation letters and documentation to [azshpo@azstateparks.gov](mailto:azshpo@azstateparks.gov)

31

1 **APPENDIX J: LINKS TO POLICY, REGULATIONS, AND STATUTORY**  
2 **REFERENCES**

3  
4 Arizona Revised Statutes

5 A.R.S. § 41-844- <https://www.azleg.gov/ars/41/00844.htm>

6 A.R.S. § 41-865- <https://www.azleg.gov/ars/41/00865.htm>

7 A.R.S. 39-125- <https://www.azleg.gov/ars/39/00125.htm>

8  
9 Code of Federal Regulations

10 36 C.F.R. Part 60- [https://www.energy.gov/sites/prod/files/2016/02/f29/CFR-2012-title36-vol1-](https://www.energy.gov/sites/prod/files/2016/02/f29/CFR-2012-title36-vol1-part60.pdf)  
11 [part60.pdf](https://www.energy.gov/sites/prod/files/2016/02/f29/CFR-2012-title36-vol1-part60.pdf)

12 36 C.F.R. § 63- <https://www.govinfo.gov/content/pkg/CFR-2001-title36-vol1/pdf/CFR-2001->  
13 [title36-vol1-part63.pdf](https://www.govinfo.gov/content/pkg/CFR-2001-title36-vol1/pdf/CFR-2001-title36-vol1-part63.pdf)

14 36 C.F.R. Part 68- <https://www.nps.gov/tps/standards/four-treatments/36cfr68.pdf>

15 36 C.F.R. § 79- <https://www.nps.gov/archeology/tools/36cfr79.htm>

16 36 C.F.R. § 800- <https://www.achp.gov/sites/default/files/regulations/2017-02/regs-rev04.pdf>

17 43 C.F.R. § 10- <https://www.law.cornell.edu/cfr/text/43/part-10>

18  
19 Federal Register

20 48 FR 44716- <https://www.govinfo.gov/content/pkg/FR-1983-09-29/pdf/FR-1983-09-29.pdf>

21 48 FR 44738-44739- <https://www.govinfo.gov/content/pkg/FR-1983-09-29/pdf/FR-1983-09->  
22 [29.pdf](https://www.govinfo.gov/content/pkg/FR-1983-09-29/pdf/FR-1983-09-29.pdf)

23  
24 Government-to-Government Consultation Toolkit

25 <https://sites.google.com/view/az-consultation-toolkit/home>

26  
27 National Historic Preservation Act

28 [https://www.nps.gov/history/local-law/FHPL\\_HistPrsrvt.pdf](https://www.nps.gov/history/local-law/FHPL_HistPrsrvt.pdf)

29  
30 National Register Bulletin

31 Bulletin 15- [https://www.nps.gov/subjects/nationalregister/upload/NRB-15\\_web508.pdf](https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf)

32 Bulletin 38- <https://www.nps.gov/subjects/nationalregister/upload/NRB38-Compleweb.pdf>

33  
34 Office of Personnel Management's

35 0193 Supervisory Archeology series- <https://www.opm.gov/policy-data-oversight/classification->  
36 [qualifications/classifying-general-schedule-positions/standards/0100/g0193.pdf](https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/standards/0100/g0193.pdf)

37  
38 Secretary of the Interior's Standards for Archaeology

39 [https://www.nps.gov/history/local-law/arch\\_stnds\\_9.htm](https://www.nps.gov/history/local-law/arch_stnds_9.htm)

40  
41 State Historic Preservation Office

42 Guidance Point No. 5- <https://d2umhuunwbec1r.cloudfront.net/gallery/asp->  
43 [archive/SHPO/downloads/SHPO\\_5\\_Old\\_Survey.pdf](https://d2umhuunwbec1r.cloudfront.net/gallery/asp-archive/SHPO/downloads/SHPO_5_Old_Survey.pdf)

44 Guidance Point No. 10- <https://d2umhuunwbec1r.cloudfront.net/gallery/asp->  
45 [archive/SHPO/downloads/SHPO-Guidance\\_Point10-2016.pdf](https://d2umhuunwbec1r.cloudfront.net/gallery/asp-archive/SHPO/downloads/SHPO-Guidance_Point10-2016.pdf)

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1 United State Code

2 5 U.S.C. § 552- <https://www.justice.gov/oip/freedom-information-act-5-usc-552>

3 7 U.S.C. 8791(b)(2)(A)- <https://www.law.cornell.edu/uscode/text/7/8791>

4 16 U.S.C. § 470hh- <https://www.law.cornell.edu/uscode/text/16/470hh>

5 25 U.S.C. § 3001(15)- <https://www.law.cornell.edu/uscode/text/25/3001>

6 31 U.S.C. § 1341- <https://www.law.cornell.edu/uscode/text/31/1341>

7 54 U.S.C. §§ 300101 to 307108- <https://www.achp.gov/sites/default/files/2018-06/nhpa.pdf>

8 54 U.S.C. § 307103- <https://www.law.cornell.edu/uscode/text/54/307103>

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